

ALAMEDA-CONTRA COSTA TRANSIT DISTRICT



STAFF REPORT

MEETING DATE: 6/8/2022

Staff Report No. 22-298

TO: AC Transit Board of Directors
FROM: Michael A. Hursh, General Manager
SUBJECT: Impacts of AB 784

BRIEFING ITEM

RECOMMENDED ACTION(S):

Consider receiving a report regarding the impacts of AB 784 on the permitting process for District capital projects.

STRATEGIC IMPORTANCE:

Goal - Safe and Secure Operations
Initiative - Infrastructure Modernization

The Implementation of AB 784 will result in a decrease in the time required to complete projects as well as a decrease in the project cost for every project at District facilities.

BUDGETARY/FISCAL IMPACT:

There will be staff and/or on-call consultant costs associated with implementing AB 784. These costs will be more than offset by the cost savings of avoiding city plan check fees, permit fees, and other project fee assessments (i.e., public art fees, technology fees, etc.).

The fiscal impact of implementing AB 784 for only AC Transit projects on District owned property (excluding any multi-jurisdictional property) during the first year will result in an estimated cost savings to the District in excess of \$200,000 in plan check and permit fees alone without accounting for any other assessments that typically come in the city permit process.

The fiscal impact of AB 784 on projects related to multi-jurisdictional properties is unknown. The permitting process on these properties will be subject to a collaborative effort with municipal partners to develop a permitting and inspection process that satisfies everyone's needs.

BACKGROUND/RATIONALE:

Assembly Bill (AB) 784 made numerous technical, clarifying, and modernizing changes to *Transit District Law*, AC Transit's authorizing legislation from 1955. The District's General Counsel and Department of External Affairs worked with Assembly member Quirk's office to introduce the bill and shepherd it through the legislature with unanimous support. Governor Newsom signed AB 784 into law in September 2021.

One key provision of AB 784 is that it designates AC Transit as a “Rapid Transit District,” which excludes the District from the definition of “Local Agency” pursuant to Section 53090 of the California Government Code. This is important because California Government Code Section 53091(a) requires that local agencies comply with “all applicable building and zoning ordinances of the county or city in which the territory of the local agency is situated.”

Previously, as a local agency, AC Transit was obligated to comply with all applicable local building ordinances and zoning ordinances of the county or city in which the territory of the local agency is situated. The cities and counties were designated as the “Authority Having Jurisdiction” (AHJ) over local agencies and the responsibility for building code enforcement was with the AHJ. With the passage of AB 784 into law, AC Transit, as a Rapid Transit District, is the AHJ with respect to projects on AC Transit-owned property and is accordingly excluded from compliance with applicable local building, permitting, and zoning ordinances of the counties or cities.

AB 784 thus transfers the jurisdictional authority and responsibility for work done on District property from the local city and/or county to AC Transit as a self-permitting and inspecting Rapid Transit District, responsible for complying with state and federal building codes and standards (i.e., ADA, CBC, NEC, and NFPA). AC Transit will continue to consult and seek comments from the appropriate fire marshal with respect to all fire and life-safety matters.

AC Transit projects fall into two categories, each requiring separate treatment. Category 1 projects are projects on AC Transit owned property. Permitting on Category 1 property follows the same basic steps as before AB 784, except that AC Transit will be the controlling AHJ. The District is ready to move forward with permitting and inspections on Category 1 projects now.

AC Transit properties for Category 1 projects include:

- Located in the City of Oakland
 - General Administration Building (GO)
 - GO Surface Parking lot
 - Division 4 (D4)
 - Central Maintenance Facility (CMF)
 - Surface Parking lot in Fruitvale
 - Surface Parking in Elmhurst
 - 66th Avenue Warehouse Property
- Located in the City of Emeryville
 - Division 2 (D2)
- Located in the City of Richmond
 - Division 3 (D3)
- Located in the City of Hayward
 - Division 6 (D6)
- Located in the City of Newark
 - Newark Warehouse Property

Category 2 projects are projects on multi-jurisdictional properties where District facilities exist on other property by virtue of an MOU, maintenance agreement, or any other non-ownership mechanism. Permitting and inspection services on these properties are subject to negotiation between AC Transit and the jurisdiction owning the site. These projects will need to have an agreement developed between the parties that addresses each party's needs and requirements. There are currently no agreements in place that direct permitting and inspections for multi-jurisdictional properties.

Multi-jurisdictional properties for Category 2 projects include:

- BART
 - San Leandro Transit Center Tempo BRT platform
 - San Leandro Transit Center Restroom
- Tempo Platforms and concrete bus pads on Broadway, 11th Street, 12th Street, E. 12th Street, International Blvd, E. 14th Street, Davis Street (Oakland, Caltrans, San Leandro, and BART)
- Ardenwood Park and Ride
- Contra Costa College Transit Center
- Eastmont Mall Transit Center
- Point Richmond Restroom
- Richmond Parkway Transit Center
- Tempo Fiber Network (Oakland, Caltrans, and San Leandro)
- Corridor Improvements like Bus Shelters and bus stops

ADVANTAGES/DISADVANTAGES:

There are several advantages associated with the AB 784 treatment as a Rapid Transit District:

1. Project cost will be decreased because of the lower plan check and permit fees. The District will also avoid the supplemental cost of other fee assessments.
2. The District will be better able to control the timeline of projects because the plan check/permit time will be a matter of days rather than the typical six to eight weeks required by city and county building departments.
3. Projects will have increased quality as a result of more rigorous building trade inspections.
4. Better project coordination with Operations and Facilities as they are engaged by the plan check process.
5. Increased ability to monitor site safety as most Rapid Transit Districts include a background check component which does not exist in city permitting.

ALTERNATIVES ANALYSIS:

There are no alternatives identified as AB 784 is current California Law.

PRIOR RELEVANT BOARD ACTION/POLICIES:

None

ATTACHMENTS:

None

Prepared by:

Joe Callaway, Director of Capital Projects

Approved/Reviewed by:

Claudia Burgos, Director of Legislative Affairs & Community Relations

Beverly Greene, Executive Director of External Affairs, Marketing & Communications

Ramakrishna Pochiraju, Executive Director of Planning & Engineering

Chris Andrichak, Chief Financial Officer

Jill A. Sprague, General Counsel