

Document 6

*Proposed amendments to the Donations to the City for Community Benefit Policy under Option 2 are provided in **bold/underlined** additions and ~~strikethrough~~ deletions.*

Donations to the City for Community Benefit Policy

Approved by: City Council

Approval date: May 9, 2018

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Revision approved by: City Council

Revision / review date:

Policy statement

The City of Ottawa accepts donations as a means of enhancing municipal facilities and programs. Prior to accepting a donation, the City will ensure the review and assessment of the proposed donation to determine its usefulness, present and ongoing financial and operational impacts, and exposure to risk and/or liability.

Purpose

The purpose of this policy is to define what constitutes a donation to the City, and provide clear direction and guidance to departments in accepting, managing, recognizing and allocating donations.

The City will comply with **the Municipal Act, 2001 and its Regulations, the Acts and Regulations of the** Canada Revenue Agency (CRA) and ~~Ontario Municipal Act (OMA)~~ regulations, as well as the City of Ottawa's Donations Receipt Policy for the acceptance of charitable donations and the issuance of charitable donation receipts.

Application

This policy applies to all City employees.

Donations to the City can be:

- Cash
- Services
- Equipment
- Materials and supplies
- Capital, real or depreciable property

- Personal use property
- Works of art, jewelry, rare books, stamps, coins, artefacts
- A leasehold interest or residual interest in real property
- Life insurance properties
- Donations made under a will

This Policy **does not** apply to the following:

- Skills or service provided through the City's Volunteer Program.
- Museum artefact donations of objects with possible historic value relevant to the City of Ottawa (Collections Management Policy).
- Funding or donations in-kind obtained from other levels of governments through normal transfers, payments or grant programs.
- Contributions from community organizations under the City's Community Partnership grant programs, where enhancements to community facilities are cost-shared and where the terms of the partnership are created through another Council-approved policy.
- Contributions required under Sections 37 and 41 of the *Ontario Planning Act*.
- Developer contributions to enhance the development of new parks.
- Sponsorship arrangements (Sponsorship and Advertising Policy).

Members of Council shall not solicit and/or facilitate donations to the City for community benefit, in accordance with [Cite Council Motion/Resolution]. If a Member is approached by a potential donor, the Member shall:

- **Direct the potential donor to City staff to address any donation in accordance with this policy; or**
- **Bring forward the proposed donation and/or a proposed facilitation approach for Committee and/or Council consideration and approval by way of Councillor's report or motion.**

Policy requirements

The solicitation, consideration, acceptance, recognition and administration of all donations to the City are to be undertaken in full compliance with this policy.

Departments are responsible for complying with the general requirements and procedures noted in the following sections:

1. General requirements
2. Consultation and public engagement requirements

3. Management of donations
4. Documentation and reporting requirements
5. Donation receipts
6. Donation recognition standards

1. General Requirements

For the purposes of applying and administering this policy, donations for community benefit are those intended to provide a public good. Donations to the City are not to serve as an alternative to paying for fees, permits, programs, and/or services.

For a donation to be valid under this policy there must be an intention by the donor to give to the City, a delivery of the donation by the donor to the City, and an acceptance of the donation by the City. The process is not complete until the donation is accepted by the City.

Departments may bring any offer of a donation to Council for approval, even if the offer does not meet the guidelines of this policy. Council may also consider any proposal or direct staff to pursue any opportunities for donations that do not strictly adhere to this policy.

All donations to the City must comply with federal and provincial statutes, municipal by-laws, the City's Accountability and Transparency Policy and the Employee Code of Conduct. When a donor requests a receipt for tax purposes, Departments will also ensure compliance with the City of Ottawa Donation Receipt Policy and CRA regulations relating to donations.

Accepting Donations

- The City may elect to accept or decline any donation. If the gift is not accepted, the donor will be advised of the reason and thanked for the offer.
- When assessing a proposed donation, the recipient Department must identify and consider any one-time or recurring costs associated with accepting the donation. These costs may include a required City contribution for delivery, installation, ongoing maintenance, operating costs, security cost, licensing, replacement or disposal costs, etc. The recipient Department will ensure that a source of funding is identified and in place for any costs to the City before accepting a donation.
- For donation funded capital projects requiring a City capital investment, General Managers can authorize the use of capital funds that are in bulk provisions under their authority and not already assigned by Council to specific projects. For capital allocations where a priority list of projects has been approved by Council,

General Managers responsible for the projects, are authorized to make minor reallocations. Subject to funds being available in an approved budget, up to \$100,000 may be reallocated towards funding a donation project. General Managers must seek Council approval for any reallocation over \$100,000.

- When assessing a proposed donation of property, structures or equipment, the recipient Department will consult with the Corporate Accessibility Branch to ensure the donation meets accessibility requirements.
- HST may be applicable to donations where a benefit is provided to the donor. Staff shall consult with the City's Commodity Taxes Branch to identify potential HST implications.

Limitations and Restrictions

Donations to the City must not:

- Imply endorsement of the donor or, if the donor is a company or commercial enterprise, imply endorsement of its products and services, or require the City to make statements or representations endorsing a product or service.
- Be accepted from individuals, groups, associations, corporations or other entities that are not in good standing with the municipality (i.e. in litigation with the City, defaulting on payments owed to the City, and/or currently in significant violation of a bylaw or regulation).
- Be accepted if they are deemed to have originated from unethical or unlawful activities as determined by the City.
- Be accepted from individuals, groups, associations, corporations or other entities that promote discriminatory practices against any individual or group based on gender, sexual orientation, religious or political affiliation, citizenship, age, race or ethnicity, record of offences, disability, income or family status.
- Be accepted if the donation creates real or perceived conflicts of interest, or violates the Employee Code of Conduct. Donations will not be solicited or accepted if they:
 - Result in or are perceived as giving the donor, or any other party, any preferential treatment as a result of the donation.
 - Cause a City employee or elected official to receive any payment, product, service or asset for personal use or gain.
 - Are from companies whose main business is derived from the sale of tobacco.

Donations in Relation to the City Decision Making Process

- Donations to the City shall only be accepted at arm's length from decision-making processes.
- There is a blackout period in the City's planning and procurement processes during which the discussion, solicitation and acceptance of donations with a donor involved in these processes is not permitted.
- The blackout period for planning approval processes (e.g. Site plan control, plans of subdivision, minor variances, official plan amendments, and zoning amendments) commences when a potential donor submits an application for planning approval. The blackout period ends when a final decision has been rendered on the application.
- The blackout period for procurements commences when the request for a bid, quote, request for proposal, etc. is formally issued. The blackout period ends at the time the procurement is awarded.

Donations of Real Property

- The donation of real property must comply with the Real Property Acquisition Policy.
- Where appropriate, approval of a donation agreement of real property is to include the use and disposition of the real property, and note the net proceeds arising from a property transaction.

2. Consultation and Public Engagement Requirements

Consultations will occur on all donations that involve:

- Modifications, enhancements, replacement, alterations or removal of City facilities, amenities, programs or services available to the public.
- An introduction of new facilities, amenities, or equipment to a City owned or leased location accessed by the public.
- A significant reconfiguration of a public property, facility or programming space within a City facility.
- A recognition benefit to a donor that has significant impact on site or facility aesthetics and/or use.
- A requirement to waive all or a portion of City policies and/or standards such as accessibility, bilingualism, etc.

Consultation will also include the applicable ward Councillor(s), host community associations and other impacted stakeholders as per the City's Public Engagement Strategy.

Staff involved with the evaluation of donation offers must ensure that all appropriate internal and external consultations are conducted in accordance with the Public Engagement Strategy, prior to accepting a donation.

Internal Approvals Required for a Donation

In addition to obtaining approval from the recipient Department’s management, recipient departments will consult with any other Departments that could be impacted by or have responsibilities relating to the donation. The following table identifies some of the approval authorities that should be consulted for various types of donations.

TABLE 1: Consultation Requirements	
Donations that involve:	Approvals needed:
Land & buildings	<p>Director, Corporate Real Estate Office General Manager responsible for overseeing the type of land or building being donated to the City – Programming and operational considerations.</p> <p>Recreation, Cultural and Facility Services – Building operational and maintenance considerations</p> <p>Public Works and Environmental Services – Land operational and maintenance considerations</p> <p>General Manager, Planning, Infrastructure and Economic Development – Building and site amenities lifecycle and environmental considerations</p>
Temporary or permanent modifications to City-owned land or buildings	<p>General Manager, Recreation, Cultural and Facility Services – Maintenance and operational considerations</p> <p>General Manager, Planning, Infrastructure and Economic</p>

	Development - Design and Construction and Lifecycle considerations
<p>Roadways</p> <p>- Outdoor, temporary or permanent modifications to City-owned roadways, Transitways, O-Train Confederation and Trillium Lines right of ways</p>	<p>General Manager, Public Works & Environmental Services – Roadway operational and maintenance considerations</p> <p>General Manager, Transportation Services – Regulatory and safety considerations for transit corridors</p> <p>General Manager, Planning, Infrastructure and Economic Development – Design and construction considerations</p>
<p>Vehicles and Rolling Stock</p> <p>- Donation of a vehicle or rolling stock and temporary or permanent modifications to City-owned vehicles or rolling stock.</p>	<p>General Manager, Corporate Services and City Treasurer – Fleet management considerations</p> <p>General Manager, Transportation Services (for OC Transpo vehicles) – Fleet management considerations.</p>
<p>Media and Publications</p> <p>- Donation of free media</p> <p>Changes to City publications, web, media buying (advertising), or the use of the City’s intellectual property (e.g. copyright, moral rights, official marks, etc.) by third parties</p>	<p>Director, Public Information and Media Relations</p> <p>General Manager, Transportation Services (for OC Transpo media)</p>

3. Management of Donations

Donations will be appropriately managed by the recipient Department in accordance with the following:

- Donations designated for specific purposes or for the general purpose of a specific program, including donations of real property and the net proceeds of

any property transaction, are to be used by the program for the purpose specified by the donor.

- For purposes of financial control and accountability, monetary donations are to be deposited to the appropriate City accounts.
- Donations are not to be managed informally or held in personal or external accounts or trust funds. This does not apply to independent community fundraising campaigns, until such time that campaign contributions are donated to the City.
- Donations of cash or property to the City where the purpose is not specified by the donor and which are not part of an approved initiative, are deemed to be undesignated and become contributions to general revenue of the City or assets of the City, unless the recipient Department seeks council approval for a specific purpose.
- Donations of equipment and/ or materials will be tracked and documented as part of the City's inventory.
- Every attempt will be made to expend donated funds for the purposes specified by the donor within the current year. Donations that remain unspent at the end of the year may be carried over to the following budget year only upon Council approval.

4. Documentation and Reporting Requirements

Each Department is responsible for maintaining a log of all donations received. By January 31 of each year, each Department will submit its list of donations over \$25,000 to the Recreation Cultural and Facility Services Department for coordination of a report to Council on the delegated authority used to accept donations.

This reporting requirement does not negate each Department's responsibility to track donations of lesser values. General Managers of each Department are accountable for maintaining a complete record of all donations, whether in cash or in-kind. The log shall include the correct and complete name of the donor, the value of the contribution, a description of the donation, any agreed upon terms or limitations relating to the use of the donation, and any benefits to the donor.

All donations of \$25,000 or more are to be documented by way of a Memorandum of Understanding. Donations valued at less than \$25,000 will be documented and acknowledged by way of a Letter of Confirmation.

In cases where the donor requests no public acknowledgment, the City will honour the request subject to any disclosure that may be required pursuant to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).

5. Donation Receipts

Recipient Departments are responsible to determine whether a donation qualifies for an income tax receipt, in consultation with Revenue Services. If unclear about whether the donation qualifies, recipient Departments should consult the Donations Receipt Policy, their Financial Services Unit (FSU) and/or the Office of the City Clerk ~~and Solicitor~~ and/or Legal Services prior to accepting the donation.

6. Donation Recognition Standards

Donation recognition standards guide staff in determining the donor benefits that can be agreed to under delegated authority and based on the value of the donation.

- The value of a benefit to a donor cannot exceed the market value of the donation.
- Benefits to a donor with a value of up to 10% of the value of a donation, to a maximum of \$1,000 are considered to be of nominal value.
- Social recognition or acknowledgement of a donation through a thank you letter, acknowledgement in a City publication, or a simple sign or plaque at a City facility is considered to be of nominal value to the donor.
- General Managers, Directors, or Managers of the applicable Department are authorised to approve benefits to a donor valued at up to 50% of the market value of the donation, under delegated authority. For donations where the donor requests a benefit valued at more than 50% of the market value of the donation, and that exceeds the \$1,000 nominal value threshold, Departments will seek Council approval.
- Recognition messaging on City property or assets must be limited to recognition of the donation and not extend into an endorsement or promotion of the donor, a product or service.
- Donor benefits are to be secondary in nature to the fulfillment of the primary objectives of a program benefiting from the donation (i.e. complimentary use opportunities of a facility will be secondary to the priority use objectives of the facility).
- The period of time over which a benefit is extended to a donor will:
 - Not exceed the useful lifespan of the gift
 - Not exceed 20 years, unless approved by Council

Recognition Thresholds

- General Managers, Directors, or Managers of the applicable Department are authorised to provide recognition for donations, where the benefit does not exceed 50% of the market value of the donation and to a maximum of \$10,000 for a one-time recognition, or \$10,000 annually to a maximum total value of \$100,000 for multi-year recognition requests.
- When the value of the benefit exceeds \$10,000 annually or \$100,000 over the term of the agreement, departments are required to seek the approval of Council.
- General Managers are authorized to exceed benefit values under delegated authority by up to 10% to allow flexibility in concluding donation agreements. These adjustments are subject to reporting through the *Delegation of Authority By-law*.

Lobbyist Registry

- Donors who enter into discussions with staff to receive benefits for their donation beyond a nominal value will be asked to register with the City's Lobbyist Registry.
- If the recognition is of nominal value, there is no requirement of the donor to register.
- Where interpretation is required, staff are will consult with the Lobbyist Registrar.

Naming Rights

- The awarding of naming rights for City facilities as part of a donation benefit are subject to the City's Corporate Sponsorship and Advertising Policy and the Commemorative Naming Policy.

Responsibilities

Managers are responsible for:

- Authorizing all donations.
- Ensuring all conditions to issue a donation receipt are met when requested by donor.
- Arranging for any required professional appraisal of a donation, ensuring the appraiser meets the validity requirements and that his/her valuation is appropriate.
- Authorizing the Request for Official Donation Receipt form and the Summary Listing of Official Donation Receipts form as applicable.
- Ensuring donations are used for their intended purpose.
- Thanking and recognizing donors.

Office of the City Clerk and Solicitor Legal Services is responsible for:

- Providing legal advice to assist departments with the application of this policy.

Revenue Services is responsible for:

- The efficient processing on all donations that receive a receipt.
- Issuing donation receipts on a timely basis.
- Guarding against the unauthorized use of donation receipts.
- Filing and information return with the CRA for returned donations.

The Financial Services Units are responsible for:

- Receiving the funds in a designated City account.
- Providing advice on receipting for a donation.

Recreation, Cultural and Facility Services is responsible for:

- Acting as the City's lead on matters relating to donations.
- Maintaining and updating this policy and responding to offers that are not specific to any one City department.
- Preparing an annual report to Council on all donations exceeding \$25,000.

Monitoring/Contraventions

Recipient departments are responsible for compliance with this Policy. Failure to comply with this policy may result in a loss of the donation. The Recreation, Cultural and Facility Services department will monitor the application of this Policy.

References

Accountability and Transparency Policy

Donation Receipt Policy

Donation Receipt Procedures

Commemorative Naming Policy

Public Art Policy

Real Property Acquisition Policy

Corporate Sponsorship and Advertising Policy

Legislative and administrative authorities

Cultural Property Export and Import Act

Income Tax Act, Canada

Ontario Municipal Act Municipal Act, 2001

Definitions

Donation – a voluntary transfer of property.

Donations for Community Benefits – Donations for community benefits encompass projects, cash, assets or activities that provide a public good.

In-kind Donation – A gift of goods or property other than cash such as capital property (including depreciable property) and personal-use property. A donation-in-kind does not include a gift of services.

Facilitate – The act of assisting with the donation process.

Fair Market Value – The amount that could be expected to be realized in an arm's length transaction in the local open market by a willing seller to a willing buyer.

Nominal Value – Certain advantages are of nominal value, and are considered too minimal to affect the value of a gift

Services – Can be professional or commercial services donated to the City.

Solicit – The act of seeking to obtain a donation.

Enquiries

Enquiries regarding donations should be directed to:

Program Manager

Business Support Services

Recreation, Cultural and Facility Services Department

Tel: 613-580-2424, ext. 46203

Appendices

None