

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 240604-062

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) Board of Directors adopted the SFMTA's initial Advertising Policy (Policy) in February 2004; and,

WHEREAS, The SFMTA authorizes advertising on SFMTA property, including transit vehicles and shelters, through contracts which generate revenue to support SFMTA operations; and,

WHEREAS, The current contracts for advertising on transit shelters, vehicles, and other property require the contractors to comply with the SFMTA Advertising Policy; and,

WHEREAS, Such advertising is not intended to interfere with the SFMTA's primary mission of delivering public transit or performing other duties to maintain the City's transportation network; and,

WHEREAS, The Policy has been amended over time to clarify certain aspects and provide additional requirements, including a disclaimer statement and prior SFMTA approval of pilot programs or experimental advertising; to add a purpose statement and findings in support of the Advertising Policy; and to prohibit advertisements that are reasonably likely to be harmful or disruptive to the SFMTA's transit system, encourage or depict unsafe transit behavior, or are adverse to the interests of the SFMTA.; and,

WHEREAS, The existing Policy would be amended to clarify the language regarding advertising limitations to establish consistent and enforceable standards and to comply with developments in First Amendment caselaw; and,

WHEREAS, On May 16, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the Amendments and Updates to the SFMTA Advertising Policy are not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; now therefore be it

RESOLVED, That the SFMTA Board of Directors amends the SFMTA's Advertising Policy to clarify language regarding advertising limitations, establish consistent and enforceable standards, and clarify and redraft restrictions to comply with developments in First Amendment caselaw; and be it further

RESOLVED, That the Policy, as amended, shall take effect on June 5, 2024.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of June 4, 2024.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

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June 2024



SFMTA

The San Francisco Municipal Transportation Agency (SFMTA) operates the seventh largest public transit system in the country and exercises authority under the San Francisco Charter to manage the use by all modes of the City's transportation network. The SFMTA authorizes advertising on and in SFMTA facilities and property (including, but not limited to, buses, light rail vehicles, trolley cars, stations, parking garages, street furniture, cable cars, historic railcars and fare media) and under SFMTA contracts (hereafter "on SFMTA property") for the purpose of generating significant revenue to support SFMTA operations. Advertising shall not interfere with the SFMTA's delivery of transit or other services to the public or with the SFMTA's performance of its many other duties in maintaining the City's transportation network.

In keeping with its proprietary function as a provider of public transportation, the SFMTA does not intend by accepting advertising to convert its property into an open public forum for public discourse, debate or expressive activity. Rather, the SFMTA's fundamental purpose is to provide transportation services, and the SFMTA accepts advertising as a means of generating revenue to support its operations. In furtherance of this discrete and limited objective, the SFMTA retains control over the nature of advertisements accepted for posting on SFMTA property and maintains its advertising space as a limited public forum. As set forth in Section II, this Policy prohibits advertisements that could detract from the SFMTA's goal of generating revenue or interfere with the safe and convenient delivery of SFMTA services to the public. Through this Policy, the SFMTA intends to establish uniform, viewpoint-neutral standards for the display of advertising on SFMTA property.

A. ADVERTISING STANDARDS

1. Permitted Advertising Content. The following classes of advertising are authorized on SFMTA property if the advertising does not include any material that qualifies as Prohibited Advertising, as described in subsection (B) below:
 - a. Commercial and Promotional Advertising. Advertisements that promote or solicit the sale, rental, distribution or availability of goods, services, food, entertainment, events, programs, transactions, donations, products or property (real or personal) for commercial purposes or more generally promotes an entity that engages in such activities.
 - b. Governmental Advertising. Notices or messages from government entities, meaning public entities specifically created by government action, that advance specific government purposes.
 - c. Public Service Announcements. Announcements which are sponsored by either a government entity or a nonprofit corporation that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code and which are directed to the general public or a significant segment of the public and relate to:

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

B. PROHIBITED ADVERTISING CONTENT

1. Advertising is prohibited on SFMTA property if it includes any content that falls under one or more of the following categories:
 - a. Political and Public Issue. Any material that (i) 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.
 - b. False or Misleading. Any material that is or the sponsor reasonably should have known is false, fraudulent, misleading, deceptive, or would constitute a tort of defamation or invasion of privacy.
 - c. Copyright, Trademark or Otherwise Unlawful Infringement. Any material that infringes on any copyright, trade or service mark, title, or slogan.
 - d. Obscenity or Pornographic. Any material that is obscene or pornographic.
 - e. Defamation or Lawless Action. Any material that is clearly defamatory or advocates imminent lawlessness or violent action.
 - f. Alcohol, Tobacco, or Firearms. Any material that constitutes commercial advertising of alcohol, tobacco, or firearms.
 - g. Profanity and Violence. Advertisement that contains any profane language, or 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, or intentional infliction of pain or violent action

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towards or upon a person or animal, or that depicts weapons or devices that appear to be aimed or pointed at the viewer or observer in a menacing manner.

- h. Harmful or Disruptive to Transit System. Any material that is reasonably likely to cause harm to, disruption of or interference with the transportation system.
- i. Unsafe Transit Behavior. Any advertisement that encourages or depicts unsafe behavior with respect to transit-related activities, such as non-use of normal safety precautions in awaiting, boarding, riding upon or disembarking from transit vehicles.
- j. Adverse to SFMTA. Advertising, or any material contained in it, that is directly adverse to the commercial or administrative interests of the SFMTA, or that tends to disparage the quality of service provided by the SFMTA, or that tends to disparage public transportation generally.
- k. SFMTA Graphics and References. Advertising that contains SFMTA graphics, logos or representations without the express written consent of the SFMTA.
- l. Cannabis. Any material that constitutes commercial advertising of cannabis, cannabis products, cannabis businesses, or cannabis services.

III. Advertising Administration

- 1. SFMTA advertising contractors shall be responsible for the daily administration of the SFMTA's advertising in a manner consistent with this Policy and with the terms and conditions of their agreements with the SFMTA.
- 2. SFMTA advertising contractors shall post the following language with every advertisement, in a size and location approved by the SFMTA: "The views expressed in this advertisement do not necessarily reflect the views of the San Francisco Municipal Transportation Agency."
- 3. This Policy shall be effective upon adoption but shall not be enforced to impair the obligations of any contract in effect at the time of its approval. It shall be incorporated into any new contract for advertising on SFMTA property. SFMTA contracts granting advertising rights shall include this Policy as an attachment and require the following:
 - a. Any advertising contractor must comply with the advertising standards set forth in this Policy, as they may be amended from time to time.

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- b. Any advertising contractor must display only those advertisements that are in compliance with the Policy.
- c. Any pilot programs or experimental advertisements must be approved by the SFMTA in advance.