



CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

# **POLICY**

## **CONTRIBUTIONS TO THE CITY OF CAPE TOWN (POLICY NUMBER 41636)**

**APPROVED BY COUNCIL : ADJOURNED MEETING OF  
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C32D/05/15**



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# POLICY ON CONTRIBUTIONS TO THE CITY OF CAPE TOWN

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## ACRONYMS

“GRAP”	means Generally Recognised Accounting Practices developed by the Accounting Standards Board;
“IDP”	means the Integrated Development Plan of the City of Cape Town;
“MFMA”	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
“PBO”	means public benefit organisation as contemplated in section 30 of the Income Tax Act;
“SCM Regulations”	means the Municipal Supply Chain Management Regulations made in terms of section 168 of the MFMA;
“SDBIP”	means the annual Service Delivery Budget Implementation Plan of the City;

## DEFINITIONS

“Authorised person”	means an official of the City who has been granted the authority by a delegated authority to be able to <b>solicit</b> a contribution;
“Anonymous contribution”	means a contribution received from a Contributor who is not known or does not want to be known or recognised;
“City”	means the City of Cape Town established by Government Gazette Notice No.479 of 2000 in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
“Commercial transaction(s)”	means an agreement for the supply of goods or services, including construction works and consultant services by a person to the City governed by Chapter 11: Part 1 of the MFMA;
“Contribution(s)”	means donations, sponsorships, gifts, endowments and bequests in terms of which goods or services including construction works, consultant services or cash are given to the City other than in terms of a commercial transaction;
“Contributor”	means the person who makes a contribution;
“Determined threshold”	means the threshold detailed in the Policy on Contributions Guideline;

“Delegated authority”	means any person with delegated authority to approve solicitation of contributions, or accept contributions;
“Donation(s)”	means a contribution with no conditions attached to the use of the contribution;
“Donor”	means a person who makes a donation;
“Endowments and bequests”	where cash is endowed or bequeathed to the City for a specific purpose as required by the person making the endowment or bequest;
“Estimated value”	refers to the approximate fair value, which is defined in the GRAP standards as the amount for which an asset could be exchanged for between knowledgeable, willing parties in an arm’s length transaction. The estimated value includes all applicable taxes and excise duties;
“Goodwill”	means a friendly, helpful or cooperative feeling or attitude;
“Income Tax Act”	means the Income Tax Act, 1962 (Act No. 58 of 1962);
“Person”	includes a natural or legal entity;
“Social Cluster Management Committee”	refers to the Executive Management Team sub-committee which reports to the Social Cluster Committee;
“Solicit”	means to ask for or try to obtain contributions from a person;
“Sponsorships”	means contributions for a specific purpose as required by the sponsor or the City in exchange for advertising and marketing opportunities for the sponsor; and
“Sponsor”	means a person who makes a sponsorship.

## 1. PROBLEM STATEMENT

- (1) There is a lack of guidance in the City on how to manage contributions made to the City in terms of:
  - (a) What person may be approached when soliciting a contribution;
  - (b) How such persons may be approached;
  - (c) What types of contributions may be solicited for;
  - (d) What type of contributions may be accepted;
  - (e) Who has the delegation and authority to solicit or accept contributions; and
  - (f) How contributions received should be recorded and reported.
- (2) Clarity is required on how to distinguish what the benefit for the City will be when contributors approach the City. The intent of the contributor needs to be established so that it can be determined whether the contribution is for or in connection with the award of a contract, or whether the contributor, in fact, has a bona fide reason for wanting to contribute.
- (3) There is also no formal mechanism to acknowledge the goodwill of individuals and businesses that make contributions to the City.

## 2. DESIRED OUTCOMES

- (1) The overarching outcome of this policy is to maximise the opportunities for the receipt by the City of contributions in line with its strategic objectives and within the relevant moral, legal and associated regulatory framework.
- (2) This policy aims to provide the mechanism that will enable the City to solicit and accept contributions thereby enabling the City to better leverage its position and resources for social and economic development of the City and its communities.

## 3. STRATEGIC INTENT

This policy seeks to harness the goodwill of persons, so that the City might further realise its strategic objectives including the following strategies (which relate to the City's broader commitment to working with outside stakeholders to achieve social and economic objectives):

- (1) National Development Plan (NDP) Vision for 2030: The Vision Statement of the NDP sets out a shared commitment to the development of South Africa:  
*"We say to one another: I cannot be without you, without you this South African community is an incomplete community, without one single person, without one*

*single group, without the region or the continent, we are not the best that we can be.”*

- (2) ONECAPE2040 Strategy, City Development Strategy, Social Development Strategy and the IDP:

ONECAPE2040	City Development Strategy (CDS)	Social Development Strategy	IDP
Connecting Cape	<ul style="list-style-type: none"> <li>• Be connected and interconnected; and</li> <li>• Build &amp; celebrate Cape Town’s spirit</li> </ul>	Promote and foster social integration	Inclusive City
Leading Cape	CDS support mechanisms	Mobilise resources for social development	Well-run City

#### 4. POLICY PARAMETERS

- (1) This policy applies to solicitation and acceptance of contributions by the City.
- (2) For the avoidance of doubt, it is expressly stated that this policy does not apply to:
- (a) Agreements governed by Chapter 11 : Part 1 of the MFMA (Supply Chain Management) i.e. commercial transactions as defined in this Policy;
  - (b) Agreements governed by Chapter 11: Part 2 of the MFMA (Public-Private Partnerships);
  - (c) “Allocations” as contemplated in the definition of the term “allocation” contained in section 1 of the MFMA; and
  - (d) Volunteer services where individuals contribute of their personal time to performing functions of service delivery; and receiving no financial value in return.
  - (e) “Development Charges” as contemplated in the definition of the term “development charge” contained in section one of the Development Charges Policy for Engineering Services for the City of Cape Town.
- (3) No contribution received in terms of this policy may be used to directly fund any activity that directly benefits a political party.

## 5. ROLE PLAYERS AND STAKEHOLDERS

### (1) Contributors:

- (a) Local and international persons.

### (2) Beneficiaries of contributions:

- (a) Residents and communities of Cape Town; or
- (b) Any department of the City.

### (3) Departments facilitating contributions:

- (a) Finance: Treasury
- (b) Finance: Budgets
- (c) Finance: Supply Chain Management
- (d) Compliance and Auxiliary Services: Legal Services
- (e) Compliance and Auxiliary Services: Strategic Policy Unit
- (f) Compliance and Auxiliary Services: (advertises in terms of this Policy)

### (4) Government departments to report to:

- (a) National Treasury
- (b) Provincial Treasury

## 6. REGULATORY CONTEXT

This policy is developed and guided by legislation, regulations, by-laws and policies of the City (as amended from time to time), including:

### (1) Legislation:

- (a) Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA)
- (b) Income Tax Act, 1962 (Act No. 58 of 1962)
- (c) City of Cape Town: Events By-Law, 2009
- (d) City of Cape Town: Outdoor Advertising And Signage By-Law, 2001

**(2) Policies:**

- (a) City of Cape Town: Asset Management Policy
- (b) City of Cape Town: Events Policy
- (c) City Of Cape Town: Outdoor Advertising And Signage Policy
- (d) City Of Cape Town: System Of Delegations
- (e) City Of Cape Town: Supply Chain Management Policy (Incorporating Preferential Procurement)

## **7. POLICY DIRECTIVES**

**(1) Soliciting contributions**

- (a) Authorised persons may solicit:
  - (i) by placing a general advertisement inviting persons to make contributions; or
  - (ii) by way of a letter of request signed by the delegated authority. A template of the letter of request is contained in the Policy on Contributions Guideline.
- (b) City departments may only solicit contributions in terms of 7(1)(a) above after it has been established:
  - (i) that insufficient budget exists to fund the initiative for which contributions are being sought; and
  - (ii) that the performance of this initiative is aligned to a Constitutional function of local government and an IDP Strategic Focus Area.
- (c) Authorised persons are required to inform the Strategic Policy Unit of their intention to solicit contributions.
- (d) Where contributions are utilised towards the achievement of SDBIP objectives, the relevant department is required to adjust their SDBIP monitoring and reporting to reflect the proportion of the approved budget funds and contributed funds that were applied in order to achieve the total performance of an objective.

**(2) Declarations and checks**

Prior to the acceptance of a contribution in the estimated value of the determined threshold or more, the requirements as set out in 7(2) and 7(3) of this Policy must have been met.

- (a) No declarations have to be completed if the estimated value of a contribution made is below the determined threshold.
- (b) The prospective Contributor shall complete and sign declarations as contained in the Policy on Contributions Guideline.
- (c) If a contributor declares that they, or any directors, members or partners in the event of juristic persons, has been convicted of a criminal offence in the past five years, their contribution shall not be accepted.
- (d) The relevant City department shall consider the completed and signed declarations and establish whether the Contributor appear on the:
  - (i) City's Vendor Database, through enquiry with the City's Vendor Database Manager;
  - (ii) National Treasury's Database for Tender and Contract Defaulters; and
  - (iii) National Treasury's Database of Restricted Suppliers.
- (e) Where it is established that the prospective Contributor appears on the database mentioned in 7(2)(d)(i) and (iii), the relevant department must indicate whether the contributions will be made in contravention of regulation 47(1) of the SCM Regulations.
- (f) Where it is established that the prospective Contributor appears on the databases mentioned in section 7(2)(d)(ii) of this Policy, the department shall not accept a contribution from the Contributor.
- (g) In relation to sponsorships only: if it is established that a contributor is on the database mentioned in 7(2)(d)(i) and a sponsorship is promised, offered or granted, the sponsorship may be accepted, subject to compliance with the reporting obligation contained in regulation 48 of the SCM Regulations.

**(3) Accepting contributions**

- (a) The City shall welcome unsolicited contributions provided it meets the criteria set out in 7(1)(b) and 7(2).
- (b) The City reserves the right to reject any contributions offered if the acceptance is not in the best interests of the City or the potential beneficiaries of the contribution, as determined by the relevant City department.

**Contributions where no contribution agreement is required:**

- (c) The City shall accept anonymous contributions such as books or disaster relief items, provided that the contribution meets the criteria set out in 7(1)(b). The estimated value of the contribution must be determined and accepted by the relevant delegated authority.

- (d) No contribution agreement is required to be entered into in the case of anonymous contributions (for example: disaster relief donations or books and materials for libraries etc.). These contributions are considered to be of a non-capital nature and its use shall be determined by the City.
- (e) In the case of an endowment or bequest to the City, no contribution agreement is required. However, the relevant legal documents (letters from the lawyers or wills, for example) are required and must be submitted to the Treasury: Accounting and Assets Department for record-keeping.

**Contributions where a contribution agreement is required:**

- (f) Based on the estimated value of the contribution:
  - (i) a contribution agreement as contained in the Policy on Contributions Guideline shall be signed between the City and the Contributor for all contributions with an estimated value below the determined threshold.
  - (ii) For contribution equal to the determined threshold and above, a more comprehensive agreement may be executed between the parties.
- (g) All contribution agreements should expressly reserve the City's right to use the contribution as it sees fit.
- (h) Copies of all contribution agreements and applicable documentation shall be retained by the relevant Executive Director for his or her functional area, as part of the reporting obligation set out in 7(4)(b) of this Policy.
- (i) Prior to entering into an agreement for acceptance of contributions with an estimated value of the determined threshold and above, a report shall be submitted by the relevant department to the delegated authority or the Council (in the case of contribution of goods which are Capital Assets, irrespective of the estimated value) and which report shall expressly address the following:
  - (i) Estimated value of the contribution to be received;
  - (ii) that insufficient budget exists to fund the initiative for which contributions are to be solicited (for) and provide proof of this;
  - (iii) that soliciting of a contribution is aligned to an IDP Strategic Focus Area;
  - (iv) list beneficiaries of the contribution;
  - (v) the name of the contributor;
  - (vi) the outcome of the checks performed as per section 7(2) of this policy;
  - (vii) what conditions are attached to the contribution;

- (viii) what the future operating and capital costs of accepting the contribution will be (if any);
- (ix) the recommendation to the delegated authority to accept the contribution.
- (x) The outcome of the recommendation must be actioned by the relevant line department.
- (xi) A letter of acceptance and appreciation, as per the Policy on Contributions Guideline, must then be issued by the relevant line department to be sent to the contributor.
- (j) Agreements shall stipulate that cash contributions shall be deposited directly, using a deposit identifier issued by the Banking section in the Finance: Treasury Department, into the City bank account, the details of which are contained in the Policy on Contributions Guideline.
- (k) Goods will be given directly to the beneficiary department. The relevant delegated authority will accept the goods.
- (l) Goods that are also Capital Assets need to be accounted for in terms of the City's Asset Management Policy. This policy requires that a report to Council is done to determine whether the contributed asset may be accepted.
- (m) The provisions of the City's Advertising Policy and the Outdoor Advertising and Signage By-Law shall be adhered to where a sponsorship is received.
- (n) Donations to the City will be tax deductible in the hands of the donors in terms of and subject to the limitations prescribed in section 18A of the Income Tax Act. Donations made to the City are also exempt from Donations Tax in terms of section 56(1)(h) of the Income Tax Act as the City is an approved PBO (reference number 930046438). The Director: Treasury may be approached to issue a tax deductible receipt for donations made to the City in terms of section 18A of the Income Tax Act.

**(4) Reporting requirements**

- (a) Where a contribution is accepted in contravention of regulation 47(1) or 48 of the SCM Regulations, the reporting requirements of regulation 47(2) and 48 shall be complied with by the accounting officer.
- (b) All contributions must be recorded on a Register of Contributions Received as contemplated in the Policy on Contributions Guideline. All departments shall report all contributions accepted to the relevant Executive Director on a quarterly basis.
- (c) A copy of the register, reports, approvals, agreements and other documentation required in terms of this Policy must be sent to the Finance:

Treasury Department by the relevant Executive Director on a quarterly basis, or an earlier date when requested by the Finance: Treasury Department.

## **8. IMPLEMENTATION, EVALUATION AND REVIEW**

- (1) The Social Cluster Management Committee shall evaluate the effectiveness of this Policy on an annual basis.