

DRAFT Donation and Fundraising Policy

PURPOSE

The purpose of this policy is to provide direction to City officials, appointees, and employees regarding the acceptance of donations by the City from donors, as well as the development and implementation of fundraising efforts. This policy is meant to formalize the process of receiving donations, and how to fundraise as may be commenced by the City or one of its commissions, committees, or boards.

POLICY

Unsolicited Donations

1. Requirements for accepting donations.
 - a. The donation must have a purpose consistent with City goals and objectives.
 - b. The City may decline any donation without comment or cause.
 - c. The donation will not be in conflict with any provision of law.
 - d. Any non-cash donation will be aesthetically and functionally acceptable to the City.
 - e. The donation will not add to the City's workload unless it provides a net benefit to the City.
 - f. The donation will not bring hidden costs such as starting a program the City would be unwilling to fund when the donation is exhausted.
 - g. The donation places no restriction on the City, unless agreed to by the City Administrator or Council.
 - h. The donation shall become property of the City.
 - i. All donations will receive recognition appropriate to the level and nature of the donation, as determined by the City. For those of a capital nature, that may be in the form of signage, marking, naming, or any other means the City may deem appropriate. Any naming of parks and recreation facilities shall be consistent with any City policy on the naming of such facilities. Regardless of the recognition strategy selected, the intent is to appropriately honor the donor for their contribution to the community. The appearance of traditional commercial advertising shall be avoided.
 - j. Donations exceeding \$5,000 shall be accepted through a written agreement consistent with the procedures herein. In-kind capital donations

will be subject to normal City review, permitting, inspection, and insurance requirements.

- k. All information and documentation regarding a donor or donors and their respective donation may be public information subject to disclosure pursuant to the California Public Records Act.

2. Procedures for Accepting Donations.

a. Procedures for all Donations.

1. A Donation Acceptance Form must be prepared on all donations accepted, which shall be provided to the Finance Department if under \$5,000 in value and submitted to the City Council if the value is greater. The Donation Acceptance Form shall be updated from time-to-time to collect pertinent information for legal and procedural compliance.
- ii. An inappropriate donation is one that meets one of the criteria below, and is to be rejected:
 1. Any donation that would violate the requirements of Section 1 of this policy.
 2. Any donation that may be of offensive or morally questionable material.
 3. Any donation that is connected with a restriction that entails special consideration or favors beyond any other resident, donating or non-donating, as it pertains to activities or functions undertaken by the City in the provision of services or goods.
 4. Any other concern, real or perceived, that may result in a loss of reputation, appearance of impropriety, or other negative impact on the City from accepting the donation.

b. Donations under \$5,000.

- i. The City Administrator must approve of receiving the donation before it can be accepted.
- ii. If the donation is appropriate and to be received, the City Administrator or their designee must complete the report to be given to the Finance Department as described above.
- iii. The City Administrator or designee shall determine the appropriate recognition, if the donation is accepted, for the donor(s).

c. Donations of \$5,000 or more.

- i. If the City Administrator determines that the donation is appropriate to be received, the City Administrator or designee shall prepare the report as described above to be given to the City Council at a public Council Meeting.
- ii. The City Council shall decide in its sole and absolute discretion whether or not to accept the donation, and appropriate the expenditure of any accepted monetary donation.
- iii. The City Council shall determine the appropriate recognition for the donor(s) if the donation is accepted.

Donation, Sponsorship, and/or Fundraising Programs

Fundraising may only:

1. Happen after a fundraising campaign is designed and established through a donation, sponsorship, and/or fundraising program approved by either the City Administrator or City Council, depending upon the nature of the program.
2. Be for official fundraising campaigns. The City does not accept fundraising for anything other than what is authorized in an approved program.
3. Be conducted in the manner as outlined in an approved program.

While fundraising may be conducted by other boards, commissions, committees or City staff, all donations shall be tendered to the Finance Department. The Finance Department will defer to the City Administrator or City Council's acceptance of each donation regarding its acceptable status.

Fundraising process

1. Boards, commissions, committees, and individual departments shall develop their donation, sponsorship, and/or fundraising programs in consultation with the City Administrator's Office and the Finance Department. In its simplest form, a proposed program may consist of a memorandum to the City Administrator indicating the following:
 - a. Goal of the sponsorship, donation, and/or fundraising activities.
 - b. Timeframe for the program.
 - c. Target audience and method of outreach.
 - d. Procedure for acceptance and reporting of activities, ensuring internal controls.
 - e. The types of donor or sponsor recognition that is available for specified value of donorship or sponsorship, subject to City Council approval if the

value of recognition is beyond the contract authority of the City Administrator or greater than the authority provided under this policy.

- f. The sponsorship level or range of sponsorship levels for the naming of the City property if permitted. Sponsorship naming for parks or recreation facilities must also comply with the City of Gilroy Parks or Recreation Facilities Naming, Community and Memorial Contribution, and Gift and Sponsorship Policy, or otherwise be approved by the City Council.
 - g. Specified or maximum sizes and identification of location(s) of any signage in recognition of the donation or sponsorship and any restrictions on the text of the recognition signage.
2. The department staff designated to oversee the department's donation, sponsorship and/or fundraising activities will ensure that the proposed donation, sponsorship and/or fundraising program does not conflict with existing City Code provisions, City policy or existing City sponsorships. Department staff shall also ensure that the City property involved is not subject to restrictions that would limit or prohibit the proposed donation or sponsorship.
3. The department staff accepting items donated to the City will ensure that the items are safe and durable, and meet any applicable City design or quality specifications, standards, and policies.
4. Where applicable, the department's donation, sponsorship and/or fundraising program shall set forth the conditions for acceptance of funds. Conditions shall be fair, impartial and shall not discriminate on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, or political views of the proposed donor.
5. Any department considering acceptance of a donation or sponsorship that may impact or affect other departments shall consult with those departments prior to acceptance of the proposed donation or sponsorship.
6. It shall be the goal of any departmental donation, sponsorship and/or fundraising program to find donors or sponsors providing the highest net benefit to the City, along with consideration of the quality of product or service to be received by the City.
7. All donations in cash shall be deposited and recorded with the Finance Department and deposited in a manner as stated within current policies.
8. Unaccepted Donations will be returned to the Donor.

Sponsorship Agreements

After the selection of a sponsor by the City Council, City Administrator or a department head, as appropriate, the terms of the sponsorship, including any expectation of a

significant return or recognition, shall be set forth in a written sponsorship agreement approved as to form by the City Attorney.

The City Administrator may include renewals of a sponsorship agreement at the City's option, provided that the aggregate of all the renewals is within the City Administrator's contract authority under the City Code and City Purchasing Policy. Any renewal shall be subject to annual appropriation by the City Council if City funding is involved.

Sponsorship agreements for parks or recreation facilities shall be subject to additional requirements as outlined in the City of Gilroy Parks or Recreation Facilities Naming, Community and Memorial Contribution, and Gift and Sponsorship Policy.

Costs, Accounting and Record Keeping

Departments shall maintain records that provide an audit trail for the receipt of all sponsorships and donations. Departments shall also comply with the following requirements:

1. All donations and sponsorships and the revenue, products, and services received shall be recorded and maintained for at least the expected life of the item or service, or for a specific time frame that has been established in the donation agreement or sponsorship agreement.
2. Donations or sponsorships paid for with a monetary contribution shall not be paid to staff in cash unless approved, in advance, by the Finance Department and department director and receipt of cash is properly documented.
3. A record of all sponsorships and donations including name, type, contact name if a company, amount, and disposition of sponsorship shall be kept up-to-date and accurate.
4. Departments shall report any donations or sponsorships received by the department through reports to the City Administrator's Office and the Finance Department.

Other Donations or Contributions

1. Real Property

Restricted donations of real property may be offered to the City for specified purposes. The City will review the proposed conditions of the restrictive donation of real property, if any, and determine in its sole and absolute discretion whether or not to accept the donation. All donations of any interest in real estate shall require City Council approval.

A donation involving real estate is more complex than cash donations and the donation agreement documenting a real estate-related donation should be prepared and approved by the City Attorney's Office. Terms and conditions of

such donations may vary from this policy's general requirements, based on approval of the City Council on a case-by-case basis.

2. Works of Art

If a contribution is proposed related to a work of public art covered by the City's Public Art Policy, the City's review and acceptance of the proposed contribution of public art shall be conducted in accordance with the City's Public Art Policy, which shall include the review and recommendation of the City's Arts and Culture Commission and compliance with any policies adopted regarding donations of works of public art.

DISCLAIMERS AND MISCELLANY

1. Different forms of contributions to the City present different opportunities and challenges. Therefore, it is not possible to establish blanket guidelines to cover all types of donation or sponsorship activity that the City may decide to pursue.
2. Unless expressly stated otherwise, the City does not intend to modify or change the non-public forum status of any City property by providing donor recognition or sponsorship recognition on City property.
3. The making of a donation or sponsorship to the City will not provide any extra consideration to the donating or sponsoring party in relation to any City procurement, any regulatory activities of the City, or other City business. No City employee or other City official is authorized to offer any such extra consideration to a donating party.
4. Any donation or sponsorship which, if accepted, would obligate the City to enter into a service or procurement agreement should be reviewed under the City procurement process.
5. The City encourages donations of material and equipment with the understanding that such items have a useful life, and that the City assumes no responsibility for replacement or upkeep. Once a donation is accepted, it becomes City property and the City may maintain, replace or dispose of the item unless the donation is explicitly restricted and accepted by the City as such.
6. The City cannot guarantee the tax deductibility of a donation but may provide the donating party with a letter of acknowledgement and a statement of the City's intended use. No Council Member, appointee, employee, volunteer, or agent of the City may state that a donation is tax deductible. Each donor must make their own determination as to whether a donated item or monetary contribution is tax deductible.
7. City staff shall maintain the highest standard of ethics in fundraising activities. All donations or sponsorships must directly enhance the City's ability to provide

goods or services to the public or for another valid public purpose and may not be used for the personal financial gain of any City employee.

8. City employees who have primary responsibility for the procurement of services, supplies, materials and equipment or public works should not engage in solicitation of donations or sponsorships.
9. City employees may only solicit donations or sponsorships pursuant to the individual department's donation, sponsorship, and/or fundraising programs approved by the City Administrator. City employees working in an enforcement or regulatory City position (i.e., Police, Fire, Code Enforcement, Building Inspection) shall not solicit donations or sponsorships from the public while they are wearing a City uniform, unless they receive explicit permission from the City Administrator.
10. At any time, the City Administrator, or a department if approved by the City Administrator, may reject any donation or sponsorship offered to the City.
11. Restricted donations that land outside of an authorized fundraising plan or are restricted to a degree where staff determines that the restriction is too limiting for effective use will not be accepted and will be returned to the donor. Pass-through donations to individuals or organizations via the City shall not be accepted.