

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 11/9/2022

Staff Report No. 18-211i

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager
SUBJECT: Transit Shelter Update

ACTION ITEM

AGENDA PLANNING REQUEST: ☐

RECOMMENDED ACTION(S):

Receive an update on the Transit Shelter Contract liability, ownership, and local jurisdiction conversations and determine whether to take ownership of transit shelters in locations where the local jurisdiction under the Joint Powers Agreement (JPA) is unwilling.

STRATEGIC IMPORTANCE:

Goal - Convenient and Reliable Service
Initiative - Service Quality

All transit rides begin and end at the bus stop. Whether you are walking by a bus stop or waiting at one, bus stop furniture-such as shelters and benches-plays a critical role in the quality of the customer experience.

BUDGETARY/FISCAL IMPACT:

Staff is unable to fully quantify the liability costs associated with transit shelter ownership at this time. Regardless of whether the District takes on ownership or not, staff estimate that contracting maintenance and capital costs to a third-party contractor will cost anywhere from \$3.2M to \$3.6M annually (about \$3.2M in maintenance and \$395,000 in capital costs assuming ten shelters replaced per year). Some of these costs can be offset from advertising revenue, local jurisdiction contributions and grants. These cost estimates are based on Tempo Bus Rapid Transit maintenance contract costs. Staff will gain a clearer idea of costs when going through the procurement request for proposals process.

BACKGROUND/RATIONALE:

On August 10, 2022, the Board of Directors approved the solicitation of three Requests for Proposals (RFPs) for transit shelter maintenance, capital work, and advertising. The Board also asked for updates on local jurisdiction monetary contributions and the liability associated with ownership of bus shelters.

Local Jurisdiction Monetary Contributions: On September 14, 2022, District staff met with the local jurisdictions and received status updates on local jurisdiction monetary contributions. Staff asked that local jurisdictions consider ownership of shelters. In summary:

- Most jurisdictions prefer to reimburse the District to administer the transit shelter contracts.
- Most jurisdictions are not willing to take on ownership.
- Most jurisdictions stated the need for official costs (not estimates) from the RFPs in order to seek funding from their respective governmental bodies (i.e. City Councils).
- Many jurisdictions said they want to have some sort of cost sharing with the District.

Attachment 1 is a summary of discussions with local jurisdictions.

Regional Coordination: In addition to meeting with local jurisdictions, District staff have been meeting with staff from Valley Transportation Authority (VTA) and San Mateo County Transit District (SamTrans) to explore long-term options for a coordinated transit shelter maintenance and capital contract. Staff are working to identify potential cost savings and third-party interest in a combined contract. Under SamTrans' lead, the three agencies plan to issue a formal Request for Information (RFI) to solicit non-binding proposals and information from prospective companies that could provide shelter maintenance, advertising, capital investment, or some combination of the three.

Oakland Shelters: The City of Oakland has a separate contract with Clear Channel Outdoor to maintain transit shelters within the City's jurisdiction. The contract, set to expire in 2023, has a one-year option to extend to 2024. The City of Oakland is looking into a coordinated street furniture program that other jurisdictions may be interested in. This potential program would generate revenue from the installation of on-street digital information kiosks in return for street furniture installations and upkeep.

Liability and Ownership: Under the 1999 Transit Shelter Agreement Amendment No. 9, Clear Channel Outdoor Advertising owns and is liable for transit shelters. After Amendment No. 9 expires on March 31, 2023, Clear Channel has agreed to sell the entire transit shelter inventory for \$10. However, the contract does not identify who will retain ownership after the contract ends nor is there a contract mechanism for transferring ownership. Some local jurisdictions are interested in taking on the maintenance and therefore, the ownership of transit shelters in-house. However, *the majority* of local jurisdictions prefer that the District take on the ownership of transit shelters and reimbursing the District for its administration of the maintenance, capital, and advertising contracts. The Alternatives Analysis below addresses the scenario of the District declining to take on ownership of the bus shelters.

As a governmental entity, AC Transit is liable for injuries caused by a dangerous condition of public property (Government Code § 830 et seq). If transit shelters are owned, controlled, or maintained by AC Transit, the District could have potential liability. In addition, the District would be obligated to frequently inspect and repair the shelters to avoid liability for personal injuries. Further, the District's liability exposure could extend to any injuries incurred at its shelters, whether or not it involves a rider.

Potential liability associated with shelter ownership could additionally affect the District's insurance premiums or result in an increase in claims within the District's self-insured retention. Historically, however, the District and Clear Channel have received very few claims associated with the bus shelters.

In addition, owning transit shelters will give the District more control over the shelter design, removal and installation, and advertising revenue. Owning transit shelters could also be less confusing to the public seeking to report issues at bus stops.

Recommended Action: Staff recommends that the Board approve taking on the ownership of transit shelters in locations where the local jurisdiction is unwilling to.

ADVANTAGES/DISADVANTAGES:

Advantages to the District taking on ownership of shelters:

- Control over the type of transit shelter and its design
- Control over removals, installations, and relocation of transit shelters.
- Control over advertising revenue
- Less confusing for the public seeking to report issues or opportunities to improve shelters at their local bus stop.

Disadvantages to the District taking on ownership of shelters:

- Potential increased liability costs
- Less incentives for jurisdictions to give financial contributions
- Contracted sheriff personnel may need to respond to unhoused situations. Please note that concerns about unhoused populations in transit shelters are first sent to the local jurisdiction's social services regardless of ownership.
- The District's future contractor would have to apply for permits to install or remove transit shelters in the jurisdiction owned right-of-way. Staff are working with jurisdictions to provide permit exceptions or waive permit fees for transit shelters.

ALTERNATIVES ANALYSIS:

Ownership remains with Clear Channel Outdoor Advertising: If the District or the jurisdictions do not take on ownership, then ownership will remain with the current transit shelter owners, Clear Channel. Staff does not recommend this alternative because Clear Channel will then have the option, and is likely, to remove all the shelters.

PRIOR RELEVANT BOARD ACTION/POLICIES:

SR18-211h - Transit Shelter Contract Update
SR18-211g - Transit Shelter Contract Update
SR18-211f - Transit Shelter Contract Update
SR18-211e - Transit Shelter Contract Update
SR18-211d - Transit Shelter Contract Update
SR18-211c - Transit Shelter Contract Update - 2021 Bridge Contract
SR18-211b - Transit Shelter Contract Update
SR18-211a - 2020 Transit Shelter Advertising Contract

ATTACHMENTS:

1. Summary of Local Jurisdiction Contributions

Prepared by:

Carissa Lee, Transportation Planner

In Collaboration with:

James Arcellana, Senior Attorney

Jean Paul Popoff, Claims and Liability Manager

Approved/Reviewed by:

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

Robert del Rosario, Director of Service Development and Planning

Jill A. Sprague, General Counsel

Chris Andrichak, Chief Financial Officer