

RESOLUTION 2021-108

APPROVING A COUNCIL POLICY ESTABLISHING RULES AND PROCEDURES FOR
ACCEPTING DONATIONS AND GIFTS FROM THE PUBLIC

WHEREAS, The City of Tracy has been offered gifts and donations from the public;
and

WHEREAS, The City does not have local rules or guidelines regarding the acceptance
of donations and/or gifts from the public, and

WHEREAS, The City wishes to adopt a policy to provide clear guidelines regarding
the acceptance of donations and gifts so as to ensure transparent handling of such offers,
consistent with the City's commitment to treating all individuals and entities with whom it
conducts business fairly and impartially; and

WHEREAS, The City Manager will be responsible for the implementation of the policy.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Tracy
hereby adopts the policy establishing rules and procedures for accepting donations and
gifts from the public as described in the attachment to this resolution.

The foregoing Resolution 2021-108 was adopted by the Tracy City Council on
the 20th day of July, 2021, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, DAVIS, YOUNG
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: BEDOLLA, VARGAS
ABSTAIN: COUNCIL MEMBERS: NONE

ATTEST:

CITY CLERK

MAYOR



CITY OF TRACY
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: : DONATIONS – *Policy & Procedure*
DATE ISSUED: : July 20, 2021
SECTION: : D

SECTION 1: PURPOSE

The purpose of this policy is to establish rules and procedures for the acceptance of gifts and donations (“Donations”) to the City of Tracy (“City”), as authorized by Government Code section 37354. This policy is necessary to ensure that Donations can be accepted, processed and accounted for in a transparent manner and consistent with the City’s commitment to treating all individuals and entities with whom it conducts business fairly and impartially. Implementation of this policy is the responsibility of the City Manager or designee. This Policy is separate and apart from the City’s Ticket Policy and Gift Policy and Procedure (See Section 3).

SECTION 2: OVERVIEW

All Donations received by the City must be reported and reviewed carefully for consistency with the City’s policies, including policies and procedures for accepting cash and other inventory. Only individuals authorized by this Policy may accept Donations on behalf of the City. Before accepting a Donation, the authorized individual must review the Donation and determine that it satisfies all of the following requirements:

1. The Donation must be consistent with the City’s policies, including any applicable ordinances or resolutions.
2. The Donation must not conflict with any provision of the state or federal law. Any questions regarding whether a Donation conflicts with state or federal law should be directed to the City Attorney’s Office.
3. The Donation will not add to the City’s workload unless it provides a net benefit to the City.
4. The Donation will not impose future/new costs such as starting an on-going program or additional staff responsibilities.
5. Any restrictions placed on the Donation by the donor are consistent with City’s goals and policies. Donor restrictions may not include any requirement that any specific individual employee benefit from the Donation.

6. The City will not accept Donations of any weapons, hazardous materials or dangerous items (excluding programs where the City accepts such items for the purpose of disposal).
7. Donations of tobacco, cannabis, or alcohol products of any kind are prohibited. Donations may not be accepted from any individual or entity that has an application for any discretionary approval pending with the City. Additionally, donations may not be accepted from any individual or entity that could benefit in any way from a pending and/or upcoming Council policy decision.
8. Donations of marketing goods (e.g. hats, t-shirts, etc.) may not be accepted from vendors, consultants or service providers unless they are made available to the overall general staff of the City or given department.

SECTION 3: APPLICABILITY OF THIS POLICY

This policy shall apply to any Donation offered or given to the City, including Donations from community groups that support various City operations or events. This policy does not apply to any gift or sponsorship of a City event or program that is made in exchange for any type of public acknowledgement or recognition, except for acknowledgment as provided for herein. This policy also does not apply to any gift, donation or financial or in-kind contribution made in accordance with an agreement (e.g. MOU, development agreement, community benefit agreement, etc.) with the City. Additionally, this policy does not apply to tickets or passes given to the City and distributed in accordance with the City’s Ticket and Pass policy adopted by Resolution No. 2018-041 (Appendix A). Finally, this policy does not apply to gifts made to individual employees or officials of the City, which are governed by the City’s Gift Policy and Procedure (Appendix B), as may be amended from time to time, as well as the Political Reform Act and regulations of the Fair Political Practices Commission (“FPPC”). Donations made to officials directly or for which the donor designates by name, class, or other title the official who may use the Donation are not Donations to the City, but rather individual gifts that may be required to be reported on FPPC Form 700.

SECTION 4: PROCEDURES FOR ACCEPTING AND
ACKNOWLEDGING DONATIONS

A. Authorized Individuals

Only the individuals identified herein are authorized to accept Donations on behalf of the City. The estimated value of a Donation is based on the donor's estimate. The City will not independently assign a value to the donation unless it is cash.

1. City Council
 - a. Donations of \$5,000 or more may be accepted, via resolution, by the City Council.
 - b. Any donation that does not comply with the requirements of this Policy, regardless of value, may only be accepted by the City Council.

2. City Manager
 - a. Donations of between \$1,000 - \$4,999 may be accepted by the City Manager.
 - b. Notwithstanding any other limitation contained in this Policy, the City Manager may accept any Donation to the City when the City Manager deems it necessary for the health and safety of City employees, City property, or the public.
 - c. The City Manager, at their sole discretion, may decline a Donation when doing so is deemed necessary for the health and safety of City employees, City property, or the public.
 - d. The City Manager shall notify the City Council of a Donation at the next practicable City Council meeting or in writing as soon as possible.

3. Department Head
 - a. Donations of less than \$1,000 may be accepted by a Department Head
 - b. The Department Head shall notify the City Manager of a Donation as soon as possible, but in no event later than one (1) business day after receipt.
 - c. Any Donation that includes an ongoing obligation by the City, regardless of the value of the donation, must be approved by the City Manager.

B. Cash Donations

The following additional requirements apply to cash Donations, or the Donation of any cash equivalent:

1. The Donation shall be recorded in the appropriate revenue fund. The daily cash receipts should also indicate the account number used and the last name of the donor as a reference. All such funds shall remain earmarked within that specific fund for use only for the intended purpose and carried over within the budget until such time as it is expended. The Finance Director or designee may take any other necessary steps to properly document the donation.
2. For small Donations that include restrictions and/or obligations accepted by the City, the money should be used as soon as reasonably possible toward the specific category indicated by the donor.
3. A budget amendment is required for budget appropriation of any portion of Donation funds.

C. Acknowledgment of Donations

If requested by the donor, an acknowledgment letter on behalf of the City for any gift valued less than \$1,000 may be provided by a Department Head, and by the City Manager for any gift valued \$1,000 or more. The letter should clearly identify the nature of the Donation. Except for Donations of cash

or cash equivalents, where the donor amount is apparent, no dollar amount should be stated in the letter. Instead, the letter should contain the following paragraph: “Your donations may be tax deductible. To determine the amount you may properly deduct for tax purposes, you should consult your tax preparer or tax attorney.” The City will not provide any tax services or documentation to donors.

D. Records

A record of cash Donations shall be made in accordance with Section B above and any other applicable policies of the Finance Department. A record of any non-cash donation valued by the donor at over five hundred dollars (\$1,000) shall be created by the City Manager, or designee, and kept on file with the City Clerk. In addition, the City Manager, or designee, shall complete and submit to the FPPC a Form 801 for qualifying Donations when required by FPPC Regulations Sections 18944 and 18950.1. Examples of such qualifying Donations include the payment of travel expenses by third parties for official City business. Consult the City Attorney’s Office to determine whether or not a Form 801 is required.

E. Declined Donations

The City reserves the right to decline any donation, if upon review and in the sole discretion of the City, acceptance of the donation is determined not to be in the best interests of the City.