HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE _____

BILL **4 (2025), CD2**

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 The prior ordinance establishing such a process (Ordinance 17-16) was repealed by operation of law on May 12, 2022.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. Section 1-8.1, Revised Ordinances of Honolulu 2021 ("Definitions"), is amended by amending the definition of "Private Grant Agreement" to read as follows:

"***Private Grant Agreement.*** Any instrument in the nature of a contract, compact, memorandum of understanding, or agreement that is intended to be executed between the city and a private party where the private party agrees to furnish assistance, financial or otherwise, to support a city program or function in exchange for the city incurring an obligation. To be deemed a private grant agreement, such assistance shall be valued at $2,500 or more. The term includes a conditional gift or an agreement providing for a private party to provide training to city personnel, alone or in combination with travel and lodging for the city personnel to participate in the training, provided the gift or agreement meets all of the elements of this definition. To be deemed a private grant agreement, such an arrangement need not be formalized in a contract, compact, memorandum of understanding, or agreement that is executed between the city and private party. Private grant agreement shall not include any procurement or procurement contract as defined by the Hawaii Public Procurement Code[~~,~~] or that relates to any grant of funds subject to Chapter 6, Article 9[~~.~~], or any sponsorship agreement executed pursuant to ROH Chapter 2, Article ___."

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SECTION 3. 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.

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 property.

Equipment. Any vehicle, construction equipment, machine, device, gear, apparatus, 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; station; or any portion of 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 sponsorship 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 sponsorship recognition. Sponsorship agreements will not be deemed to be private grant agreements, as that term is defined in § 1-8.1, and are not subject to the requirements related to private grant agreements in Chapter 1, Article 8.

Sponsorship Recognition. The issuance of a tangible acknowledgement and expression of gratitude or the granting of naming rights for facilities as part of a 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) Parades or events sponsored or co-sponsored by the city pursuant to other ordinances or rules;

(3) Facilities in Kapiolani Regional Park; and

(4) Facilities in Hanauma Bay Nature Preserve.

§ 2-__.4 Granting of naming rights for a facility as sponsorship recognition.

(a) Notwithstanding §§ 22-9.3 to 22-9.5 and in accordance with § 2-__.9, the city and a sponsor may enter into a proposed sponsorship agreement that grants naming rights for a facility subject to the requirements in § 2-___.8(b).

(b) If the city and a sponsor desire to enter into a proposed sponsorship agreement that grants naming rights for a facility and issues a tangible acknowledgement and expression of gratitude, two separate agreements (one for the granting of naming rights for a facility and the other for the issuance of a tangible acknowledgement and expression of gratitude) must be executed and approved in accordance with the procedures in this article.

§ 2-__.5 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 messages related to a sponsorship agreement 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 agreement and reserves the right to refuse to enter into any proposed sponsorship agreement.

(c) Approvals of sponsorship agreements are subject to the following:

(1) A director of an executive agency may enter into a sponsorship agreement, pursuant to the rules to be adopted under § 2-__.7, 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 involving 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-__.6 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-__.7 Sponsorship rules.

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

§ 2-__.8 Sponsorship requirements.

(a) The following requirements apply to sponsorship agreements that solely confer a tangible acknowledgement and expression of gratitude for the sponsor for purposes of sponsorship recognition:

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

(2) The tangible acknowledgement and expression of gratitude, publications relating to the tangible acknowledgement and expression of gratitude, and any publicity relating to the tangible acknowledgement and expression of gratitude 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 corporation counsel;

(4) The sponsorship agreement 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 may not 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) Except as specifically provided in the sponsorship agreement, 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;

(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;

(8) The tangible acknowledgement and expression of gratitude, branding for the tangible acknowledgement and expression of gratitude, publicity for the tangible acknowledgement and expression of gratitude, and advertising for the tangible acknowledgement and expression of gratitude 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:

(i) Supports or opposes or appears to support or oppose:

(aa) A ballot measure or initiative; or

(bb) Any legislative proposal that is currently pending before any legislative body in the State; or

(ii) Refers to any person in or campaigning for public office;

provided that this paragraph must not be construed to prohibit the display of any speech content that is protected under the First Amendment of the United States and State Constitutions as determined by the corporation counsel; or

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

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

(10) For the sponsorship of programs, recognition of the sponsor 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 sponsorship agreement:

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

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

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

(D) Other possible benefits as negotiated;

(11) Sponsorship agreements, 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;

(12) Sponsorship agreements must expressly provide 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;

(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 the tangible acknowledgement and expression of gratitude, affiliations, and messages; and

(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 requirements apply to sponsorship agreements that solely confer naming rights for a facility to the sponsor for purposes of sponsorship recognition:

(1) The city may not relinquish any aspect of the city's right to direct, manage, and control the facility except with respect to the name of the facility for the duration of the sponsorship agreement;

(2) Any physical form of the name of the facility on the facility itself, publications for the facility, and publicity for the facility 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) Sponsorships may not constitute an endorsement of the sponsor or its services and products or create any proprietary interest of the sponsor in the city or the facility as determined by the sponsorship agreement and applicable rules and regulations;

(5) 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;

(6) The name of the facility and any branding, publicity, and advertising for the facility in conjunction with the naming rights conferred by 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:

(i) Supports or opposes or appears to support or oppose:

(aa) A ballot measure or initiative; or

(bb) Any legislative proposal that is currently pending before any legislative body in the State; or

(ii) Refers to any person in or campaigning for public office;

provided that this paragraph must not be construed to prohibit the display of any speech content that is protected under the First Amendment of the United States and State Constitutions, as determined by the corporation counsel; or

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

(7) Sponsorship agreements, 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;

(8) Sponsorship agreements must expressly provide 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;

(9) Sponsorship agreements must expressly provide that the city retains its rights and discretion to exercise full editorial control over the placement, content, and appearance of name of the facility and the facility's affiliations and messages; and

(10) 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.

(c) 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 opposing the city in a pending or ongoing legal proceeding; and

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

§ 2-__.9 Applicability of certain provisions under Chapter 22 to sponsorships authorized pursuant to this article.

Sponsorship agreements approved under this article that involve the granting of naming rights for a facility are not subject to the requirements of §§ 22-9.3 and 22-9.5."

SECTION 4. In SECTION 2 of this ordinance, material to be repealed is bracketed and stricken. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.

A BILL FOR AN ORDINANCE

SECTION 5. This ordinance takes effect upon its approval.

INTRODUCED BY:

Radiant Cordero

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

Report Title:
Sponsorship of City Assets; Department of Budget and Fiscal Services ("BFS"); Rules; Naming Rights for City Facilities

Description:
Reestablishes a process to obtain sponsorships for City facilities, parks, programs, equipment, and tangible property. Authorizes naming rights for city facilities to be conferred as a part of a sponsorship agreement. Includes guidelines and procedures to optimize the program for revenue generation. Requires the BFS Director or other City agency director designated by the Mayor to adopt rules to implement, administer, and enforce the ordinance.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.