

<b>VTA ADVERTISING</b>	<b>POLICY</b>	
	<b>Document Number:</b>	CS-PA-PL-2015
	<b>Version Number:</b>	01

### **1.0 Purpose:**

By implementing this Advertising Policy, VTA intends to establish uniform, viewpoint-neutral standards for the display of advertising on VTA property and equipment.

### **2.0 Scope:**

This policy applies to all advertisements sold through VTA's transit advertising contractor and bus shelter advertising contractor.

### **3.0 Responsibilities:**

#### **3.1 Review of Advertisements**

The Advertising Vendor shall review each advertisement submitted for display on or in VTA property or equipment to determine whether the advertisement falls within, or may fall within, one or more of the categories of the "Prohibited Advertising Content" section (i.e. Section 4.3). If the Advertising Vendor determines that an advertisement falls within, or may fall within, one or more of those categories, then the Advertising Vendor shall promptly send the advertisement along with all supporting information (i.e. name of the advertiser, the size and number of advertisements, dates and locations of display, etc.) to the appropriate VTA Contract Administrator ("the Administrator") for review of the advertisement.

##### **3.1.1 Initial Review**

Upon VTA Contract Administrator's receipt of the advertisement and supporting information, the Administrator shall review the advertisement and supporting information to determine whether the advertisement falls within one or more of the categories set forth in Section 4.3. In reaching this determination, the Administrator may consider any materials submitted by the advertiser and may consult with the Advertising Vendor. In the event that the Administrator determines that the advertisement does not fall within any of the categories set forth in Section 4.3, the Administrator shall advise the Advertising Vendor that the advertisement is in conformity with VTA's Advertising Policy.

##### **3.1.2 Final Review**

In the event that the Administrator determines that the advertisement falls within, or may fall within, one or more of the categories set forth in Section 4.3, then the Administrator shall, in writing, specify which of the categories the advertisement falls within, or may fall within, and shall refer the advertising and supporting information to the VTA General Counsel. Likewise, the General Counsel shall review the advertisement and supporting information to determine whether the advertisement falls within one or more of the categories set forth in Section 4.3. In reaching this determination, the General Counsel may consider any materials submitted by the advertiser and may consult with the Administrator. In the event

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that the General Counsel determines that the advertisement does not fall within any of the categories set forth in Section 4.3, the Administrator shall advise the Advertising Vendor that the advertisement is in conformity with VTA's Advertising Policy.

#### 3.1.3 Rejection of Advertisement

In the event that the General Counsel determines that the advertisement falls within one or more of the categories set forth in Section 4.3, then the General Counsel shall, in writing, specify which of the categories the advertisement falls within, and the Administrator shall advise the Advertising Vendor that VTA has determined that the advertisement is not in conformity with the VTA Advertising Policy.

#### 3.1.4 Opportunity for Revision by Advertiser

In the event that VTA determines that the advertisement falls within one or more of the categories of Section 4.3, the Advertising Vendor may, in consultation with the VTA Contract Administrator, discuss with the advertiser one or more revisions to the advertisement, which, if undertaken, would bring the advertisement into conformity with the VTA Advertising Policy. The advertiser shall then have the option of submitting a revised advertisement for review by VTA.

#### 3.1.5 Formal Determination

In the event that VTA and the advertiser do not reach agreement with regard to a revision of the advertisement, the advertiser may request that VTA memorialize its formal determination in the form of a final written notice of its decision, which shall then be relayed to the advertiser. VTA's formal determination shall be final.

#### 3.1.6 Notification of Non-Complying Advertisements

Notwithstanding the foregoing, if the VTA Contract Administrator and the General Counsel determine at any time that an advertisement already accepted for display by the Advertising Vendor falls within one or more of the categories set forth in Section 4.3, they shall:

- a. in writing, specify which of the categories the advertisement falls within;
- b. notify the advertiser that VTA has determined that the advertisement is not in conformity with its Advertising Policy and that the advertisement shall be promptly removed; and
- c. instruct the Advertising Vendor to remove the advertisement.

#### 3.1.7 Removal of Non-Complying Advertisements

Upon receiving a notification of a non-complying advertisement, the Advertising Vendor:

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- a. shall promptly remove the advertisement;
- b. shall provide the advertiser with a copy of the VTA Advertising Policy; and
- c. may, with the VTA Contract Administrator, discuss with the advertiser one or more revisions to the advertisement, which, if undertaken, would bring the advertisement into conformity with the VTA Advertising Policy, and the advertiser shall have the opportunity for revision as set forth in the “Opportunity for Revision by Advertiser” provision above.

#### **4.0 Policy:**

##### **4.1 Objectives**

###### **4.1.1 Increase Revenue**

VTA transit operations are funded by public funds and fare box revenue. Advertising revenue is an important additional source of income that supports transit operations. Therefore, VTA’s fundamental purpose in accepting advertising is to generate revenue to augment VTA’s operating budget.

###### **4.1.2 Promote VTA’s Mission**

VTA’s mission is to provide sustainable, accessible, community-focused transportation options that are innovative, environmentally responsible, and promote the vitality of its region. Consistent with this stated purpose, VTA will accept advertising that will allow VTA to accomplish the following:

- a. Maximize revenue by attracting, maintaining, and increasing ridership;
- b. Maintain the safe and orderly operation of VTA;
- c. Prevent the appearance of favoritism by VTA;
- d. Prevent the risk of imposing views on a captive audience;
- e. Maintain a position of neutrality on controversial issues;
- f. Preserve the marketing potential of the advertising space by avoiding content that the community could view as offensive, inappropriate or harmful to the public generally or to minors in particular;
- g. Avoid claims of discrimination and maintaining a non-discriminatory environment for riders;
- h. Prevent any harm or abuse that may result from running controversial or offensive advertisements; and
- i. Reduce the diversion of resources from transit operations that are caused by controversial or offensive advertisements.

###### **4.1.3 Retain Non-Public Forum Status of VTA’s Advertising Space**

Through this Advertising Policy, VTA intends to ensure that its advertising spaces constitute non-public fora. In keeping with this specified intention, VTA will reject any advertising material that will create a public forum for expressive

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activities, and VTA will actively enforce the viewpoint-neutral restrictions set forth in the Advertising Policy.

#### 4.2 Permitted Advertising Content

The following classes of advertising are authorized (subject to the exclusions set forth under “Prohibited Advertising Content” below):

##### 4.2.1 Commercial and Promotional Advertising

- a. Advertising that promotes or solicits 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
- b. Advertising that generally promotes an entity that engages in the sale, rental, distribution or availability of goods, services, food, entertainment, events programs, transactions, donations, products, or property (real or personal) for commercial purposes.

##### 4.2.2 Public Service Announcements

VTA will, from time to time, make advertising space available for public service announcements (“PSA”) proposed by non-profit corporations. In order to be permissible, proposed PSA must meet the following criteria:

- 4.2.2.1 The sponsor of a PSA must be a governmental entity or a nonprofit corporation that is exempt from taxation under Internal Revenue Code Section 501(c)(3).
- 4.2.2.2 Content must be directed to the general public or a significant segment of the public and relate to:
  1. Prevention or treatment of illnesses;
  2. Promotion of safety or personal well-being;
  3. Education or training;
  4. Provision of children and family services;
  5. Solicitation by broad-based contribution campaigns which provide funds to multiple charitable organizations; or
  6. Provision of services and programs that provide support to low income citizens, senior citizens, and people with disabilities.
- 4.2.2.3 The PSA may be required to bear the following legend if the sponsor is not readily or easily identifiable from the content or copy of the proposed PSA: “This message is sponsored by \_\_\_\_\_.”

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### 4.3 Prohibited Advertising Content

The following classes of advertising are prohibited:

Advertisements that contain:

#### 4.3.1 Demeaning or disparaging material

Content that a reasonably prudent person who is knowledgeable of VTA's ridership and using prevailing community standards would believe ridicules or mocks, is abusive or hostile to, or debases the dignity or stature of, an individual or group of individuals.

#### 4.3.2 Profanity

Content that includes profane language.

#### 4.3.3 Violence

Content that depicts an image or contains description of graphic violence, including but not limited to:

- a. The depiction of human or animal bodies, body parts or fetuses, in states of mutilation, dismemberment, decomposition or disfigurement; or
- b. The depiction of weapons or other implements or devices used in the advertisement in an act or acts of violence or harm on a person or animal.

#### 4.3.4 Unlawful goods or services

Content that promotes, encourages, or appears to promote or encourage the use or possession of unlawful or illegal goods or services.

#### 4.3.5 Unlawful conduct

Content that promotes, encourages, or appears to promote or encourage unlawful or illegal behavior or activities.

#### 4.3.6 Obscenity or nudity

Content that depicts obscene material or images of nudity. Content shall be considered "obscene" if an average person would find that the material, taken as a whole, appeals to a lewd curiosity; depicts or describes, in an offensive way, sexual conduct or excretory functions; and, taken as a whole, lacks serious literary, artistic, political, or scientific value. "Nudity" is construed as the depiction of a state of undress as to expose any part or portion of the pubic or anal region or genitalia of any person or any portion of the breast at or below the areola thereof of any female person.

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4.3.7 Prurient sexual suggestiveness

Content 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 in sex.

4.3.8 “Adult” goods or services

Content that promotes, encourages, or appears to promote or encourage a transaction related to, or uses brand names, trademarks, slogans or other materials which are identifiable with films rated “X” or “NC-17,” video games rated M or AO, adult products, adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult Internet sites, and escort services.

4.3.9 Advertisements that promotes the sale or use of any of the following:

a. Alcohol

Content that advertises an alcohol product or a brand of alcohol products.

b. Firearms

Content that advertises a firearm or a brand of firearms and/or contains an image of a firearm in the foreground of the main visual.

c. Tobacco

Content that promotes the sale or use of tobacco or tobacco-related products, including but not limited to depicting such products.

4.3.10 Advertisements which are to the knowledge of the Vendor:

a. False, misleading, or deceptive;

b. Defamatory or likely to scorn or ridicule any person or group;

c. Obscene or pornographic according to local community standards; or

d. Advocates lawlessness or violent action.

4.3.11 Political

- a. Advertisements promoting or opposing a political party, or promoting or opposing the election of any candidate or group of candidates for federal, state, judicial, or local government offices; or

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- b. Advertisements that are political in nature or contain political messages, including but not limited to those involving an issue that directly or indirectly implicates the action, inaction, prospective action or policies of a governmental entity.

4.3.12 Religious Advertisements containing images or content intended to promote a particular religion, religious idea or viewpoint.

4.3.13 Adverse to VTA

- a. Advertisements that contain material that is adverse to the commercial and administrative interests of VTA; or
- b. Advertisements that tend to disparage VTA's services and/or public transportation generally.


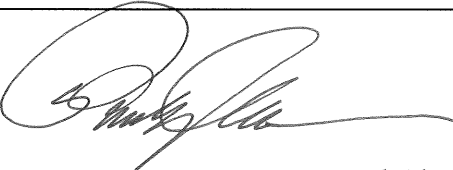

**5.0 Definitions:**

N/A.

**6.0 Summary of Changes:**

Initial release of this policy.

**7.0 Approval Information:**

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 Dino Guevarra Manager, Market Development	 Paul Ahn Assistant Counsel	 Nuria I. Fernandez General Manager

1/26/15

Date Signed