



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo
Director, Oakland
Department of
Transportation

SUBJECT: Street Furniture: Bus Shelter
Franchise Extension

DATE: March 8, 2022

City Administrator Approval 

Date: Mar 17, 2022

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Amending and Extending By One Year, With An Option For A Second Year, A Non-Exclusive Franchise Agreement With Clear Channel Outdoor For A Street Furniture Program At An Annual Not To Exceed Cost Of \$480,000 And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

EXECUTIVE SUMMARY

This report addresses two items concerning street furniture: first, a legacy bus shelter agreement in need of extension and, second, an opportunity to bring digital wayfinding kiosks to Oakland.

The City's current bus shelter program, in place since 2002 and with a maximum term of twenty years, grants Clear Channel Outdoor (CCO) a non-exclusive franchise agreement whereby advertising revenues are intended to cover the costs of procuring, installing, maintaining, and repairing bus shelters. CCO continues to maintain the bus shelters in Oakland and throughout the Alameda County Transit Authority (AC Transit) bus system. Over the past five years, CCO has encountered significant issues in this program, including declining advertising revenues and increasing maintenance costs due to vandalism, illegal dumping and homeless encampments.

For the past four years, City staff have worked closely with an AC Transit-led Joint Powers Authority (JPA) to put in place a new system-wide bus shelter program. CCO was the only respondent to the JPA-led competitive request for proposals (RFP) process and, despite years of negotiations, a long-term agreement was never reached.

As a result, the AC Transit Board of Directors recently approved a new bridge agreement with CCO, and City staff are recommending that the City Council do the same for Oakland's approximately 110 remaining bus shelters at an annual not to exceed cost of \$480,000, paid by the City to CCO, and with the City receiving a 50% share of advertising revenue, estimated to be between \$200,000 and \$250,000. CCO would retain ownership of, and liability for, the

shelters during the first-year of the extended arrangement and the City would agree to purchase the shelters at the end of the first year for \$100.00.

In August 2020, IKE Smart City (IKE), an advertising agency, began to circulate an unsolicited proposal for a franchise agreement to install fifty (50) digital wayfinding kiosks in the Oakland's right-of-way (included as **Attachment A**). IKE's proposal includes a thirty-five (35) percent net revenue share with the City and estimates that the average annual income to the City would be in the range of \$1,400,000 to \$1,600,000 per year over a twenty (20) year term. In summer of 2021, City staff became aware of this effort and began to research the opportunity, including meeting with Oakland commercial district leaders and working closely with IKE to better understand its business model and, more recently, its experience launching digital kiosks in the City of Berkeley.

Staff recommend that the City Council approve a one-year contract extension with CCO, with the option for a second year. That extension will allow the bus shelter program to continue and afford staff the time to develop and carry out a competitive process that would result in a comprehensive street furniture program, including bus shelters, digital wayfinding kiosks and other amenities such as "smart big belly" garbage cans and electric vehicle (EV) charging stations. Recognizing the recent challenges experienced by the legacy bus shelter program as well as the anticipated benefits of an open competitive process for establishing a next-generation street furniture program funded by advertising revenues, staff is not recommending that City Council pursue a sole-source arrangement with IKE at this time.

Staff estimate that this effort to stand-up and administer a coordinated street furniture program would require approximately one-half of a full-time equivalent (FTE) staff position within the Oakland Department of Transportation (OakDOT) at the Transportation Planner II level at a fully-loaded annual cost of \$118,340. A resolved statement directing staff to include a request for this position in the Fiscal Year 2022-2023 Mid-Cycle Budget is included in the accompanying ordinance.

BACKGROUND / LEGISLATIVE HISTORY

In 1996, City Council adopted a resolution supporting public transit and alternative modes, known as Oakland's Transit First Policy (Resolution No. 73036 CMS). This policy favors transit and alternative modes over private vehicles to reduce congestion and improve air quality, improve safety for people walking and bicycling, decrease parking demand, reduce individual transportation costs, and provide a balanced transportation system that supports many modes, making communities more livable.

In 1999, the Alameda-Contra Costa Transit District (AC Transit) and many of the cities within its service area, with the exception of the City of Oakland, formed a Joint-Powers Authority (JPA) to manage and oversee a contract to provide bus shelters and advertising. In 2003, a first amendment to the JPA removed Emeryville from participation and added the cities of Alameda, Richmond, and San Pablo.

In May 2000, the City Council authorized the issuance of a RFP for street furniture, including bus shelters and public information kiosks. Adshel, Inc. (Adshel), which subsequently became CCO, submitted a proposal to install, maintain and replace up to 256 bus shelters at no cost to the City in exchange for certain specified advertising rights.

In September 2001, the City Council, via Ordinance 12355 C.M.S., awarded a non-exclusive franchise agreement for Citywide street furniture services to Adshel, now CCO, and executed that fifteen (15) year contract, with one five-year extension, in March 2002. The franchise agreement contains provisions for regular maintenance, revenue sharing, electricity service, advertisement content and more.

In 2008, CCO took over the JPA contract from Lamar Transit Advertising. Members of the JPA now include the County of Alameda and the cities of Albany, Berkeley, El Cerrito, Fremont, Hayward, Newark, Richmond, San Leandro, and San Pablo.

In 2017, CCO notified the City of Oakland that it would not exercise the five year extension on its agreement, but agreed to continue operations until the AC Transit-led competitive process designed to put in place a new bus shelter program was completed. City of Oakland staff participated in this process with the understanding that Oakland would join the AC Transit-led JPA once a long term contract was in place.

In 2018, AC Transit issued a competitive RFP for a full-service advertising-based bus shelter program and CCO submitted the only proposal. Negotiations between AC Transit and CCO went on for several years, complicated by many factors including decreasing advertising revenues, reductions in the number of bus shelters, increasing expenses, rising expectations and, then, the COVID-19 pandemic.

Also in 2018, City of Berkeley entered into a fifteen (15) year franchise agreement with IKE to install and operate thirty digital wayfinding and advertising kiosks in their public right-of-way.

In August 2020, AC Transit opened the East Bay's first Bus Rapid Transit (BRT) line, known as Tempo. The BRT bus stop and shelter system operates independently of the traditional bus shelter program.

In August 2020, an unsolicited proposal from IKE for a franchise agreement to install fifty (50) digital kiosks in Oakland's right-of-way began to circulate.

In October 2021, the AC Transit Board of Directors authorized the General Manager to enter into a single-source contract with CCO for a period not to exceed 12-months at a cost not to exceed \$1 million to ensure continuity of the bus shelter program, including maintenance.

In November 2021, City Council directed staff to study digital wayfinding kiosks and return to Council in March 2022 with recommendations, including the possibility of entering into an agreement with IKE.

In December 2021, IKE installed two of the anticipated thirty kiosks in the City of Berkeley.

ANALYSIS AND POLICY ALTERNATIVES

The following analysis supports staff's recommendations that the City Council approve a one-year contract extension, with one additional year option, with CCO for the bus shelter franchise agreement, and to direct staff to design and carry out a competitive process that would result in a new "smart" street furniture program. A short-term agreement with CCO will ensure continuity of the existing bus shelter system and allow staff the time to develop and implement a high-performing and carefully coordinated street furniture program that would aim to include a range of amenities including bus shelters and benches, digital wayfinding kiosks, smart big-belly garbage cans and more. Standing up such a program would require additional resources, so staff is also recommending that City Council direct staff to include a proposal for .5 full-time equivalent position in the Fiscal Year 2022-2023 Mid-Cycle Budget.

Bus shelters

The City's current bus shelter program, in place since 2002, relies on a non-exclusive franchise agreement whereby advertising revenue covers the costs of procuring, installing, maintaining, and repairing shelters. The bus shelter agreement between AC Transit-led JPA and CCO, also in place for two decades, expired in 2019. Since then, CCO has continued to maintain the bus shelters in Oakland and throughout the AC Transit system, using a number of bridge agreements.

In 2018, AC Transit launched a competitive request process on behalf of the JPA with the aim of securing and standing up a next generation bus shelter system. City staff supported this effort, assuming that a JPA that included the City of Oakland going forward would be more likely to attract quality proposals. It turned out, however, that the only qualifying proposal was submitted by the incumbent, CCO. Three years later, AC Transit and CCO have yet to agree on terms for a new long-term agreement and the City has not joined the JPA. Expectations, needs and the costs of maintaining the bus shelters have continued to rise, while CCO advertising revenues have continued to fall.

Tempo line

An additional challenge to establishing a sustainable bus shelter program has been the reduction in high-value bus shelter locations due to the recent opening of the AC Transit Bus Rapid Transit (BRT) Tempo line, as this new system is equipped with its own platforms, shelters, branding and signage. Removing these and other prized locations from the total inventory of bus shelters has diminished the overall capacity of the system to generate advertising revenue.

While the original number of shelters envisioned for the Oakland program was over 250, the highest number of shelters ever installed only reached about 160. Today, that number has dropped to less than 110. Under these conditions, it is not surprising that CCO was the only respondent to the AC Transit request for proposals and that CCO is now asking both the AC Transit-led JPA and the City of Oakland share more of the costs as well as more of the revenues in an effort to maintain the status quo.

Bus shelter contract extension

Consistent with the terms worked out between the JPA and CCO for a one-year agreement at a cost of \$1 million to begin April 1, 2022, City staff worked with CCO in parallel and arrived at the following terms for an amendment to our 2002 non-exclusive franchise agreement:

1. Term: Beginning April 1, 2022 for one year, with one more one-year option by mutual agreement (a term that is concurrent with the JPA arrangement with CCO).
2. The City will compensate CCO up to \$480,000 annually to manage and maintain the shelters. Baseline resources and maintenance services to include:
 - a. 273 scans of shelters per week minimum. CCO will supply the City with a report monthly of scans as verification of services provided.
 - b. CCO will dedicate 2.5 Full Time Equivalent personnel. Optimally 88 hours for the minimum 273 scans plus 12 hours for miscellaneous visits for glass replacement, electrical, and other additional incremental needs.
 - c. To the extent hours need to exceed that figure for unforeseen issues, CCO and the City agree to work out a reimbursement for additional work/cost.
 - d. CCO to be reimbursed for non-customary repairs at the rate of \$90/staff hour. Examples would be civil unrest, replacement of acid etched glass. CCO would seek approval prior to making such repairs.
2. CCO will retain shelter ownership/liability during contract, with transfer of shelter ownership to the City at the end of the contract for \$100.00 for all shelters. Shelter removals would be the responsibility of the City as the new owner.
3. Revenue on advertising will be shared at 50%. This high revenue share rate should provide a significant offset to the City's cost. CCO estimates revenue on 106 shelters for 2022 to range from around \$400,000 to \$500,000. If \$480,000 in revenue is achieved, the City's net cost for the service would be offset by \$240,000 in revenue share.

This short-term arrangement will allow staff the time to thoroughly explore the City's options and implement a competitive process with the aim of putting in place the robust, sustainable bus shelter program that Oaklanders who value and often depend on transit buses need and deserve.

Alternative #1	Do not approve a contract extension and direct CCO to remove its bus shelters or leave the shelters in place without dedicated maintenance resources
Pros	If the shelters were completely removed, the City would not incur the significant cost, estimated to be between \$250,000 to \$400,000 annually, of maintaining the existing bus shelters.
Cons	Bus shelters would either be removed completely or not be maintained, cleaned and, when needed, relocated; in doing so, the City of Oakland would significantly undermine AC Transit's efforts to maintain the bus shelter program throughout its service area.
Reason for not recommending	Not extending the bus shelter program with CCO will interrupt the continuity of the bus shelter program, adversely impacting regular and occasional riders, many of whom represent the most vulnerable constituents including low-income residents, the elderly, and the disabled.

Approval of this recommendation will advance the Citywide priorities of **holistic community safety** and **vibrant, sustainable infrastructure**. The extension of the bus shelter program with CCO will ensure continuity of bus shelter maintenance and management. Clean and functional bus shelters are essential for both holistic community safety (by improving visibility, safe lighting levels and surface cleanliness) and vibrant sustainable infrastructure (by facilitating access to clean, public transportation).

IKE Proposal for Digital Advertising Kiosks

IKE, an advertising agency, is proposing a sole-source franchise agreement to install fifty (50) digital kiosks in the City's right-of-way (see **Attachment A**). IKE proposed kiosks that feature a large, interactive digital display that either shows advertising (when not in use) or allows for touch-based interaction. The interactive display can provide information about a range of topics, including transit information, wayfinding, local business directories and more. The kiosks also provide a free wifi hotspot that allows anyone with a wifi-enabled device to access the Internet with limited speeds.

IKE's proposal includes a thirty-five (35) percent net revenue share with the City. IKE estimates that the average annual income to the City would be in the range of \$1,400,000 to \$1,600,000 per year over a twenty (20) year term. A franchise agreement with IKE would require them to obtain an encroachment permit for each kiosk. IKE would pay the fees associated with encroachment permits and would also need to conduct community outreach and obtain the necessary insurance.

Given the challenges the existing bus shelter program faces, and taking into consideration lessons learned from other programs such as bike share, car share and e-scooter share, staff believe that IKE's proposal includes projections that are overly optimistic.

The fact that CCO was the only vendor to respond to AC Transit's request for proposals for the bus shelter program is an important indication that Oakland's and the larger East Bay's right-of-way (ROW) is not a coveted advertising market. Moreover, national vendors who operate programs in Oakland's ROW find that maintenance costs can be two- to five-times higher in Oakland than in other markets.

Executive directors representing the City's Business Improvement Districts (BIDs) are very interested in the IKE proposal, which is not surprising given the promises of revenue and value-added features of the digital kiosks. Even so, when staff attended a BID Alliance meeting to discuss the IKE proposal, executive directors and IKE representatives both acknowledged that the concerns raised above were legitimate.

IKE's proposal references several other, larger media markets in which digital advertising displays co-exist in the right-of-way with static advertising on bus shelters and other street furniture. However, staff is concerned that the introduction of digital kiosks into the ROW will adversely affect the current bus shelter franchise negotiations: kiosks may not replace bus shelters, but they would effectively compete for attention in the ROW, further reducing the revenue-generating potential of the traditional bus shelter system. Therefore, the IKE proposal could further derail the bus shelter franchise discussions and leave Oakland and the larger AC Transit Bus Shelter JPA fully responsible for maintaining bus shelters.

Based on this recent experience of CCO in Oakland and the East Bay as a whole and after working with IKE to better understand its business model and the potential benefits to Oakland's commercial districts, staff continued to maintain that IKE was overstating the potential advertising revenue and understating the costs of maintaining the digital kiosks in Oakland.

IKE subsequently addressed staff's concerns in a detailed written response dated January 22, 2022 (see **Attachment B**). IKE's analysis and response to staff draws three conclusions:

1. Bus shelters and interactive kiosks deliver distinct social benefits and require distinct operational expertise.
2. Digital street furniture is a worthwhile investment in Oakland for IKE.
3. Multiple cities across the country have successfully deployed multiple advertising-funded street furniture programs operated by different vendors.

IKE made a compelling case that it has the wherewithal to generate significantly more advertising revenues with its digital platform than CCO has done with its bus shelters. Even so, its revenue and cost assumptions are largely based on its experience in other markets. While IKE's agreement with the City of Berkeley has been in place since 2018, the first two kiosks were not installed until December 2021. City staff visited Berkeley with IKE representatives in January 2022 to inspect the kiosks and had the opportunity to ask detailed questions about the program. City staff look forward to learning more from this inaugural launch of the IKE kiosks in the East Bay.

While the promises of revenue-sharing and value-added functions of IKE's kiosks are enticing, staff do not recommend that the City rush to install digital kiosks in the ROW using a sole-source agreement. Rather, staff find that IKE's analysis reinforces the need for the City to step back and reassess its strategy for securing such benefits more broadly.

Over the past five years, City staff pursued the strategy of partnering with the AC Transit-led JPA, assuming that a single, larger bus shelter system would attract better proposals and ultimately secure greater benefits for all. To date, however, this strategy has proven a failure. Moreover, it is not clear how the continued pursuit of this strategy will yield better results in the future.

In response to this situation, AC Transit staff presented four alternative strategies to the Board of Directors at an October 13, 2021 meeting (see **Attachment C**), including:

1. Implement two separate contracts: one contract for cleaning and one contract for advertising, repairs, installations, and relocations;
2. Implement three separate contracts: one contract for cleaning, one contract for advertising revenue, and one contract for repairs, installations, and relocations;
3. Bring cleaning in-house and implement two separate contracts: one contract for advertising revenue and one contract for installations and relocations; or
4. Bring cleaning, installation, and repairs in-house and implement one contract for advertising revenue.

As reported above, AC Transit-led JPA is entering into another bridge agreement with CCO, effective April 1, 2022, ensuring that the bus shelter system will continue to operate while these alternatives are explored.

The City now has the option of pursuing yet another strategy, one that is informed by its work with the AC Transit-led JPA and the analysis provided by IKE: *deploy a coordinated street furniture program with multiple advertising-funded amenities, from bus benches and shelters to smart garbage cans and digital kiosks, using multiple vendors.*

For example, IKE may be able to offer not only a cutting-edge digital kiosk platform, but also the capacity to maximize the advertising revenue potential across furniture platforms. Moreover, other vendors may bring equally important expertise and capabilities such as maintenance and repair. The latter may not be national firms, but local business enterprises that are uniquely positioned to work with and in our community. Pursuing such a strategy would also allow City staff to

For these reasons, staff recommend that the City focus on (1) maintaining the existing bus shelter program and (2) commit the necessary and sufficient resources to developing and implementing a coordinated street furniture program through a robust competitive process. That process will benefit greatly from the recent experience of the AC Transit-led JPA, the recently launched kiosk-program in the City of Berkeley and the Oakland Public Works effort to install a

network of “smart big belly” garbage cans in East Oakland. In short, any solicitation for digital advertising kiosks should be done in coordination, or concurrently, with a solicitation for bus shelters and other kinds of street furniture.

Alternative #1	Approve a sole-source franchise agreement with IKE now
Pros	Revenue and other benefits may be generated sooner.
Cons	The digital kiosk program will not be coordinated with the bus shelter and other street furniture programs, thereby potentially negatively impacting the City’s ability to secure the best combination of vendors with the most favorable terms; would require a waiver of normal competitive process.
Reason for not recommending	While IKE has made a compelling case that it can deliver the benefits it has promised, these benefits can be even greater if the City pursues a comprehensive competitive process with only an estimated twelve to eighteen month delay.

Staffing needs

There are currently no staff dedicated to managing the City’s street furniture or bus shelter program, let alone a potential digital advertising kiosk program. All maintenance and management was previously completed by CCO or AC Transit with little City staff involvement. OakDOT managers were tasked with managing CCO and supporting the JPA-led competitive process the past four years. Staff estimate that development, issuance, evaluation and ongoing management of any new RFP(s) or contracts for street furniture, including bus shelters and/or digital advertising kiosks, will require approximately one-half of a full-time equivalent (FTE) staff position within the OakDOT at the Transportation Planner II level.

This new staff position would be located within OakDOT’s Parking & Mobility Division (PMD). PMD is responsible for standing up and overseeing programs ranging from bike share stations and metered parking to EV chargers and wayfinding systems. The partially dedicated staff position would also manage vendors and administer agreements, coordinate and conduct community outreach, facilitate permit review, and serve as a single-point-of-contact for the street furniture program, thereby improving interdepartmental and interagency coordination on street furniture issues while relieving pressure on existing staff.

The full cost of a .5 FTE Transportation Planner II, including all overhead, is \$118,340 dollars per year. Staff recommend that the City Administrator be directed to include a provision for this on-going cost in the City’s 2022-23 mid-cycle budget. Funds for this new position should be appropriated into General Fund 1010, Organization 35247.

FISCAL IMPACT

The proposed one-year contract extension with CCO is for an amount not to exceed \$480,000, paid by the City to CCO. CCO would retain shelter ownership/liability during the contract period, with transfer of shelter ownership to the City at the end of the contract for \$100.00.

This is an unanticipated expense, so there were no funds specifically appropriated for this contract amendment. For the current Fiscal Year, available funds in the amount of \$120,000.00 in Multipurpose Reserve Fund (1750), Parking Meter Collection Organization (08931) Miscellaneous Contract Funds (54919) will be used. Staff will make a request to appropriate additional funds in the amount of \$320,000.00 for Fiscal Year 22-2023 as part of the City-wide Mid-Cycle Budget.

Revenue on advertising would be shared at 50%. This high revenue share rate should provide a significant offset to the City's cost. CCO estimates revenue on 106 shelters for 2022 to range from around \$400,000 to \$500,000. If \$480,000 in revenue is achieved, the City's net cost for the service would be offset by \$240,000 in revenue share.

The full cost of a .5 FTE Transportation Planner II to manage and oversee any RFP(s) for street furniture or digital advertising kiosks, including all benefits and overhead, is \$118,340 per year.

PUBLIC OUTREACH / INTEREST

AC Transit led a public, competitive RFP process over the last two years to select a contractor to manage bus shelters for the JPA. This process included multiple presentations by AC Transit staff to the AC Transit Board of Directors including on six separate occasions between November 2019 and October 2021.

IKE presented their proposal for digital advertising kiosks to the Oakland Council of Business Improvement Districts in June 2021. Participating City staff included OakDOT and Economic and Workforce Development.

COORDINATION

In preparing this report, staff coordinated with the Budget Bureau, the Office of the City attorney, the Economic and Workforce Development Department, the Department of Planning and Building, and Public Works Department.

PAST PERFORMANCE, EVALUATION AND FOLLOW-UP

Staff have been satisfied with the responsiveness of CCO to requests for bus shelter cleaning, maintenance, relocation and other services.

SUSTAINABLE OPPORTUNITIES

Economic: Bus shelters are an important amenity that, when provided, improve the comfort and accessibility of bus service in Oakland. Bus service helps to connect Oakland residents with jobs, housing, retail, healthcare and other essential services, thereby increasing economic activity.

Environmental: Clean and well-maintained bus shelters help to make the bus an attractive transportation option. Increasing the use of bus services has many proven environmental benefits, including reduced air pollution and greenhouse gas emissions.

Race & Equity: According to a 2018 AC Transit rider survey, the majority of AC Transit bus riders are people of color (thirty percent black, twenty percent latino and twenty percent asian). Sixty-five percent of riders are low-income. Improving the cleanliness and general maintenance of bus shelters therefore equitably benefits underserved groups.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This action is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15301 (existing facilities), 15183 (projects consistent with General Plan and Zoning), and 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt An Ordinance Amending and Extending By One Year, With An Option For A Second Year, A Non-Exclusive Franchise Agreement With Clear Channel Outdoor For A Street Furniture Program At An Annual Not To Exceed Cost Of \$480,000 And Adopting Appropriate California Environmental Quality Act (CEQA) Findings.

For questions regarding this report, please contact Michael Ford, Manager of the Parking and Mobility Division, at 510-238-7670.

Respectfully submitted,



RYAN RUSSO
Director, Oakland Department of Transportation

Reviewed by:
Fred Kelley, Assistant Director

Prepared by:
Michael Ford, Division Manager
Parking & Mobility Division

Kerby Olsen, Transportation Planner III
Parking & Mobility Division

Attachments (2):

- A. IKE Presentation to Oakland BID Alliance, June 2021
- B. IKE Memo to Oakland City Staff, January 2022
- C. AC Transit Staff Report on Bus Shelter Contract, October 2021

