

## Communication from Public

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**Council File No:** 20-1536

**Comments for Public Posting:** On the posted agenda for the LA City Council joint committee meeting of 8/24/22 it is noted that only Item number 1 is to be jointly considered by both the Budget and Public Works Committees. However, it does not note which committee will hear item number 2 on the agenda. On item number 2, there are errors in the posting of neighborhood councils said to support the measure when they do not support the program as proposed. There now appear to be three different council files related to CF 20-1536. This is quite confusing. There is CF 20-1536, CF 20-1536-S1 and CF 20-1536-S2. With the addition of Council Files, the placement of neighborhood council CIS statements has not been properly assigned. It is also important to note there has never been a description of the CF 20-1536 that refers to the Council File as a measure that seeks to introduce the new LAMC to allow advertising structures on the public right-of-way beyond those currently permitted by LAMC for transit shelters. The posting of the agenda item and council file in this manner at long last reveals the true intent of the STAP program which has been to serve as a TROJAN HORSE for the City's desire to allow for commercial advertising on the City's PUBLIC right-of-way -- stripping away protections that have long been in place. While Public Works staff promote STAP as a "transportation program" it is clear at long last that the Mayor's office and those behind the proposed advertising programs look at STAP as the tool to enable the opening up of the PUBLIC's right-of-way to invasive, distracting (and dangerous) commercial advertising. This is being done in a deceitful underhanded manner while promoting insufficient and unfunded shade and shelter structures for transit riders. The removal of such protections will serve to invite legal challenges to the City's right to regulate off-site signage. The City Attorney's office should be charged with assessing the legal vulnerabilities introduced by this measure. I note that while the City Attorney's office has approved the proposed measure according to form, it has not addressed or been requested to address the issue of content or impact. The City's right to regulate off-site signage was the result of hard-won legal battles over many years and many challenges by outdoor advertisers who sought a way to break through the City's Sign Ordinance and its ban on new billboards adopted in 2002. The permitting of new billboards in Sign Districts has been the City's tool to allow for exceptions to the off-site sign ban, but the use of the public right-of-way by the City to allow for advertising structures such as those proposed by the Tourism and Convention Bureau ("IKE") and the Metro digital billboard program masquerading under a misleading title of Metro Transit Communication Program will surely invite legal challenges to the City's right to maintain its regulatory authority. Ignoring this is done at great peril and is irresponsible. I must repeat once again that the Dept. of Transportation or outside traffic engineering consultants should be charged with reviewing the current literature/studies related to changing digital advertising messaging to assess potential risks and dangers associated with the placement of digital changing messages in the vision of drivers. This presents not only a public safety risk, but there may also be a legal liability risk to the City should resulting accidents in the vicinity of the signs be sited as a contributing factor. I submit to the record a report done for the City of Seattle when it was considering a street furniture program: <https://www.scenic.org/wp-content/uploads/2021/12/SEATTLE-STREET-FURNITURE-FINAL-REPORT.pdf>. Their approach to assessing the dangers associated with a proposed program show an effort at due diligence that the City of Los Angeles has failed to demonstrate. As the City Council may only approve or reject the proposed contract and cannot make changes to improve it at this stage of its consideration, it is best that the program be returned to Public Works/Street Services for another pass. The program is too important to be approved as is. It fails to meet its stated mission and will be a much stronger program when a time out is taken to incorporate the wisdom of community and neighborhood council members, and transit advocates. I attach the letter prepared by Attorney John Murdock related to the proposed contract and program for our homeowners association, Westwood South of Santa Monica Blvd. HOA. It raises our additional concerns and I will not repeat them here. We wish to incorporate any additional comments of concern made by additional parties in the consideration of the STAP program.

I urge you to reject the documents before that would give your approval to the proposed STAP program. Instead, I hope that you will oppose the STAP program as proposed and will send it back to the Public Works Dept. for additional work. There are a great many deficiencies in the program which, while presented as a "world class" transit amenity program falls far short of such accolades. It represents opportunities missed and a failed effort to build on lessons learned over the past 20 years of the current street furniture contract. If the purpose of the program was to serve as a TROJAN HORSE for the introduction and adoption of a new LA Municipal Code to allow for advertising structures on the PUBLIC right-of-way, then the program accomplishes its goal with the placement of the proposed new LAMC hidden within the STAP Mitigated Negative Declaration (MND) document. That aspect of the STAP program was never presented in the public outreach meetings held and was not mentioned during the Board of Public Works approval of the Tranzito-Vector contract. The City's effort to adopt a new LAMC when none is needed to implement the STAP program is deceitful and duplicitous. While staff repeats that STAP is not an advertising program, STAP is being used to hijack the PUBLIC right-of-way for new advertising initiatives that will bombard us with commercial advertisements from our sidewalks, parkways, street poles, and the very airspace above us. In a City that is actively increasing density, we need to preserve our open space wherever it may be. We also deserve to have the right to walk down a street without being subject to a barrage of advertising messages. With the new LAMC, the City proposes to sell our public right-of-way to commercial advertisers -- in exchange for a share of the revenues generated. You are selling out the City on the cheap with negative impacts that will last for years to come. The public does not want to see these distracting advertising structures, additional billboards or informational kiosks. It is wrong to attempt to hide their future public review within the STAP program and its documentation.

The problems with STAP are many. Community members have been raising questions and testifying about STAP since the initial RFP was created and released by the Dept. of Public Works -- that without the benefit of having included any public input into that process. The RFP was written with input from the outdoor advertising industry alone. Although communities have waited 20 years for the current street furniture contract to expire, we were given no opportunity to help to create a program that the City could be proud of. Former Public Works Department Director Adel Hagekhalil promised the public a "world class" street furniture program in his public presentations about the program. Although he also promised the public responses to their/our concerns, our questions remained unanswered. Worse yet, program elements presented as part of the STAP program we now learn are not considered to be "essential" components of the program and critical aspects of the program have been added that were never presented in public presentations. In simple terms, this is an example of "bait and switch." Worse yet, not only are those of us who are aware of these changes dismayed, but it is the City and taxpayers that will be left holding the bag when additional program elements are needed and it is learned that additional public funds will be needed to provide for them.

Sadly, at the end of the contract period, less than half of today's transit stops and their riders will benefit from a shelter to provide those riders with the shade and shelter that was presented as the new STAP program's main goal. Over that 20-year period, it is anticipated that additional transit routes and stops will be established leaving more and more Angelenos waiting for transit unprotected. While the project proponents say that there will be shelters for a given percentage of current riders in each council district, that does not account for the fact that major new routes are being proposed and built across

the City. What provisions exist to meet growing needs or changes in transit offerings/routes? Moving from the scope of the program to the financial outlook, it is abundantly clear that the recommended contract requires rigorous analysis of expected revenues. Even to an untrained eye, there are assumptions that have been made that are entirely unsupported by the details of the program.

We have asked for and have been promised but have never received a comparison of the final bidder proposals – nor the criteria by which they were evaluated. We cannot understand how a program that proposes to litter our public right-of-way with thousands of more signs (6500 ad panels) and many more digital images (1952 digital ad faces) can be viewed as being superior to any alternatives being considered.

CONTINUED FROM COUNCIL FILE POST HERE:

The problems with STAP are many. Community members have been raising questions and testifying about STAP since the initial RFP was created and released by the Dept. of Public Works – that without the benefit of having included any public input into that process. The RFP was written with input from the outdoor advertising industry alone. Although communities have waited 20 years for the current street furniture contract to expire, we were given no opportunity to help to create a program that the City could be proud of. Former Public Works Department Director Adel Hagekhalil promised the public a “world class” street furniture program in his public presentations about the program. Although he also promised the public responses to their/our concerns, our questions remained unanswered. Worse yet, program elements presented as part of the STAP program we now learn are not considered to be “essential” components of the program and critical aspects of the program have been added that were never presented in public presentations. In simple terms, this is an example of “bait and switch.” Worse yet, not only are those of us who are aware of these changes dismayed, but it is the City and taxpayers that will be left holding the bag when additional program elements are needed and it is learned that additional public funds will be needed to provide for them.

Sadly, at the end of the contract period, less than half of today’s transit stops and their riders will benefit from a shelter to provide those riders with the shade and shelter that was presented as the new STAP program’s main goal. Over that 20-year period, it is anticipated that additional transit routes and stops will be established leaving more and more Angelenos waiting for transit unprotected. While the project proponents say that there will be shelters for a given percentage of current riders in each council district, that does not account for the fact that major new routes are being proposed and built across the City. What provisions exist to meet growing needs or changes in transit offerings/routes?

The provision of shelters for up to 75% of each council districts riders does not necessarily represent an equitable distribution of transit shelters based upon numbers of riders. 75 percent of riders in one council district may mean that shelters are provided for locations where only a fraction of riders use transit as compared to riders in a different council district. Being equitable in distribution between council districts does not necessarily equate to being equitable based upon the population in an area that relies on transit. In this way, STAP’s plan fail to pass an equity litmus test.

While elements of the STAP program were rolled out during public outreach and presented as part of the program, we now see that there are no dedicated funds to implement the shelter amenities that were presented. Program elements that were presented are now classified as “optional” and will only come to pass if and when funding for them is secured. This is rather disingenuous. Those supporting the program do not realize that they have been subject to a large potential bait and switch maneuver. They were sold on a program that may never come to pass as presented.

There are program components that community members would have suggested and that were not considered in the current program. Questions posed at outreach sessions were never answered. We do not know whether the program proposes to provide shelters only at Metro stops or whether stops from other transit providers will be covered if ridership meets stated criteria. We do not know if efforts were made to place priority for placement of shelters without advertisements on scenic roadways where ridership warrants them. In fact, we do not know if the STAP program and any programs under the proposed new LAMC intend to abide and comply with the protections given to scenic roadways as provided in the Mobility Element/General Plan. We have concerns about this and about the need to respect provisions of Specific Plans that restrict the placement of signage.

Moving from the scope of the program to the financial outlook, it is abundantly clear that the recommended contract requires rigorous analysis of expected revenues. Even to an untrained eye, there are assumptions that have been made that are entirely unsupported by the details of the program.

We have asked for and have been promised but have never received a comparison of the final bidder proposals – nor the criteria by which they were evaluated. We cannot understand how a program that proposes to litter our public right-of-way with thousands of more signs and many more digital images can be viewed as being superior to any alternatives being considered. The numbers that were presented to us in public meetings were entirely misleading in their presentation. When we were told that a low percentage of ad faces were to be digital signs, no one ever told us that the total number of advertising faces were 6,500 faces in total! It was only in the latest zoom program when pressed for an exact number of ad faces was that reality was revealed. Prior to that Q & A session of 5/24/22, the information presented was missing or entirely misleading. The second face or second ad panel had not been presented as a program ad face in presentations.

It is troubling that the Board of Public Works approved the recommended contract without themselves having the details as to what they were approving and how the proposals compared. While staff recommendations should carry some weight, it is the duty of the Commissioners to probe and ask questions to protect the City’s long-term best interests. It is hoped that the CAO report will do that job that has not been done thus far. The entire contract should return to the Board of Public Works for a full review with the relevant information.

**RE: Revenues / MAG – Minimum Annual Guarantee:**

If the vendor projects a contract/program revenue of \$400 million dollars, why then is there a guarantee of only \$80 million?

Given the delays in moving the contract process forward, the financial projections need to be re-worked to reflect the actual projected contract start date and the issues related to pandemic-related material shortages, shipping delays, etc. There does not appear to be adequate attention paid to the time needed to roll out the new program, to re-purpose existing shelters and to prepare and install new shelters.

There should be no question as to whether or not advertising is permitted on the existing shelters that will become City property. It is clear that under the current contract, the existing shelters may NOT be used for generating advertising revenues for the first five years following a change in vendors. Any calculations that include revenues from the current/repurposed shelters must be removed from income calculations. (Why were they even considered/included?)

The total value of this recommended contract must be recalculated removing revenues from the existing shelters over the first five-year period.

Did income projections attempt to assess the impact to the value of the advertisements given that there will be competing advertising programs on the public right-of-way should IKE and the METRO programs move forward? The nature of the advertising marketplace in Los Angeles should be evaluated to determine where saturation points exist and where these programs end up competing with themselves. Furthermore, should the City's programs result in an undermining of the City's ability to regulate and limit signage, one can expect a growing number of competing signs from additional vendors – thus further competing with and reducing the value of the City's sign programs. The new LAMC proposed that opens up the public right-of-way to an unlimited number of signs could mean that the current banner program that is now offered only to non—profit organizations could advertise products. Will we see new ad programs proposed during years when City budgets are strained? Should the public right-of-way be viewed as a place to generate revenues or as an important asset that defines how our neighborhoods look and feel? Do we wish to plant trees or install advertising kiosks on our parkways? These are serious questions that should not be ignored. The push to add more and more ad faces fails to address the policy question that the City should be asking IF ad revenue is being used to justify the blighting of our City: How can the City MINIMIZE sign blight while maximizing ad revenues? That is a question that should be seriously probed in discussions with marketing professionals. The City staff is likely unequipped to make such evaluations. There has been no evidence that such an approach has been explored.

Is there a provision made for a limited number of free public service advertisements? Is there a defined program for discounted advertisements for local merchants within a defined geographic area of a given transit shelter ad structure?

The costs of operating the recommended program have not been adequately assessed. It is unclear how decisions were made (and why the decisions were not linked to financial implications) that transferred certain responsibilities related to the program to the City and its taxpayers. It is not clear that the actual cost of preparing shelter locations has been accurately stated. How have these expenses been calculated and from where will the costs be taken? Will they be taken against the program revenues, hidden in the general budget, or...? In the current contract, it is the vendor who is responsible for

preparing shelter locations for placement of new shelters. Has the cost of doing these installations been based upon current costs and are they realistic?

The costs for the proposed staff positions is significant. Will this be charged against the program revenues or will they become part of the DPW budget? What will be the fate of the program if and when the City faces budget shortfalls and general budget funding cannot be accessed?

If the City plans to own the actual shelter structures (there is no ownership under the current contract), have adequate funds been projected to maintain the shelters if and when they are vandalized? There does not appear to be any funding set aside for the replacement of shelters. What is the shelter life expectancy? How often will shelter components need to be replaced? With the introduction of costly digital screens, what exposure to repair/replacement costs will the City bear? This is a new program element and one whose maintenance costs are unknown to the City.

With the City's intent to borrow funds to finance the purchase of the actual shelter components, where will this money come from? What will the cost to the City be associated with tying up these funds for shelter purchases thus keeping them from being available for other uses? Has an analysis been done to evaluate the Public Works fund that provides loans for needed public works projects to determine whether using those funds for this large project will cause other projects to be delayed or will increase the cost of those projects by requiring them to seek other sources of funds?

Given that both the recommended vendor and its advertising partner have had no demonstrated experience operating a program of this scope or in operating any program in a City nearing the size of Los Angeles, what assessment has been done as to the vendor's capacity to live up to the terms of the contract? How did the City staff evaluate the capacity of the vendors to deliver on their promises – both in terms of project delivery and financial resources to meet the projections. What will the response be if maintaining shelters in certain locations requires more frequent visits than currently planned?

Have all City-assumed expenses been subtracted from adjusted expected revenues to come up with a realistic bottom-line profit? The Public Works staff demonstrated with the current contract that they failed to assess projected revenues. Have similar assumptions been made that create a false and unsupported conclusion in order to promote the recommended contract?

Program revenues from digital signage are calculated based upon the numbers of ads presented in a rotation cycle. There has been no public discussion about what might constitute a safer rotation schedule. The Public Works proposal incorporates a 10-second refresh rate for ad faces that rotate on the digital sign structures. How was that time period determined? While many neighborhood councils and members of the public have voiced their disapproval of digital changing messaging, IF digital faces are to be incorporated in any advertising programs on the public right-of-way, what is being done to review research done as to ways to minimize the distraction to drivers that is so perilous and should be minimized if not entirely avoided? If the City wishes to take advantage of having digital changing messaging, what is the acceptable rotation rate for ads such that they do not contribute to driver distraction? A study done in Seattle that does not have the level of congestion that we have in Los Angeles arrived at a refresh rate related to congestion, average traffic speed, etc. One would hope that

no driver passing a digital installation will be able to view multiple messages. There should also be a provision that bans sequential messaging where a series of messages is designed to communicate an advertiser's message.

Any driver can tell you that changing messages catch their eye and cause attention to be taken away from the roadway and its users. Therefore, one would expect that it is unacceptable to have messages changing while a driver is passing or waiting in traffic or waiting for a signal to change. We already have had the experience of digital billboards erected as a result of the secret billboard settlement agreements between Clear Channel, CBS Outdoor and the City having caused negative impacts on traffic. At the intersection of Santa Monica and Westwood Blvds. where digital billboards had been erected, when the left turn arrow signal appeared, those waiting to turn often failed to initiate their turn in a timely manner – they were watching the changing messaging instead. The result was traffic that backed up from the left turn lanes into the traffic lanes, frayed tempers and clogged streets. How many accidents resulted is not known as no data was ever recorded from any accident reports taken in proximity to the approximate 100 digital billboards later ordered shut down by the courts. What kind of rotation rate should be utilized IF digital signage is permitted as part of this program? If digital signage is approved, what evaluation mechanism will be built to assess impacts and to measure any increases in traffic /bike/pedestrian accidents. (And if this is documented to be the case, what contract provisions exist to remove the digital signage at that location. At whose cost would changes be made?)

Why hasn't the Dept. of Transportation or an independent traffic safety expert been tasked with providing decision-makers with the most recent literatures / studies on digital billboards and driver distraction and public safety? The fact that the silos of City government have kept the City Attorney's office and the Dept. of Transportation out of the discussions on this proposed contract is both disappointing and alarming. How can the City seek to introduce a new driver distraction at a time when the City's own "Vision Zero" program struggles to halt the growing carnage on our streets that endangers the most vulnerable street users? It suggests that the name "Vision Zero" should perhaps be retitled as "Zero Vision." This is not an issue to be glossed over and must be evaluated when looking at the scope of the recommended program that will place thousands of digital ad faces on our streets. Where is the effort to minimize driver distraction and the associated public safety dangers? Having been informed of the dangers to roadway users, is the City now liable for damages from those who might be injured in proximity to changing digital signage on its public right-of-way?

In addition to the dangers posed by changing digital ads on the bus shelters, there will be 60 sq. foot so-called digital "icon panels." These panels will stand out and be especially distracting as compared to bus shelters at 24 sq. feet. How will placement of these panels be determined? What assessment as to the dangers of these structures has been done?

I have submitted references to Traffic Engineer Jerry Wachtel's compendiums of digital billboard studies to the file of the STAP program. While the information could be updated, there is a solid body of studies done worldwide that would suggest that digital changing advertisements are proven distraction elements. You may wish to review the following:

Veridian/Wachtel study on digital signage and driver distraction:

<http://www.fairwarning.org/wp-content/uploads/2016/03/compendium-final-2-223.pdf>

Article about Wachtel study: [Evidence Mounts of Distraction Risks from Digital Billboards Along Roadways](https://www.fairwarning.org/2016/03/digital-billboards/)

<https://www.fairwarning.org/2016/03/digital-billboards/>

Recent LA Times story on impacts of changing roadside messaging: Texas reminded motorists to drive safely. It didn't work out as planned

<https://www.latimes.com/science/story/2022-04-21/reminders-to-drive-safely-led-to-more-car-crashes-in-texas-study-finds>

Drivers on our streets do not need any new distractions to entice them to take their eyes off the street. There are plenty of those already.

Veridian also did a study for Seattle when they were considering a street furniture program. Such a study would be a valuable tool for Los Angeles to pursue: <https://www.scenic.org/wp-content/uploads/2021/12/SEATTLE-STREET-FURNITURE-FINAL-REPORT.pdf>. Why did Street Services decide that a 10-second refresh rate would be the optimal setting for changing digital ads?

#### **RE: Program Elements**

As noted above, the program that was presented to the public is not the program that has been consummated in the contract document. The definitions of "essential" program components does not agree with the program the public was presented. Given this difference, it is important to add the costs for purchasing and maintaining the elements now categorized as secondary.

During the public demonstration of the shelters from the two final bidders, it was never explained to the public that the demonstration shelters shown were THE most costly versions of the apparent six models presented to the City. The public was never explained that there were other options and it is unclear as to why the models shown were selected to be shown. Could it be possible that a less sophisticated shelter would be a better choice and would enable there to be additional transit stops covered if a less costly shelter were selected? We do not know. Someone should know.

The constituents in m community do not want and are not interested in having our sidewalks and parkways occupied by lockers for package deliveries. We will have no voice in whether or not such components are installed. We will have no voice in any placements of shelters or associated program elements. While we understand that installation schedules need to be established and certainty provided for the vendor selected, there must be a process to have local council district offices, neighborhood councils to have input that must be considered when making plans for program element installations.

We were interested in the "sunblade" element shown by bidder Decaux at the shelter demonstration site as a low cost program element that could provide shade to riders at stops where a full shelter could not be placed (because of space available or low ridership figures). While there is mention in the recommended contract of a small shade structure of sorts, no diagram or sample program element has

been seen. The cost of this program element is unknown. The Decaux sunblade had no advertising. Will the Tranzito small shade element contain ads? What will it look like? How does it compare to the “sunblade?” Cost to the City? Will there be added costs to maintain them?

It appears that only “essential” elements are required under the contract. Is the vendor required to provide “secondary” and “additional” elements presented during demonstrations and presentations? Where is the language that would require the vendor to maintain these elements if provided by the City or vendor? Could there be additional costs involved?

The removal of the automated public toilet element from the contract is difficult to understand. It appears that the City has benefited from 14 public automated toilets under the current contract with no financial responsibility to provide or maintain those structures. How was it that it was decided that these toilets would be removed from the program (and, if removed, why wasn’t there an option to provide them)? The City now has scrambled to prepare to purchase the toilet units. Of the estimated \$3.5 million needed to purchase and operate these toilets, where are the funds to come from? \$1.5 million has been provided but the balance has not been identified. Has the cost of purchasing and maintaining these facilities been subtracted from the expected revenues/profits from the STAP program, or will these now be transferred to the General Fund to be paid for by the taxpayers?

Given that a very large proportion of the population now carries cell phones, is it necessary to provide all of the bells and whistles demonstrated on the sample shelters at all/many/most locations? Many cities provide basic transit information for riders at their transit shelters and stops without technologically advanced shelters that take up a large sidewalk footprint. Rather, they provide bus schedules, arrival times and delay information on small scrolling screens – many of which are solar powered. We ask what efforts have been made to provide less costly shelters at all or many locations?

What efforts have been made to respond to the Council File introduced in 2021 that requested Bureau of Street Services and the LA DWP to assess and to report back “with recommendations to off-load peak hour energy usage, through the generation and storage of solar photovoltaic energy on the public right-of-way, as part of the Sidewalk and Transit Amenities Program (STAP) using LADWP’s Distributed Energy Resources (DER) programs” (CF 21-0451)?

There was an inadequate review of lighting standards and illumination of digital faces and how the lighting is evaluated.

There was no evaluation as to the impacts of the operation of digital changing messaging on wildlife, insects, etc.

In short, there was no effort to do a complete evaluation of the program through an EIR process, instead relying upon a Mitigated Negative Declaration document (MND). The MND did not adequately assess and evaluate the program nor provide for adequate mitigations for it. Further, with the introduction of the new proposed LA Municipal Code that introduces the potential for undefined, unlimited advertising structures on the public-right-of-way, it is impossible to do an adequate assessment of the impacts of such a code within the MND.

The issues of privacy and data collection have not been adequately addressed. The public has great concern over the ability of the digital devices to capture personal data. The Tranzito advertising partner utilizes such tracking to target advertisements to those who pass ads that they place in other cities. While it is said that data captured will not be personal data, the mere fact that a program partner or advertiser can access a passersby phone, is of grave concern. No provisions for “opting in” ( or the less preferred “opt out” option) have been built into this program. Data storage security is also of concern. None of these issues has been adequately defended, defined or evaluated in answer to concerns raised by the public.

As there already exists a specific LA Municipal Code (LAMC) to allow for advertising structures for transit shelters, why is there a new LAMC being introduced within the STAP program MND to allow for additional advertising structures on the public right-of-way? This is completely inappropriate and an effort to hide the City’s desire to streamline the placement of advertising structures such as those proposed in the METRO Transit Communications Network (TCN) program and the Tourism and Convention Bureau’s proposed “IKE” program. Those programs each must be evaluated on the basis of their individual merits and not be allowed to hide behind the LAMC being hidden and introduced in STAP.

The METRO TCN program is already being hidden without reference to the fact that it is a digital billboard program hiding under a misleading title. How the City Council could approve a Memorandum of Agreement for a program whose EIR process is only beginning (and for which the scoping period was not publicly announced or well publicized as with previous METRO endeavors), is quite troubling. That program relies on the adoption of a new LAMC which apparently the City does not wish to consider in the open.

The IKE program also requires an action that would allow for added advertising structures on the public right-of-way. The cumulative impacts of these programs and any others that might arise as a result of the new LAMC have not been assessed and will not pass muster under CEQA requirements. Has the CAO reviewed these aspects of the proposed program?

While the Bureau of Street Services has clearly invested time and effort into the current process that has brought the STAP program before the CAO’s office and City Council, it is clear that significant issues remain unaddressed and that the proposed contract opens up many future opportunities for conflicts between the selected vendor and the City – to say nothing about challenges from the public should the project be approved as is.

If the City is truly interested in having a “world class” program, then it would appear that the best approach to having such a program would be to start the process over again. The criteria for which the program bidders should be defined up front with option for providing public toilets (more than the current 14?), for having different types of shelters, for having required shade installations where full shelters are not warranted.

An analysis as to whether or not the expected revenues projected under the recommended contract is needed to determine whether or not it actually is a good investment for the City to borrow funds to purchase shelters and to assume the costs associated with their installation, replacement, etc.

From a taxpayer's point of view, there are too many uncalculated expenses looming in the background that have not been taken into account and that will reduce the optimistically projected revenues.

#### **RE: Rollout**

Even without contract review delays, the impacts of the Covid pandemic on supply chains and material delivery schedules suggests that the rollout and its related income-generating projections are inaccurate. Has the CAO office recalculated these projections based upon a more reality-based rollout schedule? Is it necessary to consider extending the current contract for an additional year to assure a smooth roll-out period?

Communities should have the opportunity to appeal selected locations for placement of structures. It is understood that there must be certainty in the program as to an annual priority list, etc., but there must still be a process for challenges and appeals. Additionally, now that there is a sidewalk dining program, what right does a restaurant operator have to challenge the placement of such structures in front of a location where, for example, sidewalk dining is desired? There is no apparent process that would or could challenge placement of a structure – not even when a clear public safety / visibility issue develops. The sole discretion lies with the Board of Public Works and its few designees.

The rollout does not appear to be part of the contract which could be problematic if added after the contract is approved. The generation of revenues cannot be accurately calculated without this information.

#### **RE: Rollout Negotiations**

The ability to renegotiate leaves the public/taxpayer in extreme danger and vulnerable to an undefined process. Who has the authority to renegotiate? Does this rest with the Board of Public Works... the City Council? And, what triggers the process? The ability of the vendor to seek renegotiation of anything at any time renders this proposed contract an unenforceable document.

#### **GENERAL ISSUES / Comments**

As the City is currently considering not one, but three different digital advertising program, there are issues related to cumulative impacts that have never been addressed. Additionally, no department has requested a legal opinion from the City Attorney's office as to the possible impacts the approval of any one or more of these programs will have on the City's ability to defend its right to regulate and limit off-site advertising given parameters established by the courts in previous litigation. It is important to review the court rulings to determine whether the City's growing participation in and permitting of outdoor off-site advertising on the public right-of-way undermines the City's ability to defend against litigation brought by outdoor advertising interests seeking to expand their presence with digital

billboards and related signage. As you may be aware, there have been previous lawsuits brought against the City following this line of reasoning. The courts carved out what could be defined as a defensible area of activity for the City. Do these programs cross that line and invite litigation?

In addition, by failing to perform the necessary full CEQA environmental impact report for STAP, the City invites litigation from those who have consistently raised questions and concerns about the proposed program. Why should citizens have to take legal action to be heard?

Those of us who oppose the proposed contract and the manner in which it has moved forward do not oppose transit shelters, or even transit shelters with advertising. We recognize and support the need and responsibility of the City and/or Metro to provide shade and shelter to our transit riders. What we oppose is the rollout of distracting digital signage and the populating of our public right-of-way with advertising messaging and growing numbers of advertising structures. We are dedicated to protecting the status of designated scenic roadways that enjoy special protections from advertising messaging. (Those who are unfamiliar with the nature of those protections do not understand why bus shelters WITH ads have been challenged by community advocates who work to stop any precedent-setting examples that would weaken those protections that ban advertising messaging within 500 feet of a designated street's center line.)

FYI: As has happened in the past with ongoing sign-related items, for reasons unknown, the City has established a new Council File number for the STAP program which then removes from the new file all of the many Community Impact Statements and public comments that have been part of the file as the program has moved through the review process. When one visits CF 20-1536

(<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-1536>) one does not see a reference to the newly established CF 20-1536-S1

(<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-1536-S1>) and now there is yet another file: CF 20-1536-S2

<https://cityclerk.lacity.org/lacityclerkconnect/index.cfm?fa=ccfi.viewrecord&cfnumber=20-1536-S2>.

At the time of this writing, none of the files contains appropriate cross-referencing to their sister / related files. Even more troubling is the fact that on the City Council Committee agenda of 8/24/22, the reference to CF 20-1536 specifically describes the City's effort to introduce the new LAMC. Never before has the LAMC been publicly posted and the Council File historically has said nothing about the proposed new LAMC. Those whose names / council names listed as supporting the measure likely did not vote to support the new LAMC. There are errors in how the comments have been attributed to the council file logs. This needs correction.

You are encouraged to visit all the files to see the nature of comments and concerns voiced. I have already contacted the City Clerk's office to call attention to the fact that there should be a notation for "related council files" included on each council file page. The Council's joint committee meeting will be held with incorrect posts of public comments giving the appearance that there is support for the new LAMC when that is in error.

While the City has been disappointed with the revenues generated from the current program, it should be noted that it was the City that failed to do the review that was mandated earlier in the program (and

it was only in response to public criticism that a review was done years later by Public Works). The then-Controllers report of the street furniture program assigned significant fault to and with the City and with the manner in which the contract was written. This contract should undergo additional scrutiny. It is difficult to understand how the CAO's report with all its concerns raised concludes with a recommendation to move forward with the program rather than seek to improve it. Has the political pressure that we have seen moving this measure forward affected its fair consideration? There must be benchmarks written into any STAP contract with required progress monitored and, if not met, actions taken. It is not the job of the public to monitor, and in the case of the recommendation of Tranzito, the City is looking at a vendor with no prior experience with operating/ managing a program of this scope in a City of this size. This is a matter of some concern as it is critical that our transit structures be maintained in a timely manner. Whenever there has been an issue with graffiti or vandalism on the current structures, I can report that the vendor has done an excellent job with a timely response to all contacts. We do not need our transit shelters to become a source of blight on our streets. The vendor chosen for this contract must demonstrate to the City their ability to respond in a timely manner to any maintenance needs. Failure to do so should trigger a termination to the contract.

We cannot understand how the Board of Public Works was able to pass judgement on the contract without having the benefit of a comparison of the elements that make up the best final bids from vendors or from the benefit of the CAO's report that appears to have been released after the BPW vote. We believe it is important that all information about competing bids and the criteria used should be released and the scoring for the various elements of the program understood. Given the need to provide shade and shelter, the need to provide public toilets, the desire to have less ad faces generate higher revenues, etc., one must wonder how the current contract was viewed as the best/final alternative at the end of the process used.

Recognizing that the Bureau of Street Services has invested significant time and effort to bring the STAP program to this stage, one still cannot help but advocate for a halt to the consideration of the current contract. Instead, it would appear to be more than reasonable to set the clock back, to seek an extension of the current contract, and to engage in a full re-do of the process going back to the drafting of the RFP. There are too many missing pieces, too many flaws, too many uncertainties and too many wishes in this contract – and liabilities to the City that have not been properly examined or evaluated.

The STAP contract as currently presented is a Pandora's Box. It provides promises that cannot be enforced. It is missing elements that must be required. In short, it is not acceptable and should be referred back to its makers. Efforts to hurry this contract through Council because it has been in the pipeline and because people may be tired of hearing about it or wish to see the revenues start to come in are all the WRONG reasons to move forward. The contract under consideration will be in force for 10-20 years. The City cannot wait another 10 or 20 years to get this contract and program right.

Thank you for your consideration,

Barbara Broide  
Board Member – Coalition for a Scenic Los Angeles

(Board Member- Westside Neighborhood Council / Not sent on behalf of the Council although we have adopted a CIS to oppose STAP)\  
President, Westwood South of Santa Monica Blvd. HOA