



Agenda Item No. 2

To: Governmental Affairs and Public Information Committee/Committee of the Whole
Meeting of November 20, 2009

From: Kellee J. Hopper, Marketing and Communications Director
Teri W. Mantony, Deputy General Manager/Bus Transit Division
Joseph Wire, Auditor-Controller
Celia G. Kupersmith, General Manager

Subject: **AUTHORIZE EXECUTION OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CLEAR CHANNEL OUTDOOR, INC., RELATIVE TO REQUEST FOR PROPOSALS NO. 2007-D-3, EXTERIOR BUS ADVERTISING SERVICES, TO MODIFY TERMS AND CONDITIONS OF THE AGREEMENT**

Recommendation

The Governmental Affairs and Public Information Committee recommends that the Board of Directors authorize execution of an amendment to the Professional Services Agreement with Clear Channel Outdoor, Inc., Relative to Request for Proposals No. 2007-D-3, *Exterior Bus Advertising Services*, to including the following: 1) modify the minimum annual guarantee for the remaining two years of the Agreement; 2) provide an in-kind trade credit as supplemental financial compensation; 3) increase the previously-approved Revenue-Sharing Agreement; and, 4) add a one-year option term to the Agreement, exercisable at the District's sole discretion.

Summary

In September 2006, the Board of Directors authorized the award of Contract No. 2007-D-3, *Exterior Bus Advertising Services*, to Clear Channel Outdoor, Inc. (Clear Channel), Oakland, CA, for a three-year term for bus side advertising, full exterior bus wrap services, and Ultra King ("Quarter") wrap services on the basis of guaranteed minimum monthly payments, or 55% of net advertising revenue, whichever is greater on a monthly basis, with two unilateral one year options exercisable at the District's discretion. The District completed its base three-year Contract in October 2009 and chose to exercise the first of two available option years.

Approximately six months ago, Clear Channel approached the District requesting a possible financial adjustment to the Contract, citing a significant downturn in the economy and resulting cash flow impacts on advertising sales. According to Clear Channel, sales demand was at record lows, necessitating significant changes in their operations. After a series of meetings with staff, Clear Channel agreed to the following staff proposal:

1. Reduce the minimum annual guarantee from \$1.1 million to \$850,000 annually for each option year.
2. Add a non-expiring \$50,000 in-kind trade to the benefit of the District each option year.
3. Increase the revenue share for each option year as follows:
 - a. Revenues over \$900,000 with a 60% revenue share; and
 - b. Revenues over \$1.2 million with a 65% revenue share.
4. Add a third-year option, exercisable solely at the District's discretion, with the same terms and conditions as set forth above.

Staff opines that this proposal would best benefit the District as it would continue to provide a predictable revenue stream, while potentially achieving additional revenue if the economy recovers to previous levels. The proposal balances risk and certainty of revenue with an acknowledgement that economic factors have dramatically affected the advertising market and, thus, Clear Channel's ability to sell advertising space to the same levels as has been achieved historically.

Fiscal Impact

For each remaining year of the Agreement, the minimum monthly guarantee amount would decrease from \$1.1 million to \$850,000 annually. Revenue sharing would be increased through the option years as 60% share for revenues over \$900,000, and 65% share for revenues over \$1.2 million. The District would receive a non-expiring \$50,000 in-kind trade to the benefit of the District each option year that would offset a portion of the loss in guaranteed revenue. Finally, a third-year option would be added, exercisable by the District with the same terms and conditions as set forth in the remaining option years. Revenue for FY 09/10 will be adjusted to reflect the \$250,000 decrease in projected income.