



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Scott P. Johnson

SUBJECT: COUNCIL POLICY FOR DONATION OF SURPLUS PERSONAL PROPERTY **DATE:** October 14, 2008

Approved

Christine J. Shipley

Date

10-21-08

RECOMMENDATION

Adoption of a resolution approving the Council Policy titled "Donation of Surplus Personal Property."

OUTCOME

To provide guidance regarding the process for donation of surplus personal City property.

BACKGROUND

Chapter 4.16 of the San José Municipal Code governs the disposition of surplus personal City property. The Director of Finance or such other director as designated by the City Manager is responsible for the sale, donation, recycling, or other disposition of surplus personal property which has exhausted its useful life for City operations.

Chapter 4.16 prescribes that any surplus personal property with an estimated value of \$1,500 or less may be donated by the Director of Finance or such director as designated by the City Manager and that any surplus personal property with an estimated value exceeding \$1,500 may be donated by the City Council to a public or governmental agencies, volunteer fire departments, or nonprofit corporations.

On June 19, 2001, the City Council approved a donation policy for surplus City property. At the June 24, 2008 Council Meeting, the City Council directed staff to revise the existing Council Policy for the donation of surplus City personal property by requiring that

1. all requests for donation of surplus personal property including from foreign governmental bodies come directly from the donee to the Director of Finance or other City Manager designee;
2. the equipment benefits the donee; and

October 14, 2008

Subject: Council Policy – Donation of Surplus Personal Property

Page 2

3. the donee use the donated equipment for the benefit as stated in the request for the donation.

This policy applies to the donation of personal surplus property such as vehicles, furniture, and library material and does not apply to the donation of surplus real property.

ANALYSIS

Based on Council's direction, staff incorporated the revisions into the 2001 policy and present the attached recommended policy in the current Council policy format. The policy consists of a background, purpose, and policy section.

The Background section of the recommended policy provides the text of San José Municipal Code Section 4.16.250 (summarized above) which governs the disposition of surplus personal property.

The Purpose section of the Council policy outlines the Administration's approval authority, the terms and conditions of the donation, and the mandate for the Administration to follow guidelines as approved by the City Council for the donation of surplus personal property.

The Policy section of the Council policy sets forth the guidelines for donation of surplus personal City property including the decision to make surplus personal property eligible for donation, the eligibility of organizations to receive City personal property, and the process for donation of surplus personal property. The policy states that surplus personal property with an estimated value of \$10,000 or more is not eligible to be donated and that it must be sold through a competitive process.

Prior to offering surplus personal property for donation, the Director of Finance shall determine that the potential benefits received by City residents through donation of surplus personal property to an eligible organization outweigh the potential fiscal benefit of selling surplus personal property.

In accordance with Municipal Code Section 4.16.250, eligible organizations to receive donations of City surplus personal property are governmental agencies, volunteer fire departments, or nonprofit corporations. The policy provides guidance by giving priority of donating surplus personal property to organizations on the basis of how likely the donation of surplus personal property will benefit City residents. In general, preference should be given to governmental agencies and volunteer fire departments over non-profit organizations. Further, eligible non-profit organizations must be qualified under IRS Code 501 (c) (3) and meet one of the following:

1. The non-profit organization currently provides a service that complements or serves a common client base of an existing City program.
2. The donation furthers a special project or geographically focused City effort or benefits a particular group such as the elderly, low income families, the homeless population, or any group or community the City wishes to provide assistance to.

After establishing the priority for organizations to receive donations, the Council policy outlines the process for donation of surplus personal property with an estimated value of \$1,500 or less and with an estimated value greater than \$1,500.

For surplus personal property with an estimated value of \$1,500 or less, the Director of Finance shall identify surplus personal property for donation in accordance with the policy and reach out to eligible organizations as defined in the policy.

For surplus personal property with an estimated value in excess of \$1,500, the Director of Finance shall identify surplus personal property for donation in accordance with the policy and notice donation of such property at the Rules and Open Government Committee with a 30 day period to receive requests for donations and reaches out to potential donees. After the noticing period, the Director of Finance shall recommend donees for receiving the identified surplus personal property to the City Council.

Additionally, the policy lists requirements which are applicable to all donations and the processing of all donations. Specifically, the Director of Finance shall

1. collect donation requests, including from foreign governmental agencies;
2. require that donees state the benefit to be derived from the donated surplus personal property in the request for donation;
3. ensures that the donated surplus personal property benefits the donee and that the donee uses the donated equipment for the benefit as stated in the request for donation;
4. ensures that the person receiving donated surplus personal property is duly authorized by the approved donee; and
5. ensures that the transfer of property is subject to the conditions set forth in the San Jose Municipal Code Section 4.16.250 C, which states all donations shall be without warranty, express or implied, and the donee shall agree to defend, indemnify and hold harmless the City, its officers and employees, from any claim, cause of action, damage, loss or liability arising out of the condition of the donated property or its use by the donee.

EVALUATION AND FOLLOW-UP

At this time, staff has not scheduled any follow-up regarding this item.

POLICY ALTERNATIVES

Alternative #1: Not to adopt a Council policy for donation of surplus personal property and direct staff to seek the highest possible monetary value through the sale of all surplus personal property.

Pros: Increased revenue to the City.

Cons: Less support for local organizations which, through their services, provide a benefit to the City's residents.

October 14, 2008

Subject: Council Policy – Donation of Surplus Personal Property

Page 4

Reason for Not Recommending: The City has to balance the potential benefits received by City residents through donation of surplus personal property to an eligible organization with the potential fiscal benefit of selling surplus personal property.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater.
(Required: Website Posting)
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the criteria above, the Council Memorandum will be posted on the Council Agenda for September 30, 2008.

COORDINATION

This item has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

This Council item is consistent with Council approved Budget Strategy memo General Principle #2, "We must focus on protecting our vital core services"

COST SUMMARY/IMPLICATIONS

Loss of Revenue and Administrative costs of running the program.

BUDGET REFERENCE

Not applicable.

HONORABLE MAYOR AND CITY COUNCIL
October 14, 2008
Subject: Council Policy – Donation of Surplus Personal Property
Page 5

CEQA

Not a project.


SCOTT P. JOHNSON
Director, Finance

For questions, please contact Walter C. Rossmann, Chief Purchasing Officer, at (408) 535-7051.

Policy Attachment

City of San José, California

COUNCIL POLICY

TITLE DONATION OF SURPLUS PERSONAL PROPERTY	PAGE 1 of 3	POLICY NUMBER X-XX
EFFECTIVE DATE September XX, 2008	REVISED DATE	
APPROVED BY COUNCIL ACTION		

BACKGROUND

Chapter 4.16 of the San José Municipal Code governs the disposition of surplus personal City property. The Director of Finance or such other director as designated by the City Manager is responsible for the sale, donation, recycling, or other disposition of surplus personal property which has exhausted its useful life for City operations.

Chapter 4.16 prescribes that any surplus personal property with an estimated value of \$1,500 or less, or as amended by ordinance, may be donated by the Director of Finance or such director as designated by the City Manager and that any surplus personal property with an estimated value exceeding \$1,500, or as amended through ordinance, may be donated by the City Council to a public or governmental agency, volunteer fire department, or nonprofit corporation.

On June 19, 2001, the City Council approved a donation policy for surplus City property and on June 24, 2008, the City Council directed staff to revise the policy for City Council donations of surplus personal property.

PURPOSE

Section 4.16.250 of the San Jose Municipal Code (SJMC) provides:

- A. Notwithstanding any provision in this Chapter to the contrary, surplus personal property which the Director determines is greater than one thousand five hundred dollars in value may be donated by the City Council, to a public or governmental body or agency, volunteer fire department, or a nonprofit corporation.
- B. Notwithstanding any provision in this chapter to the contrary, surplus property which the Director determines does not exceed one thousand five hundred dollars in value may be transferred by the director to a public or governmental body or agency, or to a nonprofit corporation, subject to the following conditions:
 - 1. The Director shall establish a list of types of property eligible for donation and make such information generally available to eligible organizations.
 - 2. The Director shall follow the guidelines approved by the City Council for the donation of surplus property.
- C. All donations pursuant to this section shall be without warranty, express or implied, and the transferee shall agree to defend, indemnify and hold harmless the City, its officers and employees, from any claim, cause of action, damage, loss or liability arising out of the condition of the property or its use by the organization or subsequent transferee.

City of San José, California

TITLE DONATION OF PERSONAL SURPLUS PROPERTY	PAGE 2 of 3	POLICY NUMBER X-XX
--	-----------------------	------------------------------

The purpose of this policy is to set forth guidelines for donations of surplus personal City property including the decision to make surplus personal property eligible for donation, the eligibility of organizations to receive City personal property, and the process for donation of surplus personal property. This policy does not apply to the donation of surplus real property.

POLICY

It is the Policy of the City of San José to offer surplus personal property for donation in conformance with the following guidelines:

1. Surplus Personal Property Eligible for Donation

- a. No personal property with an estimated value of \$10,000 or higher shall be eligible for donation.
- b. If the Director of Finance determines that the potential benefits received by City residents through donation of surplus personal property to an eligible organization outweigh the potential fiscal benefit of selling surplus personal property, the property may be offered for donation.

2. Eligible organizations

In making a decision among various organizations that have expressed interest in receiving a donation of surplus property, the following guidelines shall govern:

- a. priority should be given to organizations on the basis of how likely the donation of surplus personal property will benefit City residents. In general, preference should be given to governmental agencies and volunteer fire departments over non-profit organizations.
- b. require that Internal Revenue Code Section 501(c) (3) non-profit organizations that request a donation also meet one of the following:
 - i. The non-profit organization currently provides a service that complements or serves a common client base of an existing City program.
 - ii. The donation furthers a special project or geographically focused City effort or benefits a particular group such as the elderly, low income families, the homeless population, or any group or community the City wishes to provide assistance to.

3. Process for Donation of surplus personal property with an estimated value of \$1,500 or less or as amended by ordinance

The Director of Finance or such director as designated by the City Manager shall process donations of surplus personal property with an estimated value of \$1,500 or less, or as amended through ordinance, as follows:

- a. identifies surplus personal property for donation in accordance with this policy.
- b. reaches out to eligible organizations as defined in this policy.

City of San José, California

TITLE DONATION OF PERSONAL SURPLUS PROPERTY	PAGE 3 of 3	POLICY NUMBER X-XX
---	-----------------------	------------------------------

4. Process for Donation of surplus personal property with an estimated value in excess of \$1,500 or as amended by ordinance

The Director of Finance or such director as designated by the City Manager process donations of surplus personal property with an estimated value exceeding \$1,500 to be approved by City Council, as follows:

- a. identifies surplus personal property for donation in accordance with this policy.
- b. notices donation of surplus personal property at a Rules and Open Government Committee meeting with a 30 day period to receive requests for donations and reaches out to potential donees.
- c. recommends donees for receiving the identified surplus personal property to Council in accordance with this policy.

5. Requirements applicable to all donations:

The Director of Finance or such director as designated by the City Manager shall process all donations of surplus personal property in conformance with the following requirements:

- a. collects donation requests, including from foreign governmental agencies.
- b. requires that donees state the benefit to be derived from the donated surplus personal property in the request for donation.
- c. ensures that the donated surplus personal property benefits the donee and that the donee uses the donated equipment for the benefit as stated in the request for donation.
- d. ensures that the person receiving donated surplus personal property is duly authorized by the approved donee.
- d. ensures that the transfer of property is subject to the conditions set forth in SJMC Section 4.16.250 C.

