
TRANSBAY JOINT POWERS AUTHORITY

Board Policy No. 16

Category: Financial Matters

ADVERTISING POLICY

I. Purpose

TJPA's transit center is a more than 1,250,000-square-foot public facility, spread over three city blocks, with four levels above ground and two levels below ground. The facility is designed to serve diverse purposes, including transit, recreation, commercial, and administrative purposes. More than 37,000 people are expected to visit and use the facility each week day when Phase 1 of the Transbay Program is fully operational. At completion, the Transbay Program is expected to connecting eight Bay Area counties and the State of California through 11 transit systems.

The primary purpose of TJPA property is to provide a public transportation facility. TJPA expects that TJPA property will also provide an important service for passengers, neighbors, workers, and tourists, providing retail, professional services, commercial outlets; dining; as well as leisure, recreational, and other amenities.

TJPA may choose to make limited, designated areas available for print, electronic, digital, or other forms of advertisements (such as sponsorship, promotions, live advertisement, and experiential advertisement) (collectively, "Advertising").

In keeping with its proprietary function as a provider of a public transportation facility, TJPA does not intend by accepting Advertising to convert TJPA property into an open public forum for public discourse, debate, or expressive activity. Rather, TJPA's fundamental purpose is to provide a public transportation facility, and TJPA accepts Advertising as a means of generating revenue to support its primary functions.

In furtherance of this discrete and limited objective, TJPA retains control over the nature of Advertising on TJPA property. TJPA finds that certain restrictions on Advertising will allow the TJPA property to fulfill its primary function as a public transportation facility; guard the health, safety, and security of the public; and promote revenue generation for the Transbay Program. Among other things, Advertising shall be consistent with TJPA's goals to:

- (1) Maximize revenue for the Transbay Program. TJPA expects to generate significant revenue to pay for the operations of the Transbay Program through commercial/retail leasing. Fostering an environment that enhances commercial/retail activity can help minimize the need for public transit operators to increase passenger facility charges and apply public sources to pay for

operations. Limiting messaging that is likely to depress the commercial/retail leasing opportunities in the transit center is in the public interest.

- (2) Promote the Transbay Program and ridership on the public transportation systems that partner with TJPA. Limiting messaging that promotes unsafe behaviors on transit, or that are adverse to the TJPA and its public agency partners is not in the public interest.
- (3) Maintain a safe and welcoming environment for passengers, particularly minors, using TJPA property and riding the public transportation systems that use TJPA property by encouraging a minimum level of decorum. TJPA expects that many passengers that will use TJPA property may have limited alternative methods of transportation. The transit uses of the facility dictate that certain audiences will be captive to any messaging in areas that are designed for transit passengers to queue while waiting for transit and will therefore not have a choice when using those areas in whether or not to be exposed to such messaging. TJPA expects that many passengers that will use TJPA property will be minors. TJPA is particularly concerned about protecting youth riders from intrusive or inappropriate messaging.
- (4) Maintain TJPA's position of neutrality on issues not directly related to the Transbay Program. Should TJPA's neutral position be compromised, it could adversely affect ridership and revenue generation for the Program.
- (5) Not promote illegal activity.

II. Policy

A. Permitted Advertising

Advertising is authorized on TJPA property if it meets one of the following categories and is not otherwise prohibited under subsection (B) below:

- (1) Commercial and Promotional Advertising. Material that promotes or solicits the sale, rental, distribution, or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial or noncommercial purposes, or more generally promotes an entity that engages in such activities; or
- (2) Governmental Advertising. Material sponsored by a government entity and that advances specific government purposes; or
- (3) Public Service Announcements. Material (a) sponsored by either (i) a government entity, or (ii) a nonprofit corporation that is exempt from taxation under Section

501(c)(3) of the Internal Revenue Code, and (b) which is directed to the general public or a significant segment of the public, and (c) relates to:

- Prevention or treatment of illnesses;
- Promotion of safety or personal well-being;
- Education or training;
- Art or culture;
- Provision of children and family services;
- Solicitation by broad-based contribution campaigns which provide funds to multiple charitable organizations; or
- Provision of services and programs that provide support to low income citizens, senior citizens and people with disabilities.

B. Prohibited Advertising

Advertising is prohibited on TJPA property if it falls under one or more of the following categories:

- (1) Political or Public Issues. Material that either (a) promotes or opposes a political party, promotes or opposes any state or local ballot measure or the election of any candidate or group of candidates for federal, state, judicial or local government offices; or (b) is political in nature or contains political messages, including advertisements involving political or judicial figures and/or advertisements involving an issue that is political in nature in that it directly or indirectly implicates the action, inaction, prospective action or policies or a governmental entity; or (c) expresses or advocates an opinion, position or viewpoint on a matter of public debate about economic, political, religious or social issues.
- (2) False, Fraudulent, or Misleading. Material that is, or the sponsor reasonably should have known is, false, fraudulent, misleading, or deceptive.
- (3) Profanity. Material that contains profane language.
- (4) Libel, Slander, Defamation, or Invasion of Privacy. Material that is libelous, slanderous, defamatory, or an invasion of privacy.
- (5) Obscene or Pornographic. Material that is obscene or pornographic, by community standards.
- (6) Illegal Goods or Services, or Unlawful Behavior. Material that advocates or promotes the use of illegal goods or services, or unlawful conduct, or otherwise conflicts with the requirements of TJPA's funding partners, including the U.S. Department of Transportation.
- (7) Violence. Material that portrays images or descriptions of: graphic violence, including dead, mutilated or disfigured human beings or animals; the act of

killing, mutilating or disfiguring human beings or animals; the act of inflicting pain or violence towards or upon a person or animal; or weapons or devices that appear to be aimed or pointed at the viewer or observer in a menacing manner.

- (8) Copyright, Trade or Service Mark, or Other Infringement. Material that infringes on any copyright, trade or service mark, or other protected intellectual property.
- (9) Insulting, Degrading, Disparaging, Demeaning, or Offensive. Material directed at a person or group that is intended to be (or reasonably could be interpreted as being) (a) insulting, degrading, disparaging, demeaning, or offensive so as to be reasonably foreseeable that it will incite or produce lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order, or (b) disparaging or disrespectful to persons, groups, governments, businesses or organizations, including advertisements that portray individuals as inferior, evil or contemptible.
- (10) TJPA or Public Agency Partner Graphics and References. Material that contains TJPA or its public agency partners' graphics, logos or representations, or contains or implies an endorsement by TJPA or its public agency partners, without the express written consent of TJPA or its public agency partners.
- (11) Tobacco, Firearms, or Cannabis. Material that constitutes commercial advertising of tobacco, firearms, or cannabis products, businesses, or services.
- (12) Unsafe Transit Behavior. Material that encourages or depicts unsafe behavior with respect to transit-related activities, such as non-use of normal safety precautions in waiting, boarding, riding upon, or disembarking from transit vehicles.
- (13) Adverse to TJPA or Public Agency Partners. Material directly adverse to the commercial or administrative interests of TJPA or its public agency partners, or that tends to disparage the quality of service provided by TJPA or its public agency partners, or that tends to disparage public transportation generally.

III. Administration

TJPA advertising contractors shall be responsible for the daily administration of the advertising program in a manner consistent with this Policy and with the terms and conditions of their agreements with TJPA.

TJPA reserves the right to require that any Advertising identify the entity sponsoring the Advertising in clearly visible type.

TJPA reserves the right to require that any Advertising include the following statement in clearly visible type: “The views expressed in this advertisement do not necessarily reflect the views of the Transbay Joint Powers Authority.”

Any contract granting the right to advertise on TJPA property shall attach this Policy and require compliance with this Policy, as it may be amended from time to time. TJPA reserves the right to review and approve all proposed Advertising prior to posting to ensure consistency with this Policy. Upon written demand by TJPA, the contractor must promptly remove any Advertising that is in violation of this Policy at the contractor’s sole expense.

The TJPA Board may amend this Policy at any time without prior written notice to any entity that purchases or sells Advertising on TJPA property.