



KAI! GARIB MUNICIPALITY **DONATIONS POLICY** **April 2014**

DEFINITIONS

“Act” means the Local Government: Municipal Finance Management Act (no. 56 of 2003).

“CFO” Chief Financial Officer

“Constitution” Constitution of Republic of South Africa, 1996

“Council” means elected council of the Kai! Garib Municipality.

“Councillor” means an elected member of the council.

“Donation” in the context of this policy, it means monetary consideration, goods, services, immovable property, or any other item of value.

“Kai! Garib Municipality

“MFMA” Local Government: Municipal Finance Management Act 2003, Act No. 56 of 2003

“Official” means any person in the employment of the Kai! Garib Municipality.

“Structures Act” means Local Government: Municipal Structures Act 1998, Act No. 117 of 1998

“System Act” means Local Government: Municipal Systems Act 2000, Act No. 32 of 2000

OBJECTIVES OF THE DONATIONS POLICY

1. To provide a framework within which the municipality can grant donations.

KAI! GARIB MUNICIPALITY - DONATIONS POLICY

2. To promote and maintain an effective system of granting donations in an ethical, compliant and consistent manner with relevant legislations and other approved council policies.

POLICY STATEMENT

3. There are occasions when Council receives requests from various members of the community, organizations for donations. As with all other expenses, the council or the accounting officer must exercise prudent business judgment in considering proposed expenditure in relation to the granting of donations, based on the specific request, allow ability and the availability of funds.

BACKGROUND

4. Council has an obligation to comply with its internal and external audits, financial management reporting and to be accountable to the community for its expenditure on donations.

5. This policy framework is not intended to be exhaustive in coverage, but aim to identify principles and provide guidelines when the council decides to grant donations.

LEGISLATIVE FRAMEWORK

6. This policy, in its entirety, shall be read in conjunction with the following legislation and policies

7. The Constitution; according to which-

a) A municipality's functions are entrenched in section 156 and 219;

b) Section 156 provides for a municipality's legislative and executive functions, whilst section 219 relates to a municipality's fiscal powers.

c) A municipality can only act within its constitutional powers and functions. In other words, in achieving its objects as set out in section 152 of the Constitution, the municipality does not have a free will to do, but is limited by its powers and functions.

d) A municipality must strive to achieve the objects through the exercise of its constitutional powers and functions.

e) A municipality may also perform other functions on behalf of another organ of state by means of agency or delegation as set out in section 238 of the Constitution.

KAI! GARIB MUNICIPALITY - DONATIONS POLICY

8. The Structures Act, whereby-

a. In terms of section 83(3), “a district municipality must seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole...”

b. In terms of section 84(1), A district municipality has certain legislated functions and powers.

c. In terms of Section 89, in district management areas, the district municipality has all the municipal functions and powers.

9. Systems Act, whereby-

a. A municipality has all the functions and powers conferred by or assigned to it in terms of the Constitution, and must exercise them subject to Chapter 51 of the Municipal Structures Act.

10. MFMA, in which;

a. In terms of section 15, a municipality may, except where otherwise provided in the Act (MFMA), incur expenditure only in terms of the approved budget; and within the limits of the amounts appropriated for the different votes in an approved budget.

b. In terms of Section 65 (1), the accounting officer is responsible for the management of expenditure of the municipality;

c. In terms of Section 65(2), the accounting officer must take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds; and

d. In terms of section 67, the transfer of funds to organisations and bodies outside any sphere of government otherwise than in compliance with a commercial or other business transactions, may only happen in terms of this section.

PROCEDURAL PROVISIONS WHEN MAKING DONATIONS

11. All requests for donation shall be directed to the accounting officer and / or the Executive mayor of the municipality.

12. As a minimum, all requests for donations should provide for the following information of the individual , group / organisation requesting the donation:

KAI! GARIB MUNICIPALITY - DONATIONS POLICY

a. Identity of the individual , organisation or institution.

b. Physical address

c. Intended use of the donation

d. The value of the donation

13. The municipality may lawfully make donations to, individuals , organization and institutions, provided-

a) that the donation is approved by the Accounting Officer and / or the Executive Mayor;

b) that the granting of donation is done taking into account the provisions of section 15 of MFMA;

14. Requests for donations may be received from various, individuals , organizations and institutions. It is the prerogative of the municipality to grant or deny a donation.

CLASSIFICATION OF ORGANISATIONS AND BODIES

15. For the purpose of this policy framework, the following organizations and bodies will be classified as follows, and are eligible to request donations:

a) Institutions of learning

b) Special institutions e.g the DPOSA (Disabled People of South Africa)

c) Government sector departments

d) Co-operatives

e) Social clubs

f) Community – based organizations

g) Section 21 companies (not for gain companies)

h) Sporting clubs

i) Cultural organizations

j) Human Rights organizations

LIMITATIONS AND PROHIBITIONS

KAI! GARIB MUNICIPALITY - DONATIONS POLICY

16. No donation may be granted to an individual, organisation or institution without explicit approval by the Accounting Officer and / or the Executive Mayor.

17. No members of the council, or official of the municipality, severally or collectively, may solicit, receive or expect to receive any favor in return from an organisation or institution granted a donation by the council.

18. The donation of immovable property must be done in accordance with section 14 of the MFMA.

19. No donations or grants may benefit any member of council, or an official of the municipality, unless council has approved such donation fully aware of this fact.

20. The granting of donations to individuals, organizations/groups is limited to one per financial year

21. No donations may be granted to organizations or institutions whose primary objectives and their business activities are linked to a motive of making profit.

22. The accounting officer and/or the Executive Mayor may use their discretion to determine the amount of the donation.

23. No donation may be granted to a political party, or any other structure or body that is affiliated to a particular political party.

DONATIONS TO INDIVIDUAL FAMILIES

24. KAI !GARIB may provide donations in cash or in kind to bereaved families who do not have the necessary means and resources to bury their loved ones.

25. The maximum donation to destitute families is limited to R 3 500 per family.

26. When the following types of donations are made no procurement processes had to be followed for :

a) burials

b) educational purposes

c) providing transport and catering when joint programmes between the Kai! Garib Municipality and government departments took place

d) sport development

KAI! GARIB MUNICIPALITY - DONATIONS POLICY

e) payment of medical support and municipal services accounts for previous disadvantaged individuals.