



CITY COUNCIL AGENDA REPORT

Meeting Date: 10/07/2021

From: Stuart Schillinger Assistant City Manager

Subject: Donation Policy

Community Goal/Result

Fiscally Prudent

Community Building

Purpose

Ensure donations made to the City of Brisbane are for areas of need within the City and the donor does not expect special consideration for the donation.

Recommendation

Discuss the report and provide direction regarding bringing the policy to City Council.

Background

The City periodically receives donations for various City programs. In the past the City has received donations for its canine unit, storage space for the pool, Skateboard Park, and the playground equipment at the Community Park. In addition, the City has funded its Concerts in the Park through donations.

Recently it has come to light that the San Francisco Public Works Department had been inappropriately requesting donations from its vendors. Although, the City has been very clear with its donors that any donation made does not provide the donor any special benefits, management thought this was a good time formalize the donation policy for the City of Brisbane. A more formal donation policy will ensure that all donors and non-donors will be treated equitably, donations are made for purposes that are a priority for the City, and staff has thought through all implications of donations made.

Discussion

The policy defines the roll of Council Members, Commissioners, Committee Members, and staff will have in receiving and requesting donations.

Small unrestricted donations below \$5,000 can be received by the City Manager. Since these are unrestricted they can be used for any purpose the City Council has already approved. Unrestricted donations above \$5,000 or restricted donations above \$500 will need to be approved and received by the City Council.

If staff wants to solicit donations directly from the public for programs, or infrastructure staff will need to develop a donation plan. City staff will develop a Fund Raising Plan and shown in Exhibit A of the policy. This ensures the fundraising is for a City priority project, it outlines what type and amounts of donations are anticipated, as well who the anticipated donors would be.

Fiscal Impact

The fiscal impact will depend on the amount of donations the City will receive in the future. However the purpose of the donation policy is to ensure any donations the City receives is through an open process that the community is aware of.

Measure of Success

Donations made to the City are for purposes that are a priority for the City and that any donation solicitation program is transparent.

Stuart Schillinger

Stuart Schillinger, Assistant City Manager

Clayton Holstine

Clay Holstine, City Manager

City of Brisbane Donation Policy

I. Purpose

Members and supporters of the Brisbane community from time to time wish to support the community by making donations to the City of Brisbane. The City Council appreciates this generosity and has adopted this policy regarding donations to the City of Brisbane, including City departments and City sponsored programs, activities, and events.

II. Definitions

1. Donation: a contribution made directly to the City without expectation of goods, services, or significant benefit or recognition in return. Donations may be in the form of money, money alternatives, or in-kind contributions of products, services, investment securities, real property (land or other type of fixed asset), 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 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 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, promoting endowment programs, program adoption or pledge drives, and 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 may decline any donation without comment or cause.
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. To avoid the possible appearance of extra considerations, City

Council appointed Commissioners and Committee Members as well as city staff shall not solicit donations to the City except as stated in 3 below.

3. City Council must approve all fund raising activities by City Council Members, Commission and Committee members, employees, or volunteers of the City prior to the solicitation of donations for any City project, program, activity, or event (“supported activity”). A recommended form for a fundraising plan is attached as Exhibit A to be revised as appropriate for the fundraising goal and type of supported activity in question.
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 accepted by the City as a donation provided that it will not expose the City to an unreasonable risk of litigation or liability, for reasons including, but not limited to, the physical condition of the property or existence of claims, liens, and encumbrances against the property.
6. Council members and other City officials are responsible for reporting fundraising activities and donations as required by applicable laws and regulations. See, for example, Section 7 under Article IV, Procedures, below.

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 acceptance. 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.

2. The City Manager shall keep the City Council informed of any request to donate to the City. Two Council Members may request to place on a City Council agenda any proposed donation whether the City Manager recommends accepting the donation or not.
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 in 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.
5. Other than in-kind donations, 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 accepting 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 agreement. A sample donation agreement is attached as Exhibit C; provided, however, the City Manager or City Council may require donation agreements for donations valued at any amount.
7. The City shall maintain records for the receipt of all donations and shall comply with all reporting requirements and regulations including, but not limited to, FPPC Regulation 18944.2 Gifts to an Agency. For donations that were made at the behest of a City Council member, a member of an appointed Commission or Committee, of City staff, that person shall determine whether a Fair Political Practices Commission

Form 803 (Behested Payments Report) is required pursuant to the Political Reform Act and implementing Regulations.

EXHIBIT A – FUNDRAISING PLAN FORM

City of Brisbane Fund Raising Plan

Fundraising Plan Title and Purpose: <i>Please provide a title and description for your fundraising project.</i>	
Fundraising Participants: <i>Please list the names for all groups and individuals that will be conducting fundraising.</i>	
Donation Type/Amount: <i>Please describe the types and amount of donations that will be sought.</i>	
Anticipated Donors: <i>Please describe who will be approached for donations.</i>	
Donor Recognition Plan: <i>Please describe how donors will be recognized.</i>	
Fundraising Timeline:	
Council Review of Fundraising Plan:	
Fundraising Start:	
Fundraising Completion:	
Council Review of Donations:	
Donor Recognition Complete:	
Restrictions/Reporting: <i>Please identify any restrictions or reporting requirements associated with this fundraising plan.</i>	

EXHIBIT B – SAMPLE DONATION RECEIPT

City Of Brisbane Donation Receipt

This is to confirm that on _____ [insert date] the City of Brisbane received from
_____ [insert donor name and address]:

- a monetary contribution of \$_____ (cash/check/electronic)
- a non-monetary contribution consisting of [describe goods, services, property, securities, etc.]:

For the purpose of:

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

The City sincerely appreciates your donation.

Finance Director
City of Brisbane

EXHIBIT C – SAMPLE DONATION AGREEMENT

**City of Brisbane
Standard Donation Agreement**

The undersigned Donor wishes to make a donation to the City of Brisbane as described in more detail below.

Donor is (check and complete all that apply):

- donating \$ _____ in a lump sum
- donating \$ _____ in _____ (monthly, quarterly, etc.) payments of \$ _____ in _____ installments.
- donating the following (describe products, services, investment securities, real property, etc.):
- If this box is checked, the City’s acceptance of the donation described above is subject to the conditions specified on Attachment 1.

- If this box is checked, this donation is restricted to the following uses:

City will publicly recognize donor by (describe recognition):

- If this box is checked, this donation is being made at the behest of Council Member/Commissioner/City Staff Member _____.

In connection with administering this agreement, Donor and City shall work through the following primary representatives:

	City of Brisbane	Donor
Primary Representative:		
Address:		
Telephone: Fax: Cell Phone:		
E-mail:		

In addition to the foregoing, Donor and City agree that:

1. The City will provide Donor with a donation receipt indicating the amount of the donation or estimated value of goods or services donated within 30 days of accepting the donation.
2. Donor's contribution to the City will be recognized publicly as described above.
3. Except as provided above, the City may use the donation in any manner at its sole discretion and Donor has no right to control City's use of the donation.
4. Donor has not and will not receive any goods or services in exchange for the donation and the City will not grant any extra consideration to the donor in relation to City procurement, regulatory matters, or any other business, services, or operations of the City.
5. Donor confirms that unless indicated otherwise above this donation is not made at the behest of a City Council Member, of any member of an appointed Commission or Committee, or of any City staff..

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

Donor

City of Brisbane

City Manager

Name

Title

Date:

Date:

ATTEST:

City Clerk

Date:
