



City of Carson Report to Mayor and City Council

May 1, 2012
New Business Discussion

SUBJECT: CONSIDERATION OF FUNDING A SCHOLARSHIP FOR A CALIFORNIA STATE UNIVERSITY DOMINGUEZ HILLS STUDENT

Submitted by David C. Biggs
City Manager

Approved by David C. Biggs
City Manager

I. SUMMARY

This item is on the agenda at the request of Councilwoman Davis-Holmes.

Councilmember Davis-Holmes received a letter from Mr. David Gamboa, Director of Government and Community Relations for California State University Dominguez Hills (CSUDH) requesting that the city consider donating to the Presidential Scholarship Program (Exhibit No. 1).

II. RECOMMENDATION

CONSIDER and PROVIDE direction.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

Former City Clerk, Helen Kawagoe was a member of the University Foundation board for 15 years. She also contributed to the President's Scholarship program. Mr. Gamboa is requesting the city consider continuing Helen's commitment to CSUDH by supporting the Presidential Scholarship Program in 2012.

Participation in such a scholarship program has been referred to the City Attorney's office for legal review. The City Attorney's Office has previously opined on the use of general fund dollars to make what is, in essence, a charitable contribution – in that case whether the city could lawfully make donations from the general fund for disaster relief. His opinion of March 24, 2010, and a review of the controlling law, are attached to this memorandum for the Council's consideration.

In his opinion, the City Attorney identifies several criteria the City Council should consider in authorizing expenditures of public funds for general charitable purposes. While the City Attorney's Office has found no cases directly dealing with the issue of donating general fund dollars to an academic scholarship program, the four-part test set articulated on triangle eleven of Exhibit No. 3 would serve as a useful guide in the Council's consideration of the scholarship request from CSUDH.

Applying those criteria, city staff was advised that it is problematic for the city to donate general fund dollars to participate in the Presidential Scholarship Program. Because the specified requirements to qualify for the scholarship are mainly GPA driven, there is no guarantee that money donated by the city to the Presidential Scholarship will go to a Carson resident or to a graduate of Carson High School, Rancho Dominguez Preparatory School or any other school servicing Carson students, the finding of a public purpose would seem to be difficult to make. Also this contribution would go into a larger scholarship pool in which recipients are selected by a committee of campus administrators and professors.

Perhaps another alternative may be possible. Should there be a way the city condition the award of general fund scholarship dollars so that the Council can insure the funding is used as a community benefit, this would increase the likelihood the Council can make the finding of "public purpose" in donating to the scholarship program. Conditions of the scholarship could include, but not be limited to, recipients must be Carson residents, at-risk youth or must be within a certain income range or any other special circumstances tied to Carson.

V. FISCAL IMPACT

Funding for a scholarship was not budgeted in the 2011/12 budget; therefore if Council decides to proceed with funding a scholarship, the budget will need to be increased by that dollar amount. Funding would have to come out of the unreserved, undesignated account which is approximately \$7,873,836.00. This expenditure is not consistent with Resolution 12-014, Section 2 (d) which notes that current year operating expenditures shall be funded by current year operating revenues (Exhibit No. 2)

VI. EXHIBITS

1. Letter to Councilmember Davis-Holmes from David Gamboa, Director of Government and Community Relations for California State University Dominguez. (pg. 4)
2. Resolution 12-014. (pgs. 5-8)
3. March 24, 2010 City Attorney Memorandum. (pgs. 9-11)

Document2

Prepared by: Lisa Berglund, Principal Administrative Analyst

TO: Rev04-23-12

Reviewed by:

City Clerk	City Treasurer
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May 1, 2012

Administrative Services	Development Services
Economic Development	Public Services

Action taken by City Council

Date _____ Action _____



California State University
Dominguez Hills

Hon. Lula Davis-Holmes
City of Carson, City Council
701 E. Carson Street
Carson, CA 90745

Dear Councilwoman Davis-Holmes,

As a growing institution of higher learning, CSU Dominguez Hills prides itself on developing educational enriching opportunities for our students, who upon graduation remain in our local communities and become contributing members of the region's workforce. Many of these opportunities would not have been possible without partners in the community who value the knowledge and skills of our diverse student body and see the benefits of investing in our students' futures as an investment in the economic vitality within our community.

Through the commitment of our partners, we have been able to grow the most prestigious academic scholarship at the university, the Presidential Scholars Program, which attracts the region's top high school and community college students.

Our university values the partnership we have with the City of Carson, and our involvement with the city continues to grow. Much of our involvement started with former city clerk Helen Kawagoe who was instrumental in developing a strong relationship between the city and university. Helen was a member of our University Foundation board for 15 plus years, and served on several important campus wide committees including the University President, Presidential Search Committee.

I ask for the city's consideration in continuing Helen's commitment to CSU Dominguez Hills by supporting the Presidential Scholarship Program in 2012. With a commitment, her lasting legacy can continue with recognition of a student scholar on Helen's behalf. The minimum amount to support a scholar which will include funding of one full academic semester (tuition, fees and books) is \$2,500. Also, a complimentary half page will be included in the program acknowledging the Carson City Council and Helen and a special acknowledgement would also be made during the Presidential Scholarship Reception.

With the recent tuition increase and cuts to our baseline budget by the state, support by the private sector and our community partners has provided needed investment to our students, and with the city's help we can continue to grow the number of our Presidential Scholars. A commitment

If I can answer any questions in regards to the Presidential Scholarship Reception please don't hesitate to call me at (310) 714-3880 or I can be reached by email at dgamboa@csudh.edu.

Please do save the date the Presidents Scholarship Reception will be held in our University Library on **April 26, 2012**.

I look forward in hearing from you soon.

Regards,

David Gamboa
Director, Government and Community Relations
California State University, Dominguez Hills

RESOLUTION NO. 12-014

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CARSON, CALIFORNIA, SETTING FORTH CERTAIN
FINANCIAL PRINCIPLES UPON WHICH THE CITY SHALL
OPERATE AND ADOPTING CERTAIN IMPLEMENTING
GUIDELINES TO ACCOMPLISH THE SAME**

WHEREAS, it is the desire of the City Council to establish certain generalized principles governing the financial affairs of the city of Carson; and

WHEREAS, the adoption of such principles is intended to provide city staff with guidance in preparing and submitting the annual budget for the City; and

WHEREAS, the City Council further desires to adopt certain financial policies that are necessary and appropriate to implement the financial principles articulated herein; and

WHEREAS, the City Council further desires to adopt financial policies that will assure that the city of Carson shall continue to enjoy a high level of credit worthiness and be eligible for the highest bond rating; and

NOW, THEREFORE, the City Council of the city of Carson resolves as follows:

Section 1. The foregoing Recitals are true and correct and are incorporated herein.

Section 2. The City Council of the city of Carson hereby adopts the following financial principles, which principles shall guide the preparation, consideration, adoption, and implementation of the annual city budget, to wit:

(a) It shall be the policy of the city of Carson, acting through its duly elected City Council, to adopt a balanced operating budget by June 30th of each year for the following fiscal year without using General Fund undesignated fund balances or reserves. The budget thus adopted shall include expenditures necessary to provide for the well-being and safety of the community subject to available revenues; and

(b) It shall be the further policy of the city of Carson, acting through its duly elected City Council, that fees for services shall be updated annually to recover, as much as possible, the cost of providing the services and to allow for the impacts of inflation, with fees not exceeding the cost of providing the service. In some instances, the City may elect to not recover the full cost of providing the service and the City Council shall determine the appropriate cost recovery level for those individual services; and

(c) It shall be the further policy of the city of Carson, acting through its duly elected City Council, that revenues in excess of expenditures at the end of a fiscal year shall be used first to satisfy the general fund reserve requirements, capital project reserves, capital equipment reserves, and liability reserves before being appropriated for other uses; and

EXHIBIT NO. 02

[MORE]



(d) It shall be the further policy of the city of Carson, acting through its duly elected City Council, that current year operating expenditures shall be funded by current year operating revenues; and

(e) It shall be the further policy of the city of Carson, acting through its duly elected City Council that the City shall honor all of its debt and seek to maintain the highest possible bond rating to minimize issuance and interest costs to the City.

Section 3. In order to effectively implement the forgoing statement of financial principles, the following shall be, and hereby are, adopted as policies of the City Council that staff shall adhere to in the preparation, consideration, adoption, and implementation of the annual city budget, to wit:

(a) General City Financial Policies

1. It shall be the policy of the city of Carson to value its employees as one of its most important assets and compensate them at an appropriate level and commensurately with the City's ability to pay; and
2. It shall be the further policy of the city of Carson to establish, and then maintain, a "minimum reserve" for economic uncertainties equal to 20% of expenditures of the current year General Fund budget exclusive of Nonspendable, Restricted, and Assigned fund balance.
3. In addition to meeting contingency needs, it shall be the further policy of the city of Carson that the General Fund reserve shall provide for a certain level of investment earnings and shall serve as a cash flow reserve.
4. It shall be the further policy of the city of Carson to provide for capital equipment replacement to achieve greater efficiency and effectiveness in its operations.
5. It shall be the further policy of the city of Carson to utilize one time revenues for one-time expenditures or to enhance reserve funds as appropriate or necessary.
6. It shall be the further policy of the city of Carson to maintain, replace, and improve its infrastructure and the City shall set aside a reasonable and prudent amount of General Fund monies for capital projects including repair of various facilities as part of its annual budget process to the greatest extent possible.

(b) Revenues & Expenditures Policies

1. It shall be the policy of the city of Carson to use conservative estimates of revenues to maintain financial flexibility.



2. It shall be the further policy of the city of Carson to continue to explore revenue-raising alternatives as necessary and shall pursue grants available to local government.
3. It shall be the further policy of the city of Carson that programs that are funded through user fees shall be self-supporting to the greatest extent possible or at a level proscribed by the City Council.
4. It shall be the further policy of the city of Carson to ensure that there is full recovery of overhead and internal services from grant and special or enterprise funds to the greatest extent possible and as permitted by the restrictions associated with each fund.

(c) Special Revenue, Enterprise, and Internal Service Funds Policies

1. It shall be the policy of the city of Carson to abide by applicable rules and regulations pertaining to the expenditures of special revenue funds as required by each funding source.
2. It shall be the further policy of the city of Carson that so-called "Enterprise activities" shall be programmed to generate sufficient revenues to support the Enterprise's operations including overhead and internal services, debt service requirements, and current and future capital needs.
3. It shall be the further policy of the city of Carson that Special Revenue and Enterprise Funds shall adhere to all other applicable fiscal policies of the City.
4. It shall be the further policy of the city of Carson to establish Internal Service Funds as appropriate to ensure cost recovery on a fair and justifiable basis.
5. It shall be the further policy of the city of Carson that transfers to the General Fund from other funds for overhead costs shall be reviewed annually and shall conform to the Office of Management & Budget A-97 Guidelines.


(d) Debt Policies

1. It shall be the policy of the city of Carson to strive to incur debt only for capital improvement projects and only if the project cannot be funded by recurring or one-time revenues.
2. It shall be the further policy of the city of Carson that proceeds from long term debt shall not be used for current on-going expenditures.
3. It shall be the further policy of the city of Carson not to use short-term borrowing for operating expenditures unless it is a Tax & Revenue Anticipation Note or other short-term cash flow borrowing.

4. It shall be the further policy of the city of Carson that use of the General Fund as security for debt issues should be limited to the greatest extent possible to capital projects which serve the general benefit of the City.

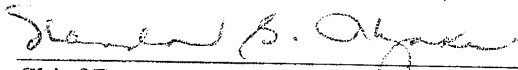
Section 4. The City Clerk shall cause a copy of this Resolution to be posted in a prominent location on the city of Carson web site.

PASSED, APPROVED, and ADOPTED this 18th day of January, 2012.



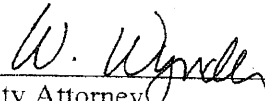
Mayor Jim Dear

ATTEST:



Chief Deputy City Clerk Wanda S. Higaki

APPROVED AS TO FORM:

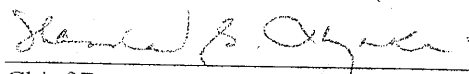


City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Wanda S. Higaki, Chief Deputy City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council is five; that the foregoing resolution, being Resolution No. 12-014 was duly and regularly adopted by said Council at a regular meeting duly and regularly held on the 18th day of January, 2012, and that the same was passed and adopted by the following vote:

AYES: COUNCIL MEMBERS: Mayor Dear, Ruiz-Raber, Santarina, Gipson and Davis-Holmes
NOES: COUNCIL MEMBERS: None
ABSTAIN: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None



Chief Deputy City Clerk Wanda S. Higaki





ALESHIRE &
WYNDER, LLP
ATTORNEYS AT LAW
www.aleshirewynder.com

MEMORANDUM

TO: HONORABLE MAYOR & COUNCILMEMBERS, CITY OF CARSON

FROM: WILLIAM W. WYNDER, CITY ATTORNEY *W. Wynder*

DATE: MARCH 24, 2010

COPIES HONORABLE KAREN AVILLA, CITY TREASURER; MR. JEROME GROOMES, CITY MANAGER; MS. JACKIE ACOSTA, ADMINISTRATIVE SERVICES GENERAL MANAGER

SUBJECT: THE CONSTITUTIONAL PROHIBITION ON THE MAKING OF A "GIFT OF PUBLIC FUNDS" AS APPLIED TO DISASTER RELIEF CONTRIBUTIONS FROM THE CITY'S GENERAL FUND TO FOREIGN COUNTRIES OR OTHER COMMUNITIES

You have asked us to consider whether there is any prohibition on making contributions out of the general fund for disaster relief efforts in foreign countries or communities. Our state constitution does include a prohibition on the making of a "gift of public funds." Cal. Const. art. XVI, § 6 provides, in relevant part, as follows: The Legislature . . . *or of any county, city and county, city, township or other political corporation . . . shall [not] have the power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever* (Emphasis added.)

It has long been recognized, however, that this general "gift" prohibition in the Constitution does not apply where a public expenditure, while incidentally beneficial to a private recipient, promotes a valid and substantial public purpose within the authorized mission of the public agency appropriating the funds. "It is well settled . . . that expenditures of public funds or property which involve a benefit to private persons are not gifts within the meaning of [Section 6 of Article XVI] . . . if those *funds are expended for a public purpose*. . . ." (California Emp. Com. v. Payne (1947) 31 Cal. 2d 210,216 (emphasis added); *see also* County of Alameda v. Janssen (1940) 16 Cal. 2d 276, 281; Johnston v. Rapp (1951) 103 Cal. App. 2d 202, 207; 75 Ops. Cal. Atty. Gen. 20, 25 (1992); 68 Ops. Cal. Atty. Gen. 46,50 (1985).)

The law confers broad discretion on a legislative body, such as a City Council, to allocate the resources of a public entity in furtherance of a "public purpose." A determination that assisting another community or country to recover from a disaster or natural calamity would seemingly promote the public interests of the donor city by fostering an ethos of reciprocity and even setting a pattern for mutual aid, and would seem to be consistent with the notion that a gift, though incidentally benefiting private individuals, promotes a valid and public purpose.

While there is ample precedent for donations (in either funds or in-kind goods or services) to relief efforts in other communities or states within the United States, we can find no cases or legal opinions discussing the expenditure of general fund dollars in support of disaster

EXHIBIT NO. 03

relief outside of our national borders. It is unclear whether "findings" of public purpose can be made in connection with disaster relief in a foreign country or community (although logic would suggest that such findings could be made, particularly if the contribution were made to a "sister city"). In short, there is no case law or opinion of the Attorney General on the question you have asked us to consider to which we can make reference in forming and expressing a legal opinion.

However, the Attorney General has opined, in 67 Ops. Cal. Atty. Gen. 32, 34 (1984), as follows:

"It has been held that public credit may be extended and public funds disbursed if a direct and substantial public purpose is served and non-state entities are benefitted only as an incident to the public purpose. [Citations.] The benefit to the state from an expenditure for a public purpose is in the nature of consideration and the funds expended are therefore not a gift even though private persons are benefitted therefrom. [Citations.]"

In 75 Ops. Cal. Atty. Gen. 20, *supra*, at pp. 24-25, it was noted that the determination whether a requisite "public purpose" would be served by the activity proposed to be funded was largely left to the determination of the legislative body of a public agency: "***Whether a particular program serves a public purpose is primarily a legislative determination that will not be disturbed by the courts so long as it has a reasonable basis.***" (Emphasis added.)

Cal. Const. art. XVI, § 6 includes a specific exception for certain natural disasters and provides that "***nothing*** contained in this Constitution ***shall prohibit*** the State, or ***any*** county, city and county, ***city***, township, or other political corporation or subdivision of the State ***from providing aid or assistance to persons***, if found to be in the public interest, ***for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President.***" (Emphasis added.) However, this exception applies ***only*** to disasters or emergencies declared by the President, and we can find no Presidential declarations of emergency involving any recent foreign natural disasters (nor can we find any federal authority authorizing such a declaration).

Stated simply, the ***law is silent on whether a public agency can expend public funds to help with disaster relief in the communities of a foreign nation.*** Such an expenditure could be deemed lawful provided the same advances a legitimate "public purpose." An argument can be made that assisting communities in foreign nations to recover from disasters, especially if there are families (immediate or extended) from such nations residing in the community of Carson would be deemed a legitimate "public purpose."

We recommend that, on a going forward basis, if the City Council is again presented with a similar circumstance where the community desires to make a financial contribution to a "sister city," or a foreign country, or even another community in another state (or in California) to assist in disaster relief, that City staff be directed to prepare findings in connection with any donation from the "general fund" that articulates the public benefit to the community of Carson that is

reasonably likely to flow from a disaster relief contribution (either in cash or in kind). In preparing such findings, the City Council and staff could consider such questions as:

1. What specific purposes will the funds be utilized for, such as the restoration of public infrastructure, or restoration of governmental offices or services, or the maintenance of the public peace (all "traditional governmental functions" with a recognized "public purpose");
2. Under whose auspices will the City's contribution be expended (gifts to cities or governments would arguably be more consistent with a public purpose than gifts to private entities);
3. To what extent can the expenditure of the City's contribution be documented and substantiated (demonstrating that such funds were actually expended for a public purpose will assist in justifying the contribution "after the fact");
4. Will the community be expected to respond to respond in a similar manner to other disasters resulting in the need for similar financial aid (thus establishing a precedent that places an undue burden on the general fund)?
5. Will the contribution of general fund dollars or in-kind services or commodities to disaster relief improve the City's abilities to care for itself and its residents in the event of a local disaster or state of emergency or improve the skill and competence of the city of Carson with regard to local disasters or emergencies (thereby establishing a "public purpose" for an in-kind contribution or a contribution of commodities or skilled services)?

[END OF MEMORANDUM]

