

TO: Chairman and Board of Trustees

FROM: Administrator

Resolution Establishing an Advertising Policy that Creates Standards for Displaying Advertising In and On Property of the Central Oklahoma Transportation and Parking Authority

Background EMBARK's mission is to provide dependable multimodal public transportation and downtown Oklahoma City parking services to the residents and visitors of the greater Oklahoma City metropolitan area so they can experience friendly, convenient, safe and affordable transit and parking services.

EMBARK's operations are funded by a combination of federal, state, and local funds, including grants and taxes, as well as, fares and fees. Staff seeks to establish a formal advertising, sponsorship and naming rights program (together "Advertising"), to strengthen EMBARK's fiscal sustainability.

EMBARK's acceptance of Advertising through contractors is not intended to create a public forum, but rather to make use of its assets held in a proprietary capacity in order to generate revenue. To that end, staff proposes the adoption of the attached policy on advertising, in order that, EMBARK may retain control over the Advertising allowed by subjecting all proposed Advertising content, messages, and agreements to the standards established by this policy.

The policy advances the advertising program's revenue-generating objective while establishing uniform, reasonable, and viewpoint-neutral standards for the display of Advertising in and on the facilities, transit and fleet vehicles and other property of the Central Oklahoma Transportation and Parking Authority (COTPA) and its family of services.

Review Public Transportation and Parking Department and Municipal Counselor's Office

Recommendation: Adopt Resolution



Jason Ferbrache
Administrator

**RESOLUTION ESTABLISHING AN ADVERTISING POLICY THAT CREATES STANDARDS FOR
DISPLAYING ADVERTISING IN AND ON PROPERTY OF THE CENTRAL OKLAHOMA
TRANSPORTATION AND PARKING AUTHORITY**

WITNESSETH

WHEREAS, the Central Oklahoma Transportation and Parking Authority (COTPA, a.k.a. "EMBARK") is tasked with owning and/or operating buses, modern streetcar vehicles, parking facilities, bus shelters, streetcar platforms, parking garages and other properties (together "Properties") through its operation of public transportation and parking services (together "Services"); and

WHEREAS, EMBARK is funded by a combination of federal, state, and local funds, including grants and taxes, as well as, fares and fees; and

WHEREAS, an advertising, sponsorship and naming rights (together "Advertising") program will supplement existing funding sources that support the operation and maintenance of EMBARK Properties and Services; and

WHEREAS, acceptance of Advertising through contractors is not intended to create a public forum; and

WHEREAS, EMBARK retains control over the Advertising allowed by subjecting all proposed Advertising content, messages, and agreements to the standards established by this policy;

NOW, THEREFORE BE IT RESOLVED by the COTPA Board of Trustees that they do hereby establish an Advertising Program; and adopt the Advertising Policy declaring EMBARK as a non-public forum; and establishes uniform, reasonable, and viewpoint-neutral standards for the display of Advertising on EMBARK Properties.

**CENTRAL OKLAHOMA TRANSPORTATION
AND PARKING AUTHORITY**



Chairman

ATTEST:


Secretary

Reviewed for form and legality.


Assistant Municipal Counselor

CENTRAL OKLAHOMA TRANSPORTATION AND PARKING AUTHORITY POLICY ON ADVERTISING

Board Approved February 2, 2018

I. PURPOSE

- A. To establish uniform, reasonable, and viewpoint-neutral standards for the display of advertising, and sponsorship and or naming-rights (together “Advertising”) in and on the facilities, transit and fleet vehicles and other property (together “Property”) of the Central Oklahoma Transportation and Parking Authority (COTPA) and its family of services (together “EMBARK”).
- B. To establish EMBARK as a non-public forum.

II. OBJECTIVE

EMBARK’s mission is to provide dependable multimodal public transportation and downtown Oklahoma City parking services to the residents and visitors of the greater Oklahoma City metropolitan area so they can experience friendly, convenient, safe and affordable transit and parking services.

EMBARK’s operations are funded by a combination of federal, state, and local funds, including grants and taxes, as well as, fares and fees. Revenue from advertising is an important supplemental funding source that supports the operation of EMBARK’s family of services.

EMBARK’s acceptance of advertising through contractors is not intended to create a public forum, but rather to make use of EMBARK’s assets held in a proprietary capacity in order to generate revenue. EMBARK retains control over the advertising allowed by subjecting all proposed advertising content, messages, and agreements to the standards established herein.

In establishing and enforcing this policy, EMBARK seeks to fulfill the following objectives:

- Maximize advertising revenue opportunities
- Clarify EMBARK’s position as a non-public forum
- Maximize customer and service growth
- Maintain secure and orderly property and operating environment
- Minimize confusion related to permitted and prohibited advertising
- Maintain a safe and welcoming environment for all EMBARK employees, representatives, and customers
- Avoid the appearance of endorsement by EMBARK displayed in or on property, including the associated messages, products, services, or events being proposed or promoted

III. ENDORSEMENT

Acceptance of an advertisement does not constitute express or implied endorsement of the content or message of the advertisement, including any person, organization, product, service information and viewpoint contained therein, or of the advertisement sponsor(s) itself. This endorsement disclaimer extends to and includes, but not limited to, content that may be found via internet addresses, quick response (QR) codes, and phone numbers that may appear in posted advertisements and that direct viewers to external sources of information.

IV. ADVERTISING STANDARDS

Placing reasonable limits on permitted advertising displayed on EMBARK Properties will enable EMBARK to realize the maximum benefit from the sale of advertising space. Further, EMBARK retains control over the type of display and location/placement of approved advertising.

A. **Permitted Advertising**

The following classes of advertising are authorized on EMBARK property if the advertising does not include any content or message that qualifies as Prohibited Advertising as described in subsection B:

1. Commercial Advertising

Paid advertisements that propose, promote, or solicit the sale, rent, lease, license, distribution, or availability of some other commercial transaction concerning goods, products, services, or events for the advertiser's commercial or proprietary interest, or more generally promote an entity that engages in such activities.

2. Governmental Advertising

Notices or messages from EMBARK that promote its services or any of its functions or programs, and also paid notices or messages of the United States government, the State of Oklahoma and its agencies, the City of Oklahoma City and its departments, or a State of Oklahoma County government within the EMBARK service area that advance specific governmental purposes.

3. Public Service Announcements

Public service announcements not otherwise prohibited under Section IV of this policy, 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 and relate directly to:

- Prevention or treatment of illnesses;
- Promotion of safety or personal well-being;
- Education or training;

- Art or culture;
- Provision of children and family services;
- Provision of services and programs that provide support to residents, seniors, or people with disabilities; or
- Solicitation by broad-based contribution campaigns that provide funds to multiple charitable organizations active in the above-listed areas.

B. Prohibited Advertising

Advertising is prohibited on EMBARK property if it includes any content that falls under one or more of the following categories:

1. Political and Public Issue

Any material that:

- a. Promotes or opposes a political party, promotes or opposes any state or local ballot measure or the election of any candidate or group of candidates for federal, state, judicial or local government offices;
- b. Is political in nature or contains political messages, including advertisements involving political or judicial figures and/or advertisements involving an issue that is political in nature in that it directly or indirectly implicates the action, inaction, prospective action or policies of a governmental entity; or
- c. Expresses or advocates an opinion, position or viewpoint on a matter of public debate about economic, political, religious or social issues.

2. False or Misleading

Any material that is, or the sponsor reasonably should have known is, false, fraudulent, misleading, deceptive, or would constitute a tort of defamation or invasion of privacy.

3. Copyright, Trademark or Otherwise Unlawful Infringement

Any material that infringes on any copyright, trade or service mark, title or slogan.

4. Obscene or Pornographic

Any material that is obscene or pornographic.

5. Defamation or Lawless Action

Any material that is clearly defamatory or advocates imminent lawlessness or violent action.

6. Smoking Products, Tobacco, or Weapons

Any material that constitutes commercial advertising of the sale of weapons, smoking products, tobacco-related products, or electronic cigarettes.

7. *Profane and Violent*

Advertisement that contains any of the following:

- a. any profane language
- b. any images portraying or describing graphic violence, including death, mutilation, disfigurement or intentional infliction of pain or violent action; or
- c. depictions of weapons or devices that appear to be aimed or pointed at the viewer or observer in a menacing manner.

8. *Insulting, Degrading, Disparaging, Demeaning or Offensive*

Any material directed at a person or group that is intended to be (or reasonably could be interpreted as being):

- a. Insulting, degrading, disparaging, demeaning or offensive so as to be reasonably foreseeable to incite or produce lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order; or
- b. Disparaging or disrespectful to persons, groups, governments, businesses or organizations, including advertisements that portray individuals as inferior, evil or contemptible.

9. *Harmful or Disruptive to EMBARK.*

Any material that is reasonably likely to cause harm to, disruption of or interference with EMBARK property and its family of services.

10. *Unsafe Behavior*

Any advertisement that encourages or depicts unsafe behavior including, but not limited to, EMBARK-related activities, such as non-use of normal safety precautions in awaiting, boarding, riding upon or disembarking from EMBARK property.

11. *Adverse to EMBARK*

Advertising, or any material contained in it, that is directly adverse to the commercial or administrative interests of EMBARK, or that tends to disparage the quality of service provided by EMBARK, or that tends to disparage EMBARK generally.

12. *EMBARK Graphics and References*

Advertising that contains EMBARK graphics, logos or representations without the express written consent of EMBARK.

V. TRANSIT SYSTEM INFORMATION AND PROMOTION

EMBARK reserves the right to display advertising and information that pertain to EMBARK's operations, programs and promotions, including the distribution of materials, leaflets and literature within EMBARK facilities and vehicles consistent with the standards herein.

EMBARK Administrator or designee may authorize independent contractor (s) to self-promote for the purpose of selling the available inventory of advertising at the contractor's expense and is consistent with the standards herein.

VI. 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 the EMBARK Administrator or designee. The EMBARK Administrator or designee is authorized to grant use of the EMBARK logo for in-kind and partnership advertising purposes.

VII. PRODUCT DISTRIBUTION & LEAFLETING

EMBARK Properties are not public forums for public discourse or expressive activity. Literature or product distributions, leafleting and similar activities can disrupt or delay customers, cause maintenance issues, and otherwise create safety issues for customers, operations, and surrounding environment. Accordingly, petition initiatives, political campaign activities, distribution of political or issues campaign literature, leafleting, and other information or campaign activities are prohibited on or within EMBARK properties.

On a limited basis and in conjunction with a "partnering" opportunity approved by the Administrator or designee, EMBARK may allow an advertiser to distribute items on or within EMBARK properties. Any distribution of literature, leaflets, coupons, products, samples or other items must be pre-approved by the EMBARK Administrator or designee and must strictly comply with this policy and any terms and conditions established by EMBARK.

VII. APPROVAL

EMBARK and or its independent contractor shall reject advertising that does not comply with this policy.

EMBARK and or its independent contractor will work with advertisers to resolve issues regarding advertisements that do not comply with this policy. Resolution may include modification of the art, copy, or both, solely at the advertiser's expense.

VIII. APPEALS

An advertiser may appeal a decision to reject or remove a paid advertisement by filing a written request with the EMBARK Administrator or designee within ten (10) calendar days after the rejection or removal decision. The advertiser's request must state why the advertiser

disagrees with the decision in light of EMBARK's Policy on Advertising.

The EMBARK Administrator or designee will review the basis for the rejected or removed advertisement and will consider the advertiser's reasons for filing the request.

The EMBARK Administrator or designee will make a decision on the request and will notify the advertiser of his/her decision in writing within ten (10) business days after receiving the advertiser's appeal request. The EMBARK Administrator or designee's decision is final and not subject to appeal.

IX. COMPLAINTS

Complaints regarding any advertisement shall be directed to the Administrator or designee.

X. EMBARK'S RIGHTS

EMBARK reserves the right to modify these policies as it deems necessary to comply with legal mandates, or to facilitate its primary function, or to fulfill the purpose of the advertising program, or to achieve the objectives of the advertising program.