

**THIS STAFF REPORT COVERS CALENDAR ITEM NO. : 13  
FOR THE MEETING OF: December 9, 2010**

**TRANSBAY JOINT POWERS AUTHORITY**

**BRIEF DESCRIPTION:** Approval of Board Policy No. 016, Advertising Policy.

**SUMMARY:**

Public transportation agencies frequently make available certain areas of facilities, equipment, and property for advertising in order to generate revenue for the agencies. The TJPA plans to issue a Request for Proposals for advertising on certain limited, designated portions of the Temporary Terminal site in the next several months to earn revenue for operations. It is expected that there will also be revenue-generating advertising in the new Transbay Transit Center when completed. The proposed Advertising Policy (Policy) sets forth the guidelines and requirements for such advertising on TJPA property.

The Policy would apply to all advertising on TJPA property. The type and location of such advertising would be determined by the TJPA through the RFP process; advertising agreements would be subject to this Board's prior approval.

The purposes and objectives of the Policy are to:

- (1) Maximize revenue for the Transbay Program. The class and consumer friendliness of advertising directly relates to the goal of maximizing revenue.
- (2) Promote the Transbay Program and ridership on the public transportation systems that partner with the TJPA.
- (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.
- (4) Maintain the TJPA's position of neutrality on issues not directly related to the Transbay Program.
- (5) Not promote illegal activity.

The TJPA does not have a tradition of making its property available for speech and the exchange of ideas. The TJPA may, however, elect to offer advertising space on certain limited, designated portions of TJPA property for the purpose of generating revenue for the Program. The TJPA intends to ensure strict compliance with the Policy and any rules and regulations relating to advertising on TJPA property, and to enforce such regulations. As such, any advertising space on TJPA property is a nonpublic forum, and the TJPA can reasonably regulate the subject matter of the advertising content as provided in the Policy.

The Policy would prohibit, among other things, advertisement that is false, misleading, deceptive, clearly defamatory, obscene, or pornographic; concerns a political candidate or ballot measure scheduled for consideration by the voters; or infringes upon any copyright, trademark, or

other protected intellectual property. These prohibitions are directly related to achieving the purposes and objectives of the Policy.

The Policy also would reserve the right to require that all advertisements include a disclaimer that the views expressed in the advertising do not necessarily reflect the views of the TJPA, and require any advertising contractor to promptly remove any advertisements that are in violation of the Policy.

Any advertising agreements would be written such that the TJPA Board can unilaterally amend the Advertising Policy at any time without prior written notice to any affected advertising contractor.

Other public transportation agencies, such as the San Francisco Municipal Transportation Agency, BART, AC Transit, Golden Gate Transportation District, and Santa Clara Valley Transportation Authority, have adopted or are considering advertising policies similar to the Policy proposed here.

**ENCLOSURES:**

1. Resolution
2. Board Policy No. 016, Advertisement Policy

**TRANSBAY JOINT POWERS AUTHORITY  
BOARD OF DIRECTORS**

**Resolution No. \_\_\_\_\_**

WHEREAS, The Transbay Joint Powers Authority (the "TJPA") is a joint powers agency organized and existing under the laws of the State of California; and

WHEREAS, Pursuant to the Joint Powers Agreement creating the TJPA, dated April 4, 2001 (the "Agreement"), the TJPA has the authority to, among other things, make and enter into contracts and exercise all powers necessary and proper to carry out the provisions of the Agreement; and

WHEREAS, The primary purpose of TJPA property is to provide public transportation services to paying passengers. The TJPA has not traditionally made its property available for speech and the exchange of ideas; and

WHEREAS, The TJPA maintains a position of neutrality on issues not directly related to the Transbay Program. Should the TJPA's neutral position be compromised, it could adversely affect ridership and revenue generation for the Program; and

WHEREAS, The TJPA maintains a safe and welcoming environment for passengers, particularly minors, using TJPA property. Should passengers deem TJPA property unsafe or unwelcoming, it could adversely affect ridership and revenue generation for the Program; and

WHEREAS, Most passengers use TJPA property to commute to and from home, work, and school, and to engage in retail, professional services, and other commercial transactions. Many passengers that use TJPA property have limited alternative methods of transportation. Many passengers that use TJPA property are minors; and

WHEREAS, The TJPA may wish to generate revenue for the Program by selling advertising space at certain limited, designated places on TJPA property; now, therefore, be it

RESOLVED, That the TJPA Board adopts the Advertising Policy identified as Board Policy No. 016; and be it

FURTHER RESOLVED, That the purpose of selling advertising space at certain limited, designated TJPA property is to generate revenue for the Program; and be it

FURTHER RESOLVED, That any advertising on TJPA property shall be subject to the Advertising Policy, and any rules and regulations relating to advertising on TJPA property, which shall be strictly enforced; and be it

FURTHER RESOLVED, That any advertising space on TJPA property is intended to be a nonpublic forum.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of December 9, 2010.

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Secretary, Transbay Joint Powers Authority

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# TRANSBAY JOINT POWERS AUTHORITY

Board Policy No. 016

Category: Financial Matters

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## ADVERTISING POLICY

### I. Introduction

The TJPA may from time to time chose to make limited, designated TJPA property (“Advertising Space”) available for posting of print, electronic, or other forms of advertisements (“Advertising”). All such Advertising Space is a nonpublic forum. All Advertising must strictly comply with the terms and conditions of this Policy.

The primary purpose of TJPA property is to provide public transportation services to paying passengers. Most passengers use TJPA property to commute to and from home, work, and school, and to engage in retail, professional services, and other commercial transactions. Many passengers that use TJPA property have limited alternative methods of transportation. Many passengers that use TJPA property are minors.

### II. Objectives

The purposes and objectives of this Policy are to:

- (1) Maximize revenue for the Transbay Program. The class and consumer friendliness of Advertising directly relates to the goal of maximizing revenue.
- (2) Promote the Transbay Program and ridership on the public transportation systems that partner with the TJPA.
- (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.
- (4) Maintain the TJPA’s position of neutrality on issues not directly related to the Transbay Program.
- (5) Not promote illegal activity.

### III. General Policy

In order to advance the above purposes and objectives, Advertising shall not:

- (1) concern a political campaign or candidate, ballot measure, initiative, or other legislation;
- (2) contain false, misleading, or deceptive commercial speech;
- (3) contain profanity;

- (4) be libelous, slanderous, or defamatory;
- (5) contain nude, obscene, or pornographic images, by community standards;
- (6) advocate or promote the use of illegal goods or services, or unlawful conduct;
- (7) depict graphic violence;
- (8) contain or use a graffiti style to convey a message;
- (9) infringe on any copyright, trademark, or other protected intellectual property;
- (10) demean or disparage an individual or group;
- (11) conflict with the requirements of the TJPA's funding partners, including the US Department of Transportation, or any applicable federal, state, or local law;
- (12) contain, imply, or declare an endorsement by the TJPA, except as expressly permitted by the TJPA.

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

The 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 in the Advertising Space shall attach this Policy and require compliance with this Policy, as it may be amended from time to time. The TJPA reserves the right to review and approve all proposed Advertising prior to posting to ensure consistency with this Policy. Upon written demand by the 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 in the Advertising Space.