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## *Council Policy Statement*

**Category: CORPORATE MARKETING PARTNERSHIPS**  
**Specific Subject: Policy for Corporate Marketing Partnerships Utilizing City-Owned Assets**

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### **PURPOSE:**

The City of Carlsbad has developed a Policy for Corporate Marketing Partnerships ("Policy") utilizing city-owned assets to generate revenue that can be used to enhance city services and facilities to benefit residents, visitors and businesses.

### **BACKGROUND:**

"Corporate marketing partnerships" is an umbrella term to describe a variety of programs that enable corporate entities to support city programs, events and services while generating exposure for their brands among city audiences.

Staff presented a proposed corporate marketing partnerships program to City Council for its consideration on July 16, 2013. The presentation and staff report, which include program descriptions, photos and examples, are available public records and can be obtained from the Office of the City Clerk or on the city website through the online document management system.

City Council directed staff to develop the corporate marketing partnership policy.

### **POLICY:**

#### **I. Corporate Marketing Partnership General Policy Provisions**

A. The Policy contained herein will provide guidelines for allowing certain marketing opportunities (e.g. sponsorship recognition and/or commercial advertising) provided under Corporate Marketing Partnership Agreements that will enable the City to generate revenue to enhance services and facilities.

B. This Policy is not applicable to gifts, grants, or unsolicited donations for which no benefits are requested by the donor and where no business relationship exists pursuant to a Corporate Marketing Partnership Agreement as defined herein.

D. This Policy is not applicable to the naming of City facilities outside of a Corporate Marketing Partnership Agreement as defined herein.

E. This Policy is not applicable to events authorized by a Special Events Permit issued by the City of Carlsbad to individuals or entities not otherwise involved in the Corporate Marketing Partnership Program.

F. Conditions upon which assets have been endowed or bequeathed to the City must be adhered to at all times.

G. No external LED signs are permitted as part of the Corporate Marketing Partnership Program.

H. No Corporate Marketing Partnership Agreement shall impair or diminish the authority of the City and its responsibilities with respect to any municipal facility or event that is the subject of said agreement.

I. This Policy shall be incorporated into any new Corporate Marketing Partnership Agreement entered into between the City and an interested party, including a party selected pursuant to a Request for Proposals ("RFP") as defined herein.

J. Not all City events, facilities, or programs will be included in the Corporate Marketing Partnership Program. It will be left to the discretion of the City Manager and applicable Department Director or Directors as to whether a specific City event, facility, or program will be included in the Corporate Marketing Partnership Program.

K. Notwithstanding the establishment of this Corporate Marketing Partnership Policy, the City will continue to permit community partners to establish independent Sponsorship recognition programs in City parks and facilities. Such programs shall remain subject to City approval (including any applicable Commission approval(s)) on a project-by-project basis and shall be documented in conjunction with the execution of an applicable project license, lease, or cooperation agreement. The City's approval of such a program in connection with one or more projects in a park or facility does not preclude the inclusion of other Assets in the same park in a particular RFP pursuant to this Corporate Marketing Partnership Policy.

L. This Policy shall be effective immediately, but it shall not be enforced so as to impair the obligations of any agreement in effect at the time of its approval.

## II. Definitions.

For the purpose of this Corporate Marketing Partnership Policy, the following definitions shall apply:

**"Advertising"** means visual communication from an identified source that directs the public's attention to a particular product, service, program, or idea, which may include the City's own messages. For purposes of the Corporate Marketing Partnership Policy, all third-party (i.e. Non-City) advertising on or for City Assets is limited to Commercial Advertising as defined herein.

**"City Assets"** are items of tangible and intangible value owned by the City, including, but not limited to, facilities, vehicles, programs, activities, events, contracts, purchases, and proposed capital improvements. City Assets, currently identified by the City, acting as a proprietor, for potential Sponsorship or Commercial Advertising opportunities associated with the Corporate Marketing Partnership Program are enumerated in this Policy. Additional details regarding available City Assets will be listed in an applicable RFP.

**“Commercial Advertising”** is visual communication that directs the public’s attention to a particular business, product or service or other commercial activity and/or proposes a commercial transaction. The Commercial Advertising must contain only expressions or identification of a product or service related to the economic interests of the advertiser and its audience.

**“Corporate Marketing Partnership”** means a mutually beneficial business arrangement between the City and a Person, wherein the Person provides cash, in-kind goods or services and/or other resources to the City in exchange for an agreed upon set of rights and entitlements regarding use of specified City Assets for Commercial Advertising and/or Sponsorship arrangement.

**“Design Criteria Standards”** are a set of design guidelines relating to the appearance of Advertising and/or Sponsorship opportunities available for City Assets designated in this Policy and/or an applicable RFP. Design Criteria Standards will specify size, placement/location, and aesthetic limitations for Corporate Marketing Partnership opportunities in accordance with this Policy and applicable law. Some Design Criteria Standards are described in this Policy; others may be included in a specific RFP. Design Criteria Standards will be described in each Corporate Marketing Partnership Agreement and subject to the approval of the City Council.

**“In-kind Contribution”** means a gift other than cash or real property that would serve a useful purpose in the provision of City services. Examples of in-kind contributions include equipment, materials, products, or services.

**“Corporate Marketing Partnership Agreement”** is a written contractual relationship with a Person for a specified term, which clearly indicates the contribution, the contribution value, and the obligations of the Person in consideration for Partnership or Sponsorship recognition as determined by the City and/or for Commercial Advertising access and/or use of clearly identified City Assets and any resulting obligations of the City. All Corporate Marketing Partnership Agreements shall be for a defined period of time having regard to the value of the Advertising/Sponsorship and, where applicable, the life of the affected Asset. All Corporate Marketing Partnership Agreements are subject to the provisions of this Policy and will be subject to approval of the City Council. A Corporate Marketing Partnership Agreement may address one or more City Assets.

**“Corporate Marketing Partnership Program”** or **“Program”** refers to the implementation of this Policy.

**“Person”** means any individual, firm, association, organization, partnership, business trust, corporation, or company.

**“Sponsorship”** means a mutually beneficial business arrangement and/or Partnership between the City and a Person wherein the Person provides financial support and/or in-kind contributions or other accepted resources to underwrite or benefit a specific City Asset or to assist the City in raising revenue for operating and capital needs in return for a benefit, which can include sponsorship recognition as further defined in this Policy. Sponsorship may also

grant a sponsor with a limited right to associate the sponsor's name, products, or services with the City or a City asset subject to the guidelines and requirements of this Policy.

### III. Sponsorships

#### A. Purpose

Pursuant to this Corporate Marketing Partnership Policy, the City may decide to seek sponsorships for designated city assets, including programs, projects, events, facilities, and activities. The City retains sole discretion to choose those sponsors with whom it will associate itself. The City does not intend to permit and will not permit this Policy or any sponsor recognition provided for herein to become a public forum. By adopting this Policy, the City is acting as a proprietor and not as a regulator. The City is engaged in government speech when it accepts Sponsorships and when it chooses to provide sponsor recognition. The purpose of this Policy is **NOT** to communicate views of sponsors; rather it is to: 1) generate revenue to enhance City's programs, activities, events, services, facilities and capital improvements for City property; 2) to acknowledge such funding; and 3) to provide identification of its sponsors to the public.

#### B. Sponsorship Guidelines

1. The City reserves the right to accept or reject any and all potential Sponsorship offers made in response to an RFP issued pursuant to this Policy.

2. Decisions to accept or reject proposed Sponsorships will not be made on the basis of the sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation of the proposed Sponsor.

3. By accepting a Sponsorship or by entering into a Corporate Marketing Partnership Agreement, the City does not limit its ability to accept any other Sponsorship or to enter into Corporate Marketing Partnership Agreements with similar sponsors.

4. Persons entering into Corporate Marketing Partnership Agreements with the City pursuant to this Policy shall not be given preferential treatment outside of the acknowledgements otherwise permitted pursuant to this Policy and the relevant Corporate Marketing Partnership Agreement. Sponsors will not receive extra consideration with respect to any City procurement, any regulatory activities of the City, or other City business by providing a Sponsorship. No City employee or City official is authorized to offer any such extra consideration to a sponsor.

5. Pursuant to any applicable Corporate Marketing Partnership Agreement, the City reserves the right to terminate any Sponsorship should conditions arise during the life of that Sponsorship that result in the Sponsorship conflicting with this Policy or the Sponsorship no longer being in the best interests of the City. Final approval of decisions to terminate a Sponsorship shall be made by the Communications Manager.

6. Sponsorship recognition shall not interfere with the city operations, operation of equipment, the provision of services or worker safety.

7. This Policy seeks to provide a benefit to all city residents, businesses and visitors without diminishing the image of City services, facilities and programs.

8. The City reserves the right to decline to offer particular City Assets for Sponsorship opportunities and to revise this Policy as deemed necessary to add or remove City Assets from the available Corporate Marketing Partnership pool.

9. If the proposed Corporate Marketing Partnership Agreement includes naming rights to or in a park or facility, the Communications Manager shall inform and consult with the Director with jurisdiction over the subject park or facility on the appropriateness of the proposal. If necessary, the Communications Manager may consult a qualified third party to assist with determining the value of such naming rights.

**C. Sponsor Recognition**

1. The City's recognition of any sponsor is provided to convey its appreciation for the sponsor's support of City services and facilities.

2. Any accepted Sponsorships will be acknowledged in a manner commensurate with the value of the Sponsorship to the City. The City will determine on a case-by-case basis what Sponsorship recognition is appropriate for a particular opportunity.

3. The City retains all editorial control of details regarding sponsor recognition, including the placement and/or display of the sponsor's name and/or other identifying symbol (such as the sponsor's logo) on promotional materials or other City Assets if permitted by applicable law and consistent with the Design Criteria Standards. A sponsor will have no design/content approval rights, other than to approve the use of its logo/intellectual property if deemed permissible by the City and applicable law.

4. Sponsorship recognition shall only be placed on City Assets after final execution of a Corporate Marketing Partnership Agreement, which shall set forth any agreed-upon Sponsorship recognition.

5. Potential Sponsorship opportunities may include recognition of the sponsor in City news releases, promotional/printed materials, onsite promotion and recognition on one or more City Assets, booth space at a City special event, and/or naming rights. All such Sponsorship recognition shall be consistent with this Policy and any applicable Design Criteria Standards developed in conjunction with this Policy.

6. Sponsorship recognition messages do not constitute an endorsement by the city of any product or service of its sponsors.

7. The form of any on-site sponsor recognition shall be of appropriate size and color, shall not detract from surroundings or any interpretive messages, and shall be subject to review by city Boards and Commission where applicable and must conform to the Design Criteria Standards developed in conjunction with this Policy.

8. All Corporate Marketing Partnership Agreements shall be subject to legislative approval of City Council.

#### **IV. Commercial Advertising**

##### **A. Purpose**

This Section of the Corporate Marketing Partnership Policy provides the framework for Commercial Advertising. This Policy is intended to include objective standards (as described in this policy), which are to be incorporated into any applicable RFP by the City without respect to viewpoint. It is the City's further declared intent that the Commercial Advertising portion of the Corporate Marketing Partnership Program and designated City Assets defined in this Policy are nonpublic forums that are not intended or open for dissemination, debate, or discussion of public issues whatsoever.

Limiting Advertising in accordance with this Policy among other things, allows the City to:

1. Avoid non-commercial advocating to a "captive audience" of the public in attendance at a City facility or program;
2. Maintain a position of neutrality on political, religious and other debatable noncommercial subjects and issues;
3. Limit the likelihood of potential vandalism and destruction on City property;
4. Prevent potential violations of the Establishment Clause (part of the First Amendment of the Constitution prohibiting the "establishment of religion");
5. Prevent potential election campaign law violations;
6. Acknowledge the constitutional prohibition on viewpoint-related discrimination regarding Commercial Advertising in nonpublic forums;
7. Maximize income potential from commercial advertisers who prefer not to use the same forum as persons wishing to communicate non-commercial messages.

##### **B. Guidelines for Commercial Advertising:**

1. Only Commercial Advertising (as defined herein) will be allowed on City Assets designated in this Policy except the Advertising of City-sponsored or co-sponsored events or City services. The only City Assets available for Commercial Advertising are the non-public forums designated herein and/or in an applicable RFP.

2. Non-commercial advertisements that add an offer to purchase some item to the otherwise non-commercial message are not permitted pursuant to this Policy and will not be deemed to convert the advertisement to commercial speech.

3. No moving or animated parts will be permitted in Advertising.

4. Commercial Advertising shall only be placed on designated City Assets after final execution of a Corporate Marketing Partnership Agreement.

5. The City reserves the right to require that Commercial Advertising include a disclaimer stating that the Advertising is not sponsored by the City and/or does not necessarily reflect the views of the City and does not constitute endorsement or recommendation by the City.

6. All Commercial Advertising must clearly identify a "Person" paying for the Advertising or causing the Advertising to be placed on a City Asset. Website addresses and/or phone numbers by themselves are insufficient to satisfy this requirement.

**C. Prohibited Advertising**

In order to increase its ability to earn revenue from certain categories of advertisers, and to ensure that its assets and resources do not promote the use of certain adult and/or regulated items to juveniles and others, the City will further prohibit Advertising on City Assets relating to the following categories of products and/or companies.

1. Advertising for illegal products, services or activities will not be permitted.

2. No political speech will be permitted, including but not limited to Advertising by political candidates for public office, by political organizations or concerning ballot issues. No Advertising regarding religious, philosophical, or other beliefs will be permitted.

3. Advertising that violates any federal, state or local law will not be accepted.

4. Advertising that is false, misleading, defamatory, or deceptive will not be permitted.

5. No obscenity will be permitted. For purposes of this Commercial Advertising Policy, "obscenity" shall include "obscene materials" as defined in state law, Penal Code 311 ("obscene matter").

6. Advertising that is profane, vulgar, abusive, and/or otherwise presents a clear-and-present danger of causing a riot or other imminent threat to public safety will not be permitted.

7. Advertising that infringes on any copyright, trade or service mark, slogan, title, publicity right, or Visual Artists Rights Act of 1990 (VARA), 17 U.S.C. §106A will not be permitted.

8. Advertising that duplicates or mimics the identity of programs of the City (without City involvement) will not be permitted.

9. Advertising on City Assets relating to the following categories of products and/or companies whose business is substantially derived from the sale or manufacture of: alcohol, tobacco, firearms, weapons, and/or sexually oriented businesses will not be permitted. For purposes of this Policy, a "Sexually Oriented Business" shall be defined as a business having a business establishment or concern that as a regular and substantial course of conduct offers, sells or distributes "adult oriented material" or "sexually oriented merchandise," or that offers to its patrons materials, products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" but not including those uses or activities which are preempted by state law. Examples of Sexually Oriented Businesses include: adult retail stores; adult live entertainment; adult cabarets; adult motel or adult hotels; adult motion picture theaters; or nude model studios.

10. Advertising that contains websites or telephone numbers that direct viewers to websites or access to materials that otherwise violates this Policy or applicable law will not be permitted.

11. Advertising that includes words such as "STOP," "DANGER" or "WARNING" in bold letters or otherwise in a way that it may cause distractions to drivers along the public right of way will not be permitted.

12. Any Advertising that, if posted by itself or in combination with other Advertising, would cause the affected City Asset or Corporate Marketing Partnership Program to become a public or designated public forum will not be permitted.

Additional limitations are set forth in Section V below discussing specific City Assets and/or may be included in any Design Criteria Standards that are implemented in conjunction with this Policy.

**V. City Assets Available for Corporate Marketing Partnership Opportunities and Additional Specified Limitations**

**A. City Owned Vehicles**

1. Where Sponsorship or Commercial Advertising is permitted for City-owned vehicles, the vehicle must still be identifiable as a City of Carlsbad vehicle.

**B. City Mailings**

1. Use of Commercial Advertising or Sponsorship recognition in mailings or other City distributions must comply with federal, state, and local law and the standards for Sponsorship under the Corporate Marketing Partnership.

**C. City Buildings and Parks**

1. Sponsorship recognition is permitted only for specified City-owned buildings and parks as determined in the applicable RFP.
2. No Sponsorship or Commercial Advertising is permitted on the exterior of City Hall or other City buildings accommodating City Departments, Police, Fire or EMS Stations and/or Facilities, or Historic Landmarks as defined in CMC Chapter 22.02.
3. The City will have final discretion over the ratio of the sponsor's name in comparison to the City's name, with the City's name/existing reference to the City Asset being prominent and proportionate to the size of the building or structure.
4. Static Commercial Advertising and/or Sponsorship recognition is permitted inside City-owned buildings only in those non-public forum areas specified by an applicable RFP.
  - a. No Commercial Advertising or Sponsorship recognition shall be permitted inside the City Council Offices, or in any room, City Council chambers, and/or quasi-judicial chambers in which hearings are heard.
  - b. No Commercial Advertising or Sponsorship recognition will be permitted on windows or in window wells.
5. Permitted locations for vending machines or other distribution of food/beverages will be included in an applicable RFP.
6. Temporary Sponsorships and/or temporary Commercial Advertising is permitted on waste or recycle receptacles or on banners. Booths dispensing products or literature will also be permitted.

**D. Street Furniture**

The City has a vested interest in the traffic safety and aesthetics relating to its streetscape, including those City Assets and/or public street furniture over which the City has contractual supervision. Sponsorship recognition and/or Commercial Advertising are permitted on the City owned and/or City contractually supervised street furniture in conformance with any applicable Corporate Marketing Partnership Design Criteria Standards and/or other criteria as specified in an applicable RFP.

**E. City Programs/Events**

Department Directors shall have the discretion to determine whether a specific City program or event will be included in the Corporate Marketing Partnership.

**VI. Responsibilities of Communications Manager for Corporate Marketing Partnership**

All Corporate Marketing Partnership Program activities will be coordinated by the Communications Manager. The Communications Manager will be responsible for all of the following:

1. Conducting a citywide effort to publicize this Policy and the Corporate Marketing Partnership Program.
2. Recommending appropriate marketing opportunities.
3. Assisting in the creation and implementation of specific Design Criteria Standards beyond what is included in this Policy. City Council will review and approve any additional Design Criteria Standards as part of the approval of each Corporate Marketing Partnership Agreement.
4. Reviewing and assisting in the development of Corporate Marketing Partnership Agreements.
5. Working with a consultant, as applicable, to enter into Corporate Marketing Partnership Agreements.
6. Providing assistance and guidance to City departments regarding the application and implementation of this Policy.
7. Assisting appropriate departments with administration and monitoring of agreements developed through the Program.
8. Maintaining a list of all Corporate Marketing Partnership Agreements.
9. Providing an annual report to the City Council on all Corporate Marketing Partnership agreements.