

# REGIONAL TRANSIT ISSUE PAPER

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
6	03/25/19	Open	Action	03/15/19

Subject: Policy for Acceptance of Gifts and Donations

## ISSUE

Whether or not to adopt the Policy for Acceptance of Gifts and Donations

## RECOMMENDED ACTION

Adopt Resolution No. 19-03-\_\_\_\_\_, Adopting the Policy for Acceptance of Gifts and Donations

## FISCAL IMPACT

None.

## DISCUSSION

The Sacramento Regional Transit District (SacRT) does not have a formal process to accept gifts or donations from members of the public or private donors. In order to comply with SacRT's enabling legislation and to ensure proper safekeeping and receipt of donations staff deemed it reasonable to develop a policy for the acceptance of gifts and donations (donations).

Attached as Exhibit A, is the proposed Policy for Acceptance of Gifts and Donations (Policy). The Policy provides guidance to staff on how to handle a variety of situations and questions that may arise during a donation or gift transaction. For example, there are 7 types of donations that will be accepted:

1. Cash
2. Tangible Personal Property
3. Real Estate
4. Remainder Interests in Property
5. Life Insurance
6. Bequests
7. Life Insurance Beneficiary Designations

Each of the seven categories listed above are defined and instructions are provided on how to accept said donations. Further the policy requires that a Donation Acceptance Committee (DAC) must be formed to review proposed donations to SacRT. SacRT will only accept donations that are legal and consistent with organizational policy, as well as, state and federal laws. The DAC will be comprised of members of the following divisions: Finance, Procurement, Legal, and a team member from the functional department that would be accepting the donation.

Approved:

Presented:

Final 03/18/19

General Manager/CEO

Treasury Controller

J:\Board Meeting Documents\2019\05 March 25, 2019\03-25-19 Adopting the Policy for Acceptance of Gifts and Donations.docx

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Subject: Policy for Acceptance of Gifts and Donations

While SacRT would prefer all donations be free of use restrictions, staff understands that sometimes a donor would like their assets used for a specific purpose. Where a permissible restriction is imposed, cash donations will be restricted and tracked separately to ensure use is for allowable activities. Assets that are donated for a restricted purpose will be recorded and monitored by management to ensure use is for allowable activities only.

It is SacRT's responsibility to hold all donations for safekeeping and appropriate use. SacRT will follow its various process specific memorandums that have been developed to instruct its staff how to handle and record cash and assets received as donations. An internal control structure will be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that the cost of control should not exceed the benefits likely to be derived, including, the valuation of costs and benefits of acceptance that requires estimates of value and the judgment of the DAC.

Staff recommends that the Board adopt the Policy for Acceptance of Gifts and Donations.

RESOLUTION NO. 19-03-\_\_\_\_\_

Adopted by the Board of Directors of the Sacramento Regional Transit District on this date:

March 25, 2019

**APPROVING THE ADOPTION OF A POLICY FOR THE ACCEPTANCE OF GIFTS  
AND DONATIONS**

BE IT HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO REGIONAL TRANSIT DISTRICT AS FOLLOWS:

THAT, the Board of Directors hereby approves the "Policy for the Acceptance of Gifts and Donations" attached hereto as Exhibit A.

\_\_\_\_\_  
PATRICK KENNEDY, Chair

A T T E S T:

HENRY LI, Secretary

By: \_\_\_\_\_  
Cindy Brooks, Assistant Secretary

**EXHIBIT A**  
**SACRAMENTO REGIONAL TRANSIT DISTRICT**  
**POLICY FOR ACCEPTANCE OF GIFTS AND DONATIONS**

**I. POLICY.**

The purpose of the Sacramento Regional Transit District's (SacRT) Policy for the Acceptance of Gifts and Donations (Donation Policy) is to establish appropriate procedures for SacRT to follow when a gift or donation is offered to SacRT.

The mission of SacRT is to promote and improve access in the Sacramento region by providing safe, reliable, and fiscally responsible transit service that links people to resources and opportunities. It is SacRT's policy to accept donations of personal or real property that may be used to promote and further the mission of the District. SacRT urges all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their intended donations to SacRT. Donations will only be accepted if they do not interfere with SacRT's mission, purpose, enabling legislation and procedures.

SacRT will only accept donations that are legal and consistent with organizational policy, as well as, state and federal laws. While SacRT Staff does not provide legal or tax advice, every effort will be made to assist donors in complying with the intents and purposes of the Internal Revenue Service in allowing charitable tax benefits, but SacRT cannot assure donors that all gifts accepted by the agency are tax-deductible contributions. To the extent permitted, SacRT will provide full disclosure to the donor, ensuring that gifts are recorded, allocated and used according to the donor's intent and designation.

**II. For purposes of this Policy, these terms are used as follows:**

- A. Donation/Gift: A "donation" or "gift" is a transfer of personal or real property, made voluntarily, and without consideration.
- B. Revocability: A donation, other than a gift in view of impending death, cannot be revoked by the giver.
- C. Date of Donation:

"Date of Donation" is the legal date of donation/gift for tax filing purposes (the date the donor relinquishes control of the asset(s).) Legal date of the donation is determined by the postmark date for items received via the U.S. Postal Service. Items received through private courier (i.e. UPS, FedEx, etc.) are dated with the date of receipt by SacRT. Transactions received by telephone (i.e. credit card calls) or on-line via SacRT's website, are dated with the date the call is received or the on-line transaction is posted.

D. Deferred (Planned) Donation:

Deferred, or planned, gifts are donations from which SacRT will benefit at some future date (usually at the time of death of the donor or a beneficiary). Deferred/Planned gifts may be received in the form of: 1) Bequests, 2) Pooled Income Funds, 3) Charitable Gift Annuities, 4) Charitable Remainder Trusts.

**III. General Provisions Relevant to All Donations.**

A. Use of Financial Advisors and Counsel.

SacRT urges all prospective donors to seek the assistance of independent personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. SacRT and its employees and agents are prohibited from advising donors about the tax consequences of their donations, or in assisting donors with preparation of wills, trusts, or other legal documents to facilitate such transfers.

B. Conflict of Interest.

Gifts are also subject to the provisions provided by law, including SacRT's adopted Conflict of Interest policies.

SacRT will make every effort to ensure that accepted donations are in the best interests of the organization and the donor. Any donor who is a supplier, contractor or service provider is precluded from making a donation to SacRT during the term of their contract. Any donor who has made a gift to SacRT is precluded from participating in any SacRT procurement as an individual or as a business enterprise to which he/she has an interest for a period of three years from the date of acceptance of their donation.

C. Restrictions on Gifts.

SacRT will accept unrestricted donations and donations for specific programs and purposes, provided that such donations are consistent with its stated mission, purposes and priorities. SacRT will not accept donations that are too restrictive in purpose. Donations for purposes that are not consistent with SacRT's mission or with its current or anticipated programs cannot be accepted. Examples of donations that are too restrictive are gifts that are too difficult to administer or donations that are for purposes outside the mission of SacRT.

All final decisions on the restrictive nature of a gift, its acceptance or refusal, will be made by the General Manager/CEO, upon consultation with the Treasury Controller and Legal Counsel for the District.

#### **IV. Donation Acceptance Committee.**

- A. The “Donation Acceptance Committee” (DAC) will be formed to review proposed Donations to SacRT. The Committee will represent SacRT’s interests in evaluating property for a use related to SacRT’s mission. The Committee will be comprised of members of the following departments: Finance, Procurement, Legal, and the functional department that would be accepting the donation. For example, a utility truck would require a Facilities representative.
- B. The DAC is charged with the responsibility of reviewing all donations proposed to be made to SacRT, properly screening all donations, making a determination of the acceptance or rejection of donations, and making a recommendation to General Manager/CEO, or the Board of Directors, on the value of the donation.

#### **V. Types of Donations.**

- A. The following types of donations are provided as examples of acceptable donations, but this list is not exhaustive, and is not intended to preclude the acceptance of other forms of donations:
  - 1. Cash
  - 2. Tangible Personal Property
  - 3. Real Estate
  - 4. Remainder Interests in Property
  - 5. Life Insurance
  - 6. Bequests
  - 7. Life Insurance Beneficiary designations
- B. The following criteria govern the acceptance of each donation form to be reviewed by the DAC:

- 1. Cash:

Cash is acceptable in any form. Checks must be made payable to SacRT and must be delivered to Treasury Controller at 1400 29<sup>th</sup> Street Sacramento, CA 95816. A cash donation may not be accepted for the purchase of fare media to provide rides to a designated person or group of persons, such donations do not constitute a “gift” for purpose of this policy.

Any potential donations of securities must be liquidated and provided to SacRT in the form of cash.

2. Tangible Personal Property:

All gifts of tangible personal property must be examined in light of the following criteria:

- a. Does the property fulfill a mission of SacRT?
- b. Is the property marketable?
- c. Are there undue restrictions on the use, display, or sale of the property?
- d. Are there carrying costs for the property?

3. Real Estate.

- a. Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, SacRT will require an initial environmental review of the property to ensure that the property has no environmental damage or potential liability. In the event the initial inspection reveals a potential problem, SacRT will retain a qualified inspection firm to conduct an environmental audit. The cost of environmental audits will generally be an expense of the donor.
- b. When appropriate, a title insurance binder will be obtained by SacRT prior to acceptance of the real property gift. The cost of this binder will generally be an expense of the donor. Prior to acceptance of real property, the gift must be approved by the Gift Acceptance Committee with the advice of SacRT's legal counsel. Criteria for acceptance of the property includes:
  - i. Is the property useful for the purposes of SacRT?
  - ii. Is the property marketable?
  - iii. Are there restrictions, reservations, easements, or other limitations associated with the property?
  - iv. Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
  - v. Does the environmental audit reflect that the property is damaged, and to what extent?
- c. Acceptance is not final until the property has been formally accepted via a Resolution passed by the SacRT Board of Directors.

4. Remainder Interests in Property.

- a. SacRT will accept a remainder interest in real property subject to the provisions of paragraph 3 above. The donor or other occupants may continue to occupy the real property for the duration of their stated life or lives. Upon termination of the life interest, SacRT may use the property or reduce it to cash. Where SacRT receives a gift of a remainder interest, expenses for maintenance, real estate taxes, insurance, and any property indebtedness are to be paid by the donor or life tenant(s).
- b. Acceptance of a remainder interest in real property is not final until the property has been formally accepted by the SacRT Board of Directors as provided in paragraph 4 above.

5. Life Insurance.

- a. SacRT will generally accept life insurance but it must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. Whether any policy is accepted will depend on the economics of the transfer. If the donor contributes future premium payments, SacRT will include the amount of the additional premium payment as a gift in the year that it is made.
- b. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, SacRT may:
  - i. Continue to pay the premiums;
  - ii. Convert the policy to paid up insurance; or
  - iii. Surrender the policy for its current cash value.

6. Bequests.

Donors and supporters of SacRT are encouraged to make bequests to SacRT in their wills and trusts. Such bequests will not be recorded as gifts to SacRT until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable. The criteria for the acceptance of the gift or bequest will be the same as otherwise provided herein.



## 7. Life Insurance Beneficiary Designations.

Donors and supporters of SacRT will be encouraged to name SacRT as a beneficiary or contingent beneficiary of their life insurance policies. Such designations must not be records as gifts to SacRT until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of the gift may be recorded at the time of the gift becomes irrevocable.

- C. As donations are made to SacRT it has the responsibility to hold such donations for safekeeping and appropriate use. To ensure safekeeping of all donations, SacRT will follow its various process specific memorandums that have been developed to instruct its staff how to handle and record cash and assets received as donations. An internal control structure will be designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that the cost of control should not exceed the benefits likely to be derived, including, the valuation of costs and benefits of acceptance that requires estimates of value and the judgement of the DAC.
- D. SacRT reserves the right to decline any donation. A determination by the General Manager/CEO or the Board of Directors, regarding the acceptance or rejection of any donation, the value of a donation, or a determination that a Conflict of Interest exists, is final and may not be contested by the donor.

## VI. Process for Making Donations.

### A. Establishing the Value of Donated Property.

It is SacRT's Policy to comply fully with the valuation rules set out in the Internal Revenue Service's Publication 561 and the relevant income, gift and estate tax laws and regulations. Copies of Publication 561 may be found at the IRS's website ([www.irs.gov](http://www.irs.gov)). Property contributed to SacRT that has a value in excess of \$5,000.00 (Five thousand dollars) must be accompanied by an appraisal **unless** it consists of (1) cash, (2) a vehicle or boat, the value of which will be determined by its sale, (3) intellectual property such as copyright or patent, or (4) stock-in-trade, inventory or other property that would otherwise be held by the donor for sale to customers in the ordinary course of the donor's business.

The fee for appraisal may not be based on the value of the appraised property, and the appraiser must be "qualified" as that term is used in IRS Publication 561. A "qualified appraiser" is one who is ordinarily in the business of appraising similar property, has the appropriate education and experience, who performs appraisals for many different people and

purposes (and not primarily for the donor or SacRT) and who is not employed by the donor or SacRT, or any entity controlled by the donor or members of the donor's family. Duplicate originals of the appraisal should be prepared, one for SacRT and one for the donor.

SacRT reserves the right to alter the value of the property donated to it on the books and records of SacRT for accounting or other purposes if developments after the completion of the donation or when information comes to the attention of SacRT after the donation is completed merit such an alteration in the discretion of the Committee or SacRT's auditors.

B. Tax Compliance.

It is SacRT's Policy to comply with Internal Revenue Service reporting requirements and all other aspects of state and federal tax law.

C. Donation Handling.

All cash donations made to SacRT must be deposited into SacRT owned and maintained bank accounts. Cash donations must be put into SacRT's general checking account to be used to fund transit operations. All property donations will be recognized by SacRT and used to carry out transit operations. If the donor has restrictions, see section E. below for restrictions on cash or property.

D. Acknowledgement of Gift or Donation.

When reasonably possible SacRT will provide the donor with a donation acceptance form. If the donation was made anonymously no form will be completed or required. SacRT will note the anonymous donation at time of recording in the general ledger.

E. Restriction of Cash or Property.

Depending on the terms of the donation, the Donor may have required that the funds be used on a specific purpose. The restriction would have to be narrower than used to provide public transportation to the general public. For example, restricted for the development of a transit facility at the 29th Street Light Rail Station or restricted to provide additional bus service to students in Rancho Cordova. Where a permissible restriction is imposed, cash donations will be restricted and tracked separately to ensure use is for allowable activities. Assets that are donated for a restricted purpose will be recorded and monitored by management to ensure use is for allowable activities only.

VII. Annual Reports to the Board of Directors.

Once every year, SacRT Staff will prepare a report for the Board of Directors detailing the donations received under this Policy and the estimated value of all donations, delineated by the type of donation. The report may be included as part of SacRT's budget process or provided as a separate report as determined by the General Manager/CEO.