

ATTACHMENT D

CATA BOARD POLICY NO. 205

ADDENDUM A

POLICY #205

DISPLAY OF ITEMS ON CATA PROPERTY AND VEHICLES

The Capital Area Transportation Authority (CATA) is a transportation system formed in 1972 under Michigan Public Act 55 of 1963. CATA owns and operates buses, bus shelters, bus storage and maintenance facilities, and other properties, including digital-outreach solutions (websites, social media, computer/phone apps, etc.), in conjunction with the operation of its system, collectively referred to herein as "CATA Properties." CATA has determined that it is in the public interest that advertising be made available on certain designated CATA Properties for the purpose of generating revenue to help fund the operation of the system.

I. PURPOSE

- 1.01 Nonpublic Forum; Commercial/Proprietary Functions.** CATA will make available certain designated spaces on CATA Properties from time to time to permitted third parties for only limited types of Permitted Advertising (defined in Section 2.02 below) in accordance with the policies and standards contained herein (this "Policy"), only with CATA's permission and if the Permitted Advertising is approved by CATA. By allowing Permitted Advertising on or within its designated CATA Properties, CATA 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 CATA Properties is intended only to supplement fare revenue, tax proceeds, and other income that funds the transportation system, while still permitting CATA to efficiently operate its public transportation functions.
- 1.02 Intent of Limits on Advertising.** By placing reasonable limits on Permitted Advertising displayed on or within CATA Properties, and by not accepting Excluded Advertising (defined in Section 2.01 below), CATA's intent is to:
- a) Maintain an image of professionalism and decorum;
 - b) Maintain a professional advertising environment that maximizes advertising revenues and minimizes interference or disruption of its transportation system;
 - c) Maintain and portray an image of neutrality on political matters and other noncommercial issues that may be the subject of public debate and concern;
 - d) Foster a safe and secure environment on or within CATA Properties;
 - e) Avoid subjecting its passengers and other members of the public to material that may discourage them from using CATA services or public transportation, and avoid any decrease in ridership;
 - f) Avoid displaying content that is not suitable for minors; and
 - g) Preserve and augment revenues by attracting and maintaining the patronage of passengers.
- 1.03 Definition of Advertising.** For purposes of this policy, Advertisement(s) or Advertising include any notices, postings, announcements, displays, communications, or similar by parties other than CATA that promote, support or oppose any product, good, sale, service, event, occurrence, issue or position. This definition further does not apply to advertisements or postings by CATA on CATA property.
- 1.04 Space Availability.** CATA limits the amount of space on or within its Properties available for advertising space and does not represent that it can accommodate all requests for advertising space. Advertising space will be made available only on CATA Properties as and when designated by CATA. No advertising, signs and other types of postings or messages may otherwise be played, displayed, posted or placed on or within any other CATA Property. Space will be offered for Permitted Advertising on a first-come, first-served basis under the procedures articulated herein.
- 1.05 Prohibitions on Literature or Product Distribution and Leafleting.** CATA's purpose in operating a transportation system is to meet the public's need for efficient, effective and safe public transportation. CATA Properties are not intended to be public forums for public discourse or expressive activity. Literature or product distributions, leafleting and similar activities can

disrupt or delay passengers who are boarding and exiting buses, and other CATA and/or transportation vehicles; distract passengers, distract bus operators, cause maintenance issues and otherwise create safety issues for passengers, operators and surrounding traffic. Accordingly, all campaign activities, distribution of literature, leafleting and other informational or campaign activities are prohibited on or within CATA Properties. Notwithstanding the provisions of this Policy that allow Permitted Advertising on designated CATA Properties, nothing in this Policy authorizes or permits any third party to distribute literature, leaflets, coupons, products, samples or other items on or within CATA Properties.

II. ADVERTISING POLICIES, STANDARDS AND RESTRICTIONS

- 2.01 Excluded Advertising.** For the purposes of this policy, the advertising described in this Section 2.01 is "Excluded Advertising." CATA will not accept the following Excluded Advertising for display, posting or placement on or within CATA Properties:
- a) **Alcoholic Beverages.** Advertising, soliciting or promoting the direct sale or use of alcoholic beverages.
 - b) **Tobacco & Marijuana Products.** Advertising, soliciting or promoting the sale, use or distribution of tobacco or marijuana (legal or otherwise) products, including but not limited to cigarettes, e-cigarettes, cigars and smokeless tobacco.
 - c) **Messages with Disparaging or Defamatory Content.** Advertising that includes content that would be determined by a reasonable person to be disparaging or defamatory toward another person or entity, including but not limited to Advertising that threatens or disparages CATA. For purposes of determining whether an advertisement contains such material, CATA will determine whether a reasonably prudent person, knowledgeable of CATA's ridership and using prevailing community standards, would believe that the advertisement contains material that is abusive to, or debases the dignity of, an individual or group individuals.
 - d) **CATA's Business Operations.** Advertising that is directly adverse to any commercial, administrative or operational operations of CATA.
 - e) **Religious Advertising.** Advertising that promotes or opposes any religion, religious practice, religious belief or lack of religious beliefs.
 - f) **False, Misleading, Deceptive or Disrespectful Advertising.** Advertising or any material or information in the advertising that is false, misleading or deceptive, or that is intended to be (or reasonably could be interpreted as being) disparaging, disreputable or disrespectful to persons, groups, businesses or organizations, including but not limited to advertising that portrays individuals as inferior, evil or contemptible because of their race, color, creed, gender, pregnancy, age, religion, ancestry, national origin, marital status, disability, affectional or sexual orientation, or any other characteristic protected under federal, state or local law.
 - g) **Unauthorized Endorsement.** Advertising that implies, declares or otherwise reasonably appears to represent that CATA endorses a product, service, point of view, event or program. The prohibition against endorsement does not apply to advertising for a service, event or program for which CATA is an official sponsor, co-sponsor or participant, provided CATA's Chief Executive Officer or other designated representative gives prior written approval of the endorsement.
 - h) **Obscene or Offensive Material.** Advertising that contains obscene or offensive materials. For the purposes of this Policy, Obscene Materials are described as material(s) that display information that, taken as a whole, appeals to the prurient interest in sex and depicts or describes, in a patently offensive manner, sexual conduct and which, taken as a whole, does not have serious literary, artistic, political or scientific value or otherwise qualifies as "obscene material." This specifically includes but is not limited to any Advertising that contains an image of a person who appears to be a minor in sexually suggestive dress, pose or context. "Offensive Materials" for the purposes of this Policy, is the display or provision of information that would be offensive to a reasonably prudent person of average sensitivity in the community, including but not limited to advertising that contains derisive, distorted, immoral, profane or disreputable language or impressions.
 - i) **Unlawful Goods or Services.** Advertising or any material or information in the advertising that depicts, promotes or reasonably appears to encourage the use or possession of unlawful or illegal goods or services.
 - j) **Unlawful Conduct.** Advertising or any material or information in the advertising that depicts, promotes or reasonably appears to encourage unlawful or illegal behavior or conduct, including but not limited to unlawful behavior of a violent or antisocial nature; is libelous or an infringement of copyright; is otherwise unlawful or illegal; or is likely to subject CATA to liability.

- k) **Adult Entertainment.** Advertising that promotes or displays content associated with adult bookstores, adult video stores, nude dance clubs and other adult-entertainment establishments, adult telephone services, adult Internet sites or escort services.
- l) **Firearms and Weapons.** Advertising that contains images or depictions of firearms or other weapons, or the use of firearms or other weapons.
- m) **Internet Addresses and Telephone Numbers.** Advertising that directs viewers to Internet addresses or telephone numbers that contain materials, images or information that would violate this Policy if the materials, images or information were contained in an advertising displayed or posted on or within CATA Properties.
- n) **Distractions and Interferences.** Advertising that incorporates or displays any rotating, revolving or flashing devices or other moving parts or any word, phrase, symbol or character, any of which are likely to interfere with, mislead or distract traffic or conflict with any traffic-control device or motor-vehicle regulation.
- o) **Dangerous Items and Unsafe Behavior.** Advertising that promotes or depicts any item, service or position that a reasonable person would find able or likely to cause harm or injury or which reasonably could incite or provoke violence or a breach of the peace or that encourages or depicts unsafe behavior with respect to CATA's transportation operations, or which would harm, disrupt or interfere with the safe, efficient and orderly execution of public transit operations, such as failure to comply with CATA's Safety Rules and Courtesy Tips and/or normal safety precautions in awaiting, boarding, riding upon or debarking from CATA vehicles.
- p) **Violent Material.** Advertising which is so violent, frightening or otherwise disturbing in image or content so as to reasonably be deemed harmful to minors.
- q) **Advertising that Violates any Law, Ordinance or Regulation.** Advertising which violates any law, ordinance or regulation applicable to advertising or signage.
- r) **Political or "Issues" Advertising.** Political or issues advertising of any kind is strictly prohibited, including but not limited to:
 - 1) **Public/Political Candidates.** Advertisements that support, oppose, promote, endorse or otherwise reference a candidate for any public or political office, his/her campaign, his/her party affiliation, his/her stance on any public or political issue, or his/her campaign committee, regardless of who pays for the advertisement or any disclaimers thereon.
 - 2) **Public/Political Issue or Other Noncommercial Issue Advertisements.** Any advertisement that supports, opposes, promotes, endorses or otherwise references a matter which is reasonably subject to political debate, including but not limited to political, moral, religious or social issues, ballot issues or proposals, any political party, political message, issue, position, opinion or viewpoint, or any disputed issue or cause, regardless of who pays for the advertisement or any disclaimers thereon.
 - 3) **Advertisements Regarding a Political Entity.** Any advertisement that is directed or addressed to the action, inaction, prospective action or inaction, or policies of any governmental entity, political party or candidate.

2.02 Permitted Advertising. Subject to the viewpoint-neutral standards in this Policy, CATA will only accept Permitted Advertising for play, display or placement on or within designated CATA Properties. For the purposes of this Policy, Permitted Advertising is advertising that:

- a) Does not qualify as Excluded Advertising under Section 2.01;
- b) Is commercial advertising, meaning it directly relates to the economic interests of the person or entity purchasing the Advertisement and is for the purpose of attracting public attention to a product, good, business, service or event of or for some other commercial transaction or activity with the person or entity purchasing the Advertisement.
- c) Is paid advertising or in-kind-advertising as permitted below; and
- d) Is delivered through electronic audio and printed media.

2.03 In-kind Trade and Partnership Advertising. In-kind trade and partnership advertising resulting in an equal exchange of value from a third party may be executed at the discretion of CATA's Chief Executive Officer, Project Manager or designee. The Project Manager or designee is authorized to grant use of the CATA logo for in-kind and partnership-advertising purposes.

2.04 Reservation of Rights. This Policy may be reviewed by the CATA Policy Committee as deemed necessary. CATA reserves the right to change, amend or revoke this Policy at any time. Subject to any then-existing contractual obligations, CATA reserves the right to discontinue any or all advertising on or within CATA Properties at any time. Subject to any then-existing contractual obligations, CATA reserves the right to limit the availability of advertising space on or within its Properties and remove advertising that does not comply with this Policy.

III. ADVERTISING PROGRAMS AND ADMINISTRATION

3.01 CATA Approval/Permission Procedure. CATA must approve all Advertisement(s) including the style and manner of presentation, prior to the placement of any Advertisement on CATA Property. Third parties seeking to place an advertisement must submit an application for advertising for CATA's approval. This application shall include a copy of the advertisement so CATA can properly consider whether the advertisement complies with this Policy. This application must be submitted at least 30 days prior to the first date of anticipated advertising.

3.02 Advertising Contractor. CATA may, from time to time, select an Advertising Contractor who shall be responsible for the administration of all or part of CATA's advertising program, in a manner consistent with this Policy and the terms of its agreement with and as approved by CATA. The advertising program may include but not be limited to promotion, solicitation, sales, accounting, billing, collection, fabrication, posting of advertising displays and playing of audio advertisements on or within CATA Properties.

- a) In such an instance, CATA will designate the Contract/Project Manager as the primary contact for the Advertising Contractor. Questions regarding the terms, provisions and requirements of this Policy shall be addressed by the Project Manager or designee.
- b) The Advertising Contractor shall comply with this Policy and shall review all proposed advertising with reference to the standards set forth herein.

IV. APPEAL OF ADVERTISING DECISIONS

4.01 Advertising Committee. CATA may establish an Advertising Committee whose responsibility is to evaluate submissions for any conflict with this Policy. The purpose of the Advertising Committee is to decide, as objectively as possible, whether to accept or reject a submission based on the Policy. The Advertising Committee may comprise a minimum of three and a maximum of five individual members. All members shall be familiar with this Policy. When necessary, the Advertising Committee will work with General Counsel or outside counsel for legal guidance. The Advertising Committee will meet at least monthly to evaluate submissions, define and update internal procedures.

4.02 Appeals. An advertiser may appeal a decision to reject or remove an advertisement by filing a written request with CATA's Project Manager or designee (whose name and address will be provided on the rejection or removal decision) within ten (10) business days after the rejection or removal decision. The advertiser's request must state why the advertiser disagrees with the decision in light of this Policy. CATA's Project Manager(s)* may work with General Counsel or outside counsel for legal guidance and will review the basis for the rejected or removed advertisement, taking into consideration the advertiser's reasons for filing the request. CATA's Project Manager will make a decision regarding the request and will notify the advertiser of this decision in writing within fifteen (15) business days of receipt of the advertiser's request. The decision of the Project Manager may be appealed by filing a written request with CATA's Executive Director within ten (10) business days after the Project Manager's decision. The advertiser's request must state why the advertiser disagrees with the decision in light of this Policy. The Executive Director may work with General Counsel or outside counsel for legal guidance and will review the basis for the rejected or removed advertisement, taking into consideration the advertiser's reasons for filing the request. CATA's Executive Director will make a decision regarding the request and will notify the advertiser of this decision in writing within fifteen (15) business days of receipt of the advertiser's request. This decision is the final position of CATA and is not subject to appeal.

V. COMPLAINTS

5.01 Complaints regarding any advertisement shall be directed to the Project Manager or designee.

VI. SEVERABILITY

6.01 If any section, subsection, sentence, clause, phrase or portion of this Policy is, for any reason, declared legally invalid, in whole or in part, by any court of competent jurisdiction, such portion of this policy shall be deemed severable, and such invalidity shall not affect the validity of the remaining portions of this Policy, which shall continue in full force and effect, unless doing so would frustrate the purpose of this Policy.

Adopted: 6/27/1984
 Amended: 5/15/1991
 10/19/2005
 11/18/2020