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CITY AND COUNTY OF HONOLULU
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February 24, 2025

The Honorable Tyler Dos Santos-Tam, Chair
and Members
Committee on Budget
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawai'i 96813

Dear Chair Dos Santos-Tam and Councilmembers:

SUBJECT: Proposed Amendment to Bill 4 (2025), CD1 – Relating to Sponsorships

Bill 4 (2025), CD1, proposes to reestablish a process to obtain sponsorships for City facilities, parks, programs, equipment, and tangible property and includes guidelines and procedures to optimize the program for revenue generation.

We fully support the proposed legislation, and submit for your consideration, the attached proposed amendments that clarify the types of city properties and activities and equipment that may be sponsored, clarifies what might be a memorial, makes rule-making optional rather than mandatory, deletes a vague provision relating to physical sponsorship that is also redundant, makes indemnification optional at the discretion of the director, and requires, but does not dictate, the terms under which a sponsorship may be terminated.

Please call me at (808) 768-4937 if you have any questions.

Sincerely,

Krishna F. Jayaram
Deputy Managing Director

Attachment

MAYOR'S MESSAGE 31 BUD

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Bill 4 (2025), CD1
RELATING TO SPONSORSHIPS

The PROPOSED CD2 makes the following amendments:

A. Amends Section § 2-__.2 Definitions, "City Asset" by deleting "tangible property" and replacing the phrase with "real or personal property" to capture the various types of City property that may be sponsored.

B. Amends Section § 2-__.2 Definitions, "Equipment" by clarifying that multiple pieces of equipment with a value in excess of $25,000 can be subject to a sponsorship.

C. Amends § 2-__.2 Definitions, "Program" by adding the word "activity," after the phrase, "Any program" to capture, for example, a website established by a city agency to support small businesses.

D. Amends Section § 2-__.3 Exclusions, by providing a list of what typically is used for memorials.

E. Amends § 2-__.6 Sponsorship rules, by deleting the word "must" and replacing it with the word "may" such that rule-making is optional rather than mandatory.

F. Deletes Section § 2-__.7(a)(7) Sponsorship requirements, as it contains a vague standard and is redundant with Section § 2-__.7(a)(2) which already requires conformity with sign regulations and state statutes relating to outdoor advertising, including billboards.

G. Amends Section § 2-__.7(a)(11) Sponsorship requirements, to make it the director's discretion whether to include an indemnity provision.

H. Section § 2-__.7(a)(12) Sponsorship requirements, requires termination terms but does not dictate what those terms should be.

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL 4 (2025), CD2
(PROPOSED)

A BILL FOR AN ORDINANCE

RELATING TO SPONSORSHIPS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to reestablish a process to obtain sponsorships for City facilities, parks, programs, equipment, and tangible property within set guidelines and procedures for the purpose of optimizing non-property tax revenue sources. The prior ordinance establishing such a process (Ordinance 17-16) was repealed by operation of law on May 12, 2022.

SECTION 2. Chapter 2, Revised Ordinances of Honolulu 2021 ("The Mayor and Executive Agencies—Additional Powers, Duties, and Functions"), is amended by adding a new article to be appropriately designated by the Revisor of Ordinances and to read as follows:

"**ARTICLE __: SPONSORSHIP OF CITY ASSETS**

§ 2-__.1 Declaration of legislative intent—Purpose.

In an effort to utilize and maximize the community's resources, it is in the best interest of the city to create and enhance public-private relationships, including with individuals, corporations, and other organizations, through the creation of commercial sponsorships. Private sponsorship arrangements are deemed to not constitute a public forum for communication and debate, and the rights established by the private sponsorships are established and remain in effect upon the terms and conditions established by the city. Private sponsorships will create alternate revenue streams that will increase the city's ability to deliver services and to maintain city assets, including its facilities, parks, programs, equipment, and tangible property, and provide enhanced levels of service and maintenance beyond the core levels funded from the city's general fund for the benefit of users and the community at large.

In appreciation of such support, it is the policy of the city to equitably acknowledge the contribution of private sponsors; however, such recognition should adhere to the aesthetics and purposes of the city's assets. In addition, such recognition should not detract from the public's best interests, nor should it be perceived as creating a proprietary interest in a city asset. Finally, sponsorship recognition must be made in conformance with all applicable laws and rules.

A BILL FOR AN ORDINANCE

The purpose of this article is to establish the criteria and parameters for the granting of sponsorship opportunities in relation to city assets. This article provides executive agencies the authority to consider and approve sponsorship opportunities for an appropriate person or entity that has provided a financial contribution to support a city asset.

§ 2-__.2 Definitions.

For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Cash Sponsorship. A type of sponsorship where a sponsor provides cash.

City Asset. A city facility, park, program, equipment, or real or personal [~~tangible~~] property.

Equipment. Any vehicle, construction equipment, machine, device, gear, apparatus, or tool, or multiple pieces of equipment with a value in excess of $25,000 used in the operation of the city but does not include city-operated buses or special transit service vehicles.

Facility. Any building, including any stadium, arena, or station owned, managed, or operated by the city.

Financial Contribution. Cash, goods, or services paid or provided to the city at such time or times as set forth in the sponsorship agreement.

In-Kind Sponsorship. A type of sponsorship where a sponsor provides a good or service.

Person. Has the same meaning as defined in § 1-4.1.

Program. Any program activity, festival, contest, event, fair, athletic race, gala, or similar event provided by a city department in connection with the operations of a department.

Sponsor. A person that enters into a sponsorship agreement with the city.

Sponsorship. A mutually beneficial arrangement between the city and a person, wherein the person provides a financial contribution to the city in return for sponsor

recognition on or in connection with one or more city assets, for a specified period of time.

Sponsorship Agreement. A written agreement executed between the city and a sponsor governing a sponsorship, on terms and conditions acceptable to the city and the sponsor. A sponsorship agreement may include provisions that allow for the recognition of the sponsor.

Sponsorship Recognition. A tangible acknowledgement and expression of gratitude issued as part of the sponsorship agreement.

§ 2-__.3 Exclusions.

This article does not apply to:

(1) Gifts, grants, or unsolicited donations where no sponsorship agreement exists or is required;

(2) Memorials for park benches, tables, trees and planting areas and the naming of a city park, site, or facility subject to §§ 22-9.3 to 22-9.5;

(3) Parades or events sponsored or co-sponsored by the city pursuant to other ordinances or rules;

(4) Facilities in Kapiolani Regional Park; and

(5) Facilities in Hanauma Bay Nature Preserve.

§ 2-__.4 Authorization required.

(a) City assets are intended and exclusively used for operations of the city in providing governmental services and programs to and for the public, and except as required by law or expressly established by an affirmative action by the council, a person may not access or use any city asset for any purpose other than the intended and authorized governmental purpose or service. Placement of sponsorship messages upon a city asset requires specific authorization.

(b) The city has and retains the sole and final decision-making authority for determining the appropriateness of a sponsorship and reserves the right to refuse to enter into any proposed sponsorship agreement. Approval of proposals is subject to the following guidelines:

(1) A director of an executive agency may enter into a sponsorship agreement, pursuant to the rules to be adopted under § 2-__.6, that is for:

(A) A term of less than five years; and

(B) A financial contribution of less than $50,000;

(2) All sponsorship agreements for a financial contribution of $50,000 or more must be approved by a resolution adopted by the council; and

(3) All sponsorship agreements for a term of five years or more must be approved by a resolution adopted by the council.

§ 2-__.5 Funds received from sponsorship agreements.

All funds received pursuant to sponsorship agreements must be deposited into the appropriate fund as determined by the director of budget and fiscal services; provided that the funds are expended for their designated purpose.

§ 2-__.6 Sponsorship rules.

The director of budget and fiscal services or other director as designated by the mayor may [~~must~~] adopt rules, in accordance with HRS Chapter 91, for the implementation, administration, and enforcement of this article.

§ 2-__.7 Sponsorship requirements.

(a) The following requirements apply to all sponsorship agreements:

(1) The city may not relinquish any aspect of the city's right to direct, manage, and control the city asset;

(2) Sponsorship recognition, publications, and publicity must conform to all applicable laws and rules, including but not limited to Chapter 21, Article 7, pertaining to sign regulations, and HRS Chapter 445, Part IV, pertaining to outdoor advertising, including billboards;

(3) The sponsorship may not create a conflict of interest for the city as determined by the city's corporation counsel;

(4) The sponsorship may not confer a personal benefit, directly or indirectly, to any particular city officer or employee as determined by the sponsorship agreement and applicable rules and regulations;

(5) Sponsorships must not be deemed to constitute an endorsement of the sponsor or its services and products, or create any proprietary interest of the sponsor in the city or the city assets as determined by the sponsorship agreement and applicable rules and regulations;

(6) The city's name, seal, or logo may not be used in materials, communications, or advertisements including, but not limited to, print, video, internet, broadcast, or display items developed to promote or communicate the sponsorship, except as specifically provided in the sponsorship agreement;

~~(7) Any physical form of sponsorship recognition must be consistent with the surrounding environment as determined by the sponsorship agreement and applicable rules and regulations;~~

(~~8~~7) The sponsorship may not discriminate against any person on the basis of race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;

(~~9~~8) Sponsorship recognition, branding, publicity, and advertising in conjunction with the sponsorship agreement may not contain the following:

(A) Obscenity;

(B) Pornography;

(C) Incitement to imminent lawless action;

(D) Speech presenting a grave and imminent threat;

(E) Fighting words;

(F) Fraudulent material;

(G) True threats;

(H) Defamatory, libelous, or slanderous material;

(I) Solicitations to commit, or speech integral to, criminal conduct;

(J) The promotion of drugs, alcohol, tobacco, gambling, or adult entertainment;

(K) Political campaign speech, or speech that supports or opposes or appears to support or oppose a ballot measure or initiative, or refers to any person in or campaigning for public office; or

(L) Religious speech that advocates or opposes a religion or religious belief;

(~~10~~9) Each sponsorship agreement must specify whether the sponsorship for a particular asset will be exclusive or non-exclusive;

(~~11~~10) Sponsorship recognition must be as determined by the sponsorship agreement and applicable rules and regulations and may include the following, or any combination thereof, during the term of the agreement:

(A) Recognition of the sponsor for a specific city program;

(B) Appropriate mention in media releases and promotional materials of a sponsor for the city program;

(C) Appropriate sponsorship recognition or display at the city program location;

(D) Appropriate recognition on the program website as a sponsor for the program; or

(E) Other possible benefits as negotiated;

(~~12~~11) Sponsorship agreements ~~must expressly~~ at the discretion of the director of an executive agency, may provide that the sponsor must defend, indemnify, and hold harmless the city, its officers, agents, and employees against all liability, loss, damage, cost, and expense, including attorneys'

fees, arising out of or resulting from the acts or omissions of the sponsor, its directors, employees, officers, agents, or contractors, in connection with the sponsorship and the sponsorship agreement;

(~~13~~12) Sponsorship agreements must expressly provide ~~that~~ the terms under which the sponsorship agreement may be terminated by the parties, including for city termination, when the sponsorship is no longer in the best interest of the city;

(~~14~~13) Sponsorship agreements must expressly provide that the city retains its rights and discretion to exercise full editorial control over the placement, content, appearance, and wording of sponsorship recognitions, affiliations, and messages; and

(~~15~~14) Sponsorship agreements must expressly prohibit materials that advocate, contain price information or an indication of associated savings or value, request a response, or contain comparative or qualitative descriptions of products, services, or organizations.

(b) The following sponsorships will not be accepted:

(1) Sponsorships by persons that practice or promote discrimination based on race, color, creed, religion, sex, including gender identity and expression, sexual orientation, age, marital status, ancestry, national origin, or disability;

(2) Sponsorships by persons that have a pending open application with the city for a discretionary approval;

(3) Sponsorships by persons opposing the city in a pending or ongoing legal proceeding; and

(4) Sponsorships that involve situations where the corporation counsel determines that there would be or are conflicts of interest."

A BILL FOR AN ORDINANCE

SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

Radiant Cordero

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DATE OF INTRODUCTION: _____

_____

January 6, 2025 _____
Honolulu, Hawai'i

_____
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

_____
Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 ____.

_____
RICK BLANGIARDI, Mayor
City and County of Honolulu