



# Exhibition Place

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## Item No. 19

**ACTION REQUIRED**

December 17, 2013

To: The Board of Governors of Exhibition Place

From: Dianne Young  
Chief Executive Officer

Subject: **Donations to Exhibition Place for Community Benefits Policy**

### Summary:

As an agency of the City of Toronto, the Board is required to follow directions of City Council, hence this report recommends that the Board approve a policy with respect to Donations to Exhibition Place for Community Benefits.

### Financial Implications:

There are no financial implications resulting from the adoption of this report.

### **Recommendation:**

**It is recommended that the Board approve the Donations to Exhibition Place for Community Benefits Policy outlined in Appendix “A” attached to this report to take effect on February 14, 2014.**

### Decision History:

Since first being approved by City Council in 2006, the “Donations to the City of Toronto for Community Events Policy” has been revised a number of times by the Toronto Office of Partnership wherein subject amendments were subsequently approved by City Council at its meeting of October 30, 2012.

The Chair of the Board received a letter dated December 4, 2013 from the Director of the Toronto Office of Partnerships advising that City Council has requested that Exhibition Place adopt a policy consistent with the City’s to ensure that City agencies and divisions adopt a consistent approach.

The Exhibition Place 2009-2012 had an Organizational/Staffing Goal to *review and revise our corporate systems* and a Strategy to support this Goal *we will complete an annual review of By-Laws, and policies and procedures of the Board of Governors.*

### Issue Background:

As directed by City Council, Exhibition Place, which includes all three Program areas, needs to adopt a policy consistent with the City’s. The attached policy highlights:

- a) Exhibition Place welcoming voluntary donations which provide valuable contributions to the Board;
- b) Guidelines to ensure that donations occur at arm's length from and Board decision-making process are specified; and
- c) Guidelines for donation documentation including advising donors that donations are made without influence on any outstanding approval, permit or license application for aware of a procurement call.

Comments:

Following Board approval of this policy, a communication will be submitted to the City's Toronto Office of Partnership advising that the direction of City Council has been undertaken.

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Submitted by:

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Dianne Young  
Chief Executive Officer



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### **Policy Statement**

The purpose of this policy is to:

- 1) Establish guidelines that ensure donations occur at arm's length from any Board of Governors decision-making process;
- 2) Provide criteria and process for the acceptance of donations, and
- 3) Delegate authority to the Chief Executive Officer to accept and spend donations within the parameters contained herein.

### **Scope**

The policy on voluntary donations to the Board for community benefits includes donations requested or encouraged by Exhibition Place.

### **Policy**

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

##### *General*

1.1 Conditions, contributions and community benefits may only be requested from an applicant seeking an approval from the Board if such requests are permitted or required by that decision making process.

1.2 In the case of an applicant seeking an approval from the Board 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 arm's length from the decision making process:

- (a) applicants seeking an approval shall not concurrently offer or make voluntary donations to the Board for community benefits; and
- (b) 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.

##### *Planning Approvals*

1.3 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.

1.4 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 Exhibition Place, 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 related to Exhibition Place.

### Procurement Decisions

1.5 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 procurement, or their representative, concurrent to the procurement solicitation and award process.

1.6 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.

1.7 The Board shall not accept donations that are conditional upon the endorsement of any product, service or supplier.

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

### Other

1.9 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.

1.10 Donations cannot confer a personal benefit to any Board employee.

1.11 Donations that violate Board policies, or the laws, conventions and treaties of the other orders of government will not be accepted by the Board.

1.12 Donors are required to advise the Board if a donation to the Board is concurrent with a planning approval or procurement process related to Exhibition Place in which the donor, or the donor's organization or company, is involved.

### **(2) Donations of Real Property:**

2.1 Donations of real property to the Board 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 Board, 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 Board 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 Board's mandate, programs, services and activities and must be deemed to be in the public interest of the Board.

3.4 Donations are only to be accepted if the Board 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 Board should be directed, where possible, to the intended organization.

*Ineligible Donors*

3.6 The Board may decline donations from any donor who in the opinion of the Board represents a reputational risk to the Board through involvement in activities that are contrary to the values of the Board. 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 Board may not accept donations from individuals or organizations currently in litigation against the Board.

*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 Board where the Board 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.

3.9 Despite section 3.8, the Chief Executive Officer 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 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 Board approval (the request would be made 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 Chief Executive Officer.

4.2 In an effort to cultivate an ongoing relationship with donors, the Chief Executive Officer is to:

- a) 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;
- b) reasonably limit the frequency of solicitations; and
- c) respond promptly to a donor's question or complaint.

*Acknowledgements, Forms and Receipts*

4.3 The Board 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 Chief Executive Officer.

Documentation and Communication with Donors

4.4 All donations must be documented by the Chief Executive Officer in the following form, and reported to the Chief Financial Officer for donations under \$50,000, and to Board for donations above \$50,000:

- a) Cash and in-kind donations of \$100 or more and under \$50,000 must be documented and the terms and requirements communicated to the donor.
- b) Cash and in-kind donations of \$50,000 or more must be documented through a legal agreement to the satisfaction of the City Solicitor.
- c) The donation communication to donors should:
  - i. Convey the terms and requirements of the donation, including donor contact information, the purpose of the donation, the value of the donation, information about the tax receipt, how unused funds will be dealt with and the responsibilities of the respective parties.
  - ii. A statement acknowledging that the donation may be subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*.
  - iii. For in-kind donations, include where necessary in the opinion of the City Solicitor a waiver of liability and an indemnity clause
  - iv. Include the following statement:

“All donations and/or in-kind donations, made to the Board must be given unconditionally and voluntarily without any expectation of benefit. A donation cannot be used to influence the outcome of an outstanding approval or award of a procurement call. You must advise the Board in writing if you, your organization or company is currently involved in a planning approval involving Exhibition Place or a procurement process with the Board”

- d) In addition, as part of its due diligence, prior to proceeding with a donation the Chief Executive Officer is responsible for consulting with the Lobbyist Register and relevant stakeholders, where necessary, and conducting a risk/benefit assessment.

4.5 When a gift is received from a donor, it is the responsibility of the Chief Executive Officer to determine whether or not the gift qualifies for an income tax receipt as per the Board’s policy entitled “Income Tax Receipts for Cash Donations and Gifts-in-Kind”.

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 Board if it benefits from the gift.

4.7 In situations where a gift is not of direct benefit to the Board, the Chief Executive Officer will be responsible for securing fair market value evidence from the donor.

4.8 With respect to in-kind gifts, the Board 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 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 Board.

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 Board.

4.12 Where projects or assets of the Board 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 Board.

4.13 Donations of cash to the Board 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 Board or assets of the Board, unless the Chief Executive Officer seeks Board approval for the requested purpose.

#### Appraisals

4.14 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 Board if it benefits from the gift.

#### Reporting

4.15 Should there be any activity to report, the Chief Executive Officer shall provide the Board with a report summarizing the Board's donation fundraising activity on an annual basis.