

THIS PRINT COVERS CALENDAR ITEM NO. : 16

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Amending the SFMTA Advertising Policy (Policy) to add findings to support the Policy and clarify its purpose and to update and clarify other language related to the SFMTA's advertising standards.

SUMMARY:

- The SFMTA Board adopted the SFMTA's initial Policy on February 3, 2004 and has twice amended it to clarify certain parts of the original Policy.
- The SFMTA authorizes advertising on SFMTA property and under any contract with the SFMTA for the purpose of generating significant revenue to support the SFMTA's operations.
- Both the current Transit Shelter Advertising Agreement with Clear Channel Outdoor and the current Agreement for Advertising on SFMTA Vehicles and Other Property with Titan Outdoor require the contractors to comply with the Policy (including any amendments to the Policy adopted by the Board).
- The proposed amendment to the Policy would add findings to support the Policy and clarify its purpose and to update and clarify other language related to the SFMTA's advertising standards.

ENCLOSURES:

1. SFMTAB Resolution
2. SFMTA Advertising Policy

APPROVALS:

DATE

DIRECTOR _____ 10/9/13

SECRETARY _____ 10/9/13

ASSIGNED SFMTAB CALENDAR DATE: October 15, 2013

PAGE 2

PURPOSE

This calendar item amends the SFMTA Advertising Policy (Policy) to add findings to support the Policy and clarify its purpose and to update and clarify other language related to the SFMTA's advertising standards.

GOAL

This item will meet the following goals and objectives of the SFMTA Strategic Plan:

- Goal 3: Improve the environment and quality of life in San Francisco
- Objective 3.5: Reduce capital and operating structural deficits

DESCRIPTION

Background

The SFMTA authorizes advertising on SFMTA property and under contracts with the SFMTA for the purpose of generating revenue to support the SFMTA's operations. Advertising generates significant revenue for this purpose. However, advertising is not meant to 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. Advertising must be consistent with the Agency's Strategic Goals.

The Board approved the initial version of the Policy at its February 3, 2004 meeting. At that time, the Board declared that it was in the best interests of the SFMTA to adopt an official policy. On January 16, 2007 and October 16, 2007, the Board approved amendments to clarify certain parts of the original Policy, including disclaimers, pilot programs/experimental advertising and compliance with the Policy.

The current Transit Shelter Advertising Agreement with Clear Channel Outdoor continues through December 9, 2022, with a five-year option to extend at the sole discretion of the City and the SFMTA, and the current Agreement for Advertising on SFMTA Vehicles and Other Property with Titan Outdoor expires on June 30, 2014. Both contractors are required to comply with the Policy (including any amendments to the Policy adopted by the Board).

Proposed Amendment to the Policy

The proposed amendments to the Policy would add findings to support the Policy and clarify its purpose and update and clarify other language related to the SFMTA's advertising standards. The substantive changes suggested in this amendment will not negatively affect advertising revenues received by the SFMTA.

PAGE 3

Following discussion at the September 17, 2013 Board meeting, the SFMTA consulted with a number of community groups about the proposed new language of the Policy. The SFMTA met with the Asian Law Caucus, Council on American-Islamic Relations (San Francisco Bay Area), Jewish Voice for Peace, American Muslims for Palestine, National Lawyers Guild and Jewish Community Relations Council. The SFMTA has deleted language from the proposed Policy that would have prohibited advertisements that hold up to scorn or ridicule a person or group of persons in response to the comments received at those meetings. The SFMTA has also deleted some of the explanatory language in the September 17, 2013 draft of the Policy that was viewed as confusing or otherwise inconsistent with the standards set forth in Section 2 of the proposed Policy that is attached. The SFMTA has also reorganized the text to clarify the effect of the Policy and responsibilities under the Policy.

The City Attorney's Office has reviewed this report.

ALTERNATIVES CONSIDERED

The alternatives to approving this amended Policy are to keep the current Policy or to amend it in a different way.

FUNDING IMPACT

We expect that this will not impact revenue received by the SFMTA from the advertising contracts with Clear Channel Outdoor and Titan Outdoor.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

None.

RECOMMENDATION

That the SFMTA Board of Directors amend the Policy to add findings to support the Policy and clarify its purpose and to update and clarify other language related to the SFMTA's advertising standards.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) Board of Directors adopted the SFMTA's initial Advertising Policy on February 3, 2004 and has twice amended it to clarify certain parts of the original SFMTA Advertising Policy (Policy); and

WHEREAS, The SFMTA authorizes advertising on SFMTA property and under any contract with the SFMTA for the purpose of generating significant revenue to support the SFMTA's operations; and

WHEREAS, Both the current Transit Shelter Advertising Agreement with Clear Channel Outdoor and the current Agreement for Advertising on SFMTA Vehicles and Other Property with Titan Outdoor require the contractors to comply with the Policy (including any amendments to the Policy adopted by the Board); now therefore be it

RESOLVED, That the SFMTA Board of Directors does hereby amend the Advertising Policy to add findings to support the Policy and clarify its purpose and to update and clarify other language related to the SFMTA's advertising standards; and be it

FURTHER RESOLVED, That the Policy, as amended, shall take effect on October 16, 2013.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 15, 2013.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Enclosure 2

SFMTA Advertising Policy Effective October 16, 2013

1. Purpose

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. Advertising on SFMTA property shall be consistent with the Agency's Strategic goals to:

- a. Create a safer transportation experience for everyone.
- b. Make transit, walking, bicycling, taxi, ride-sharing and car-sharing the preferred means of travel.
- c. Improve the environment and quality of life in San Francisco.
- d. Create a workplace that delivers outstanding service.

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 discreet 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 2, 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.

2. Advertising Standards

- a. SFMTA advertising contractors shall not post any advertisement that concerns a declared political candidate or ballot measure scheduled for consideration by the voters in an upcoming election or an initiative petition submitted to the San Francisco Department of Elections.

- b. SFMTA advertising contractors shall not post any advertisement that infringes on any copyright, trade or service mark, title or slogan.
- c. SFMTA advertising contractors shall not post any commercial advertisements that are false, misleading or deceptive.
- d. SFMTA advertising contractors shall not post any advertisement that is obscene or pornographic.
- e. SFMTA advertising contractors shall not post any advertisement that is clearly defamatory or advocates imminent lawlessness or violent action.
- f. SFMTA advertising contractors shall not post any commercial advertising of alcohol, tobacco or firearms.
- g. 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."

The SFMTA reserves the right, from time to time, to amend, suspend, modify or revoke the application of any or all of these standards as it deems necessary to comply with legal mandates, or to facilitate its primary transportation function, or to fulfill the goals and objectives referred to herein. All provisions of this advertising policy shall be deemed severable.

3. Advertising Administration

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.

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.
- 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.