



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: April 2, 2019

Agenda Item AE

Approvals:

City Manager [Signature]

Dept. Head [Signature]

Attorney [Signature]

Finance [Signature]

Department: Beaches, Parks and Recreation
Prepared By: Erik Sund, Assistant City Manager

Subject: *SPONSORSHIPS, DONATIONS AND PARTNERSHIP POLICY.*

Fiscal Impact: None.

Summary: Staff recommends that Council provide direction on further changes to Policy No. 204-1 and Policy No. 204-5.

Background: At its December 4, 2018 meeting, the City Council reviewed and adopted Policy No. 204-5 titled Guidelines for the Acceptance of Donations, Sponsorships, and Gifts; and approved an amendment to Policy No. 204-1 titled Partnership of Activities, Facility Rentals and Special Events. Council gave direction to staff to amend Policy No. 204-5 by expanding Section 6.2 as follows: Designated Donations, Sponsors, or Fundraiser Activities may only be accepted when they have a purpose consistent with the City's goals and objectives and are in the best interest of San Clemente. The City must always consider the public trust and comply with all applicable laws when accepting donations. Organizations that qualify for and receive a discount for the use of a City facility through an established Partnership Agreement will not be eligible to receive any fee waiver or subsidy if they accept donations or sponsorships from an organization which is in current litigation with the City; and eliminating Section 6.5.

The City has been unable to reach a consensus with the affected stakeholders. Additionally, City staff queried San Clemente non-profits who are in a partnership with the City, to understand what current subsidies they receive from the Transportation Corridor Agency. Please refer to Attachment 3.

Recommended

Action: STAFF RECOMMENDS THAT the City Council provide direction on further changes or revisions to Policy No. 204-1 and Policy No. 204-5.

Attachments: 1.) Policy No. 204-1
2.) Policy No. 204-5
3.) Non-Profit Survey

Notification: Downtown Business Association
The Boys and Girls Club
Family Assistance Ministries

Friends of San Clemente BP&R Foundation
Heritage Foundation of San Clemente
San Clemente Kiwanis Club
Pier Pride
Positive Vibes Warrior Foundation
San Clemente Art Association
San Clemente Chamber of Commerce
San Clemente Exchange Club
San Clemente Garden Club
San Clemente Ocean Festival
San Clemente Rotary
Watershed Task Force



POLICY AND PROCEDURE

Subject:	Partnership of Activities, Facility Rentals and Special Events	Index:	Financial Services
		Number:	204-1
Effective Date:	December 18, 2018	Prepared By:	Beaches, Parks and Recreation
Supersedes:	204-1, dated 5/20/99	Approved By:	

1.0 **PURPOSE:**

It is the purpose of this policy to define criteria and procedure for the Partnership activities, facility rentals and special events in the City including provisions for in-kind services and financial support.

2.0 **ORGANIZATIONS AFFECTED:**

All city departments

3.0 **REFERENCES:**

San Clemente Municipal Code Chapter 29B
City of San Clemente Policy and Procedure No. 204-_____

4.0 **POLICY:**

4.1 It is the desire of the City of San Clemente to encourage and promote activities, facility rentals and special events on a year round basis within the city limits hat provide valuable cultural, recreational and civic benefits to the residents, visitors and businesses of the community. In order to create an atmosphere of partnership between the City, the activity, facility rental and special event organizations, this policy and procedure is designed to provide consistent criteria to evaluate activities, facility rentals, special event partnerships and financial support requests.

4.2 Partnership is utilized to provide support services to an organization that is presenting an activity, facility rental or special event. Support services provided through the City include but are not limited to the following:

1. Facility rental/related special fees
2. Site preparation and maintenance
3. Parking/traffic control
4. Program security

5. Program coordination/facility supervision
6. Site inspection
7. Event insurance

- 4.3 General City Administrative Support Services are not available for allocation including but not limited to: data processing, word processing, printing, purchasing/clerical support and legal services.
- 4.4 Partnership funding levels are based upon estimates of the direct staff, equipment or rental facility costs associated with providing City services for the program. Related processing administrative overhead charges will not be included in the pricing procedure.
- 4.5 The organization and program must meet and comply with the following established funding guidelines to be eligible for Partnership.

4.5.1 Guidelines for Partnership:

City Council may waive any of the following guidelines at their discretion.

- a. Be registered with the State of California as a not-for-profit community organization, exempt under Section 501 (c) of the Internal Revenue Code, or for new organizations, be registered at the time the City Council approves the Partnership request.
 - b. Adhere to the stated policies of the City of San Clemente.
 - c. Provide the City of San Clemente with a copy of current constitution/by-laws and policies/procedures if so requested by the City.
 - d. Carry adequate public liability insurance naming the City of San Clemente as additional insured if so required by the City.
 - e. Not discriminate in employment or in customers served because of race, religion, national origin, or sex.
 - f. Provide access for activity/facility rental/special event review by City representatives for purposes of monitoring the program.
 - g. Provide a financial accounting and narrative report in writing evaluating the activity/facility rental/special event if so requested by the City.
- 4.6 The Beaches, Parks and Recreation Commission shall utilize the following criteria to make recommendations to City Council regarding Partnership requests. Please note that under the Special Events Ordinance, San Clemente Municipal Code Chapter 29B, Protected Free Speech Special Events shall automatically be granted a waiver of fees, without City Partnership, upon showing the City Manager that the fee requirements create a material financial hardship.

4.6.1 Guidelines for Partnership Qualifications:

City Council may waive any of the following guidelines at their discretion.

- a. The organization requesting Partnership is a not-for-profit civic or social organization, exempt under Section 501 (c) of the Internal Revenue Code, committed to enhancing the quality of life of San Clemente residents, visitors and businesses.
- b. The activity/facility rental/special event provides valuable cultural, recreational and civic benefits to the residents, visitors and businesses of the community.
- c. The revenue generated by the activity/facility rental/special event largely or entirely benefits the residents, visitors and businesses of San Clemente to such an extent that the Partnership is justified.
- d. The payment of the fees or costs associated with the activity/facility rental/special event create a financial hardship on the organization and/or persons sponsoring the program.
- e. The organization requesting Partnership demonstrates its ability to generate financial and human resources from other sources. All donations, sponsors, and fundraisers must adhere to the guidelines set forth in the City of San Clemente Policy No. 204-____. Donors and sponsors are subject to approval and the standards outlined in said Policy.
- f. The activity/facility rental/special event is held primarily within San Clemente city limits or serves a greater benefit to San Clemente and its residents.
- g. The organization requesting partnership agrees that if its events will involve the sale or service of alcoholic beverages, all persons selling or serving such alcoholic beverages will have attended a responsible beverage service training class prior to the occurrence of the event or, if such a class is not available prior to the date on which the event is to occur that, prior to the event, all persons who will be selling or serving alcoholic beverages will have obtained the Responsible Beverage Service Training Manual from the City, will have reviewed the manual, taken and passed the Special Event Alcohol Serving quiz incorporated into the manual, signed the Responsible Alcohol Service Agreement and returned all of the above to the City prior the Event.

5.0 **DEFINITIONS:**

- 5.1 Activity: Any organized program that is not encompassed in the definitions for

special event or facility rental provided below.

- 5.2 Facility Rental: An organization that utilizes a City of San Clemente building or park for the sole purpose of implementing an organized program. Under this definition, the facility rental will not partially occur or impact public right-of-way.
- 5.3 Partnership: An association created between the City of San Clemente and another organization for the specific purpose of implementing an activity, facility rental or special event. The Partnership may allocate specific responsibilities for the implementation of the program to each partner.
- 5.4 Special Event: Any organized activity within the City that lasts for either 45 consecutive days or less, or 14 non-consecutive days or less in a year. Special events include, but are not limited to, amusement attractions, athletic events, concerts, exhibitions, fairs, fund raising events, parades, surfing contests and carnivals. It does not include construction projects, funerals or other activities which do not partially occur or impact upon the public right-of-way, nor attract more than 20 people during any given 24-hour period. As defined by the Special Event Ordinance, special events fall within two categories: "Commercial Special Event" and "Non-Commercial Special Event". Although the ordinance utilizes these terms for technical legal reasons, they are likely to be misinterpreted by most people. In order to avoid this potential problem, staff shall use the name "Regular Special Event" to identify a "Commercial Special Event" and "Protected Free Speech Special Event" to identify a "Non-Commercial Special Event", as defined below.
 - 5.4.1 Protected Free Speech Special Events (Non-Commercial Special Event): A protected Free Speech Special Event is an event whose principal or primary purpose is the dissemination of political, philosophical, or social views. This includes fund raising activities for non-profit organizations which enable such organizations to disseminate their views. The United States Supreme Court has said that "because charitable solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political or social issues,...it must be treated as fully protected activity under the First Amendment." Examples of Protected Free Speech Special Events include demonstrations and similar types of parades or marches, the sale of products by a group or organization when such products contain a political, philosophical, social or religious message; and prayer groups.
 - 5.4.2 Regular Special Events (Commercial Special Event): Regular Special Events involve the vast majority of the special events, including most of those listed above under 5.4 involving profit and non-profit organizations.

6.0 **PROCEDURE:**

6.1 **Requests for Partnership of Activities, Facility Rentals or Special Events**

- 6.1.1 All requests for Partnership activities, facility rentals or special events shall

be submitted to the Beaches, Parks and Recreation Department for review a minimum of 90 days prior to the proposed activity, facility rental or special event. After initial review by the Department, a report on the request shall be forwarded to the Beaches, Parks and Recreation Commission for consideration.

- 6.1.2 The Beaches, Parks and Recreation Commission shall make a recommendation to City Council either approving the requested activity, facility rental or special event and associated adjustment or waiver in fees/services or deny said activity, facility rental or special event. Requests for Partnership are not to be considered in the first year the activity, facility rental or special event is held. However, it is important for the Beaches, Parks and Recreation Commission to know that the sponsoring organization is interested in a future Partnership with the City. Based upon approval of the activity, facility rental or special event by City Council, said activity, facility rental or special event may be implemented by the sponsoring organization.
- 6.1.3 The sponsoring organization shall be required to re-apply for Partnership (form attached) of their activity, facility rental or special event in the second year. Once again, the request shall be submitted to the Beaches, Parks and Recreation Department 90 days prior to the proposed activity, facility rental or special event. After initial review by the Department, a report on the request shall be forwarded to the Beaches, Parks and Recreation Commission for consideration. The Commission shall review the activity, facility rental or special event based upon the experience of the prior year and make a recommendation to City Council approving or denying the activity, facility rental or special event. At this time, the Commission has the option to recommend City Council approval of a tentative Partnership between the event organizer and the City based upon satisfactory performance of the activity, facility rental or special event in the second year.
- 6.1.4 At the next regularly scheduled Beaches, Parks and Recreation Commission meeting after completion of the approved activity, facility rental or special event in its second year, any member of the Commission may request that the activity or special event be placed on the next Commission agenda for review. If no commission member requests said review, the activity, facility rental or special event shall automatically be accepted as a Partnership activity, facility rental or special event.
- 6.1.5 Upon acceptance of an activity, facility rental or special event as a Partnership, the activity, facility rental or special event no longer requires Parks and Recreation Commission review or City Council approval on a year to year basis. In addition, all responsibilities required of the organization and the City, including adjustment or waiver of fees/services, that were approved by City Council in the prior year shall become a part of the Partnership and automatically be authorized on a year to year basis. This Partnership shall remain in effect unless the purpose of the activity, facility rental or special event substantially changes or the sponsoring organization requests a change

in the responsibilities or fees/services provided by the City.

6.1.6 The Beaches, Parks and Recreation Commission or City Council shall have the authority to request a review of any Partnership activity, facility rental or special event at any time. City Council may discontinue support of a Partnership activity, facility rental or special event at any time and the Commission may recommend that City Council discontinue support at any time.

6.2 Existing Co-Sponsorship Activities, Facility Rentals or Special Events

6.2.1 All City Council approved co-sponsored activities, facility rentals and special events in existence prior to January 1, 1995, shall be grandfathered in as City Partnership activities, facility rentals or special events at the current City Council approved level of support (associated responsibilities and adjustment or waiver of fees/services). These Partnership activities, facility rentals and special events shall be subject to all of the requirements of this Partnership of Activities, Facilities and Special Events Policy and Procedure.

6.3 Ongoing Review of Partnership Activities, Facility Rentals or Special Events

6.3.1 It is the goal of the City to maintain effective partnership agreements with its approved Partner Organizations by conducting annual reviews of events and programs performed within all partnership agreements. Upon the completion of a Partner Activity, Facility Rental, or Special Event, the hosting organization will be required to complete Partnership Event/Activity Review Form (attached). This form will be submitted to the Beaches, Parks and Recreation Commission for review and then to the City Council as a Receive and File report. The Commission and/or Council are able to request additional information or details as needed.



CITY OF SAN CLEMENTE APPLICATION REQUEST FOR PARTNERSHIP OF ACTIVITIES, FACILITY RENTALS, & EVENTS

PLEASE SUBMIT COMPLETED APPLICATION 90 DAYS IN ADVANCE OF EVENT

APPLICANT INFORMATION	
Name of Program:	
Organization Name:	
Contact Name/Title:	
Address:	
Email:	
Primary Ph:	Secondary Ph:
GENERAL PROGRAM INFORMATION	
Has this program/organization requested or received partnership status from the city in the past?	<input type="checkbox"/> YES, SEE BELOW <input type="checkbox"/> NO
If yes, identify all specific of past partnership:	<div style="border: 1px solid black; height: 40px;"></div>
Has this program/activity occurred at least two (2) times with an approved fee waiver by city council?	<input type="checkbox"/> YES, SEE BELOW <input type="checkbox"/> NO
If yes, provide dates of past events:	
Date(s) of program:	
Time(s) of program:	
Description Of Program: (attach extra pages as needed)	<div style="border: 1px solid black; height: 60px;"></div>
Summarize the objectives of the program in terms of service/benefit to the community, its residents, visitors and businesses (attach extra pages as needed):	
<div style="border: 1px solid black; height: 40px;"></div>	
<div style="border: 1px solid black; height: 40px;"></div>	
<div style="border: 1px solid black; height: 40px;"></div>	
Estimated Attendance:	

Provide percentage estimates of ages of persons attending the program:

0-12 Years: 13-21 Years: 22-40 Years: 40+ Years:
% % % %

Is this a fundraiser? YES, SEE BELOW NO

If yes, what is the Intended use of the revenue?

General Budget Overview
(itemized budget must be attached)

Total Expenses

Total Revenue

CITY SERVICE REQUESTS (CHECK ALL THAT APPLY)

YES NO Facility rental fees

YES NO Fencing/barricades

YES NO Posting signs/banners

YES NO Street closure

YES NO Reserved parking

YES NO Traffic control

YES NO Dumpsters

YES NO Police services

YES NO Electrical

YES NO Water

Please list all other requests that may not be included in the information above:

SIGNATURE & ACCEPTANCE

PRINTED NAME

SIGNATURE

DATE

PLEASE INCLUDE THE FOLLOWING ITEMS WITH YOUR FINAL SUBMISSION:

- o Not-for-profit tax exemption certificate from the State of California
- o Names/Addresses of Board of Directors
- o Itemized budget for the event/activity

Please submit this application to the Recreation Division by email at recreation@san-clemente.org or mail to 100 N. Calle Seville, San Clemente 92672. For questions, contact Recreation at (949) 361-8264.



CITY OF SAN CLEMENTE PARTNERSHIP PROGRAM/EVENT REVIEW

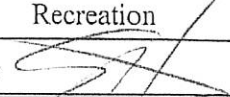
It is the goal of the City to maintain effective partnership agreements with its approved partner organizations by conducting annual reviews of events and programs performed within all partnership agreements. The following form is required to be completed within 60 days of all partnered events. The information provided will be reviewed by staff and the City Council.

GENERAL INFORMATION	
PARTNER ORGANIZATION:	
NAME OF EVENT:	
DATE OF EVENT: <small>Click here to enter a date.</small>	LOCATION:
DESCRIPTION OF EVENT:	
TOTAL ATTENDANCE:	TOTAL PARTICIPANTS (IF APPLICABLE):
NO. OF VOLUNTEERS:	
PRIMARY POPULATION SERVED: <input type="checkbox"/> YOUTH (0-17 YRS) <input type="checkbox"/> ADULTS <input type="checkbox"/> SENIORS (55+)	
MAJOR HIGHLIGHTS & MILESTONES:	
AREAS FOR IMPROVEMENT/ENHANCEMENT:	
FINANCIAL INFORMATION (ATTACH ADDITIONAL PAGES, IF NEEDED)	
TOTAL EXPENSES: \$	GROSS REVENUES: \$
WERE FUNDS DONATED BACK TO THE CITY? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, TOTAL AMOUNT? \$ TOWARDS WHAT PROGRAM/SERVICE?	
WERE THERE SPONSORS? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, LIST SPONSORS & AMOUNT.	

Return to Recreation@san-clemente.org and a staff member will be in contact with you with any further questions. We thank you for your organization's work within the City of San Clemente and look forward to working with you in the future.



POLICY AND PROCEDURE

Subject: Guidelines for the Acceptance of Donations, Sponsorships, & Gifts	Index: Financial Services Number: 204-5
Effective Date:	Prepared By: Beaches, Parks and Recreation
Supersedes: Not Applicable	Approved By: 

1.0 PURPOSE:

The purpose of this policy is to establish a formal process for the acceptance and documentation of donations made to the City and its partners, as established in Policy No. 204-1. This policy provides guidance when individuals, community groups, businesses or commercial agencies wish to make a donation to the City, by way of sponsorship or in-kind donation. This policy encourages and supports departments in the development of revenue generation and Fundraising and Sponsorship efforts that are consistent with existing City policies, procedures and applicable laws.

2.0 ORGANIZATIONS AFFECTED:

All City departments.

3.0 REFERENCES:

City of San Clemente Policy and Procedure No. 204-1

4.0 POLICY:

4.0.1 It is the desire of the City of San Clemente to encourage and support individual Departments to pursue Donations, Sponsorships and other Fundraiser events with the purpose of creating opportunities for enhancing revenue for department priorities. Individual Departments, through the approval of the City Manager and/or City Council, shall develop Sponsorship and Fundraising programs that meet the requirements set forth in this Policy.

4.0.2 With all donations, sponsorships, and gifts, the City reserves the right to consider the public trust and decline donations from entities whose purposes are inconsistent with the City's goals, objectives or best interests.

5.0 DEFINITIONS:

- 5.0.1 Donor: A "Donor" is a company, organization or individual who provides the City, or one of the City departments, an item or service without expectation of significant return or recognition.
- 5.0.2 Donation: A "Donation" to the City means a person or entity providing the City with financial support or property of a value exceeding the City's payment for such item. A Donor typically does not expect to receive a substantial return or recognition from the City in return for the Donation. A Donation may consist of cash, real property (land) or an in-kind Donation. Donations may be unrestricted or restricted by the Donor.
- 5.0.3 Fundraiser: A "Fundraiser" is any activity conducted with the intent of soliciting Donations, Sponsorships or other financial contributions to the City or to a particular Department of the City. Fundraisers may include, but are not limited to, foundations or funding agencies, endowment programs, pledge drives, and contacting individuals, companies, foundations, or other entities with the primary purpose of receiving financial support for the City.
- 5.0.4 In-Kind Contributions: A contribution of an item or object other than cash or real property, which would serve a useful purpose in the provision of City services.
- 5.0.5 Restricted Donation: A "Restricted Donation" is a Donation made to the City or its partners where the Donor has restricted its use to a specific purpose.
- 5.0.6 Sponsor: A "Sponsor" means a company, organization or individual who provides the City with funding support for a program, activity or facility in the form of a Sponsorship, and who expects significant recognition in return.
- 5.0.7 Sponsorship: A "Sponsorship" typically means a person or entity that provides the City with financial support for an activity, City program or City facility, typically in exchange for the City providing more than nominal recognition of its financial support, which distinguishes a Sponsorship from a Donation. Financial assistance provided by a Sponsor may consist of cash and/or in-kind contributions.
- 5.0.8 Sponsorship Agreement: A "Sponsorship Agreement" is a negotiated agreement between the City and a company, organization or individual whereby the City makes a Sponsorship opportunity available and enters into an agreement with a company, organization or individual to pay a fee in cash, products, services or a combination thereof, for recognition rights related to certain identified City-owned commercial or marketable assets. A Sponsorship Agreement may permit a limited form of advertising opportunity for a company, organization or individual in exchange for the fee paid to the City, subject to the terms of this Policy and subject to the approval of the City Manager and the City Attorney's Office.
- 5.0.9 Unrestricted Donations: A Donation made to the City where the Donor has placed no limitation on its use.

6.0 PROCEDURE:

6.1 Guidelines for Determining Donation, Sponsorship, and/or Fundraiser Activities

Individual departments shall develop Donation, Sponsorship, and/or Fundraising programs which shall be approved by the City Manager. In its simplest form, a Department program may consist of a memorandum to the City Manager indicating the following:

- a. Goal of the sponsorship, donation, and/or fundraising activities;
- b. Timeframe for the program;
- c. Target audience and method of outreach; and
- d. Procedure for acceptance and reporting of activities, ensuring internal controls.

6.2 Consistency with City Interests

Designated Donations, Sponsors, or Fundraiser Activities may only be accepted when they have a purpose consistent with the City's goals and objectives and are in the best interest of San Clemente. The City must always consider the public trust and comply with all applicable laws when accepting donations. Organizations that qualify for and receive a discount for use of a City facility through an established Partnership Agreement will not be eligible to receive any fee waiver or subsidy if they accept donations or sponsorships from an organization which is in current litigation with the City.

6.3 Sponsorship Agreements

After the selection of a Sponsor by the City Council, City Manager or Department Head, as appropriate, the terms of the Sponsorship, including any expectation of a significant return or recognition, shall be set forth in a written Sponsorship Agreement approved as to form by the City Attorney, as needed.

6.4 Donation Acceptance Guidelines

The acceptance of all donations to the City will be based on the following guidelines:

- a. Purpose of Donation.
- b. Community or municipal need for the Donation.
- c. Compatibility of the Donation with San Clemente Municipal Codes, Policies, and other applicable laws.
- d. Timeliness of the Donation as it relates to implementation.
- e. Level of benefit and financial impact to the City.

6.5 Procedure for Accepting Major Donations

6.5.1 For all donations provided to the City, a Donation Acceptance Form (attached) is required to be completed by the receiving Department Director or the City Manager's Office.

- 6.5.2 Acknowledgment of the donation should be in writing and be the responsibility of the Department Director who is the beneficiary of the donation. Unrestricted donations shall be acknowledged by the City Manager. A copy of the acknowledgement should be forwarded to the donors.
- 6.5.3 For all major donations (Section 6.5.4), a staff report, containing analysis based on the donation acceptance guidelines established in this Policy, will be written to guide the City Council when considering major donations. The City Council will determine on a case by case basis if the donation should be accepted or rejected.



**CITY OF SAN CLEMENTE
DONATION ACCEPTANCE FORM**
(Policy No. 204-___)

Name of Donor:

Address:

Description of Donation:

Donation Value:

Intended Use:

Conditions of Acceptance or Donor Designation:

Additional Remarks:

City Department Receiving Donation:

APPROVALS

Approved

Denied

Department Director Signature

Date

Approved

Denied

City Manager Signature

Date

Approved

Denied

City Council Approval

Date

Note: The City of San Clemente cannot guarantee the future funding for repair, maintenance, use or replacement of donated items.

Friends Foundation: No.

SC Rotary Club: No.

SC Kiwanis: No.

SC Art Association: No.

FAM: Yes, \$500.

Heritage of SC: No.

DBA: No.

Ocean Festival: Yes, \$5,000.

Chamber of Commerce: Yes, \$14,500.

The Boys and Girls Club: Yes, 2,000.