



## STAFF REPORT ACTION REQUIRED

### Delegation of Authority to Receive and Spend Donations to the City for Community Benefits

<b>Date:</b>	April 18, 2008
<b>To:</b>	Executive Committee
<b>From:</b>	Sue Corke, Deputy City Manager Joseph P. Pennachetti, Deputy City Manager and Chief Financial Officer
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2008\Internal Services\treasurer\ec08002treas (AFS# 7086)

#### SUMMARY

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The purpose of this report is to seek delegated authority for Division Heads to receive and spend donations, both cash and in-kind, offered under the current "Policy on Donations to the City for Community Benefits". The proposed modifications to the existing policy will enable divisions to improve their responsiveness to prospective donors without foregoing the need for proper financial controls and disclosure.

#### RECOMMENDATIONS

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**The Deputy City Manager and the Deputy City Manager and Chief Financial Officer recommend that:**

1. City Council adopt the amended "Policy on Donations to the City for Community Benefits" as set out in Appendix 1.
2. Authority be delegated to Division Heads to receive donations and make expenditures of donated funds in accordance with Appendix 1, and Chapter 71, Financial Control, of the City of Toronto's Municipal Code be amended accordingly.
3. Authority be granted for the introduction of the necessary bills to give effect hereto.

## **Implementation Points**

The Toronto Office of Partnerships (TOP) will be responsible for this policy. TOP will develop the framework for implementing the revised policy that will include training, procedures and supporting documentation for the Divisions and Accounting Services will assist TOP to ensure management controls are corporately adhered to per policy. The revised Policy will be reviewed within two years of the effective date of the revised Policy's execution.

## **Financial Impact**

There are no financial impacts to current or future year budgets that arise from the recommendations in this report.

## **DECISION HISTORY**

At its meeting on September 25, 26, 27 and 28, 2006 City Council adopted the "Policy on Donations to the City for Community Benefits" (Clause 3, Report 7). This is a City-wide policy that identifies suitable circumstances for requesting or accepting donations, proper types of donations, and applicable approval requirements.

The Policy is attached (Appendix 1) and is available at <http://www.toronto.ca/legdocs/2006/agendas/council/cc060925/pof7rpt/c1003.pdf>

Upon considering a report on donations to be accepted by the Parks, Forestry and Recreation Division, the November 26, 2007 Executive Committee requested the City Manager to submit a report to the Executive Committee meeting on a protocol to expedite the receipt and disbursement of donations for designated budgeted expenditures. At its meeting on December 11, 12 and 13, 2007, City Council adopted Item EX15.5 as amended.

## **ISSUE BACKGROUND**

In 2006, the City Treasurer created an informal group of senior staff from various Divisions to consider various ways that third parties or "partners" could assist the City in providing infrastructure. This group, known as the Partnership Reference Group, also assisted Deputy City Manager Sue Corke with the establishment of the Toronto Office of Partnerships (TOP) in July 2007. Since that time, the Partnership Reference Group has been providing advice to the Director of TOP. One of the issues identified by the group was the Policy on Donations to the City for Community Benefits that was approved in September 2006.

Although the Policy is intended to be an over-arching policy that encompasses all aspects of donation solicitation, acceptance and management, the current policy requires Council approval to receive a donation regardless of amount unless the donation is made as a result of a specific donation campaign approved by Council. Council approval is also required to spend donated funds, regardless of amount, unless a specific program to spend donated funds was approved in the budget.

The current rules have two unintended impacts:

1. there can be a considerable delay between when a donor offers funds to the City and when the City can accept them. As a result:
2. the City appears to be making it too difficult for donors to help which may result in lost donation opportunities.

Various programs have requested delegated authority from Council to accept and spend donations from third parties up to a reasonable monetary threshold. This report seeks this authority and seeks other adjustments to the policy to establish a comprehensive set of criteria for the evaluation of donations prior to acceptance and a process for the formal acceptance, management, disposition and reporting of donations.

## **COMMENTS**

Throughout the year, Divisions receive various unsolicited offers of monetary and in-kind donations. Each offer is evaluated by staff for potential application and benefit to the City. Those deemed beneficial are recommended for consideration and subsequent Council approval.

Because the timing of donations vary, the City's current approval process is time consuming, requiring a separate action for each donated item. To streamline the process, and to promote operational efficiency, it is proposed that Division Heads or their designate be delegated the authority to accept and spend eligible donations throughout the fiscal year with the following provisions:

- the donation is to be applied against existing programs, services and activities or to projects that are within the Division's ongoing service mandate
- the donation has a current value that does not exceed \$50,000
- the donation does not impact the current or commit future net operating or capital budgets of the division or other City programs beyond that which is planned for
- the donation is not in the form of real property
- the donation does not involve a proposal to name

## **\$50,000 Threshold for Delegated Authority**

Staff are recommending that Division Heads be given the delegated authority to receive and spend individual eligible donations in the amount of \$50,000 or less. This threshold has been included in Section 3.9 of the revised Policy attached as Appendix 1. The decision to adopt this threshold has been informed, in part, by the following factors:

- In April 2007, Toronto Public Health was delegated the authority to accept and spend grants and donations "from individuals, bequests, and organizations in the amount of \$50,000 or less" without having to secure prior approval from Council.
- TOP has conducted a "partnership inventory" that indicates that, with respect to large donations (i.e. those over \$5,000), the average value of each donation/grant received by the City's divisions is approximately \$28,000 per annum. While this

figure comprises a number of sizeable individual donations and grants whose amounts well surpass \$50,000, relatively few of these substantial donations/grants are unforeseen. In fact, in virtually all circumstances, such donations are either solicited and/or comprise part of a multi-year grant agreement. Accordingly, a \$50,000 ceiling for the receipt of donations is sufficient to capture the vast majority of unanticipated donations that flow to the City.

The \$50,000 maximum applies solely to individual, unplanned and unsolicited (i.e. passive) donations. Donation's (regardless of amount) that are solicited as part of an active fundraising campaign or that are reasonably predictable require Council approval either through a specific report (e.g. authorizing the campaign) or through the City's budget process (e.g. forecasting the receipt and use of a donation revenue stream) to receive and spend.

### **Eligible Donations**

Contributions, grants, gifts, bequests or other such donations of a voluntary nature augment the City's ability to fulfill its public service mandate. Donations also help to give citizens an opportunity to contribute to City priorities and, as a result, share in the City-building process. Donations are therefore encouraged and welcomed by all City programs.

The existing Donation Policy is geared toward "ethical donations" in that it mainly deals with ensuring that donations do not interfere with the City's independence in decision making particularly around planning and procurement. With the addition of delegated staff authority to receive and spend donations, additional criteria is required to provide direction to Division Heads concerning what constitutes an eligible donation for purposes of acceptance.

As highlighted in Appendix 1, Section 3 of the Policy has been changed by adding factors that must be considered prior to the receipt of any donation. In summary, these new criteria will ensure that donations:

- are free from conflicts of interest for both the donor and for staff
- are from reputable sources
- do not commit or expose the City to unplanned/unbudgeted future expenditures, risks or obligations that cannot be absorbed
- donation is not in the form of real property and does not involve a proposal to name
- are used for purposes consistent with the City's approved programs, services and activities
- are not associated with commercial product or service endorsements

### **Spending Authority**

In addition to delegated authority to receive donations, staff are also seeking greater delegated authority to spend donations. Under the current policy, Divisions are

constrained from accepting and spending donations unless Council has approved the spending of these funds as part of the program's budget (where donations are a regular part of the program's revenues) or until Council approves an adjustment to the program's budget (often as a result of a specific ad hoc donation).

It can typically take up to three months to obtain approval to receive and spend donations that were unplanned and unsolicited. This poses problems for donations that are offered near the end of the donor's fiscal year and to those donors that are anxious to see their funding used. The City may be losing donation opportunities as a result.

Staff are recommending that Division Heads be authorized to spend unplanned and unsolicited donations of an amount of \$50,000 or less provided that:

- The spending is consistent with the Divisions programs, services and activities
- The spending does not commit the City to future expenditures that have not been planned for (e.g. capital maintenance, program service expansions)
- Total annual unplanned donations from the same source for the same purpose does not exceed \$50,000. This requirement will protect against the splitting of donations that may occur in an effort to circumvent the \$50,000 limit.
- The total of unplanned donations is reported in the Division's next variance report. A new schedule of unplanned donations is to be incorporated into the variance report as an additional appendix in which Divisions will be responsible for recording all passive donations received in the quarter and how the funds have, or will be, spent.

In those circumstances where a donation is solicited as part of a Council approved fundraising campaign for a specific purpose or where donations can be reasonably anticipated and are budgeted for as part of the Division's budget, no further Council approval is required to spend these funds. For clarity purposes, a donation campaign does not include information on how to make a donation that may be included on a Division's website or the Division's general information printed material.

Passive donations in excess of \$50,000 will continue to require Council approval before they are received and spent. Divisions will also need Council approval to carry over unspent operating budget donations from one fiscal year to the next.

### **Centralized Tracking and Reporting**

The tracking and reporting requirements have been set in Section 4 of the revised policy.

As part of its mandate, TOP is to maintain central records of all the City's "partnerships", including donations. In order to ascertain and analyze the variety of donations that flow to the City, it is recommended that donations which are accepted directly by Divisions, including responses to solicitation campaigns, be reported quarterly to TOP. It will be the responsibility of TOP to create an annual report to City Council summarizing the nature and value of all donations received by each Division.

This will not only improve the transparency of the donations process, but will also provide an opportunity to publicly recognize the generosity of our community partners in supporting City projects and programs. Most individuals and organizations making donations to the City have a “cause” in mind and would expect that their contribution will be used for a City service or project. Donors are not going to make voluntary financial contributions to the City to offset or reduce basic service funding mechanisms like property taxes. Therefore, donors should be provided information on how their funds were deployed by the City.

As per the City’s budgeting guidelines, all known or predictable third party funding, whether actively solicited or not, is to be incorporated into the budget submissions of each respective program. The annual reporting out of donations provides an opportunity for Division Heads to thoroughly review and identify in their budget submissions all probable sources of outside revenue including donations. By doing so, once the annual fiscal plan is approved, each budgeted donation or grant, regardless of its value and whether solicited or not, can be both received and spent by the relevant division without the need for further authorization from Council. If the amount of donations actually received is higher than expected, a budget adjustment can be recommended to Council through the budget variance reporting process.

Although not specifically mentioned in the revised policy, the spending of donations is subject to the Purchasing By-law and its exemptions as is all City spending.

The italicized portions of the revised policy represent the new additions to the policy. Some sections of the existing policy have been re-ordered.

## **CONTACT**

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## **SIGNATURE**

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Sue Corke  
Deputy City Manager

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Deputy City Manager and  
Chief Financial Officer

## **ATTACHMENTS**

Appendix 1 – Policy on Donations for Community Benefits

## Appendix 1 – Policy on Donations to the City for Community Benefits

### OBJECTIVE AND PURPOSE

City building is a collective and ongoing endeavour. Seeking or obtaining voluntary donations for community benefits provides valuable contributions to city building. Partnership opportunities for donations for community benefits should respect relevant legislative and policy provisions and occur within an ethical framework that preserves the integrity of municipal decision making processes.

The purpose of this policy is to:

- i. establish guidelines that ensure donations occur at arm's length from any City decision-making process;
- ii. *provide criteria and process for the acceptance of donations, and*
- iii. *confer upon Division Heads the delegated authority to accept and spend donations, within the parameters contained herein.*

### SCOPE

The policy on voluntary donations to the City for community benefits includes donations made to the City and its agencies, boards and commissions, and donations requested or encouraged by Councillors or staff which are directed to other organizations or community agencies.

### POLICY

#### (1) Donations in Relation to City Decision Making Processes:

##### *General:*

1.1 Conditions, contributions and community benefits may only be requested from an applicant seeking an approval, permit or license from the City or its agencies, boards or commissions if such requests are permitted or required by that decision making process.

1.2 In the case of an applicant seeking an approval, permit or license from the City or its agencies, boards or commissions, beyond matters permitted or required as part of the decision making process, voluntary donations from the applicant or their representative may only be requested or accepted at arms length from the decision making process:

1.2.1 applicants seeking an approval, permit or licence shall not concurrently offer or make voluntary donations to the City or an agency, board or commission for community benefits;

1.2.2 voluntary donations for community benefits shall not be solicited or accepted, for any purpose or community beneficiary, from applicants with a concurrent application for an approval, permit or license.

1.3 Where a voluntary donation is solicited or offered, there is an obligation on the parties to confirm that there is no concurrent application or proposal for an approval, permit or license. Donors are required to make a written declaration that a donation to the City or an agency, board or commission for community benefits is not concurrent with an approval or procurement process in which they, or their organization or company if applicable, are involved.

*Planning Approvals:*

1.4 Voluntary donations for community benefits that fall outside the scope of a planning approval may not be solicited and offers may not be accepted from an applicant or their representative concurrent to a planning approval or from a party proposing to make a planning application.

1.5 There is a blackout period in planning approval processes during which discussions about voluntary donations for community benefits are not permitted and voluntary donations may not be offered, solicited or accepted. For Councillors and staff, the blackout period commences when they receive information, formally or informally, that an individual, organization or company has an interest or intent in submitting an application for planning approval. For specific types of planning applications, the end of the blackout period is as follows:

1.5.1 for official plan amendments, zoning by-law amendments and combined applications is the date of expiry of the appeal period after Council makes its decision on the by-law(s) and there is no appeal; or, if appealed, is the date the Ontario Municipal Board makes its decision;

1.5.2 for plans of subdivision and condominium is the date of expiry of the appeal period after the City makes its decision on draft plan approval and there is no appeal; or, if appealed, is the date the Ontario Municipal Board makes its decision;

1.5.3 for site plan control is the date the site plan agreement is executed; or, if appealed, is the date the Ontario Municipal Board makes its decision;

1.5.4 for part lot control exemption by-laws is the date Council adopts or refuses to adopt the by-law;

1.5.5 for minor variance and consent to sever is the date of expiry of the appeal period after the Committee of Adjustment makes its decision and there is no appeal; or, if appealed, is the date the appeal body makes its decision.



*Procurement Decisions:*

1.6 Voluntary donations for community benefits may not be solicited and offers may not be made by or accepted from a bidder, proponent or applicant to a procurement, or their representative, concurrent to the procurement solicitation and award process.

1.7 There is a blackout period in procurement decision making processes during which discussions about voluntary donations for community benefits are not permitted and voluntary donations may not be offered, solicited or accepted. The blackout period for procurements commences when the request or call for a bid, quote, proposal, etc. is formally issued, and it ends at the time the procurement is awarded.

*1.8 The City shall not accept donations that are conditional upon the endorsement of any product, service or supplier.*

*1.9 Current and prospective suppliers to the City that decline solicitations for donations shall not be penalized in procurement decisions of the City.*

*Other:*

*1.10 No advantage is to accrue to the donor or to any person not dealing at arm's length to the donor as a result of the donation.*

*1.11 Donations cannot confer a personal benefit to any City employee or City Official.*

*1.12 Donations that violate City By-laws or City policies, or the laws, conventions and treaties of the other orders of government will not be accepted by the City.*

(2) Donations of Real Property:

2.1 Donations of real property to the City or its agencies, boards and commissions may only be accepted with the prior approval of Council, which is to include approval of the budget for any future or ongoing obligations arising from the donation.

2.2 Where appropriate, approval of a donation of real property is to include the use and disposition of the real property including the net proceeds arising from a property transaction.

2.3 Donations of real property to the City or its agencies, boards and commissions, whether designated for specific purposes or not, will be held in the name of the City.

2.4 Donations of real property designated for specific purposes are exempt from the City's property management process.

*(3) Accepting Donations*

*3.1 The City may elect to accept or decline any donation. If the gift is not accepted, the donor shall be advised of the reason.*

*Eligible Uses*

*3.2 Eligible donations are those that support approved programs and services, durable assets; capital facilities or projects; asset improvement, restoration or capital maintenance; or cash for such purposes.*

*3.3 Donations must be for purposes consistent with the receiving Division's mandate, programs, services and activities and must be deemed to be in the public interest of the City.*

*3.4 Donations are only to be accepted if the receiving Division has the capacity to meet the initial and ongoing costs and obligations associated with the gift.*

*3.5 Donors who wish to make donations that support special purposes to be provided by an organization independent of the City should be directed, where possible, to the intended organization.*

*Ineligible Donors*

*3.6 The City may decline donations from any donor who in the opinion of the Council, or of a Division Head under delegated authority, represents a reputational risk to the City through involvement in activities that are contrary to the values of the City. Examples of ineligible donors include but are not limited to:*

- arms manufacturers;*
- proven or suspected criminal organizations; and*
- organizations that promote hatred against individuals or groups.*

*3.7 The City may not accept donations from individuals or organizations currently in litigation against the City.*

*Authority to Accept and Spend*

*3.8 Subject to Section 3.9, donations of cash designated for specific purposes will only be accepted by the City where Council has authorized the specific purpose or a fundraising campaign (whether conducted by staff or third parties), and where*

the necessary capital or revenue account has been established or a reserve created and the necessary by-law enacted.

*Instructional information on how to make a donation that is provided by a Division in its website or in its printed general information brochures is not considered to be a fundraising campaign.*

*3.9 Despite section 3.8, a Division Head has delegated authority to accept and spend unsolicited donations where:*

- a) the donation has a current value that does not exceed \$50,000 and cumulative donations from the same donor for the same purpose does not exceed \$50,000 in a fiscal year;*
- b) the donation is not in the form of real property;*
- c) the donation does not involve a proposal to name; and*
- d) the donation is in compliance with this policy.*

3.10 Where donations are being accumulated for a major project or fundraising campaign, the funds will be held in an appropriate account or reserve until sufficient funds for the proposed project have been obtained. Funds from donations may not be released and the proposed project may not commence until sufficient funds to complete the project have been secured, and spending authority has been obtained. Where appropriate, sunset provisions should be identified at the outset for major projects and fundraising initiatives to provide guidance in the event funding targets are not attained.

*3.11 Unsolicited donations that remain unspent at the end of the year may be carried over to the following budget year only upon Council approval (the request would be made through the fourth quarter preliminary budget variance report prior to the approval of the following year's budget).*

#### *(4) Managing and Reporting Donations*

*4.1 Offers or proposals for donations are to be referred to the appropriate Division either directly or via the Toronto Office of Partnerships.*

*4.2 In an effort to cultivate an ongoing relationship with donors, the receiving Division is to:*

- i. treat individual donors' names and amounts given, and any other private or personal information, with respect and, except where the donor authorizes release of such information, with confidentiality to the extent provided by the law;*
- ii. reasonably limit the frequency of solicitations; and*
- iii. respond promptly to a donor's question or complaint.*

### *Acknowledgements, Forms and Receipts*

*4.3 The City is committed to the highest standards of donor stewardship and accountability. This includes appropriate acknowledgement and recognition for donations. Accordingly, for donations valued at \$100 or more, a formal letter of acknowledgement and gratitude will be sent to the donor by the Division.*

*4.4 The Donation Declaration Form must be signed by the donor and submitted prior to the acceptance of any gift with a value at or above \$500. The forms are to be retained by the recipient division, with a copy forwarded to the Accounting Services Division.*

*4.5 When a gift is received from a donor, it is the responsibility of the recipient Division to determine whether or not the gift qualifies for an income tax receipt (see related policies below).*

### *Appraisals*

*4.6 The Canada Revenue Agency requires satisfactory evidence of fair market value of an eligible gift-in-kind. The responsibility for providing this information rests with the donor. The responsibility for securing this information for the purposes of issuing a tax receipt rests with the Division that benefits from the gift.*

*4.7 In situations where a gift is not of direct benefit to a particular Division, the Toronto Office of Partnerships will be responsible for securing fair market value evidence from the donor.*

*4.8 With respect to in-kind gifts, the recipient Division may retain the donation or, with the donor's consent, sell the asset and apply the proceeds as necessary.*

### *Accounts*

*4.9 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.*

*4.10 For purposes of financial control and accountability, donations are to be credited to appropriate accounts of the City or its agencies, boards or commissions.*

*4.11 Donations may not be managed informally or held in personal or external accounts or trust funds. This would not apply to independent community fundraising campaigns until such time that campaign contributions are donated to the City or its agencies, boards or commissions.*

4.12 Where projects or assets of the City or its agencies, boards or commissions are funded in whole or in part by donations, the donated funds for such projects or assets must come directly from an account of the City or agency, board or commission.

4.13 Donations of cash or property to the City or its agencies, boards and commissions, where the purpose is not specified and which are not part of an approved fundraising initiative, are deemed to be undesignated and become contributions to general revenue of the City or assets of the City, unless the recipient Division seeks council approval for the requested purpose.

#### *Reporting*

*4.14 As part of the quarterly budget variance reporting process, each Division shall disclose the amount of all donations received to date and report on how the donations were used in the form prescribed by the Deputy City Manager and Chief Financial Officer.*

*4.15 On an annual basis, The Toronto Office of Partnerships shall provide Council with a report summarizing the City's donation fundraising activity.*

#### *(5) Related Policies:*

*5.1 The criteria and process surrounding the issuing of tax receipts for eligible donations is available at:*

*[http://insideto.toronto.ca/finance/policies/ifsdpr02\\_income\\_tax\\_receipts\\_gifts\\_donations.doc](http://insideto.toronto.ca/finance/policies/ifsdpr02_income_tax_receipts_gifts_donations.doc)*

*5.2 Official gifts, public art or commemorations to the City are unique donations that require separate consideration. Such donations are governed by the Toronto Protocol Services' Guidelines:*

*[http://www.toronto.ca/protocol/donation\\_guidelines.htm](http://www.toronto.ca/protocol/donation_guidelines.htm)*