

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSÉ REVENUE GENERATING POLICY FUNDRAISING, SPONSORSHIP AND CONTRIBUTION GUIDELINES

This policy is intended to provide a framework and a process to assist the Agency in revenue generation, fundraising, and sponsorship efforts that is consistent with existing Agency and City of San Jose policies, procedures and applicable laws.

DEFINITIONS

- **Fundraising:** Any activity conducted with the intent of soliciting contributions to the Agency or to a particular activity of the Agency. Fundraising activities may include, but are not limited to, Agency grant proposals, Agency responses to Request for Proposals issued by other agencies, foundations or funding agencies, endowment programs, adoption or pledge drives, and contacting individuals, companies, foundations, or other entities with the primary purpose of receiving financial support for the Agency.
- **Contribution:** A "contribution" to the Agency may consist of a donation or a sponsorship. A donation may consist of cash, a grant, real property (land) or an in-kind donation. Donations may be unrestricted or restricted by the donor.
- **Sponsorship:** A "sponsorship" typically includes the sponsor's financial contribution and involvement in a particular event, activity, or public structure, with associated recognition between the sponsor and the Agency for the financial contribution
- **Donation:** A contribution to the Agency that is made without expectation of a significant return or recognition.
- **Stock Donations:** Stocks are the proprietorship element in a corporation usually divided into shares and represented by transferable stock certificates. Per current rules the Agency must immediately sell stock donations upon receipt unless the stock was received through a gift or bequest with restrictions on its sale.

- **In-Kind Contributions:** A contribution of an item or object other than cash or real property, which would serve a useful purpose in the provision of Agency services. Examples of in-kind contributions may include equipment or materials or services.
- **Grant:** A donation typically awarded for a specific use and/or general program purpose, usually after a funding application has been submitted and approved. Grants are typically made by the federal, state or county governments, private and community foundations, and corporations or businesses.
- **Donor:** A company or individual who provides the Agency, an item or service without expectation of significant return or recognition.
- **Restricted Donation:** A donation made to the Agency where the donor has restricted its use to a specified purpose.
- **Sponsor:** A company, organization or individual who provides , funding support to the Agency in the form of a sponsorship, and expects recognition in return.
- **Sponsorship Agreement:** A negotiated agreement between the Agency and a corporate entity whereby the Agency makes a sponsorship opportunity available and enters into an agreement with a business to pay a fee in cash, products, services or a combination thereof, for recognition rights related to certain identified Agency owned commercial or marketable assets. A Sponsorship Agreement may permit a limited form of advertising opportunity for a commercial entity in exchange for the fee paid to the Agency, subject to the terms of this Policy and subject to the approval of the Executive Director and the General Counsel's Office.
- **Unrestricted Donations:** A donation made to the Agency where the donor has placed no limitation on its use.
- **Works of Art:** Includes, but is not limited to, physical art that may be an integral part of a public site or building, or that may be integrated with the work of other design professionals. Examples of public works of art include sculptures, murals and paintings, earthworks, neon, glass, organic materials, mosaics, photographs, prints, film, any combination of media forms, or hybrids of any media.

GENERAL PROVISIONS

1. Different forms of contributions to the Agency present different opportunities and challenges. Therefore, it is not possible to establish blanket guidelines to cover all types of contributor activity that the Agency may decide to pursue. This policy is intended to establish a framework to

guide the Agency in establishing donation and sponsorship programs and donor and sponsor recognition policies so that the Agency may properly consider and address the different economic, procedural and legal issues that may be associated with donation solicitation and donor recognition.

2. The terms of any contributor solicitation program or any contributor recognition proposed by the Agency must be consistent with applicable laws and City ordinances, plans and policies. These could include, but are not limited to, naming of City owned land and facilities (See Policy Number 7-5, Naming of City-Owned Land and Facilities) and the Code of Ethics (Policy Number 0-15), the City's Zoning Code (Title 20 of the SJ Municipal Code) and Sign Ordinance (Title 23 of the SJ Municipal Code), and the California Environmental Quality Act
3. If the Agency desires to pursue a donation or sponsorship opportunity that would have an affect on City operations, City programs or City property (including Agency property that is intended to be transferred to the City), the Agency shall notify the City Manager of the proposed donation or sponsorship opportunity and **coordinate with** the City Manager prior to entering into any agreement related to such donation or sponsorship. The City Manager may refer the proposed Agency donation or sponsorship to the appropriate City department or departments who shall follow the provisions of this policy in evaluating **and advising with respect to** the proposed donation or sponsorship opportunity.
4. Contributor recognition guidelines shall set forth the types of donor or sponsor recognition that are available for specified donorship or sponsorship levels.

One example of property-specific issues to be considered when developing donor recognition guidelines and other contribution recognition guidelines is whether the property was funded through tax-exempt bonds. Donor recognition guidelines for such types of property shall take into account IRS regulations, among other factors specific to those properties. As a further example which is merely illustrative and not comprehensive, separate analysis may need to be conducted for proposed donation programs involving the following Agency property or Agency assets: the exterior walls of Agency buildings, plazas or paseos owned by the Agency; Agency publications and other Agency media productions.

Contributor solicitation programs and contributor recognition guidelines adopted by the Agency shall set forth the conditions for acceptance of funds, which 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. Agency staff designated to oversee the Agency's donation activities will ensure that the proposed Donation or Sponsorship does not conflict with existing Municipal Code provisions, Agency policy or existing Agency or City Sponsorships. Agency staff shall also ensure that the property involved is not subject to restrictions that would limit or prohibit the proposed Donation or Sponsorship. Agency staff shall also be responsible for consulting with the General Counsel's Office to prepare the donation program guidelines and materials.
6. Contributions to the Agency will NOT provide any extra consideration to the donating party in relation to Agency procurements (this does not apply to a contribution which lowers the bid price of the procurement), or other business and operations.
7. Items contributed to the Agency must be safe and durable, and meet any applicable Agency design or quality specifications, standards, and policies.
8. The Agency encourages contributions of materials with the understanding that such items have a useful life, and that the Agency assumes no responsibility for replacement or upkeep. Once a donation is accepted, it becomes Agency property and the Agency may maintain, replace or dispose of the item consistent with any donor restrictions on a Restricted Donation. In the absence of donor restrictions, the Agency may maintain, replace or dispose of an item, as it deems appropriate.
9. The Agency cannot guarantee the tax deductibility of a Donation, but may provide the donating party with a letter of acknowledgement and a statement of the Agency's intended use. The Agency cannot validate the donor's estimate of the fair market value of a non-cash donation.
10. All Donations must be directly related to providing goods or services to the public or for another valid public purpose, and may not be used for financial personal gain of any Agency employee.
11. All donations in cash shall be deposited in a special trust fund established by Agency Board at the time of such donation, unless the donation does not contain restrictions, in which case the cash may be deposited in the general fund of the Agency. Currently Agency Board action is required to accept donations over the limit set forth in Section 4.A. of Article II of the By-laws of the Agency, as it may be amended from time to time.
12. The Executive Director is hereby authorized to approve Donation programs or Sponsorship Programs prepared on behalf of the Agency and to issue requests for proposals or to engage in similar donation or

sponsorship solicitation activity, provided that Agency Board approval is required before the Agency (i) may accept any donation or sponsorship with a value in excess of donation or sponsorship amount that may be accepted by the Executive Director under Section 4.A. of Article II of the By-laws of the Agency (including a fair market valuation of in-kind contributions), (ii) grant any donor or sponsorship recognition rights with a value in excess of the amount of the Executive Director's contracting authority as set forth in Section 4.A. of Article II of the By-laws of the Agency, or (iii) has a term of more than one year.

13. If a member of the Agency Board desires that the Agency investigate or pursue a donation or sponsorship opportunity, the Agency Board member shall notify the Executive Director of such opportunity. The Executive Director shall follow the provisions of this policy in evaluating and/or pursuing the donation or sponsorship opportunity. The Executive Director shall determine whether the potential opportunity is complementary and consistent with ongoing Agency and City sponsorship or donation programs, and whether it appears that the potential benefit to the Agency of pursuing the opportunity outweighs the time and effort that will be incurred in investigating and pursuing the opportunity.

14. Unless expressly stated otherwise, the Agency does not intend to modify or change the non-public forum status of any Agency property by providing donor recognition or sponsorship recognition on Agency property.

GUIDELINES OF NET BENEFIT OF CONTRIBUTIONS TO THE AGENCY.

1. The Agency may accept contributions if the contribution enhances services or reduces costs the Agency would incur in the absence of its acceptance, or if it otherwise benefits the Agency in a manner that provides a net savings to the Agency, as further provided below, or provides a significant enhancement to the Agency.
2. The Executive Director may promulgate guidelines for establishing the net benefit to the Agency of a Donation or Sponsorship, including, without limitation, the administrative costs of obtaining the donation, maintenance, repair and clean-up costs reasonably likely to be associated with the donated item, compliance with any restriction on the donation, and any additional potential liability that the Agency may assume by accepting the donation. Alternatively, the Agency may rely on City guidelines for establishing net benefit of accepting a contribution.
3. If a Contribution of personal property or of a service does not result in the Agency receiving the indemnification, insurance, bonding or warranties that it would normally receive through procurement of the personal property or service, the

absence of those factors, and the potential costs and liabilities associated therewith shall also be considered in evaluating the net benefit of the proposed Donation to the Agency.

4. Any contribution that, if accepted, would obligate the Agency to enter into a service or procurement agreement would not be considered a donation and would be subject to the Agency procurement process.
5. The Agency shall consult with the City if it will be affected by acceptance of the proposed Donation. The City will be considered affected by a proposed Donation if it is likely that it would incur additional cost or staff time if the Donation were accepted. For example, the City may incur costs to provide management, support, maintenance, and repair or enforcement activity in relation to the Donation or Sponsorship.
6. Restricted Donations and Restriction on other contributions shall be evaluated to determine any cost or administrative burden the restrictions impose upon the Agency or City, throughout the anticipated useful life of the Donation or contribution.

AUTHORITY TO ACCEPT CONTRIBUTIONS

All contributions will be held or deposited within the current gift trust fund policies of the City. Unaccepted donations will be returned to the donor.

All donations made directly to the Agency (with the exception of grants) shall be recorded on a "Donation Acceptance Form."

It will be the responsibility of the Executive Director to ensure that proper Agency officials are informed of Contributions, that Contributions are properly acknowledged, that timely reports are made, and that proper recognition is afforded the contributor.

Agency employees, whose primary responsibility is the procurement of services, supplies, materials and equipment or public works, should not engage in solicitation of Contributions. Agency staff shall maintain the highest standard of ethics in fundraising activities. No employee shall personally benefit from any fundraising activity on Agency time, and no employee shall engage in any solicitation where the employee, his or her spouse, has a conflict of interest, or the appearance of a conflict of interest would arise from the employee's involvement in the solicitation.

SOLICITATION OF CONTRIBUTIONS

1. Contributions shall not be solicited under the guise, pretense, or presumption of receiving official Agency endorsement of the donating party, product, or activities.

2. Agency employees may only solicit Contributions pursuant to an approved Fundraising work plan approved by the Executive Director, and only if the purpose of the donation is directly related to providing a good or service to the public.

DONOR RECOGNITION

Contributions should be acknowledged in a timely manner after formal acceptance of the donation has taken place.

Before engaging in solicitation of Contributions, the Agency shall develop, in consultation with the General Counsel's Office, guidelines specifying the type of contributor recognition to be granted for different types of Contributions and for different contribution amount, that shall include, if applicable, the size and location(s) of any signage and the permitted text of the signage.

The Agency must review and approve any presentment of public recognition for that contribution. Recognition should be consistent with the Municipal Code and other laws and regulations, and with the Agency's current policies and Donation Guidelines.

If, in the interests of public health, safety and welfare, the Agency desires to prohibit certain types of Contributions, the Agency shall consult with the General Counsel's Office to determine whether the donation guidelines may contain such prohibitions.

Contributions and contributor recognition may not be comprised of obscene or pornographic material.

The following provisions shall also apply:

- **Real Property Contributions**

Restricted Contributions of real property may be made to the Agency for specified purposes. The Agency will review the conditions of the restrictive Contributions and determine if the benefits to be derived warrant the acceptance of the Contributions. All contributions of ownership rights to real estate, no matter how small, require Agency Board approval after proper investigation and due diligence is conducted by staff.

- **Works of Art Contributions**

If a contribution is proposed related to a work of public art covered by the City's Art in Public Places ordinance, currently found in Chapter 22.08 of the San Jose Municipal Code, the Agency shall follow the procedures for review and acceptance of public art in accordance with the City's Art in Public Places ordinance, which shall include the review and recommendation of the City's Arts

Commission. Any time a donation of a work of art or a contribution toward the acquisition of a work of art that would not ordinarily be covered by the City's Public Art Ordinance is proposed for the Agency, the Agency shall submit the proposed donation to the Arts Commission for the Arts Commission's recommendation regarding acceptance of the proposed donation of public art.

- **Interior Naming Opportunities**

Naming opportunities for Agency developed, City-owned Facilities shall be handled by the City Manager or the City Manager's designee, in accordance with the City's Revenue Generating Policy.

Selection of the Appropriate Donor or Sponsor

If the Agency makes a sponsor or donor recognition opportunity available to outside persons or entities pursuant to these guidelines, the Agency shall select the donor or sponsor providing the highest net benefit from the Contribution, along with consideration of the quality of product or service to be received by the Agency.

- The selection shall be impartial, and compatible with other Agency and City Donation or Sponsorship relationships.
- All donation or sponsorship opportunities to be offered and solicitations sought by the Agency shall be reviewed by the Executive Director or designee in advance of the offering to ensure consistency with these guidelines, and to ensure that the granting of a donation or sponsorship opportunity does not result in preferential treatment of the sponsor, and to avoid a conflict with existing contracts.
- No action shall be taken which gives the appearance that persons or entities that do not sponsor Agency programs, events, venues or activities are treated less favorably than those who do, or are at a competitive disadvantage in conducting their business with the Agency.

Sponsorship and Donation Agreements:

After the selection of a donor or sponsor by the Agency Board or Executive Director, as appropriate, is complete, the respective obligations of the sponsor or donor and the Agency shall be set forth in a written agreement approved as to form by the General Counsel with the exception that unrestricted cash donations do not require a formal written agreement.

Each sponsorship agreement and donor agreement shall not exceed a term of one-year unless approved by Agency Board. Annual renewals, at the Agency's option, are permissible provided the entire term of an agreement with all renewals does not exceed five (5) years except as provided below.

ACCOUNTING AND RECORD KEEPING:

The Agency shall maintain records that provide an audit trail for the receipt of all Sponsorships and Donations. The Agency shall also comply with the following requirements:

1. All Donations or sponsorships and the revenue, products, donations and services received shall be recorded and maintained for at least the expected life of the donation item or service, or for a specific time frame that has been established.
2. The Agency's internal determination of the net benefit to the Agency is solely for the Agency benefit in evaluating whether to accept or reject a donation, and may not be used by or relied upon by outside parties. The Agency shall document and maintain records of the anticipated net benefit from the Contribution.
3. Sponsorships paid for with a monetary contribution, shall only be paid for by check or bank wire payable to the Redevelopment Agency of the City of San Jose. Acceptance of cash will only be allowed if approved, in advance, by the Executive Director.
4. 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.
5. All funds, products, services, etc. resulting from a Contribution not specified for a specific program or project shall be designated for use by the Agency Board, which designation may be made by resolution, approval of an agreement or through Agency Board appropriation action or other appropriate means of Board approval.
6. All funds generated by Contributions, must be appropriated by the Agency Board prior to being spent.
7. The Executive Director shall periodically prepare a report for the Agency Board identifying all (i) donation and sponsorship solicitation guidelines approved by the Executive Director and (ii) donation agreements and sponsorship agreements signed by the Executive Director.