

CITY OF SAN DIEGO, CALIFORNIA  
**COUNCIL POLICY**

CURRENT

SUBJECT: DONATION ACCEPTANCE

POLICY NO.: 100-02

EFFECTIVE DATE: June 25, 2014

BACKGROUND:

Donations of every type are offered to the City of San Diego (City) for general or specific purposes. Uniform criteria and procedures guide the review and acceptance of such donations, confirm that the City has relevant and adequate resources to administer such donations, and ensure that the City appropriately acknowledges the generosity of the donor.

PURPOSE:

To provide guidelines for accepting gifts and donations in a responsible, transparent, and accountable manner that is consistent with the City's strategic goals.

SPECIFIC OBJECTIVES:

1. To establish and guide relationships with donors who share the City's commitment to provide a high quality civic environment;
2. To enrich our community by responsibly and efficiently managing donations;
3. To generate revenue to fund new and existing facilities, projects, programs and activities for the benefit of the City and its residents; and
4. To work with non-profits whose missions support the City's strategic goals.

DEFINITIONS:

Defined terms used in this Council Policy appear in italics. For purposes of this Council Policy:

*Beneficiary Department Head* shall mean the Director of the City department, agency, board, or commission, or his/her designee, for which a *donation* is designated or intended. The Chief Operating Officer or designee shall act as the *Beneficiary Department Head* if no department, agency, board, or commission is designated or intended.

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*Donation or Gift* shall mean a monetary (cash) contribution, endowments, personal property, real property, financial securities, equipment, in-kind goods or services, or any other asset that the City has accepted and for which the *donor* has not received any goods or services in return. For purposes of this Council Policy, the terms “*donation*” and “*gift*” shall be synonymous.

*Donor* shall mean a person or other legal entity that proposes or provides a *donation* to the City.

*Endowment* shall mean donations that are restricted to the extent that only earnings, and not principal, may be used for a particular City department, location or purpose.

*Restricted Donation* shall mean donations designated at donor request for a particular City department, location, or purpose.

*Unrestricted Donation* shall mean a donation to the City without any limitations being placed upon its use.

GENERAL PRINCIPLES:

1. This Council Policy is intended to guide the manner in which City staff accepts *donations* on behalf of the City.
2. *Donations* do not become the property of the City until accepted by the City consistent with this Council Policy.
3. Only City officials authorized by this Council Policy may accept *donations*.
4. The City has no obligation to accept any *donation* proposed by a *donor*.
5. All *donations* will be evaluated by the City prior to acceptance to determine whether the *donation* is in the City’s best interest and is consistent with applicable City laws, policies, ordinances, and resolutions.
6. The City does not provide legal, accounting, tax or other such advice to *donors*. Each *donor* is ultimately responsible for ensuring the *donor’s* proposed *donation* meets and furthers the *donor’s* charitable, financial, and estate planning goals. As such, each *donor* is encouraged to meet with a professional advisor before making any *donation* to the City.
7. The City must determine whether an expenditure of City funds, either a direct outlay of City funds or the use of City forces and materials, is associated with or required by acceptance of the *donation* prior to acceptance.

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8. The *donation* must be used for official City business, and not for political activities or other personal business.
9. A *donor* may restrict a *donation* for a particular City department, location or purpose, but not designate the City official who may use the *donation*.
10. If required, the City will report a *donation* made to the City to the Fair Political Practices Commission (FPPC) in accordance with the timelines and directives described in title 2, section 18944 of the California Code of Regulations.
11. If a *donation* to the City is made at an elected City official's behest from a single source in a calendar year, and the *donation* meets or exceeds the amount established by the FPPC, the elected City official must file a FPPC Form 803 with the City Clerk disclosing this information.
12. The *Beneficiary Department Head* is responsible for acknowledging receipt of and thanking, on behalf of the City, the *donors of donations*.
13. The City shall comply with all applicable laws and regulations of the Internal Revenue Service regarding the acceptance of *donations*.
14. *Donations* of artworks and artifacts are exempt from this Council Policy. Artworks are defined and governed by San Diego Municipal Code 26.0701 et seq. Artifacts are items with a fair market value of less than \$5,000 offered to the City for unrestricted use and accepted by the Mayor or Council President on behalf of the City from representatives of foreign or domestic governments, business leaders, Sister Cities and their affiliates, private citizens, organizations, or other parties intending to express appreciation or foster diplomatic exchange and goodwill and/or to symbolize a significant event or relationship with the City. The City Clerk administers *gifts* of artifacts.
15. The Beneficiary Department Head shall work with the City Comptroller or his/her designee to determine the appropriate accounting for the donation.

POLICY

**Types of Donations**

*Donations* may be received in the form of cash, financial securities, real or personal property. Donations may be *Restricted* or *Unrestricted*.

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**The procedure for accepting *donations* shall be as follows:**

- ***Donations of Trust and Perpetuity Funds:*** *Donations* of trust and perpetuity funds shall be administered by the City of San Diego Funds Commission when placed under its custody pursuant to San Diego Charter section 41(a).
- ***Donations of Publicly Traded Equity and Debt Securities:*** Once the Office of the City Treasurer has been notified, *donations* of publicly-traded equity and debt securities will be immediately sold upon receipt in the City's designated brokerage account. The sales proceeds are then transferred from the City's brokerage account to its depository bank account. Cash donations are available for budgeting and appropriation consistent with the City's budgeting process.
- ***Donations of Real Property:*** *Donations of real property* may be accepted upon completion of the following process:
  1. The Real Estate Assets Department shall determine the approximate value of the *donation* and shall seek City Council approval to accept a *donation* if the Real Estate Assets Department determines that the *donation* is in the City's best interest and acceptance is consistent with applicable City laws, policies, ordinances, and resolutions.
  2. When seeking such approval, the Real Estate Assets Department shall report to the City Council regarding:
    - the appraised value of the *donation*;
    - any expenditures or maintenance obligations for the City associated with the *donation*;
    - potential liabilities associated with the *donation*, such as hazardous conditions or environmental concerns;
    - whether the *donation* has any special restrictions, and if so, if those restrictions are acceptable to the City; and
    - any recommendations for conditions of acceptance.
  3. The Real Estate Assets Department shall administer the *donation* of real property.

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- **Donations of Cash and Real Goods: Donations of cash and real goods** may be accepted upon completion of the following process:
  1. The *Beneficiary Department Head* shall evaluate whether the donation:
    - is in the City's best interest and is consistent with applicable City laws, policies, ordinances, and resolutions;
    - has any special restrictions and if so, if those restrictions are acceptable to the City;
    - obligates the City to make an immediate or initial City expenditure which has not been included in the approved City budget; and
    - creates a new, one-time or an on-going general maintenance obligation for the City.
  2. The *Beneficiary Department Head* shall seek a resolution from the City Council to accept, appropriate and expend the *donation* from the City Council if the *donation* requires expenditures in excess of the *Beneficiary Department Head's* approved annual department budget.
  3. The *Beneficiary Department Head* shall give notice of the City Council's decision to the *donor* within 10 business days following the City Council's determination to accept or reject the proposed donation.
- **Donations of Cash/Real Goods Valued at \$99,999 or Less:** *Donations* with an aggregate value of \$99,999 or less may be accepted by the *Beneficiary Department Head*.
- **Donations of Cash/Real Goods Valued at \$100,000 to \$249,999:** *Donations* with an aggregate value of \$100,000 to \$249,999 may be accepted by the Mayor.
  1. The *Beneficiary Department Head* shall seek approval from the Chief Operating Officer or designee if the *donation* does not require expenditures that exceed the *Beneficiary Department Head's* approved annual budget. The Mayor may formally accept the donation upon receipt of such approval.
- **Donations of Cash/Real Goods Valued at \$250,000 or Greater:** Donations with an aggregate value of \$250,000 or greater should be accepted by the City Council.
  1. The *Beneficiary Department Head* shall seek approval from the Chief Operating Officer or designee if accepting the *donation* does not require expenditures that exceed the *Beneficiary Department Head's* approved annual budget.

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2. Upon receipt of such approval, *the Beneficiary Department* shall seek a resolution from the City Council authorizing the City to accept the *donation*.

- **Council Notification:** *Beneficiary Department Heads* will send a quarterly update, via email, of all rejected cash and non-monetary *donation* offers valued at \$5,000 or more, with a short description of the reason for rejection, to the Chief Operating Officer or his or her designee, who will notify the City Council.

HISTORY:

Adopted by Resolution R-178999	02/18/1964
Amended by Resolution R-216051	05/26/1976
Amended by Resolution R-223033	03/12/1979
Amended by Resolution R-283002	11/15/1993
Amended by Resolution R-284389	08/01/1994
Amended by Resolution R-309042	06/25/2014

RELATED AUTHORITIES:

Code of Ethics and Ethics Training, Council Policy No. 000-04  
City of San Diego Ethics Ordinance, San Diego Municipal Code §§ 27.3501 to 27.3595  
City Charter §41(a) Funds Commission  
San Diego Municipal Code §§ 26.0701 et seq.  
Cal. Code Regs. title 2, § 18944