



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: June 18, 2019

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Donation Policy

Background: At the May 7 Council meeting, the City staff provided Council with a draft policy on donations. The policy covers restricted and unrestricted donations; procedures for accepting donations; and provides an agreement between the donor and City as to what conditions may be placed on the donation. The policy has been reviewed by the City Attorney.

Staff Recommendation: Approve the policy

Suggested Motion: I move that we approve the policy for donations.

Alternatives: Make additional changes to the policy.

Fiscal Impact: None

Attachments: Draft Policy



City of Belle Isle Donation Policy

I. Purpose

Members and supporters of the Belle Isle community from time to time wish to support the community by making donations to the City of Belle Isle. The City Council appreciates this generosity and has adopted this policy regarding donations to the City of Belle Isle, including City departments and City sponsored programs, activities, and events. (This policy is distinct from the Employee Gifts Policy outlined in the City's Personnel Manual, which provides City of Belle Isle employees with a clear standard about when it is acceptable and prohibited to accept gifts from a member of the public, a business, an organization, or other entity.)

II. Definitions

1. Donation: a contribution made to the City without expectation of goods, services, or significant benefit or recognition in return. Donations may be in the form of money or in-kind contributions of products, services, investment securities, real property (land), or any combination thereof. A donation may be **unrestricted**, where the donor has placed no limitation on its use, or **restricted**, where the donor has restricted its use to a specified purpose. Donations that, if accepted, would obligate the City to enter into a service, procurement, or other agreement, other than a Donation Acceptance Agreement, shall not be considered a donation. Grants to the City from a local, state, or federal agency are not subject to this policy.
2. Donor: Any organization or individual who provides the City with a donation.
3. Donation Acceptance Agreement: An agreement between the City and the donor that details any restrictions on a donation as well as the respective obligations of the donor and the City.
4. Fundraising: Any activity conducted with the intent of generating donations to the City. Fundraising activities may include, but are not limited to contacting individuals, companies, foundations, or other entities with a request for a donation to the City.

III. General Provisions

1. The City welcomes unrestricted donations as well as restricted donations that enhance City services, reduce costs that the City would incur in the absence of the donation, or that otherwise provide a benefit to the City. The City reserves the right to decline any donation, without comment or cause, including but not limited to when acceptance of the donation offer is determined in the sole discretion of the City to be not in the best interests of the City.
2. Donors shall not expect, nor shall the City grant, any extra consideration to the donor in relation to City procurement, regulatory matters, or any other business, services, or operations of the City.
3. No City Council member, Commissioner, employee, or volunteer shall solicit donations in cash or in-kind services for any City project, program, activity, or event (“supported activity”) unless the City Council has approved a plan for the supported activity. This will normally apply to City-sponsored events.
4. Donations must be directly related to providing goods or services to the public or for another valid public purpose. Donations may not be used for personal financial gain of any City elected or appointed official or employee.
5. The net benefit of a donation should be considered when determining whether to accept a donation. Net benefit includes all lifecycle costs of ownership, including maintenance, repair, clean-up, administrative, and any potential liability or expenses that may be associated with the donation.
 - a. Donations may not be used to implement new on-going programs or services unless a permanent source of revenue is identified to support the program or service.
 - b. Potential costs and liabilities should be considered if a donation of personal property or of a service does not include the same indemnification, insurance, bonding, or warranties that the City would normally receive through procurement of personal property or services.
 - c. Real property may be donated to the City provided that it will not expose the City to an unreasonable risk of litigation or liability, because of the physical condition of the property or existence of claims, liens, and encumbrances against the property.
 - d. The potential and extent of the City’s obligation to maintain, match, or supplement the donation.
6. Council members and other City officials are responsible for reporting fundraising activities and donations as required by applicable laws and regulations.

7. The City Council may in its discretion waive any provision, procedure, or requirement contained in this Donation Policy.

IV. Procedures

1. Unrestricted donations of \$5,000 or less may be accepted by the City Manager. Unrestricted donations of more than \$5,000 and restricted donations of more than \$500 must be brought to the City Council for approval and acceptance. Restricted donations of \$500 or less may be accepted by the City Manager.
2. The City Manager may accept or decline any donation in the City Manager's sole discretion and may choose to request City Council consideration of any donation. The City Manager shall report to the City Council on all donations in excess of \$1,000 at a City Council meeting within thirty days of accepting the donation.
3. The City Council shall consider proposed donations beyond the authority of the City Manager set forth above and proposed donations referred to it by the City Manager. The City Council may accept or decline any donation at its sole discretion.
4. All donations will receive appropriate recognition as determined by the City Manager or City Council at the time the donation is accepted, taking into consideration the nature and level of the donation. Upon request of the donor or if specified in a City-initiated request for donors, limited forms of promotional activity (such as logo or name placement on signs, flyers, and other materials related to a program or activity supported by the donation) are permitted. The appearance of traditional commercial advertising should be avoided and the size of donor recognition should be in keeping with the size of non-recognition information used in the materials. The agreed upon form of recognition should be identified in the donor receipt or a donation agreement. Any naming of City parks, property, or facilities shall follow the guidelines set forth in the City Resolution 17-19 Pertaining to Naming City-Owned Land and Facilities.
5. When donations with a value in excess of \$100 are accepted or upon the request of the donor, the City will issue the donor a receipt indicating the amount of the donation or describing the goods or services donated within 30 days of receiving the donation. (In accordance with the Internal Revenue Code the City does not provide an estimated value of in-kind donations; donors may refer to IRS Publication 561 for more information on valuing donated property.) The donation receipt shall also include the date of the donation, the name of the donor, the purpose of the donation (if a restricted donation), a brief description of any public recognition that will be made by the City, and note that the donor received no goods or services in exchange. The original receipt shall be submitted to the donor and the City shall retain a copy. A sample donation receipt is attached as Exhibit B.

6. Before acceptance of a restricted donation valued at more than \$500 or an unrestricted donation valued at more than \$5,000, the respective obligations of the donor and the City shall be set forth in a Donation Acceptance Agreement. A sample donation agreement is attached as Exhibit A. The City Manager or City Council may require donation agreements in any form, containing any terms in the City's discretion, and for donations valued at any amount. The Donor Acceptance Agreement including the donor names and donation amounts are public information subject to disclosure pursuant to the Florida Public Records Act.
7. The City shall maintain records for the receipt of all donations and shall comply with all reporting requirements and regulations.

V. Dissemination of Information

1. A copy of each Donation Acceptance Agreement for accepted donations shall be forwarded for information to the City Council by the City Manager.
2. A copy of each Donation Acceptance Agreement for accepted donations shall be forwarded for information to the Finance Department and the designated department for which the donation was assigned.
3. Each original Donation Acceptance Agreement shall be maintained by the City Clerk.

VI. Distribution of Donation

1. Tangible items will be distributed to appropriate City departments for use or, at the discretion of the Department Director or City Manager, disposed of in an appropriate manner according to the Belle Isle Municipal Code.
2. Donations of cash for designated donations will be deposited into the appropriate revenue account for the designated City department.
3. Donations of cash for undesignated donations under \$5,000 will be deposited into the City's General Fund donation account. Undesignated donations in an amount over \$5,000 will be distributed at the direction of City Council.

EXHIBIT A – SAMPLE DONATION ACCEPTANCE AGREEMENT



DONATION ACCEPTANCE AGREEMENT

This Donation Acceptance Agreement (the “Agreement”) is made this ___ day of _____, 2019 by and between the City of Belle Isle, a Florida municipal corporation whose mailing address is 1600 Nela Avenue, Belle Isle, FL 32809 (the “City”), and _____, whose mailing address is _____ (the “Donor”). The parties hereby agree as follows:

1. **Donation.** Donor wishes to donate certain property or funds to the City, described as follows: _____ (the “Donation Property”). To the extent that the Donation is non-monetary, Donor’s estimate of its current value is: \$_____.

2. **Intended Use.** It is the intent of the parties that the Donation Property be used by the City for the following purpose: _____ (the “Intended Use”). Donor acknowledges that the City’s use of the Donation Property for the Intended Use may be contingent upon various factors including but not limited to budgeted funds, continuation of certain City programs or facilities, City plans, and other matters. The City’s failure to use the Donation Property for the Intended Use for any reason shall not constitute a breach of this Agreement nor entitle Donor to return of the Donation Property.

3. **Acceptance and Delivery.** Upon execution of this Agreement by both parties (the “Effective Date”), the City hereby accepts and the Donor relinquishes all claims to and rights in the Donation Property. Donor shall take any and all additional actions necessary to deliver the Donation Property to the City, to relinquish any of Donor’s claims and rights in the Donation Property, and to transfer ownership of the Donation Property to the City.

4. **Donor’s Representations.** Donor hereby represents and warrants that Donor is the lawful owner of the Donation Property with full authority to donate the Donation Property to the City as provided in this Agreement. Donor further represents and warrants that all statements and assertions made by Donor to the City in this Agreement and otherwise in relation to the Donation Property are true and accurate to the best of Donor’s knowledge.

5. **Indemnification.** Donor hereby indemnifies and holds harmless the City and its elected and appointed officials, employees, and agents, from and against any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs, and other liabilities, including without limitation litigation costs and attorney’s fees for trials and appeals, claimed or asserted by or on behalf of any person who is the actual owner or co-owner of the Donation Property at the time this Agreement is executed. This paragraph shall survive termination, expiration, and completion of this Agreement.

6. **Sovereign Immunity.** Nothing contained in this Agreement nor in any instruments executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the City of its sovereign immunity protections or of any other privilege, immunity or defense afforded to it or any of its officials, employees and agents under the Constitution and laws of the State of Florida.

7. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all previous promises, negotiations, representations, and statements with respect to its subject matter. This Agreement may not be modified or amended except by a written instrument equal in dignity herewith and executed by the parties to be bound thereby.

8. **No Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the parties hereto, and their respective successors in interest and title. No right or cause of action shall accrue under or by reason of this Agreement to or for the benefit of any third party. Nothing contained in this Agreement, whether expressed or implied, is intended, nor shall be construed, to confer upon or give to any person or entity not a party hereto any right, remedy or claim under or by reason of this Agreement or any particular term, provision or condition of this Agreement other than the parties hereto and their respective successors in interest and title.

9. **Governing Law; Venue.** This Agreement is governed by and construed in accordance with the laws of the State of Florida, and venue for any action arising out of or related to this Agreement shall be in Orange County, Florida.

10. **Severability.** If any particular term, provision or condition of this Agreement, the deletion of which would not adversely affect the receipt of any of the material benefit of this Agreement by either party hereto or substantially increase the burden of this Agreement upon either party hereto, shall be held to be invalid or unenforceable to any extent by a court of competent jurisdiction, the same shall not affect in any respect whatsoever the validity or enforceability of the remaining terms, provisions and conditions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the Effective Date.

CITY OF BELLE ISLE

DONOR: _____

Signature

Signature

Print Name

Print Name

Position

Position/Title (If Donor is an entity)

Date

Date

EXHIBIT B – SAMPLE DONATION RECEIPT



City of Belle Isle Donation Receipt

This is to confirm that on _____ [insert date] the City of Belle Isle received from

_____ [insert donor name and address]:

- a monetary contribution of \$ _____
- a non-monetary contribution consisting of [describe goods, services, property, securities, etc.]:

No goods or services were provided by the City of Belle Isle in return for the contribution.

The City sincerely appreciates your donation.

Bob Francis
City Manager
City of Belle Isle