



# staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Tae G. Rhee, Finance Director/Treasurer

SUBJECT: Consideration and possible action to adopt Resolution No. 16-XX – A Resolution establishing policies and procedures for accepting contributions, donations, gifts, bequests, and devises for public purposes.

DATE: June 13, 2016

## **EXECUTIVE SUMMARY**

Pursuant to Government Code § 37354, the legislative body may accept or reject any gift, bequest, or devise made to or for the city, or in trust for any public purpose. The proposed Resolution will also authorize the City Manager, or designee, to accept or reject donation for any public purpose up to \$25,000. Any donation over \$25,000 will require City Council approval.

## **RECOMMENDATION TO THE CITY COUNCIL**

- 1) Adopt Resolution No. 16-XX; or
- 2) Alternatively, discuss and take other action related to this item.

## **FISCAL IMPACT**

None

## **BACKGROUND**

The Government Code § 37354 authorizes the legislative body to accept or reject any gift, bequest, or devise made to or for the city. The proposed Resolution will delegate this authority to the City Manager, or his designee, up to \$25,000. The Resolution defines "donation" as a contribution, donation, gift, bequest, or devise of cash, personal, or real property, but not personal services.

A donation to the City may be tax deductible if it is made exclusively for a public purpose (26 U.S.C. §170(c)(1)). If a specific public purpose is not indicated by the donor, then the City may use the donation for any public purpose. Each receiving Department will provide a written acknowledgment to the donor pursuant to the requirements of the Internal Revenue Code as soon as the donation is received.

## **ATTACHMENT**

Resolution No. 16-XX..... 2

**CITY OF BELLFLOWER**

**RESOLUTION NO. 16-XX**

**A RESOLUTION ESTABLISHING POLICIES AND PROCEDURES FOR ACCEPTING CONTRIBUTIONS, DONATIONS, GIFTS, BEQUESTS, AND DEVISES FOR PUBLIC PURPOSES.**

**THE CITY COUNCIL RESOLVES AS FOLLOWS:**

**SECTION 1.** The City Council finds and declares as follows:

- A. Community members seeking to improve the City's services, contribute to the construction of important public facilities, or otherwise seeking to enhance the City frequently seek to make contributions, donations, gifts, bequests, or devises (collectively, "donations") to the City;
- B. A review of the City's documents show that there are no existing policies for accepting such generous donations;
- C. It is in the public interest for the City to establish policies for accepting donations so that persons making such donations may take appropriate tax deductions, the City uses donations for the purpose for which they were intended, and so the City's administration has clear direction regarding what kinds of donations should be accepted;
- D. The City Council, or its designee, may accept or reject any donation for any public purpose. In doing so, the City may keep or dispose such donations or use them in the manner required by the donor;
- E. Unless otherwise specified by the donor, the City may use donations in any manner it chooses to promote the public interest;
- F. Contributions to the City may be tax deductible as a charitable contribution if the donation is made exclusively for a public purpose (26 U.S.C. §170(c)(1)). For example, without limitation, art education is a legitimate public purpose (Government Code § 15813).

**SECTION 2.** *Definitions.* Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this chapter.

- A. "City Manager" means the City Manager or designee;
- B. "Donation" means a contribution, donation, gift, bequest or devise of cash, personal, or real property, but not personal services. Donations may be solicited or unsolicited by the City;

- C. "Donor" means a person, including a corporate entity, making a donation to the City for a public purpose.

**SECTION 3.** *Authority.* Pursuant to Government Code § 37354, the City Manager is authorized to accept donations in accordance with this Resolution and with applicable administrative policies and procedures that may be promulgated by the City Manager.

**SECTION 4.** *Donations.* The City will accept the following donations:

- A. *Pecuniary donations.* Pecuniary donations of any value.
- B. *Property donations.* Donations consisting of real or personal property must have a fair market value of at least twenty dollars (\$20) except those items that may have historical value as determined by the City Manager.
- C. *Donations valued over \$25,000.* The City Council will accept donations with a value estimated at \$25,000 or greater based upon a recommendation from the City Manager.

**SECTION 5.** *Use of Donations.* Pursuant to Government Code § 37355, the City Manager may direct the use of donations unless a donor designated a donation for a particular use. If a donation must be used for a particular use, the City Manager must ensure that the City uses the donations in the manner required by the donor.

**SECTION 6.** *Charitable Contribution.* Pursuant to 26 U.S.C. § 170(c)(1), donations made to the City may be tax deductible if made for a public purpose. Upon accepting a donation, the City Manager will provide donors with a written statement that includes the following information in accordance with Internal Revenue Code § 1.170A-13:

- A. Name of donor;
- B. Value or amount of donation;
- C. Date of receipt;
- D. For personal or real property, the description and location of property;
- E. Use of property by the City;
- F. Whether the property is being used for exclusively public purposes; and
- G. That the City accepted the donation.

**SECTION 7.** *Records.* The City Manager must maintain records showing what donations were accepted by the City and make such records available for public inspection for a period of time in compliance with state law and the City's records retention schedule.

**SECTION 8.** This Resolution does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before, this Resolution's effective date. Any such amended part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Resolution.

**SECTION 9.** If any part of this Resolution or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Resolution are severable.

**SECTION 10.** To the extent that any other resolution pertaining to policies and procedures for accepting contributions, donations, gifts, bequests, and devises for public purposes is incorporated into this Resolution, it is superseded in its entirety.

**SECTION 11.** The City Manager will establish policies and procedures as necessary to carry out this policy.

**SECTION 12.** The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Bellflower, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

**SECTION 13.** This Resolution will become effective immediately upon adoption and will remain effective unless superseded or repealed.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE  
CITY OF BELLFLOWER ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.**

\_\_\_\_\_  
**Dan Koops, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Karl H. Berger, City Attorney**