

CITY OF OAKLAND

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Council President De La Fuente
DATE: October 28, 2008

FILED
OFFICE OF THE CITY CLERK
OAKLAND
08 OCT 23 PM 2:05

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A BILLBOARD FRANCHISE AGREEMENT WITH CLEAR CHANNEL OUTDOOR, INC. (CCO) ALLOWING CCO TO CONSTRUCT A NEW BILLBOARD ON WATTLING STREET AT 38TH AVE IN EXCHANGE FOR CCO: (1) REMOVING AND WAIVING ITS RIGHTS TO COMPENSATION, INCLUDING ALL REAL PROPERTY AND PERSONAL PROPERTY INTERESTS, FOR FIFTEEN (15) BILLBOARDS AT VARIOUS LOCATIONS IN OAKLAND; AND (2) MAKING A ONE-TIME CONTRIBUTION OF \$125,000 TO THE AFTER SCHOOL 6-9 PM SPORTS PROGRAM AT CESAR CHAVEZ EDUCATION CENTER.

SUMMARY

The City Council is asked to approve a Resolution to permit the City to enter into a Billboard Franchise Agreement with Clear Channel Outdoor Inc., a Delaware corporation ("Clear Channel") regarding the specific sites identified in the resolution title above. The Agreement also will result in the removal of 15 billboards in Oakland in exchange for the construction of a new billboard with freeway visibility.

FISCAL IMPACT

The proposed Billboard Franchise Agreement will not result in any direct cost impacts because Clear Channel is waiving its rights to compensation, including all real property and personal property interests for the 15 billboards specified in the staff report.

BACKGROUND

- In 1997, the City of Oakland enacted an Ordinance prohibiting the installation of new billboards anywhere in the City.
- In 1998, the City adopted an Ordinance creating an amortization program for billboards in residential areas. After Clear Channel's predecessor (Eller Media Company) sued the City to stop the ordinance's enforcement, the parties executed the Eller Media Co. Amortization Settlement Agreement dated November 3, 1999 (the "Settlement Agreement").

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- In 2002, the City adopted an Ordinance to amend the Oakland Municipal Code to permit relocated and wholly reconstructed advertising signs pursuant to Franchise/Relocation Agreements.

The City of Oakland and Clear Channel executed a similar billboard relocation agreement in late 2003. That agreement provided for the removal of 30 billboards, retention of the Clear Channel offices in Oakland and a \$100,000 contribution to the City's General Fund in exchange for the development of two new freeway billboards with a total of 2,688 square feet. The total square foot sign area of the removed billboards totaled 5,424 square feet, roughly a two to one ratio of removed sign area to new sign area.

KEY ISSUES AND IMPACTS

The newly proposed billboard totals 2,016 square feet. As part of the proposal, 15 billboards, totaling 4,500 square feet of sign area would be removed.

This is just over a two to one ratio of removed sign area to new sign area. Finally, this agreement results in total payments of \$125,000 to the after-school 6-9 PM sports program at Cesar Chavez Education Center.

PROJECT DESCRIPTION

The proposed project calls for the construction of a new billboard along interstate 880. The proposed new billboard is to be built on Wattling Street at the intersection of 38th Avenue (APN: 033-2169-016-01; 033-2169-016-02; 033-2170-003-00).

Clear Channel proposes to remove 15 legal, nonconforming billboards, totaling 4,500 square feet, at the following locations:

1. San Leandro Blvd & 39th Ave (Billboard # 002024), 300 Square Feet
2. San Leandro Blvd & 40th Ave (Billboard # 002025), 300 Square Feet
3. San Leandro Blvd & 37th Ave (Billboard # 002023), 300 Square Feet
4. Fruitvale Blvd near San Leandro (Billboard # 001858), 300 Square Feet
5. Fruitvale Blvd near San Leandro (Billboard # 001859), 300 Square Feet
6. Foothill Blvd & 42nd Ave (Billboard # 001827), 300 Square Feet
7. Foothill Blvd & Rosedale Ave (Billboard # 001826), 300 Square Feet
8. Foothill Blvd & 38th Ave (Billboard # 001825), 300 Square Feet
9. Foothill Blvd & Bridge Ave (Billboard # 001824), 300 Square Feet
10. Foothill Blvd & 36th Ave (Billboard # 001823), 300 Square Feet
11. Foothill Blvd & 35th Ave (Billboard # 001821), 300 Square Feet
12. Foothill Blvd & 34th Ave (Billboard # 001819), 300 Square Feet
13. Foothill Blvd & 34th Ave (Billboard # 001818), 300 Square Feet
14. Foothill Blvd & Rutherford St (Billboard # 001816), 300 Square Feet
15. Foothill Blvd & 27th Ave (Billboard # 001815), 300 Square Feet

Finally, this agreement results in total payments of \$125,000 to the after-school 6-9 PM sports program at Cesar Chavez Education Center.

None of these signs is scheduled for removal under the amortization program.

The proposed Billboard Franchise Agreement will be conditioned on Clear Channel providing documentation satisfactory to the City that Clear Channel has fully complied with the Settlement Agreement.

SUSTAINABLE OPPORTUNITIES

Economic: None.

Environmental: None.

Social Equity: Removal of the 15 billboards will result in reduced blight in our City's neighborhoods, increasing enhancement of the City's physical attributes.

DISABILITY AND SENIOR CITIZEN ACCESS

Approval of this resolution will have no direct impact on disabled and senior citizen access.

ACTION REQUESTED OF THE CITY COUNCIL

Approval of a resolution authorizing the City Administrator to enter into a Billboard Franchise Agreement with Clear Channel Outdoor, Inc., to waive its rights to compensation, including all real property and personal property interests, for fifteen (15) billboards located as designated in the staff report in exchange for the construction of a new billboard and contributions totaling \$125,000 to the after-school 6-9 PM sports program at Cesar Chavez Education Center.

Respectfully submitted,



Council President Ignacio De La Fuente

Prepared by: Claudia Jimenez, Policy Analyst

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

2008 OCT 23 PM 5: 27

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A BILLBOARD FRANCHISE AGREEMENT WITH CLEAR CHANNEL OUTDOOR, INC. (CCO) ALLOWING CCO TO CONSTRUCT A NEW BILLBOARD ON WATTLING STREET AT 38TH AVE IN EXCHANGE FOR CCO: (1) REMOVING AND WAIVING ITS RIGHTS TO COMPENSATION, INCLUDING ALL REAL PROPERTY AND PERSONAL PROPERTY INTERESTS, FOR FIFTEEN (15) BILLBOARDS AT VARIOUS LOCATIONS IN OAKLAND; AND (2) MAKING A ONE-TIME CONTRIBUTION OF \$125,000 TO THE AFTER SCHOOL 6-9 PM SPORTS PROGRAM AT CESAR CHAVEZ EDUCATION CENTER.

WHEREAS, Clear Channel Outdoor, Inc. (CCO), proposes to waive their rights to compensation, including all real property and personal property interests, and remove fifteen (15) billboards in Oakland in exchange for a billboard franchise agreement allowing Clear Channel Outdoor, Inc to construct a billboard on Wattling Street at 38th Ave (APN: 033-2169-016-01; 033-2169-016-02; 033-2170-003-00); and

WHEREAS, removal of a number of billboards at various locations throughout the City is consistent with the City's objective to remove billboard signage throughout Oakland to enhance the City's physical attributes; and

WHEREAS, all the proposed billboards will be removed by Clear Channel at its sole cost and expense; and

WHEREAS, the proposed Billboard Franchise Agreement would permit Clear Channel to construct one new billboard on Wattling Street at 38th Ave (APN: 033-2169-016-01; 033-2169-016-02; 033-2170-003-00) for a total square footage of 2,016; and

WHEREAS, Clear Channel would remove at least fifteen billboards totaling at least 4,500 square feet from various locations around the City of Oakland, resulting in a net decrease of sign area in the City; and

WHEREAS, the proposed Billboard Franchise Agreement will require Clear Channel to provide documentation satisfactory to the City that Clear Channel has fully complied with the Amortization Settlement Agreement between the City and Clear Channel's predecessor, Eller Media Company, effective November 3, 1999; and

WHEREAS, the proposed Billboard Franchise Agreement complies with the existing City regulations that permit relocated and wholly reconstructed advertising signs pursuant to a Billboard Franchise Agreement; now, therefore be it

RESOLVED: That the City Council authorizes the City Administrator to enter into a Billboard Franchise Agreement with Clear Channel Outdoor, Inc. ("CCO"): (1) allowing CCO to remove and waive its rights to compensation, including all real property and personal property interests, for fifteen (15) billboards at various locations, as designated in Exhibit A to this Resolution, in exchange for construction of a new billboard on Wattling Street at 38th Ave (APN:

033-2169-016-01; 033-2169-016-02; 033-2170-003-00); ; and be it

FURTHER RESOLVED: That Clear Channel Outdoor will make a one-time contribution of \$125,000 to the 6-9 PM After School Sports Program at Cesar Chavez Education Center; and be it

FURTHER RESOLVED: That the Billboard Franchise Agreement will require Clear Channel to provide documentation satisfactory to the City that Clear Channel has fully complied with the Eller Media Co. Amortization Settlement Agreement between the City and Clear Channel's predecessor, Eller Media Company, effective November 3, 1999; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to complete all the required negotiations regarding the terms of, and to execute, a Billboard Franchise Agreement with Clear Channel in accordance with the intent of this resolution, and including other conditions and enforcement mechanisms as will be recommended by the City Attorney; and be it

FURTHER RESOLVED: That the City Attorney shall approve the Billboard Franchise Agreement as to form and legality.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

BILLBOARDS TO BE REMOVED

1. San Leandro Blvd & 39th Ave (Billboard # 002024), 300 Square Feet
2. San Leandro Blvd & 40th Ave (Billboard # 002025), 300 Square Feet
3. San Leandro Blvd & 37th Ave (Billboard # 002023), 300 Square Feet
4. Fruitvale Blvd near San Leandro (Billboard # 001858 & # 001859), 600 Square Feet
5. Foothill Blvd & 42nd Ave (Billboard # 001827), 300 Square Feet
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12. Foothill Blvd & 34th Ave (Billboard # 001818), 300 Square Feet
13. Foothill Blvd & Rutherford St (Billboard # 001816), 300 Square Feet
14. Foothill Blvd & 27th Ave (Billboard # 001815), 300 Square Feet

TOTAL SQUARE FOOTAGE: 4,500