



DONATION POLICY

City of Foster City/Estero Municipal Improvement District

1.0 PURPOSE

- 1.01 This policy provides a framework for the solicitation and handling of Donations to the City of Foster City/Estero Municipal Improvement District consistent with City Council/District Board direction, City/District policies and procedures and applicable laws. Since different forms of Donation may present different opportunities and challenges, this policy establishes a framework for soliciting and accepting Donations in a manner that addresses the economic, procedural and legal issues that may be associated with Donations.
- 1.02 This policy does not provide guidance for soliciting and handling sponsorships that provide a reciprocal benefit in the form of structured recognition. Sponsorships are addressed in the separate City of Foster City/Estero Municipal Improvement District Sponsorship Policy.
- 1.03 This policy does not provide guidance for the donation of volunteer services.
- 1.04 This policy does not provide guidance for the receipt and handling of gifts to individual City Councilmembers/District Board members, members of staff or employee groups, which is addressed in a separate policy.

2.0 DEFINITIONS

- 2.01 Donation: A contribution to the City/District that is made without expectation of a reciprocal benefit or structured recognition. Nothing in this policy shall preclude the verbal thanking of donors by name at a gathering or event to which donated funds have been contributed. Donations may be restricted or unrestricted by the Donor. Donations may be solicited or unsolicited.
- 2.02 Donor: An organization or individual who provides the City/District, or one department, program or activity of the City/District, an item, funds or service without expectation of significant benefit or recognition.
- 2.03 Fundraising: Any activity conducted with the intent of generating funds from sources outside of the City/District for the City/District or a particular Department, program or activity of the City/District. Fundraising activities may include, but are not limited to endowment programs, program adoption or pledge drives, and/or contacting individuals, companies, foundations, or other entities with the primary purpose of seeking financial support for the City/District in the form of Donations or Sponsorships.

- 2.04 Fundraising Plans: Written documents approved by the City Council/District Board that specify activities for which Donations or Sponsorships may be sought, the type of Sponsor recognition that may be granted for different types and amounts of Sponsorships and the conditions for acceptance of funds.
- 2.05 In-Kind Contribution: A contribution other than cash or real property, which would serve a useful purpose in the provision of City/District services. Examples of In-Kind Contributions may include equipment, materials, or services.
- 2.06 Investment Security Donations: A contribution of investment securities, including but not limited to stocks, bonds, notes, mutual funds, and money market funds.
- 2.07 Restricted Donation: A Donation made to the City/District where the Donor has provided the Donation for a specified stated purpose.
- 2.08 Unrestricted Donation: A Donation made to the City/District where the Donor has placed no limitation on its use.

3.0 GENERAL PROVISIONS

- 3.01 Donors shall not expect, nor shall the City/District grant, any consideration in relation to City/District procurement, regulatory activities, or any other business, services and operations of the City/District. When possible, Donations should come with a signed statement acknowledging that the donation is being made with no expectation of recognition.
- 3.02 No action shall be taken which actually does or gives the appearance that persons or entities that do not provide Donations are treated less favorably or are at a competitive disadvantage in conducting their business with the City/District than those who do provide Donations.
- 3.03 All Donations must be for a purpose directly related to providing goods or services to the public or for another valid public purpose, and may not be used for personal financial gain of any City/District employee, elected or appointed official.

4.0 DONATION SOLICITATION GUIDELINES

- 4.01 Members of the City Council/District Board and Planning Commission shall not request Donations from the public on behalf of the City/District for the City/District, or any department, program or activity of the City/District.
- 4.02 City/District employees working in an enforcement or regulatory position shall not request Donations from the public on behalf of the City/District for the City/District, or any department, program or activity of the City/District.
- 4.03 Before any Donation is solicited, the intent to request funds shall be detailed in a Fundraising Plan that is approved by the City Council/District Board. Thereafter, solicitation activities shall be conducted under the direct supervision of the Department

Director and the general direction of the City/District Manager.

- 4.04 Any person permitted under this policy to solicit Donations shall maintain the highest standard of ethics in that solicitation. No employee, elected, or appointed official shall engage in Fundraising activities where they or their spouse, registered domestic partner or immediate family members have a conflict of interest, or the appearance of a conflict of interest would arise from their involvement in the activities.
- 4.05 Donations shall not be solicited under the guise, pretense, or presumption of receiving official City/District endorsement of the contributing party, product or activities.
- 4.06 Staff designated to oversee Fundraising activities shall ensure that the terms of any Fundraising Plan are consistent with applicable laws and City/District ordinances, plans and policies. These could include, but are not limited to, Municipal Code Section 12.04.030, Fair Political Practices Commission requirements, and City/District procurement requirements. Staff is encouraged to consult with the City/District Attorney in the preparation of Fundraising Plans and materials if there are any potential conflicts with applicable law.

5.0 ASSESSMENT OF IN-KIND AND RESTRICTED DONATIONS

- 5.01 The net benefit of an In-Kind or Restricted Donation should be considered when determining whether to accept it. Net benefit includes all life cycle costs of ownership, including the administrative costs of obtaining the Donation, maintenance, repair and clean-up costs reasonably likely to be associated with the donated item, compliance with the restriction on the Donation, and any additional potential liability that the City/District may assume by accepting the Donation.
- 5.02 In-kind items contributed to the City/District must be safe and durable, and meet any applicable City/District design or quality specifications, standards, and policies.
- 5.03 The City/District may accept In-Kind Donations with the understanding that such items have a useful life, and that the City/District assumes no responsibility for upkeep or replacement. Once a Donation is accepted, it becomes City/District property and may be maintained, replaced or disposed as the City/District deems appropriate, subject to explicit Donor restrictions stated prior to accepting the Donation.
- 5.04 If a Donation of personal property or of a service does not result in the City/District 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.
- 5.05 Any Department considering acceptance of a Donation shall consult with other Departments that could be affected by acceptance of the Donation. For example, other Departments may incur costs to provide management, support, maintenance, and repair or enforcement activity in relation to a Donation.

6.0 AUTHORITY TO ACCEPT DONATIONS

- 6.01 The City/District Manager is authorized to accept unsolicited Donations not to exceed \$30,000.
- 6.02 The City Council/District Board's approval of a Fundraising Plan will serve as acceptance of solicited Donations not to exceed \$30,000.
- 6.03 The City Council/District Board must accept all Donations, solicited or unsolicited, with a value exceeding \$30,000.
- 6.04 The City Council/District Board must accept any donation by an elected or appointed official or City/District employee (as an individual or on behalf of their business).
- 6.05 Any Donation that, if accepted, would obligate the City/District to enter into a service or procurement agreement shall not be considered a Donation and shall be subject to the City/District procurement process.
- 6.06 The City/District may accept Donations that enhance services or reduce costs that the City/District would incur in the absence of its acceptance, or that otherwise provide a significant enhancement to the City/District.
 - 6.06.01 Donations may offset existing costs, but may not be relied upon within the annual budget to support services or staff that incur on-going costs.
 - 6.06.02 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.
- 6.07 All Donations received by check, cash, wire transfer or electronic payment shall be deposited in the Foster City Foundation Fund. The Donor's intent for use of the funds, if any, shall be established for each Donation and recorded in subaccounts that reflect the intent of the funders (e.g., Foster City Youth and Teen Foundation, GREAT Program, etc.)
- 6.08 Pursuant to Chapter 3.40.020 of the Foster City Municipal Code, real property may be contributed by individuals or organizations to the City/District provided it will not expose the City/District to litigation or liability because of the physical condition of the property or the existence of claims, liens and encumbrances against the property.
- 6.09 The Finance Director or designee shall comply with the IRS regulations for issuance of receipts for tax purposes to Donors that meet or exceed the IRS-defined annual Donation amount. Donations to the City/District less than the IRS-defined annual Donation amount will be acknowledged to the extent possible, but acknowledgement can be waived at the discretion of the City/District Manager or designee.
- 6.10 It will be the responsibility of the respective Department Director to ensure that proper City/District officials are informed of Donations, that Donations are properly

acknowledged and that timely reports are made.

- 6.11 The City Council/District Board shall review the results of the current year's Fundraising on an annual basis. At that time, it shall provide direction as to which City/District programs, activities, or services shall be supported in whole or in part by Donated revenue in the next fiscal year.

7.0 USE OF DONATIONS

- 7.01 Pursuant to Chapter 3.40.040 of the Foster City/District Municipal Code, Donations shall, to the extent possible, be used to carry out the wishes of the Donor, if so stated; however, where this is not possible, the doctrine of Cy Pres (implementation as nearly as possible in conformity with the intention of the Contributor) shall apply.
- 7.02 The City Council/District Board as Trustees of the City/District Foundation shall approve any expenditure of City/District Foundation Funds exceeding \$30,000.
- 7.03 The City Council/District Board as Trustees of the City/District Foundation delegates authority to the City/District Manager to approve any expenditure of City/District Foundation Funds not to exceed \$30,000. The City/District Manager may delegate authority to approve expenditures under \$1,000 related to the administration of the Memorial Bench and Veterans Wall programs.
- 7.04 Once the City/District receives ownership of an Investment Security Donation, the City/District shall handle the security in accordance with its Investment Policy.

8.0 ACCOUNTING AND RECORD KEEPING

- 8.01 City Councilmembers/District Board members and appointed City/District officials are responsible for reporting Fundraising activities as required by applicable laws and regulations.
- 8.02 The City/District shall maintain records that provide an audit trail 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.
- 8.03 The Donors' intent for the use of Donations shall be established for each Donation and recorded in the appropriate subaccount.
- 8.04 All revenue, products, and services received from Donors shall be recorded and maintained for at least the expected life of the item or service, or for a specific time frame that has been established in the City/District Records Management Policy.

- 8.05 Monetary Donations of any amount may be paid for by check payable to the City of Foster City. Donations not to exceed \$30,000 may be paid through Electronic Payment Providers through accounts set up for that purpose. If Electronic Payment options are made available, it shall be indicated, in a way that is evident to potential donors, that a portion of the donation will be retained by the Electronic Payment Provider as its fee. Donations exceeding \$30,000 may be made by check or may be made by wire transfer if the donation is accepted by the City Council/District Board prior to the transfer. Acceptance of cash will only be allowed if approved in advance by the Finance Director.
- 8.06 A record of all Donations including name, type, contact name if a company, amount, and disposition shall be kept up-to-date and accurate by the Finance Department.
- 8.07 Within ninety (90) days after the end of the fiscal year, the Finance Director shall issue to the City Council/District Board an annual report summarizing the financial activity (e.g., Donations received, expenditures made, current balances, etc.) of the Foster City Foundation Fund for that fiscal year. This report may contain a report of In-Kind Donations as well.

RESOLUTION NO. 2022-4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY AMENDING THE DONATION POLICY AND SPONSORSHIP POLICY

CITY OF FOSTER CITY

WHEREAS, the City Council adopted a Fundraising Policy on January 18, 2011 and updated that policy on October 1, 2012; and

WHEREAS, the City Council commissioned a review of its Sponsorship Program and has received recommendations for “best practices” to be included in the Fundraising Policy; and

WHEREAS, one of those recommendations was to bifurcate the Donation Policy from the Sponsorship Policy in order to provide clearer and more nuanced guidance for these very different types of fundraising activities; and

WHEREAS, the City Council rescinded all previously approved Fundraising Policies and adopted a new Donation Policy and Sponsorship Policy on November 16, 2020; and

WHEREAS, Staff now recommends updates to the Donation Policy and Sponsorship Policy as follows:

Donation Policy

- Amend Section 2.01 to read: *Donation: A contribution to the City/District that is made without expectation of a reciprocal benefit or structured recognition. Nothing in this policy shall preclude the verbal thanking of donors by name at a gathering or event to which donated funds have been contributed. Donations may be restricted or unrestricted by the Donor. Donations may be solicited or unsolicited.*
- Amend Section 7.03 to read: *The City Council/District Board as Trustees of the City/District Foundation delegates authority to the City/District Manager to approve any expenditure of City/District Foundation Funds not to exceed \$30,000. The City/District Manager may delegate authority to approve expenditures under \$1,000 related to the administration of the Memorial Bench and Veterans Wall programs*

Sponsorship Policy

- Amend Section 4.03 to read: *Before any Sponsorship Opportunity is offered, the opportunity shall be detailed in a Fundraising Plan that is approved by the City Council/District Board. At that time, the City Council/District Board shall provide direction as to which City/District programs, activities, or services shall be supported in whole or in part by Fundraised revenue. Thereafter, the plan shall be implemented under the direct supervision of the Department Director and the general direction of the City/District Manager.*

City Resolution No. 2022-4

- Addition of Section 5.02: *No individual or organization that owes an outstanding sponsorship balance of any amount to the City of Foster City or Estero Municipal Improvement District shall be approved as a sponsor.*
- Amend Section 11.03 to read: *The City Council/District Board as Trustees of the City/District Foundation delegates authority to the City/District Manager to approve any expenditure of City/District Foundation Funds not to exceed \$30,000. The City/District Manager may delegate authority to approve expenditures under \$1,000 related to the administration of the Memorial Bench and Veterans Wall programs.*
- Amend Section 12.05 to remove reference to Section 5.11
- Eliminate Section 12.06

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Foster City does hereby amend the Donation Policy and Sponsorship Policy.

PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City at the regular meeting held on the 18th day of January, 2022, by the following vote:

AYES: Councilmembers Gehani, Hindi, Sullivan, and Mayor Awasthi

NOES: None

ABSENT: Councilmember Froomin

ABSTAIN: None

DocuSigned by:

Richa Awasthi

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RICHA AWASTHI, MAYOR

ATTEST:

DocuSigned by:

Priscilla Schaus

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PRISCILLA SCHAUS, CITY CLERK

RESOLUTION NO. 3629

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE ESTERO MUNICIPAL IMPROVEMENT DISTRICT AMENDING THE DONATION POLICY AND SPONSORSHIP POLICY

ESTERO MUNICIPAL IMPROVEMENT DISTRICT

WHEREAS, the EMID Board of Directors originally adopted a Fundraising Policy by District Resolution 3123; and

WHEREAS, the EMID Board of Directors commissioned a review of its Sponsorship Program and has received recommendations for “best practices” to be added to the Fundraising Policy; and

WHEREAS, one of those recommendations was to bifurcate the Donation Policy from the Sponsorship Policy in order to provide clearer and more nuanced guidance for these very different types of fundraising activities; and

WHEREAS, the EMID Board of Directors rescinded all previously approved Fundraising Policies and adopted a new Donation Policy and Sponsorship Policy on November 16, 2020; and

WHEREAS, staff now recommends updates to the Donation Policy and Sponsorship Policy as follows:

Donation Policy

- Amend Section 2.01 to read: *Donation: A contribution to the City/District that is made without expectation of a reciprocal benefit or structured recognition. Nothing in this policy shall preclude the verbal thanking of donors by name at a gathering or event to which donated funds have been contributed. Donations may be restricted or unrestricted by the Donor. Donations may be solicited or unsolicited.*
- Amend Section 7.03 to read: *The City Council/District Board as Trustees of the City/District Foundation delegates authority to the City/District Manager to approve any expenditure of City/District Foundation Funds not to exceed \$30,000. The City/District Manager may delegate authority to approve expenditures under \$1,000 related to the administration of the Memorial Bench and Veterans Wall programs.*

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- Amend Section 12.05 to remove reference to Section 5.11
- Eliminate Section 12.06

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Estero Municipal Improvement District does hereby amend the Donation Policy and Sponsorship Policy.

PASSED AND ADOPTED as a resolution of the Board of Directors of the Estero Municipal Improvement District at the regular meeting held on the 18th day of January, 2022, by the following vote:

AYES: Directors Gehani, Hindi, Sullivan, and President Awasthi

NOES: None

ABSENT: Director Froomin

ABSTAIN: None

DocuSigned by:

Richa Awasthi

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RICHA AWASTHI, PRESIDENT

ATTEST:

DocuSigned by:

Priscilla Schaus

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PRISCILLA SCHAUS, DISTRICT SECRETARY