

CITY OF CHESTERFIELD
POLICY STATEMENT

FINANCE AND ADMINISTRATION

No.

SUBJECT: PUBLIC PURPOSE

INDEX: FA

DATE ISSUED:

DATE

REVISED:

PURPOSE STATEMENT:

Missouri Constitution Article VI, Sections 23 and 25 set constitutional limitations on the use and grant of public funds and resources by the City of Chesterfield (the "City"). City expenditures of public funds and resources to private individuals, associations or corporations ("Expenditures") must be "for the support of the government or for some of the recognized objects of the government, or directly to promote the welfare of the community." See State ex rel. Mitchell v. City of Sikeston, 555 S.W.2d 281, 285 (Mo. banc 1977). The purpose of this policy statement is to implement a definition and procedure for Expenditures in order to ensure compliance with constitutional mandates and to provide transparency in the granting, use and accountability of these public funds and resources. This policy is not intended to prescribe what Expenditures should be made or to define what individual recipients should benefit from Expenditures, rather to ensure that all relevant Expenditures are made pursuant to a uniform policy and procedure.

POLICY:

Each and every time the City grants public resources, whether in cash, goods, or services (collectively "City Resources"), to an individual or outside organization for a purpose other than the continued operations of the City, its programs, departments and services, the grant of City Resources shall only be made pursuant to a public purpose as defined herein.

"Public Purpose" is hereby defined as follows:

A Public Purpose is a purpose where at least one of the following criteria is met: (1) a purpose that supports the City or the recognized objects of the City; (2) a purpose that directly promotes the welfare of the community; (3) a purpose from which some benefit or convenience to the public will flow; and/or, (4) a purpose that improves employment and stimulates the economy. Any program or activity receiving public support must be a program or activity that the City could, or would otherwise fund directly.

See State ex rel. Mitchell v. City of Sikeston, 555 S.W.2d 281, 285 (Mo. banc 1977); see also State ex rel. Jardon v. Indus. Dev. Auth. of Jasper Cty., 570 S.W.2d 666, 674 (Mo. 1978); see also State ex rel. Wagner v. St. Louis Cty. Port Auth., 604 S.W.2d 592, 605 (Mo. 1980); see also Menorah Med. Ctr. v. Health & Educ. Facilities Auth., 584 S.W.2d 73, 79 (Mo. banc 1979).

For purposes of this policy a "City Entity" shall include any department, division, program, service or Committee which provides City Resources to an outside organization for a purpose other than the continued operations of the City, its departments, division, programs, services and committees. Whenever an Expenditure of public resources is contemplated, the requestor or the City Entity initiating outreach for use of City Resources must provide a Public Purpose Finding Statement in substantially the form found attached hereto as Exhibit A. This requirement supplements any existing applications or procedures for award of City Resources and does not relieve the applicant of the need to comply with any other policies, procedures, or applications required. However, any activity which is authorized by a separate agreement, including but not limited to facility rentals, use agreements, contracts for services, activity partnership agreements, sponsorships, advertising, cooperative ventures, and mutual aid\assistance are not subject to or governed by this policy.

Prior to any Expenditure of City Resources, appropriate City Staff shall review the Public Purpose Finding Statement and make a recommendation consistent with this Policy. City Staff will forward the Public Purpose Finding Statement, the recommendation, and other relevant application materials to the appropriate standing committee of City Council ("Committee") for their review and determination. When applicable, Committees will consider the request for City Resources and make a determination of Public Purpose pursuant to this Policy. Non-financial City Resources may be expended after a Committee has made an affirmative finding of Public Purpose. Any cash expenditure will require approval by a majority of the elected members of City Council. An affirmative finding of Public Purpose authorizes an applicant to receive City Resources. However, any Expenditure of City Resources is subject to the availability of those resources and any annual appropriation of the City.

Notwithstanding the provisions of this policy, City Employees are authorized and encouraged, to cooperate, assist, coordinate, and otherwise provide non-cash resources to residents, businesses, organizations, and others up to a cumulative value of City Resources of not more than \$1,000 when the City Employee has made a good faith determination that the Public Purpose criteria set forth in the definition of public purpose criteria above will be achieved.

As of the date of this Policy Statement, the activities listed on Exhibit C attached hereto and incorporated herein by reference are found to serve a Public Purpose and therefor acceptable use of City Resources under this Policy (the "Approved Uses"). Requestors of Public Resources for Approved Uses are not required to submit a Public Purpose Finding Statement prior to receiving City Resources as long as the requests are substantially similar to the history of a demonstrated Public Purpose, as determined by the applicable City Entity in the City Entity's sole and absolute discretion. The recipient of Expenditures for Approved Uses shall comply with any other application requirements imposed by the City or any City Entity, including, but not limited to, any insurance, auditing and/or indemnity requirements, as may be applicable to the specific Expenditure. Although the Approved Uses presumptively comply with this Policy, the applicable City Entity, in its sole and absolute discretion,

may still require the recipient of the Expenditure to submit a Public Purpose Finding Statement. The Approved Uses described on Exhibit C are intended to be descriptive of acceptable activities and should not be interpreted as an exhaustive list. City staff is entrusted, encouraged, and empowered to make decisions based upon similar or comparable events consistent with this Approved Uses and this policy. Any group or organization who desires to have a community activity designated as an Approved Use shall contact the City Administrator. Notwithstanding individual staff decisions made in conformance with this paragraph, the City Council may, in its sole and absolute discretion, elect to add, delete, or modify the Approved Uses. Any Approved Use that references a specific event or a specific agency is provided for informational and descriptive purposes only and not intended to entitle any agency or host to City Resources or to prohibit any other agency or host from being considered an Approved Use for a similar activity. The provisions of this policy apply to activities which have been determined to have a public purpose, without regard to what agency or host may be providing the activity.

RECOMMENDED BY:

_____ *Department Head/Council Committee (if applicable)*

_____ *Date*

APPROVED BY:

_____ *City Administrator*

_____ *Date*

_____ *City Council (if applicable)*

_____ *Date*

Exhibit A

Public Purpose Statement

Please complete the following Public Purpose Statement. This statement must be included with your application for City Resources before your application will be eligible for review by City staff. For every provision of City Resources, whether it be funds, goods, or services, there must be a finding of public purpose. The City of Chesterfield defines public purpose as found in Policy Statement #_____. By making this statement you are agreeing to be bound by the terms and conditions of the agreement found in Policy Statement #_____. You must be authorized by your organization to make this request, make these statements, and to bind your organization to the terms and conditions found in Policy Statement #_____.

*Organization Name:*_____

*Application Date:*_____

*Address:*_____

Organization Tax Identification Number: _____

*Organization Representative Name:*_____

*Organization Representative Title:*_____

*Email Address:*_____ *Telephone Number:*_____

*Department/Committee/Program applying to:*_____

City Resources Sought (if monetary, please break down how it will be spent):

Public Purpose: _____

Have you applied for City Resources before, whether in funds, goods, or services?

Do you anticipate this being a one-time request or annual request:

If you anticipate this being a recurring request or have previously made such a request, do you anticipate needing less, similar or more City resources going forward, please explain below:

I hereby certify that the above statements are true and correct to the best of my knowledge. I understand that a false statement may disqualify me from receiving City Resources or from being eligible in other programs offered by the City. I understand all information must be completed to be considered. Incomplete or illegible statements will not be accepted. By signing below I am representing that I have the authority to make these statements, I have the authority to request City Resources, and I have authority to bind my organization, if applicable, to any conditions of receiving City Resources. I agree to fully cooperate with the City in the administration of City Resources including any audit requirements if my organization receives monetary resources.

Signature: _____ Date: _____

Authorized representative of _____ (Organization Name)

EXHIBIT B

PUBLIC PURPOSE FUNDING AGREEMENT

This Funding Agreement (the "Agreement") is hereby entered into between the City of Chesterfield, Missouri, a municipal subdivision of the third class organized under the laws of the State of Missouri (the "City"), and _____, a _____ ("Recipient"), this ____ day of _____, 20____.

WHEREAS, Recipient has requested public resources, whether in cash, goods, or services (collectively "City Resources"), from the City; and,

WHEREAS, Recipient has represented and attested in a Public Purpose Finding Statement that such an award of City Resources to Recipient would have a public purpose as defined in City Policy Statement # _____; and,

WHEREAS, the City has reviewed Recipient's Public Purpose Finding Statement and determined that such an award of City Resources would have a public purpose as defined in City Policy Statement # _____; and

WHEREAS, the Recipient was selected for an award of City Resources by the City and has agreed to be bound by the terms of this Agreement as a condition of receiving City Resources.

IN WITNESS HEREOF, The City and Recipient agree as follows:

TERM

- 1.1 The Term of this Agreement shall be for a period of _____ months, commencing on _____, 20____ and concluding on _____, 20____.*

SERVICES AND SCOPE

- 2.1 City shall provide to Recipient the City Resources described in Exhibit A.*
- 2.2 Recipient agrees to use the City Resources for the public purposes described in Exhibit B, the Public Purpose Finding Statement.*
- 2.3 If the City Resources includes a monetary award, Recipient shall at a minimum provide an audited financial statement showing that the funds were used for the public purpose described in Exhibit B.*
- 2.4 Recipient agrees to comply with all other special conditions required as set forth in Exhibit C and all requirements required by the department, program, or committee's application.*

GENERAL PROVISIONS

- 3.1 *Compliance with Laws.* The Recipient shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof including but not limited to those directly applicable to the performance of the Agreement.
- 3.2 *Indemnification.* To the fullest extent permitted by law, the Recipient agrees to defend with counsel selected by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorney's fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from Recipient's breach of the Contract or out of services and operations negligently performed hereunder by the Recipient, including the City's reliance on or use of the services or products provided by the Recipient under the terms of this agreement. The Recipient shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, Recipient agrees that this indemnification requires Recipient to obtain insurance in amounts specified by the City Administrator. Proof of necessary liability insurance, with limits and exclusions as determined in the City's sole and absolute discretion, shall be provided prior to Recipient's receipt of City Resources
- 3.3 *Insurance.* Recipient shall furnish the City the certificates of insurance for public liability and property damage, including automobile coverage in the amounts specified by the City, if any, but unless otherwise provided shall be no less than the maximum amounts of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the City. The City and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Recipient's work, as determined by the City, shall be named as additional insured. All such insurance policies will be primary without the right of contribution from any other insurance coverage maintained by City. Company shall furnish City with a certificate of insurance evidencing that such coverage is in effect. Such certificate will also provide for thirty (30) days prior written notice of cancellation to the City, show the City as an additional insured under the Automobile and General Liability policies, and contain waivers of subrogation in favor of the City (excluding Worker's Compensation policy) except with respect to the willful misconduct of City. For each insurance policy the Company is required to maintain under this Agreement, the Company shall obtain a waiver of subrogation in favor of the City. The waiver shall expressly waive any and all rights of subrogation, reimbursement, exoneration, or contribution of any other claim which the Company or insurance provider may now or hereafter have against the City, the City's elected officials, employees, agents, attorneys, and representatives, arising from the existence or performance of this Agreement, until termination of this Agreement. Nothing herein shall be deemed a waiver of the City's sovereign immunity relative to any claim against the City.

- 3.4 *Compliance with Sunshine Law.* The Recipient agrees that it will comply with Missouri's Sunshine Laws (610 RSMo et. seq) but otherwise not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Agreement.
- 3.5 *Changes.* No change in this Contract shall be made except in writing prior to the change in terms being performed.
- 3.6 *Accounting.* During the period of this Agreement, the Recipient shall maintain books of accounts of its expenses and charges in connection with this Agreement in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Consultant. The Parties agree that the City, in its sole and absolute discretion, may require Recipient to provide audited financial statements, an investigation, audit, or other records related the use and expenditure of the City Resources by Recipient which the City deems necessary to ensure that City Resources are being used as required by the City's policies, practices and City Code. Recipient shall cooperate with all audits, investigations, or requests for documents as requested or directed by the City, the City Police Department, and the City's attorneys and agents. Recipient shall be given a reasonable time to provide all necessary documents, records, or personnel to comply with the audit, investigation, or request. In the event Recipient fails to respond or provide information requested under this section, Recipient shall return to the City the City Resources within thirty days of demand by the City.
- 3.7 *Representations.* Recipient agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree the Agreement represents the entire agreement between the parties.
- 3.8 *Jurisdiction.* This Agreement shall be governed and construed in accordance to the laws of the State of Missouri. The parties hereby consent to the in personam jurisdiction of the 21st Judicial Circuit of the State of Missouri. Recipient shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof.
- 3.9 *Termination.* The City shall have the right to terminate the Contract at any time for any reason by giving the Consultant written notice to such effect. Recipient may terminate this agreement for any reason with 45 days written notice.
- 3.10 *Authority.* Each of the persons signing below on behalf of any party hereby represents and warrants that he/she is signing with full and complete authority to bind the party on whose behalf he/she is signing, and to each and every term of this agreement.

IN WITNESS WHEREOF, the City and Recipient have executed this Agreement this _____ day of _____, 20__.

By: _____

*By: _____
Michael Geisel, City Administrator*

Title: _____

ATTEST:

City Clerk

(remainder of page left blank intentionally)

Exhibit C

Demonstrated Public Purpose List

Nothing herein shall restrict the City from cooperation, assistance, and sharing with other municipalities, counties, states, school districts, fire districts, or utilities.

Other Governmental agencies – provision of mutual aid, mutual assistance, or public outreach.

Community Outreach events – Nothing herein is intended to restrict or limit City participation in Community Policing, Staff presentations and participation in community organizations.

Use of City Facilities as prescribed by other City Policies.

Participation and Membership - Nothing herein is intended to restrict or limit City participation in governmental task forces, Professional Associations, Industry Organizations, or Cooperative Ventures.

Community events - Nothing herein shall restrict the City from cooperation, assistance, and sharing with community partner(s) to facilitate public, community events

Any line item expenditure, program, or activity in conjunction with an approved budget

Inter-agency cross promotion and advertising

Elementary School Resource Officer program (four full-time officers assigned to public elementary school, and private schools and university)

Honor Guards (subject to availability, and without incurring overtime compensation

Assignments to area, regional, national or international tasks forces, committees, or governmental agencies)

Fingerprinting services

(remainder of page left blank intentionally)

Descriptive examples of Activities\Programs for which the City may provide traffic control and/or security without compensation or reimbursement:

- *County Fair, Spirit of St. Louis Air Show*
- *Chabad Parade(s)*
- *Fourth of July neighborhood parades*
- *Participation in neighborhood Birthday parades*
- *National Walk to School event*
- *School district events providing for community outreach, such as equipment and vehicle displays*
- *Hare in the Air at Logan University*
- *Drug Take Back events in cooperation with other law enforcement agencies*
- *Read Across America Day / Week in public schools*
- *Community Helpers Week in public schools*
- *Back to School Safety talks*
- *Security or unoccupied car provided for holy days at the temple(s)*
- *Non-Profit Community Events, free and available to the public such as*
- *Chamber of Commerce Concerts in the Park*
- *Chamber of Commerce Fireworks displays*
- *United Hebrew traffic control during high holy days.*

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