

# RESOLUTION 2009R-

## By

### **ESTABLISHING GUIDELINES FOR THE SOLICITATION AND ACCEPTANCE OF GIFTS ON BEHALF OF THE CITY.**

WHEREAS, Section 465.03 of Minnesota Statutes states:

Any city, county, school district or town may accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Nothing herein shall authorize such acceptance or use for religious or sectarian purposes. Every such acceptance shall be by resolution of the governing body adopted by a two-thirds majority of its members, expressing such terms in full

and

WHEREAS, the statute requires the City Council to formally accept a gift of cash or tangible property before it may be expended or used by a city department, board, commission, official, or employee; and

WHEREAS, a Gifts to the City Policy related to the acceptance of gifts by the City was adopted by the City Council on August 19, 2005; and

WHEREAS, the Ways and Means/Budget Committee, on December 16, 2006, directed the Ethics Officer to analyze solicitation practices and recommend options; and

WHEREAS, the Minneapolis Ethics in Government Code was amended, (2007-Or-066, § 2, 8-31-07), to permit solicitation for city purposes if pre-approved by the City Council or conducted pursuant to a City Council approved solicitation policy; and

WHEREAS, gifts to the City are beneficial because they promote or assist public programs and projects and reduce the need for expenditure of public funds; and

WHEREAS, despite the public benefits, gifts offered to the City must be scrutinized to assure that they do not raise conflict of interest problems, special treatment concerns, or other ethical issues;

NOW, THEREFORE, BE IT RESOLVED that the City Council approves the attached Exhibit A as the City's policy for the solicitation and receipt of gifts to the City; and

BE IT FURTHER RESOLVED that this Resolution shall take effect on December 1, 2009; and

BE IT FINALLY RESOLVED that the City Clerk is directed to transmit certified copies of this Resolution to every other department head.

**EXHIBIT A**  
**POLICY ON**  
**SOLICITATION AND ACCEPTANCE**  
**OF GIFTS ON BEHALF OF THE CITY FOR CITY PURPOSES**

**Part 1. SOLICITATION OF GIFTS ON BEHALF OF THE CITY FOR CITY PURPOSES**

**a. General Conditions**

1. An elected local official, appointed local official or employee shall not solicit any gift to the City under circumstances that in fact or in appearance:
  - (a) Rewards, influences, or tends to impair the judgment of any elected local official, appointed local official or employee in the performance of the official's or employee's official duties; or
  - (b) Provides special consideration, treatment, advantage, privilege, or exemption for or coerces a potential donor.
2. Employees with enforcement powers, such as inspectors, regulators, police and prosecutors, should not solicit gifts from any source;
3. Employees with discretionary authority over any permit or application should not solicit gifts from any source.
4. No gift from an anonymous donor shall be solicited under any circumstance. Unsolicited anonymous gifts may be accepted pursuant to the Gifts to the City Policy.
5. No gift shall be solicited from a lobbyist or principal as defined in Minnesota Statutes, section 10A.01 and the Minneapolis Ethics in Government Code, Chapter 15.
6. No gift shall be solicited from an interested person. For purposes of this Policy, interested person shall have the meaning given by Minnesota Statutes, section 471.895 and the Minneapolis Ethics in Government Code supplemented by the following:
  - (a) Current City vendors and contractors;
  - (b) Vendors, contractors, entities or individuals who have had contracts or submitted proposals or bids within the last 12 months;

- (c) Vendors, contractors, entities or individuals reasonably anticipated to have business with the city within the next 3 months.
  - (d) Persons or entities actively promoting or opposing city legislation.
  - (e) Persons or entities with matters pending before a city department, board or commission.
7. No gift shall be solicited if intended use is inconsistent with or otherwise seeks to circumvent laws, regulations or policies.
  8. No gift shall be solicited if such gift reasonably may be viewed as funding for political activities.
  9. No gift shall be solicited that will impose an onerous requirement for its acceptance, maintenance, or eventual disposition by the city
  10. Requests to the general public, rather than selected individuals or businesses, are recommended to be made in writing and contain a statement that government action regarding the donor will not be affected by whether or not a contribution is made.

**b. Solicitation by Departments, Boards, Commissions and Advisory Committees or their designee**

1. When a department desires to solicit gifts, the head of the department shall submit a completed Request to Solicit Gifts form (Form A) to the City Coordinator with a copy to the Ethics Officer. The department shall not engage in any solicitation effort until the Request to Solicit Gifts form (Form A) is approved by the City Coordinator. Once approved or denied, the Request to Solicit Gifts form (Form A) shall be filed by the City Coordinator with the City Clerk with a copy to the department. All gifts received pursuant to the approved solicitation may be accepted pursuant to the Gifts to the City Policy.
2. When a board, commission or advisory committee, or designated employee desires to solicit gifts, the head of the board, commission or advisory committee shall submit a completed Request to Solicit Gifts form (Form A) to its assigned department for approval by the department head. If the department head approves the proposed solicitation, the department head shall submit Request to Solicit Gifts form (Form A) to the City Coordinator with a copy to the Ethics Officer. The board, commission or advisory committee shall not

engage in any solicitation effort until the Request to Solicit Gifts form (Form A) is approved by the City Coordinator. Once approved or denied, the Request to Solicit Gifts form (Form A) shall be filed by the City Coordinator with the City Clerk with a copy to the department. All gifts received pursuant to the approved solicitation may be accepted pursuant to the Gifts to the City Policy.

3. When a department desires to solicit gifts valued at more than \$15,000.00 such solicitation must not occur until a resolution, approving the solicitation and naming the Department Head as designee of the City Council, has been approved by a two-thirds vote of the City Council.
4. All appointed local officials and employees soliciting gifts for the City shall submit a Quarterly Solicitation Report (Form B) to the City Clerk with copies to the City Coordinator and the Ethics Officer. Quarterly Solicitation Reports are due 10 calendar days after the end of the quarter.

**c. Solicitation by Elected Local Officials.**

1. Solicitations by the Mayor or designee or an individual City Council member or designee of an individual City Council member or the City Council as a whole or designee of the City Council shall comply with General Conditions, Part 1(a).
2. All elected officials soliciting gifts for the City shall submit a Quarterly Solicitation Report (Form B) to the City Clerk with copies to the City Coordinator and the Ethics Officer. Quarterly Solicitation Reports are due 10 calendar days after the end of the quarter.

- d. Application.** These provisions shall apply except where more restrictive statutes, ordinances, rules, or administrative policies are in effect.

**Part 2. ACCEPTANCE OR REJECTION OF GIFTS TO THE CITY**

**a. General requirements**

1. *Restrictions on acceptance.* An elected local official, appointed local official or employee shall not accept or receive any gift to the city under circumstances that in fact or in appearance:
  - (a) Rewards, influences, or tends to impair the judgment of any elected local official, appointed local official or employee in the performance of the official's or employee's official duties; or

- (b) Provides special consideration, treatment, advantage, privilege, or exemption for or coerces a potential donor.
  - (c) Is unrelated to the responsibilities and authorized functions of City government.
  - (d) Is made by a donor who has made contributions to the City on such a frequent basis as to create an appearance of impropriety.
2. *Notification of prospective donor.* Upon accepting a gift, an elected local official, appointed local official or employee shall immediately notify the prospective donor in writing that the gift is subject to acceptance by the City Council, that the gift will not result in any favored treatment for the donor in pending or future procurement decisions and that a gift will not state or imply the endorsement of the City of any product, service or entity; except that this requirement shall not apply if the donor is anonymous and the anonymous gift is permitted to be accepted under this Policy. (See sample Donor Notification Letter – Form C)
  3. *Endorsement prohibited.* Acceptance of a gift must not state or imply the endorsement of the City of any product, service or entity.
  4. *Return of Rejected Gift.* If a gift is taken into custody by a City employee, local official or elected official but the resolution to accept the gift is not adopted by a two-thirds vote of the City Council, the gift shall be returned to the prospective donor.
  5. *Use of Gift.* Use of a gift must be accounted for through record keeping.

**b. Acceptance of Gifts**

Acceptance by Council of gifts to the City shall be pursuant to the Gifts to the City Policy, using the Gift Acceptance Form (Form D).

## REQUEST TO SOLICIT (FORM A)

Project for which gifts will be solicited: \_\_\_\_\_

Background information on project: \_\_\_\_\_

\_\_\_\_\_

Amount of money to be raised: \_\_\_\_\_

In-kind donations sought: \_\_\_\_\_

\_\_\_\_\_

How the gifts will be used to aid or facilitate the project or otherwise carry out the department's responsibilities, functions or activities: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Staff conducting the solicitations: \_\_\_\_\_

Entities or persons sought to be solicited and status of entity:

Entity or Person	Lobbyist	Lobbyist Principal	Interested Person	Other Pending City Business

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

Department Head

City Coordinator Use Only

\_\_\_ Approved through \_\_\_\_\_  
Date

\_\_\_ Denied

City Coordinator to file original with City Clerk, Copy to Department

**QUARTERLY SOLICITATION REPORT (FORM B)**

Report submitted for Quarter ending 3/31, 6/30, 9/30, 12/31 (circle one)

Entity or Person Solicited	Item Solicited	Date Solicited
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Submitted by: \_\_\_\_\_  
Name Position Dept

File original with City Clerk, Copies to City Coordinator & Ethics Officer



**DONOR LETTER (FORM C)**

[Date]

[Donor Name]  
Donor Address]  
[City, State ZIP]

Re: [Gift of \_\_\_\_\_]

Dear [Donor Name],

On behalf of the City of Minneapolis, I would like to thank you for your generous proposed donation of [ \$\_\_\_\_\_ or describe goods] to the City [If gift comes with any restrictions, they should be listed here. For example: on the following conditions: \_\_\_\_\_]. Your proposed donation is subject to acceptance by the City Council. Minnesota state law requires that all gifts to municipalities be presented by resolution to and approved by a two-thirds vote of the City Council. Acceptance of your donation does not state or imply the endorsement of the City of any product, service or entity connected to you and acceptance will not result in any favored treatment for you in pending or future procurement or other City governmental decisions. Your donation will be submitted for approval at the [Month, date, year] City Council meeting.

Very truly yours,

Department Head or designee

**GIFT ACCEPTANCE FORM (FORM D)**

TO: Finance Officer  
300M, City Hall

FROM: \_\_\_\_\_  
Department

**Description of gift** (including value of gift, date received and special conditions related to acceptance of gift, if any) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name & address of entity or person making gift:**  
\_\_\_\_\_

**Status of entity or person making gift:**

Principal: Yes\_\_\_ No\_\_\_ Principal lobbyist: Yes\_\_\_ No\_\_\_

City Vendor: Yes\_\_\_ No\_\_\_ Other interested person: Yes\_\_\_ No\_\_\_

If yes to any of the above, please provide further information about giver's status:  
\_\_\_\_\_

Certifications (please initial):

\_\_\_ The gift will be used by the department to fulfill an authorized function or duty;

\_\_\_ Any gift is consistent with the department's plans for its programs and projects;

\_\_\_ The gift is directly related to, and will be expended solely for, a discrete program and/or purpose; and

\_\_\_ The gift is consistent with the Policy on Solicitation and Acceptance of Gifts on Behalf of the City for City Purposes.

**Funding strings for revenue and expense appropriation increases:**

Revenue: \_\_\_\_\_

Expense: \_\_\_\_\_

Form Prepared by: \_\_\_\_\_

Name

Position