



Item # 9

DATE October 10, 2018
TO GCTD Board of Directors
FROM Cynthia Torres Duque, Communications and Marketing Manager *CTD*
SUBJECT **Revised Bus Advertising Policy:
Revisions to Allow Non-Commercial Speech Adhering to GCTD's Permitted
Advertising Content and Conditions**

SUMMARY

GCTD staff is recommending a revision to its Advertising Policy to include a limited scope of non-commercial speech on the exterior and interior of its buses, including but not limited to, governmental advertising and public service announcements that are view-point neutral and adhere to GCTD's advertising conditions outlined in Exhibit A.

By allowing limited types of advertising on or within buses, Gold Coast Transit District does not intend to create a public forum for all types of advertisements.

BACKGROUND

GCTD has managed a successful bus advertising program since 2005, which has generated revenue to fund operations and maintenance of the District's facilities and services. Since the inception, GCTD has maintained an advertising policy that limits the content to commercial speech or commercial transactions. This policy often prohibits view-point neutral, non-commercial public service announcements from either a government or public entity or a nonprofit corporation. For example, such prohibited ads would include promotion of safety or personal well-being, provision of children and family services, art or culture, education and training, prevention or treatment of illnesses, etc.

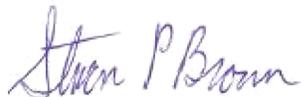
With a recent spike in requests from non-commercial advertisers, GCTD felt it was time to review and revise its policy to allow for ads that would further enrich and promote community services. Under guidance from Counsel, GCTD has attached the revised policy, titled Exhibit A.

GOLD COAST TRANSIT DISTRICT

RECOMMENDATION

It is recommended that the Board of Directors approve the revised advertising policy to allow non-commercial speech, so long as it adheres to the GCTD Advertising Conditions set forth in Exhibit A.

GENERAL MANAGER'S CONCURRENCE



Steven P. Brown
General Manager

EXHIBIT A
BUS ADVERTISING POLICY
*Adopted by the Gold Coast Transit **District**, Board of Directors*
July 5, 2005
Revised: May 7, 2008, July 1, 2009, **October 10,2018**

PURPOSE:

The purpose of this policy is as follows:

1. To increase revenue for Gold Coast Transit **District** (GCTD).
2. To maintain a position of neutrality on political and religious issues.
3. To avoid a fear that buses and passengers could be subject to violence if advertising is not restricted.
4. To prevent a reduction in income earned from selling advertising space because commercial advertisers would be dissuaded from using the same forum commonly used by those wishing to communicate primarily political or religious messages.

REQUIREMENTS:

Subject to compliance with this policy, acceptance of all interior and exterior advertising on buses is subject to approval by the GCTD's General Manager or designee, and a fully executed written agreement on the form supplied by GCTD, which includes but is not limited to a requirement by the Advertiser to defend, indemnify and hold harmless GCTD and its elected officials, officers, employees and agents from any and all damages, losses and expenses on any claims and suits based upon placement of advertisement, content of advertisements or pertaining in any way to the existence of such advertisements. This includes but is not limited to false advertisement, libel, defamation, plagiarism, copyright, trademark or service mark infringement and unauthorized use of a person's name and photograph.

The Advertiser shall also further indemnify, defend and hold harmless GCTD and its elected officials, officers, employees and agents from any and all damages, losses and expenses (including but not limited to reasonable attorney's fees) resulting from GCTD exercising its rights to not post submissions from the Advertiser.

All proposed bus advertising graphic designs and text layouts must be submitted to GCTD in sufficient detail to allow complete review of the content and general appearance before production and application onto or in the buses.

By allowing limited types of advertising on or within its buses, Gold Coast Transit District does not intend to create a public forum for public discourse or expressive activity, or to provide a forum for all types of advertisements. The display of Permitted Advertising on designated GCTD busses is intended only to supplement fare revenue to fund the District's transit system to further GCTD's proprietary goals.

PERMITTED ADVERTISING CONTENT

The following classes of advertising are authorized on GCTD busses, provided the advertisement adheres to the conditions state herein if and does not include any material that qualifies as prohibited advertising, as described below, subject to final authorization by GCTD:

1. Commercial and Promotional Advertising. Advertisements that promote or solicit the lawful sale, rental, distribution or availability of goods, services, food, entertainment,

- events, programs, transactions, donations, products or property (real or personal) for lawful commercial or noncommercial purposes or more generally promotes an entity that lawfully engages in such activities.
2. Governmental Advertising. Notices or messages from government entities, meaning public entities specifically created by government action and recognized as public agencies under California law, that advances specific government purposes.
 3. Public Service Announcements. View-point neutral non-commercial 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:
 - a. Prevention or treatment of illnesses;
 - b. Promotion of safety or personal well-being;
 - c. Education or training;
 - d. Art or culture;
 - e. Provision of children and family services;
 - f. Solicitation by broad-based contribution campaigns which provide funds to multiple charitable organizations; or
 - g. Provision of services and programs that provide support to low income citizens, senior citizens and people with disabilities.

~~Permitted advertisements shall mean and refer to: commercial advertisements, or commercial speech, which proposes a commercial transaction or product that is available to the general public.~~

RESTRICTIONS:

Advertisements must conform to the conditions set below. No exceptions will be permitted.

GCTD ADVERTISING CONDITIONS:

Advertising will **NOT** be accepted nor permitted that:

1. Includes false, fraudulent, misleading, defamatory or deceptive speech, plagiarism, copyright, trademark or service mark infringement and unauthorized use of a person's name and likeness.
2. Advertises or relates to unlawful or illegal goods, services or activities;
3. Contains inappropriate sexual material, obscene material, or material harmful to minors or others that describes, depicts, or represents sexual activities, or aspects of the human anatomy in a way that the average adult, applying contemporary community standards, would find appeals to the prurient interest of minors or adults.
4. Includes language or images that are ~~which is~~ obscene, vulgar, profane or scatological. For purposes of this policy, the term "obscene matter" shall have the meaning set forth in the California Penal Code Section 311.
5. Advertises alcohol, firearms, tobacco products, **marijuana**; or narcotics
6. Depicts or portrays acts of violence or anti-social behavior or **condoning criminal conduct**;
7. Relates to **services**, instruments, devices, items, products or paraphernalia which are designed for use in connection with sexual activities, or illegal drug, **marijuana** or narcotic use;
8. Contains images, copy or concepts that demean or **disparage an individual or a group of individuals** on account of race, color, religion, gender, ancestry, national origin, disability, medical conditions, marital status or sexual orientation; or **similar protected class recognized under state or federal law**;

9. Supports or opposes a candidate for public office (whether elected or appointed), a political proposition, measure or initiative, a particular political, moral or social position and/or on a particular issue, **or matters of public controversy**, or any ballot measure or other matter which is the subject of a public election or matter subject to an election;
10. Supports or opposes a religious denomination, creed, doctrine **or belief or has a predominantly religious purpose or that a reasonable observer would conclude endorses or opposes religion or any particular religion or that contains text, images or images commonly associated with religion. ~~Would be prohibited~~**
11. Displays any word, phrase, character or symbol likely to interfere with vehicular or pedestrian traffic, mislead or distract vehicle drivers or pedestrians, or conflict with any traffic control device;
12. Contains images **or information speech** that would be deemed by a significant segment of the public to be offensive, improper, or in bad taste **and not promoting government neutrality and the safe enjoyment of public transit..**
13. ~~No advertisement will be permitted that~~ Contains speech or images that are in conflict with any applicable federal, state, or local law, statute, regulation or ordinance.

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8. Contains images, copy or concepts that demean or disparage an individual or a group of individuals on account of race, color, religion, gender, ancestry, national origin, disability, medical conditions, marital status or sexual orientation; or similar protected class recognized under state or federal law;
9. Supports or opposes a candidate for public office (whether elected or appointed), a political proposition, measure or initiative, a particular political, moral or social position and/or on a particular issue, or matters of public controversy, or any ballot measure or other matter which is the subject of a public election or matter subject to an election;

10. Supports or opposes a religious denomination, creed, doctrine or belief or has a predominantly religious purpose or that a reasonable observer would conclude endorses or opposes religion or any particular religion or that contains text, images or images commonly associated with religion.
11. Displays any word, phrase, character or symbol likely to interfere with vehicular or pedestrian traffic, mislead or distract vehicle drivers or pedestrians, or conflict with any traffic control device;
12. Contains images or speech that would be deemed by a significant segment of the public to be offensive, improper, or in bad taste and not promoting government neutrality and the safe enjoyment of public transit.
13. Contains speech or images that are in conflict with any applicable federal, state, or local law, statute, regulation or ordinance.

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