



Legislation Details (With Text)

**File #:** 2012-0621      **Version:** 3

**Type:** Resolution      **Status:** Passed Finally

**File created:** 7/24/2012      **In control:** Committee on Finance and Law

**On agenda:**      **Final action:** 1/22/2013

**Enactment date:** 1/22/2013      **Enactment #:** 18

**Effective date:** 1/28/2013

**Title:** Resolution acknowledging the adoption of a Market Based Revenue Opportunity Program authorizing sponsorship and/or commercial advertising opportunities on designated City Assets.

**Sponsors:** William Peduto

**Indexes:** MISCELLANEOUS

**Code sections:**

**Attachments:** 1. 2012-0621.doc, 2. 2012-0621 VERSION 2.doc, 3. 2012-0621 VERSION 3.doc

Date	Ver.	Action By	Action	Result
1/28/2013	3	Mayor	Signed by the Mayor	
1/22/2013	3	City Council	Passed Finally	Pass
1/16/2013	3	Standing Committees	AMENDED BY SUBSTITUTE	Pass
1/16/2013	3	Standing Committees	Affirmatively Recommended as Amended	Pass
11/5/2012	2	Standing Committees		
11/5/2012	2	Standing Committees		
10/24/2012	1	Committee on Hearings	Post Agenda Held	
10/17/2012	1	Committee on Hearings	Public Hearing Held	
8/1/2012	1	Standing Committees		
8/1/2012	1	Standing Committees		
7/24/2012	1	City Council	Read and referred	

Resolution acknowledging the adoption of a Market Based Revenue Opportunity Program authorizing sponsorship and/or commercial advertising opportunities on designated City Assets.

Whereas, the City of Pittsburgh has developed a Market Based Revenue Opportunity (“MBRO”) Program to maximize the revenue-generating capacity of its Municipal Assets in order to enhance the municipal services and facilities it is able to offer to its residents and visitors; and

Whereas, in furtherance of this goal, the City issued a Request for Proposals for a consultant to assist the City with developing and implementing an MBRO Program and to thereafter implement the policies established by the City by prioritizing and pursuing marketing and sponsorship categories for designated City Assets; and

Whereas, the City also established an MBRO Task Force, composed of City and community

representatives to determine desired parameters of the MBRO Program; and

Whereas, based on the input of the MBRO Task Force and various department representatives, the attached MBRO Policy sets forth the rules and regulations governing sponsorship and/or commercial advertising opportunities on designated City Assets.

*Section 1.* Attached hereto as Exhibit A is the City's Market Based Revenue Opportunity Program Policy, which authorizes sponsorship and/or commercial advertising opportunities on designated City Assets. **No MBRO Agreement will be approved or executed until comprehensive Design Criteria Standards have been developed in conjunction with input from community partners involved with parks, open spaces, and design. The Design Criteria Standards will be included as an appendix to the Policy.**

## **Market Based Revenue Opportunity Program Policy for Sponsorships and Advertising on City Property**

### **I. MBRO Program Background**

A. The City of Pittsburgh has developed a Market Based Revenue Opportunity (“MBRO”) Program to maximize the revenue-generating capacity of its Municipal Assets in order to enhance the municipal services and facilities it is able to offer to its residents and visitors.

B. In furtherance of this goal, the City issued a Request for Proposals for a consultant to assist the City with developing and implementing an MBRO Program and to thereafter implement the policies established by the City by prioritizing and pursuing marketing and sponsorship categories for designated City Assets.

C. The City also established an MBRO Task Force, composed of City and community representatives to determine desired parameters of the MBRO Program.

### **II. MBRO General Policy Provisions**

A. The MBRO Program policies contained herein (the “Policy”) will provide guidelines for allowing certain marketing opportunities (e.g. sponsorship recognition and/or commercial advertisements) provided pursuant to MBRO Agreements that will enable the City to raise revenue for operating and capital needs.

B. This Policy shall be applied and interpreted consistent with applicable federal, state, and local law. Local law includes applicable sections of the Pittsburgh City Code, including but not limited

to Title Nine, Zoning.

C. This Policy is not applicable to gifts, grants, or unsolicited donations for which no benefits are granted to the donor and where no business relationship exists pursuant to an MBRO Agreement as defined herein.

D. This Policy is not applicable to the naming of City facilities outside of a MBRO Agreement as defined herein (e.g. would not apply to naming facilities after a historical figure per a petition process.)

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

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

G. No free-standing, external LED signs are permitted as part of the MBRO Program.

H. No MBRO 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 MBRO Agreement entered into between the City and an interested party, including a party selected pursuant to an RFP as further defined herein.

J. 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.

K. Not all City Special Events, facilities, or programs will be included in the MBRO Program. It will be left to the discretion of the applicable Director or Directors as to whether a specific City event, facility, or program will be included in the MBRO Program.

**L. Notwithstanding the establishment of this MBRO Policy, the City will continue to permit community partners to establish independent sponsorship recognition programs in conjunction with designated capital improvement projects (e.g. enhancements and restorations) in City parks. 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 does not preclude the inclusion of other Assets in the same park in a particular RFP pursuant to this MBRO Policy.**

### III. Definitions.

**For the purpose of this MBRO Policy, the following definitions shall apply:**

**“Advertising.”** “Advertising” means visual communication from an identified source that directs the public's attention to a particular product, service, program, or idea. For purposes of the MBRO Policy, all third-party (i.e. Non-City) advertising on or for City Assets must be limited to Commercial Advertising as defined herein.

**“City.”** “City” means the City of Pittsburgh.

**“City Asset.”** “City Assets” are items of tangible and intangible value owned by the City, including, but not limited to, facilities, vehicles, intellectual property, programs, activities, events, contracts, purchases, proposed capital improvements and the City's positive reputation, image and market presence. The specific City Assets currently reserved by the City, acting as a proprietor, for sponsorship or advertising opportunities associated with the MRBO Program are enumerated in this Policy. Additional details regarding available City Assets will be listed in an applicable RFP.

**“Commercial Advertising.”** “Commercial Advertising” is visual communication that advertising that directs the public's attention to a particular product or service and proposes a commercial transaction for such product or service. The commercial advertisements must contain only expressions or identification of a product or service related to the economic interests of the advertiser and its audience.

**“Consultant.”** An entity selected to assist in the preparation of solicitation documents and execution of MBRO Agreements between the City and Persons (as defined herein) for a specified commission.

**“Design Criteria Standards” means 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. The Design Criteria Standards will specify size, placement/location, and aesthetic limitations for MRBO opportunities in accordance with this Policy and applicable law. The Design Criteria Standards are attached hereto as Appendix A.**

**“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, or services.

**“MBRO Agreement.”** 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 MBRO 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 MBRO Agreements are subject to the provisions of this Policy and will be subject to approval of the City Solicitor as to form and substance. An MBRO Agreement may address one or more City Asset.

**“MBRO Specialist.”** The Finance Department representative who is responsible for the day-to-day operation of the MBRO Program as further detailed in Section V of this Policy.

**“Partnership.”** 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 to assist with the promotion of a joint program involving the City and one or more partners.

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

**“RFP.”** A Request for Proposals is an open and competitive formal proposal process employed to give Persons the chance to express their interest in participating in designated MBRO opportunities with the

City. All RFPs will include a summary of the MBRO opportunity, benefits for participation, selection criteria, and the competitive process for expressing interest in such opportunities.

**“Sponsorship.”** “Sponsorship” means a mutually beneficial business arrangement and/or Partnership between the City and a Person wherein the Person provides financial support 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 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 program or service, subject to the guidelines and requirements of this Policy.

## IV. Sponsorships

### A. Background

The City is seeking to establish alternate revenue streams for operating and capital needs. One alternate funding source being pursued is Sponsorships. This Section of the MBRO Policy provides the framework for Sponsorships.

### B. Sponsorship Policy and Purpose

Pursuant to this MBRO Policy, the City may decide to seek Sponsorships for designated operating or capital expenditures, 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.

The City is engaged in government speech when it accepts Sponsorships and when it chooses to provide sponsor recognition. The purpose of this Sponsorship Policy is **NOT** to communicate views of sponsors; rather it is to: 1) gather needed financial support for the 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.

### C. 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 the MBRO Program/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 an MBRO Agreement, the City does not limit its ability to accept any other Sponsorships or to enter into MBRO Agreements with similar sponsors.

4. Persons entering into MBRO 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 MBRO 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 other City Official is authorized to offer any such extra consideration to a sponsor.

5. Pursuant to any applicable MBRO Agreement, the City reserves the right to terminate any Sponsorship should conditions arise during the life of that Sponsorship that results in the Sponsorship conflicting with this Policy or the Sponsorship is no longer in the best interests of the City. Final approval of decisions to terminate a Sponsorship shall be made by the Director of Finance.

6. The City's name and seal may not be used as part of any official endorsement of a sponsor's product, service, or company. A sponsor shall not use the City's name, seal, or other marks in any manner promoting the Sponsorship, including but not limited to print, video, internet, broadcasts, or displays, without prior written approval of the City.

7. All Sponsorship opportunities must be compatible with relevant departmental operations. Sponsorship recognition shall not interfere with the operation of equipment, the provision of services, or worker safety.

8. This Policy seeks to provide a benefit to all residents of the City without diminishing the image of City facilities and programs. Any Sponsorship recognition permitted through this policy shall adhere to the aesthetic value and purpose of the City's Assets. Any permitted recognition shall not detract from the public's experience or expectations of City facilities, programs or services. Likewise, permitted recognition shall not impair the visual qualities of City Assets or be perceived as creating a proprietary interest in any sponsor.

9. The City retains the right to not offer particular City Assets for Sponsorship opportunities and to revise this Policy as deemed necessary so as to add or remove City Assets from the available MBRO pool as further defined herein. The City will provide written notice of any amendment to this Policy on a timely basis.

10. If a proposed MBRO Agreement will result in a name change to an existing facility, the history and "legacy" of the current facility should be taken into consideration and/or incorporated within the proposed new name. Additionally, the Commission on Naming Public Properties (City Code, Chapter 173) shall be consulted as applicable.

11. If the proposed MBRO Agreement includes naming rights to or in a facility, the Finance Director shall inform and consult with the Director with jurisdiction over the subject facility (e.g. the Director of Parks and Recreation for a Senior Center) on the appropriateness of the proposal. If necessary, the Finance Director may consult a qualified third party to assist with determining with value of such naming rights.

#### D. Sponsor Recognition

1. The City's recognition of any sponsor is provided to **indicate the City's choice to accept funding or other assistance from the Sponsor and to convey its appreciation for the sponsor's support of City operating and capital expenditures (such as programs, projects, events, facilities, and/or activities.)** [~~The recognition is not meant to constitute an endorsement of the entity or its services but will imply an affiliation~~].

2. Any accepted Sponsorships will be acknowledged with recognition or marketing

opportunities commensurate with the relative 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, consistent with any applicable **Design Criteria Standards** that may be developed to assist with implementing this MRBO Policy.

3. The City retains all editorial control of and 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 applicable 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. Any agreed-upon Sponsorship recognition will be set forth in the applicable MBRO Agreement.

5. Potential Sponsorship opportunities may include recognition of the sponsor in City media 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 MBRO Policy and any applicable **Design Criteria Standards** developed in conjunction with this MBRO Policy.

6. Sponsorship recognition message may identify the sponsor, but the City will not endorse any product or service of its sponsors.

7. Sponsorship recognition shall only be placed on City Assets after final execution of an MBRO Agreement.

8. No audio Sponsorship recognition is permitted as part of the MBRO Program.

9. 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 the Art Commission and Historic Review Commission where applicable and must conform to any applicable **DE**

10. Naming rights for City building exteriors shall be subject to legislative approval of City Council.

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

##### **A. Background**

The City is seeking to establish alternate revenue streams for operating and capital needs. One alternate funding source being pursued is permitting Commercial Advertising on certain designated City Assets. This Section of the MBRO Policy provides the framework for such Commercial Advertising.

##### **B. Commercial Advertising Policy and Purpose**

1. In promulgating this MBRO program, the City's primary goal is to raise revenue by making certain designated City Asset space available for Commercial Advertising. A secondary

purpose will be to allow the City to advertise City sponsored or City co-sponsored events or City services.

2. By adopting this Policy, the City is acting as a proprietor and not as a regulator. It is the City's further declared intent that the Commercial Advertising portion of the MBRO Program and designated City Assets defined in this MBRO Policy are nonpublic forums that are not intended or open for dissemination, debate, or discussion of public issues whatsoever.

3. Limiting Advertising in accordance with this Policy, *inter alia*, allows the City to:

- a. Avoid non-commercial proselytizing of a “captive audience” of the public in attendance at a City facility or program;
- b. Maintain a position of neutrality on political and religious issues;
- c. Limit the likelihood of potential vandalism and destruction on City property;
- d. Prevent potential violations of the Establishment Clause;
- e. Prevent potential election campaign law violations;
- f. Acknowledge the constitutional prohibition on viewpoint-related decisions regarding Advertising in nonpublic forums;
- g. Maximize income potential from advertisers, weighed against the likelihood that commercial advertisers would be dissuaded from using the same forum used by persons wishing to communicate non-commercial messages.

4. This Policy is intended to include objective standards (as set forth herein), which are to be incorporated into any applicable RFP by the City without respect to viewpoint. The City Law Department will provide guidance to the MBRO Specialist (defined herein) as requested. The Finance Director will review this Policy/provide updates as needed.

### **C. 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. (e.g. an animal rights advertisement with an offer to purchase a bumper sticker supporting the campaign.)

3. No audio advertising recognition is permitted as part of the MBRO Program (e.g. company jingles).

4. No moving or animated parts will be permitted in advertisements.

5. Commercial Advertising shall only be placed on designated City Assets after final execution of an MBRO Agreement.

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

7. All commercial advertisements must clearly identify a “Person” paying for the advertisement or causing the advertisements to be placed on a City Asset. Website addresses and/or phone numbers by themselves are insufficient to satisfy this requirement.

#### **D. Additional Viewpoint-Neutral Limitations on Advertising**

For the reasons set forth in Section IV(B)(3) of this MBRO Policy, 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 activities will not be permitted.

2. No political speech will be permitted, including but not limited to advertisements by political candidates for public office, by political organizations or advertisements concerning ballot issues.

3. No Advertising regarding religious, philosophical, or other beliefs will be permitted.

4. Advertising that violates any federal, Commonwealth of Pennsylvania, or local law will not be accepted.

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

6. No obscenity will be permitted. For purposes of this Commercial Advertising Policy, “obscenity” shall include “obscene materials” as defined in Section 613.01(a)(3) of the City Code.

7. Advertising that infringes on any copyright, trade or service mark, title or slogan will not be permitted.

8. Advertising that duplicates or mimics the identity or 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 Commercial Advertising Policy, a “Sexually-Oriented Business” shall be defined as a business having “as one of its principal business purposes”, its “primary purpose” or having “a substantial or significant portion” of its business stock in trade or activities relating to “specified anatomical areas” or specified sexual activities” as further defined in the Zoning Code, Chapter 926. Examples of Sexually-Oriented

Businesses include: adult book, novelty or video stores; adult cabaret, night club, gentlemen's club, or strip bars; adult motel or adult hotels; adult motion picture theaters or adult theater; escort or escort agencies; massage parlors; or nude model studios.

10. Advertising that includes words such as “STOP” “DANGER” “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.

11. 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.

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

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

Additional limitations are set forth in Section VI discussing specific City Assets and/or may be included in any design criteria standards that are implemented in conjunction with this MBRO Policy.

## V. Responsibilities of MBRO Specialist

A. All MBRO Program activities will be coordinated by the Market Based Revenue Opportunity Specialist (MBRO Specialist) or an appointed designee, under the direction of the Director of the Department of Finance.

B. The MBRO Specialist will be responsible for all of the following:

1. Conducting a citywide effort to publicize the MBRO Program and this Policy.
2. Recommending appropriate marketing opportunities.
3. Working with the Consultant, as applicable, to enter into MBRO Agreements.
4. Providing assistance and guidance to all City departments regarding the application and implementation of this Policy.
5. Reviewing and assisting in the development of MBRO Agreements.
6. Assisting appropriate departments with administration and monitoring of agreements developed through the Program.
7. Maintaining a list of all MBRO Agreements.

8. Assisting in the creation and implementation of ~~the **Design Criteria Standards** that may be implemented in conjunction with this MBRO Policy.~~

**VI. City Assets Available for MBRO Opportunities and Additional Specified Limitations**

**A. City Uniforms**

1. Department of Public Safety uniforms (Police, Fire, EMS only) will not be available for Commercial Advertisement or Sponsorship recognition opportunities.

2. Commercial Advertisement and Sponsorship recognition opportunities are available on Department of Public Works and Department of Parks and Recreation uniforms.

3. Sponsors names may not be more than 75% of the size of City of Pittsburgh identification.

4. To avoid confusion, no other government entities may advertise on or sponsor a City of Pittsburgh uniform.

5. The uniform must still be identifiable as a City of Pittsburgh uniform.

6. Any changes to City employee uniforms must be made subject to applicable labor and constitutional law.

**B. City Vehicle/ELA Owned**

1. Department of Public Safety vehicles (Police, Fire, EMS, only) will not be available for Commercial Advertisement or Sponsorship acknowledgement opportunities.

2. Where Sponsorship or Commercial Advertising is permitted (i.e. non Department of Public Safety) City-owned vehicles, the whole vehicle may be wrapped or painted.

3. No magnetic, temporary signs are permitted.

4. The vehicle must still be identifiable as a City of Pittsburgh vehicle.

**C. Website**

1. The City of Pittsburgh website (found at <http://www.pittsburghpa.gov>) will be only available for Sponsorship recognition opportunities as permitted by applicable law. All MBRO opportunities must be in compliance with all applicable laws and regulations relating to “.gov” sites.

2. All Sponsorship recognition must be static images on the perimeter of the homepage of the website.

3. No Sponsorship recognition will be permitted on individual department pages or City

emails.

4. Links are permissible insofar as there is a specific statement that one is leaving the City's website.

5. Disclaimers noting that the sponsors are not endorsed by the City of Pittsburgh must be included.

6. Subject to this MBRO Policy, a separate "My City" webpage may be permitted to inform interested Persons about MBRO opportunities with the City through a separate portal.

*D. City Mailings*

1. Commercial advertisement and/or Sponsorship recognition contained in mailings must be a distinct piece of paper separate from the paper designating the reason for the mailing from the city.

2. Use of Commercial Advertising or Sponsorship recognition in mailings or other City distributions must comply with federal, state, and local law.

*E. City Buildings-Specified Locations*

1. Sponsorship recognition is permitted on the exterior of specified City-owned buildings as determined in the applicable RFP, subject to applicable law and any applicable **Design Criteria Standards**. The Sponsorship recognition must take into consideration the historic nature, identification, and function of the building. Only one Sponsorship is allowed per building exterior.

2. Commercial Advertising is not permitted on the exterior of City-owned buildings.

3. No MBRO Sponsorship is permitted on the exterior of the City-County Building, Police, Fire or EMS Stations and/or Facilities, Historic-Designated Structures or Historic-Designated Sites or Districts.

4. 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 name to the asset being prominent and proportionate to the size of the building.

5. All exterior sponsorship recognition shall be limited to Identification signage in conformance with Section 919.03N of the Zoning Code and other applicable Zoning Code provisions relating to signage on building exteriors. **Sponsorship text incorporated with existing signage is limited to 1/3 ratio of the text.**

6. Static commercial advertisements and/or Sponsorship acknowledgements are permitted inside City-owned buildings only in those non-public forum areas specified by an applicable RFP.

a. No commercial advertisements or Sponsorship recognition shall be permitted inside the Mayor's Office, City Council Chambers, City Council Offices, or in any room, judicial chambers, and/or quasi-judicial chambers in which hearings are heard. (e.g. Board of Adjustment or Planning Hearing Room.)

b. Any placement of Commercial Advertising or Sponsorship recognition must

consider the context of the facility, including historic requirements.

c. No Commercial Advertising or Sponsorship recognition will be permitted on windows or in window wells.

7. Information kiosks placed in City Buildings must provide public information more than 50% of the time.

8. Permitted locations for vending machines or other distribution of food/beverages will be included in an applicable RFP.

#### F. *Exterior Structures in Parks*

1. No permanent or long-term free-standing commercial advertisements are permitted in parks; only permanent or long-term Sponsorship recognition may be permitted on or in proximity to a sponsored Asset. Such recognition must comply with any applicable **Ddesign Ccriteria Sstandards** promulgated in conjunction with this MRBO Policy.

2. Pavilions, picnic shelters, pool houses, **trails, playgrounds, off-leash exercise areas, and** [and ] recreation centers are Assets available for Sponsorship recognition, but City text (such as location, place name, and directional signage if applicable), must be prominent in relation to the text. (Sponsorship text incorporated with existing signage is limited to 1/3 ratio of the City text.) Ballfield fences and scoreboards are not **Assets** included within this MBRO Policy; **these particular assets shall be subject to a Ballfield Asset Policy that will be approved separately should the City decide to allow third party advertising/sponsorship on such Assets.**

3. Temporary Sponsorships and/or temporary Commercial Advertising is permitted on waste receptacles (may be fully wrapped) or banners. Booths dispensing products or literature will also be permitted.

4. Any permitted exterior Sponsorship recognition for buildings in parks shall be limited to Identification signage in conformance with Section 919.03N(4) of the Zoning Code and other applicable Zoning Code provisions relating to parks.

5. No logos **or brand specific text** will be permitted for permanent or long-term sponsor recognition.

#### G. *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 Advertisements are permitted on the following City owned and/or City contractually supervised street furniture in conformance with applicable law, including but not limited to relevant provisions of Chapter 419 of the City Code, Chapter 919 of the Zoning Code, and any applicable MBRO **Ddesign Ccriteria Sstandards** and/or other criteria as specified in an applicable RFP:

1. Bike Corrals.

2. Bike Racks may affix medallions except to “Three Rivers” design racks.
3. Bike Lockers-may have Commercial Advertising or Sponsorship designations facing either direction; up to 1/3 size of locker.
4. Benches may have plaques or medallions on sides or back.
5. Bus shelters
6. News Racks
7. Parking Meters may include medallions.
8. Parking Kiosks owned by the City.
9. Refuse/waste cans may have one advertiser or sponsor per can (cannot be full wrap except on temporary basis.)
10. Recycling bins.

*H. City Cable Channel*-The City's cable channel may be available for MBRO opportunities as set forth in an applicable RFP; however, any such Commercial Advertising and/or Sponsorship opportunities must comply with applicable local, state, and federal law applicable to PEG channels and franchise agreements.

*M. City Programs/Events.* It will be left to the discretion of the Director of Parks and Recreation or other applicable Director or Directors as to whether a specific City program or event will be included in the MBRO Policy.

## VII. Contracting Procedures

A. The Consultant, as applicable, and the City will use the following procedures for developing, implementing and administering MBRO Agreements:

1. In coordination with the MBRO Specialist, the Consultant, as applicable, will identify potential MBRO opportunities for the City Assets specified in this policy and according to the guidelines set forth in this MBRO Policy.

2. The City will utilize an RFP process for the establishment of all MBRO Agreements in order to maximize revenue consistent with the requirements of this MBRO Policy. The RFP will incorporate any applicable **Design Criteria Standards** for use in the description of available MBRO opportunities. **In addition to advertising the RFP on the City's website and in at least one trade magazine or newspaper of general circulation, copies of all RFPs shall be sent to the President of Council.**

3. Criteria for evaluating an MBRO proposal shall be specified in the applicable RFP.

4. The City may create an RFP review committee to make recommendations to the

Director of Finance, who shall have the discretion to select a winning proposal should the City wish to enter into an MBRO Agreement with a particular RFP Responder. In all cases, the City will retain the right to reject any or all proposals.

5. The Consultant, as applicable, and the MBRO Specialist will assist in the development and review of an MBRO Agreement.

6. All MBRO Agreements shall be formalized in a written contract. Contractual language shall be consistent with all applicable City policies and ordinances and good business practices. Terms shall include the following:

- a. Specified Term (Duration) of Agreement.
- b. Renewal Options, if any.
- c. Consideration
- d. Description of affected City Assets
- e. Rights and Benefits of all parties
- f. Termination Provisions
- g. Provision of insurance/indemnity to protect City
- h. A provision clarifying that the City is not liable for any alleged damages resulting from delays in posting of Commercial Advertising/Sponsorship recognition due to review and/or the execution process.
- i. Reference to **Design Criteria Standards**, if applicable.

7. Written terms of All MBRO Agreements must abide by this Policy and support the mission and goals of the City.

8. City employees and/or departments cannot accept gifts or unsolicited donations from prospective advertisers or sponsors. All revenues or benefits received must be in accordance with approved MBRO Agreements.

9. The Consultant, as applicable, and the MBRO Specialist will manage the implementation of the MBRO Agreement to ensure both parties adhere to the requirements of the contract.

10. All MBRO Agreements shall include termination provisions detailing circumstances under which the partner, advertiser, or sponsor would either: 1) no longer satisfy the selection criteria by which an MBRO opportunity was initially evaluated and approved or 2) under which the City may terminate based upon specified factors, including an uncured breach of the terms of the MBRO Agreement, a bankruptcy or foreclosure, or the breach of any morality clause should one be agreed upon.

11. Valuation of the MBRO opportunity should consider:

a. All tangible assets that are the quantitative benefits arising from an MBRO Agreement, such as media advertising, printed ticket logos, or publications;

b. All intangible assets, which are the qualitative benefits that may arise from an MBRO Agreement, such as audience loyalty, recognition and prestige or the organization's marks and logos

and standing in the community; and

c. Geographic reach/market impact factors, such as the size of the market in which a sponsor will promote its affiliation with the facility or event or the desirability of City property to a particular sponsor/advertiser.

12. Legislative Approval for MBRO Agreements.

a. Pursuant to Section 161.10 of the City Code, the Director of Finance may enter into MBRO Agreements with prospective commercial advertisers/sponsors for an initial term not to exceed three years with up to two (2) optional one-year extensions to facilitate the purposes set forth in this Policy where the opportunity is reasonably anticipated to generate less than \$100,000 in annual revenue or in-kind goods and services for the City. For this category of MBRO Agreements, the Director of Finance will provide a list of current agreements to Council on a quarterly basis.

b. Where MBRO Agreements are reasonably anticipated to generate more than \$100,000 in annual revenue or in-kind good or services to the City and all Naming Right relating to building exteriors, regardless of amount, shall be subject to the prior approval of City Council.

13. Types of Sponsorship recognition available pursuant to an MBRO Agreement and/or City Assets available for Sponsorship or Commercial Advertising opportunities will be clearly set forth in an applicable RFP with references to any applicable **Design Criteria Standards**.

14. **Design Criteria Standards** for Sponsorship recognition or Commercial Advertising shall be set forth in an applicable RFP and/or be subject to review by any applicable City representatives, boards, or commission (e.g. Art Commission).

15. All revenue generated by the MBRO Program will be deposited into the general fund.

16. A party entering into an MBRO Agreement with the City shall not be deemed to be an agent, employee, officer, or servant of the City.

17. Any disputes regarding the application of this MBRO Policy may be appealed to the Finance Director, who shall respond within thirty (30) days.

18. The Finance Director may order the removal of any Sponsorship recognition or Commercial Advertising that does not comply with this Policy.

19. The Finance Director reserves the right to propose amendments to this Policy at any time. Any change will be made pursuant to an amendment to the original Resolution pursuant to which this MBRO Policy was adopted.

20. The Finance Director may determine to what extent a Consultant is used throughout the MBRO/contracting process.