



## GIFTS TO THE CITY

### *PURPOSE*

To establish the process for accepting gifts to the City and directly to elected and appointed City officials, including Board and Commission members, and individual City employees as part of their official assigned duties and responsibilities.

### *POLICY*

Elected and appointed City officials and City employees shall not accept any service which would be required or expected in the regular course of City official business nor accept any gifts, gratuities, or favors of any kind which might be perceived or interpreted as an attempt to influence actions of the City Council or City Administration. All gifts may not be accepted unless they are done so in accordance with this policy.

For the purposes of this policy, the term “gift” is used to include any monetary, discounted price, in-lieu contributions, volunteer services, or exchange of property use or services.

Gifts may be tangible or intangible. A service or a goodwill gesture rendered free or below cost to the City government may be considered a gift to the City. Before the Council-City **Manager** accepts gifts of any kind, **he/she** must review any conditions imposed by the donor and be satisfied that acceptance would be beneficial and not unduly burdensome to the City. If it is determined that the donor may be coming before Council in the near future for action or a decision, plus to avoid the potential for a quid pro quo situation, or to avoid even the potential appearance on any impropriety, the gift should not be accepted.

Under this directive, gifts are accepted on behalf of the City overall, not to a specific Department or individual, **and must be presented to the City Manager**. If the **City Manager** approves acceptance of the gift, **he/she** shall determine what Department/function/individual the gift will be applied. The City Manager cannot be the end- recipient of the gift.

This policy must also comply with Santa Clara City Code Chapter 2.155, Regulation of Lobbying Activities, Section 2.155.130, entitled, “Gifts” which clearly forbids any lobbyist to deliver or cause to be delivered any gift to any City official, and for any City official to accept



## GIFTS TO THE CITY (cont.)

any gift from a lobbyist.

Fair Political Practices Commission (FPPC) regulation §188944.2 requires that if a gift is given for a specific position or individual's use, FPPC Form 801 should be completed in addition to memorializing the receipt of the gift in "a written public record" (~~accomplished through an Agenda Report, as described in the Procedure section~~). If the City retains ownership of the gift, and there are no specific end-recipients or users of the gift, the City does not need to complete FPPC Form 801.

### *PROCEDURE*

1. When a gift has been offered to the City (as opposed to individuals) or to any unit of City government, the City Manager shall consider ~~forward a report to the City Council~~ the following information:
  - a) Reasons for the offer
  - b) Conditions attached to the gift
  - c) Potential liability to the City, the donor, or the public
  - d) Benefits and drawbacks
  - e) Costs to the City, including estimated maintenance and repair
  - f) Public perception and inferred (rightly or wrongly) commitments
2. ~~If the City Manager approves a gift/donation valued over \$1,000, the donor shall be invited to a Council Meeting to be recognized under a Special Order of Business and a letter of acceptance and appreciation signed by the Mayor and City Manager shall be transmitted to the donor(s).~~
3. ~~If the City Manager approves a gift/donation under the value of \$999, a letter of acceptance and appreciation signed by the Mayor and City Manager shall be transmitted to the donor(s).~~
4. ~~If the City Manager determines it is not in the best interest of the City to receive the donation or gift, a letter declining the offer signed by the City Manager will be transmitted to the donor(s).~~



## GIFTS TO THE CITY (cont.)

5. The City Manager shall be prepare a report of all gifts received by the City and presented to the City Council on a quarterly basis.
6. If required, the FPPC Form 801 shall be completed and signed by the City Manager within 30 days of acceptance of the gift made accessible on the City's website and maintained by the City Clerk for a minimum of four years after the form is filed.



## MAYOR AND COUNCIL PUBLIC RECORDS POLICY

### *POLICY*

As technology has evolved, the creation and retention of public records has changed. In order to make clear what records created, received or retained by the Mayor and the Council Members are considered public records available for disclosure, the City Council hereby establishes the following policy.

Any communications, including emails, texts, messages or comments on social media, to or from the Mayor or City Council Member that pertain to the conduct of public business, regardless of whether or not they were created or sent to a private or public account, are public records that may be disclosed unless otherwise exempt from disclosure.

### *PROCEDURE*

1. The Mayor and the Council Members shall only use official City email and text accounts to conduct City business.
2. The City shall provide the Mayor and the Council Members with separate publicly owned devices such as cell phones and tablets for the conduct of City business.
3. The Mayor and the Council Members shall endeavor to keep communications regarding City business out of their personal accounts and shall forward any communications regarding City business that they receive in their personal accounts to their official City accounts.
4. Any communications, including emails and texts that relate to an Agenda item received before or during a Council meeting by a majority of the Council must be disclosed in accordance with Government Code Section 54957.5.
5. No campaign activity may be conducted on City accounts or City devices.
6. If a request for records is received, a search that is reasonably calculated to locate responsive records will be conducted. Privacy concerns can and should be addressed on a case-by-case basis. Communications that are primarily personal, containing no more than incidental mentions of City business are generally not considered public records.

*Reference:* *City Council-approved policy*