

CITY OF SANIBEL
DRAFT RESOLUTION 24-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA, ESTABLISHING A POLICY FOR THE ACCEPTANCE AND ADMINISTRATION OF DONATIONS FOR PUBLIC PROGRAMS, PROJECTS, OR PURPOSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Sanibel recognizes the benefit of donations from individuals, community groups, and businesses to fund new and existing facilities, services, projects, programs, and activities for the benefit of the City and its residents; and

WHEREAS, there is a need to establish revenue streams and resources that will increase the City’s ability to deliver enhanced services and amenities beyond the core levels funded by the general fund; and

WHEREAS, it is an acceptable and appropriate practice to accept donations to enhance City programs, services, and facilities to maintain a high level of service to the public; and

WHEREAS, it is desirable to establish procedures for the acceptance and administration of donations for public programs, projects, or purposes; and

WHEREAS, the Parks and Recreation Advisory Committee has reviewed the Donation Policy and recommended approval by a vote of __ to __;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA:

SECTION 1. The City Council hereby accepts the Donation Policy for acceptance and administration of donations for public programs, projects, or purposes, attached hereto as Exhibit A.

SECTION 2. This resolution shall take effect immediately upon adoption.

PASSED IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF SANIBEL, FLORIDA THIS __ DAY OF _____ 2024.

Attest:

Scotty Lynn Kelly, City Clerk

Richard Johnson, Mayor

Approved as to form and legality:

John D. Agnew, City Attorney

Date filed with City Clerk: _____

Vote of Council Members:

Smith _____
Johnson _____
DeBruce _____
Henshaw _____
Miller _____

EXHIBIT A

DONATION POLICY

BACKGROUND

Donations are offered to the City of Sanibel (City) for general or specific purposes. This policy establishes consistent criteria and procedures to guide the review, acceptance, placement, and long-term maintenance of such donations, confirm that the City has relevant and adequate resources to administer such donations, and ensure that the City appropriately acknowledges the generosity of the donor.

PURPOSE

To provide guidelines for accepting gifts and donations in a responsible, transparent, and accountable manner that is consistent with the City's Vision Plan and strategic goals. Guidelines will offer sustainable management of site-appropriate facilities and amenities, so as not to detract from the visual esthetics of the surrounding natural environment or place an undue burden on the City.

SPECIFIC OBJECTIVES

1. To establish and guide relationships with donors who share the City's commitment to provide a high-quality civic environment.
2. To enrich the City by responsibly and efficiently managing donations.
3. To generate revenue to fund new and existing facilities, projects, programs, and activities for the benefit of the City and its residents.
4. To work with individuals, sponsors, businesses, and non-profit organizations whose missions support the City's vision and strategic goals.

DEFINITIONS

City Manager means the chief executive officer and head of the administrative branch of the City government for which a donation is designated or intended, or designee.

Donation or Gift means a monetary (cash) contribution, amenities, endowments, personal property, real property, equipment, in-kind goods or services, or any other asset that the City wishes to accept and for which the donor has not received any property, goods, or services in return. For purposes of this Council Policy, the terms "donation" and "gift" shall be synonymous.

Donor means a person or other legal entity that proposes or provides a donation to the City.

Restricted Donation means donations designated at *donor's* request for a specific location or purpose.

Unrestricted Donation means a donation to the City without any limitations being placed upon its use.

Fundraising means any activity conducted with the intent of soliciting donations, sponsorships, or other financial contributions to the City, or to a particular Department or activity of the City. Fundraising activities may include, but are not limited to, City grant proposals, City responses to Request for Proposals issued by other agencies, foundations or funding agencies, endowment programs, and contacting individuals, companies, foundations, or other entities with the primary purpose of receiving financial support for the City.

Sponsorship means provision by a person or entity of financial support for an activity, City program, or City facility, typically to encourage the City to provide more than nominal recognition of financial support, which distinguishes a *sponsorship* from a *donation*. Financial assistance provided by a *Sponsor* may consist of cash or in-kind contributions or both.

In-Kind Contribution means a contribution of an item, object, or service other than cash or real property, which would serve a useful purpose in the provision of City services.

Amenity means an improvement located on City property which is less than the entire portion of a City property, such as a trail located along City property, or an interior room or rooms in a building. A fully enclosed structure such as a City building with walls and roof (examples being a community center, stand-alone gym, warehouse, or stand-alone building housing a restroom) is more substantial than an *Amenity*, and City Council approval is required before granting naming rights. An *Amenity* may include any of the following if located on City property: grounds that constitute only a portion of a larger parcel of City property, gazebos, archways, paths, athletic facilities that are not fully enclosed structures, playing fields, portions of aquatic facilities that are not enclosed structures or City buildings, picnic areas, tot lots, play structures, benches, trees, hard courts, and similar structures or elements.

GENERAL

1. *Donations* become the property of the City upon formal acceptance.
2. The *City Manager* or designee is authorized to accept donations on behalf of the City, except that if the donation is real property or an interest in real property City Council must approve and accept the donation. The *City Manager* is authorized to approve *sponsorship*, *donation* and/or *fundraising* programs and to issue requests for proposals to engage in similar *donation* or *sponsorship solicitation activity*.
3. The City has no obligation to accept any *donation* or *sponsorship* proposed by a *donor*. Unaccepted *donations* made will be returned to the *donor*.
4. The City will comply with all applicable laws and regulations of the Internal Revenue Service regarding the acceptance of *donations*. The City does not provide legal, accounting, tax, or other such advice to *donors*. Each *donor* is encouraged to meet with a professional advisor and is ultimately responsible for ensuring the *donor's* proposed donation meets and furthers the *donor's* charitable, financial, and estate planning goals before making any *donation* to the City. The City cannot guarantee the tax deductibility of a *donation* but may provide the donating party with a letter of acknowledgement and a statement of the City's intended use.
5. The donation must be used for official City business and not for political activities or other personal business.
6. The City must determine whether an expenditure of City funds, either a direct outlay of City funds or the use of City personnel and materials, is associated with or required by the acceptance of the *donation* prior to the acceptance.
7. The City encourages the acceptance of *donations* or *sponsorships* if the *donation* provides a significant enhancement to the City, enhances or reduces costs the City would incur in the absence of its acceptance, or if it otherwise benefits the City in a manner that provides a net savings to the City.

POLICY

Types of Donations

Donations may be received in the form of cash, or real or personal property. Donations may be *Restricted* or *Unrestricted*. *Unrestricted donations* are preferable to *restricted donations*.

1. Donations of Real Property

- a. The *City Manager* or designee shall evaluate the donation to determine that the donation is in the City's best interest based on land use requirements, park design, public concern, maintenance, and recreational issues, and acceptance is consistent with applicable City laws, policies, ordinances, and resolutions.
- b. The *City Manager* or designee will identify:
 - i. The appraised value of the *donation*, and when applicable, may have an appraisal made by licensed appraiser, and may have a title search conducted.
 - ii. Any expenditures or maintenance obligations associate with the *donation*.
 - iii. Potential liabilities associated with the *donation*, such as hazardous conditions or environmental concerns.
 - iv. Whether the *donation* has any special restrictions, if those restrictions are acceptable to the City, and any recommendations for conditions of acceptance.
 - v. Whether the *donation* has any special restrictions, if those restrictions are acceptable to the City, and any recommendations for conditions of acceptance. Normally, the City will not accept a *donation* of real property with such conditions.
- c. The *City Manager* or designee is responsible for administration of the *donation* of real property.

2. Donations of Cash, Intangible Property and Goods

- a. The *City Manager* or designee will evaluate whether the donation:
 - i. Is in the City's best interest and is consistent with applicable City laws, policies, ordinances, and resolutions.
 - ii. Has any special restrictions and if the restrictions are acceptable to the City
 - iii. Requires the City to make an initial expenditure which has not been included in the approved City budget.
 - iv. Creates a new, one-time or on-going maintenance obligation.
- b. The *City Manager* shall have authorization to accept, appropriate, expend, or refund a donation accepted by the City. The *City Manager* shall seek formal authorization from the City Council to accept, appropriate, expend, or refund a donation accepted by the City if the action exceeds the *City Manager's* expenditure authority.
- c. The *City Manager* shall give notice of the City Council's decision to the *donor* following the City Council's determination to accept or reject a *donation*.

3. Donations and Sponsorship Uses

- a. *Donations* or *sponsorships* may be used for public purposes, including without limitation the following:
 - i. Property – Real and Personal
 - ii. Facilities (Initial Construction, Renovation, or Expansion)
 - iii. Site Amenities – Examples include but are not limited to benches, lights, water fountains, playgrounds, landscaping, pavilions, specialty facilities, or any other similar public park, recreational or facility elements.
 - iv. Programs – Examples include but are not limited to instructional classes, after school programs, camps, fitness, athletics, education programs, special events, or any other similar programs. Expenditure of donations for programs will follow established City Financial Policies.

ACCOUNTING

Through the direction of the *City Manager*, the City Finance Department is responsible for providing for the deposit and financial administration of any *donation* to the City. The Finance Department will track the proposed use of any such *donation* and will maintain separate records of accounts showing receipts

and disbursements. The City Manager may establish further rules and regulations for the accounting and administration of donations.

LIMITS OF DONATIONS

1. A *donation* to the City does not obligate the City to seek permission from a *donor* to amend, alter, modify, or change the appearance, continuance, discontinuance, or operation of projects, programs, properties, facilities, or operations.
2. A *donation* to the City will not obligate the City to honor a perpetual or lifetime naming right or similar consideration to a *donor*. The City does not guarantee permanency of any *donation*, *sponsorship*, *amenity*, or gift.
3. A *donation* to the City occurs with the understanding that items or facilities have a useful life. Once a *donation* or *amenity* is accepted, it becomes City property and the City may decide to maintain, replace, or dispose of the item unless the *donation* is explicitly accepted by the City subject to mutually acceptable restrictions.

DONOR RECOGNITION

1. The *City Manager* will recognize donations by a letter of appreciation to a *donor* confirming the date, amount, and purpose of the *donation*.
2. Consideration for a naming opportunity will follow the Naming Rights Policy adopted by City Council.

STANDARDS FOR NEW DONATIONS

1. Purchase and Installation
 - a. The City will be responsible for the purchase and installation of all elements or amenities acquired through *donations*.
2. Appearance and Quality
 - a. The City has an interest in ensuring the best appearance and quality of public properties and facilities. The appearance should reflect the unique character of the City. The design and installation of any element will be completed in such a manner that will not substantially change the character of a property, facility, or the intended use.
 - b. Donated elements must be of high quality to ensure a long life and be resistant to the elements, wear and tear, and acts of vandalism.
3. Maintenance
 - a. Upon acceptance of a *donation*, the donated element becomes City property. Accordingly, the City will maintain the element until removal, relocation, or elimination is desired or necessary.
4. Repair
 - a. The City has an interest in ensuring that all donated elements remain in good repair. In addition, the public has an interest in ensuring that the short- and long-term repair costs are reasonable.
5. Cost
 - a. The City has an interest in ensuring that the *donor* covers the full cost for purchase and installation. The City also has an interest in ensuring that on-going maintenance costs do not negatively impact the resources available for maintenance of other City facilities. The City may assess at the time of *donation* a charge sufficient to cover anticipated on-going maintenance of donated elements life expectancy.

RETURN OF DONATIONS

1. The City is not required to return *donations*. If the terms of a *donation* specifically include a provision for return of a *donation*, the City may, but is not required to, return the *donation* or a portion thereof.
2. The City may offer to return a *donation*, and if accepted, will return it.
3. *Donors* should consult with their own tax advisors as to the taxability of donations in general and those made and subject to return specifically.

DISCLAIMERS

1. Different forms of contributions to the City present different opportunities and challenges. Therefore, it is not possible to establish blanket guidelines to cover all types of *donation* or *sponsorship* activity that the City may decide to pursue.
2. The making of a *donation* or *sponsorship* to the City will not provide any extra consideration to the *donating* or *sponsoring* party in relation to any City procurement, any regulatory activities of the City, or other City business. No City employee or other City Official is authorized to offer any such extra consideration to a donating party.
3. The City will maintain ethics in *fundraising* activities. All *donations* or *sponsorships* must directly enhance the City's ability to provide goods or services to the public, or for another valid public purpose, and may not be used for personal financial gain of any City employee.