RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A COUNCIL POLICY ENTITLED "DONATION OF SURPLUS PERSONAL PROPERTY"

WHEREAS, on June 19, 2001, the Council of the City of San José ("City Council") approved a donation policy for surplus property, and on June 24, 2008, the City Council directed staff to revise the policy for City of San José ("City") donations of surplus personal property; and

WHEREAS, the policy requires that 1) the donee directly requests donated surplus personal property, including donations from foreign governmental bodies, from the Director of Finance, 2) the equipment benefits the donee, and 3) the donee uses the donated equipment for the benefit stated in the request for the donation; and

WHEREAS, on June 24, 2008 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 3. the donee use the donated equipment for the benefit as stated in the request for the donation; and

WHEREAS, the City desires to approve the Donation of Surplus Personal Property Policy as a Council Policy which provides guidance regarding the process for donation of surplus personal property;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The Council Policy entitled "Donation of Surplus Personal Property," which is attached hereto as Exhibit A and incorporated by reference as if fully set forth herein, is hereby approved.

DRAFT—Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

ADOPTED this _____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
CHUCK REED
Mayor

ATTEST:

_____
LEE PRICE, MMC
City Clerk

City of San José, California

COUNCIL POLICY

TITLE DONATION OF SURPLUS PERSONAL PROPERTY	PAGE 1 of 3	POLICY NUMBER X-XX
EFFECTIVE DATE November 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.

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.

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.