

OFFICE OF THE CITY ATTORNEY

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Legal Opinion 2018-020

TO: Mayor, John Engen, Jane Kelly, Marty Rehbein, Kirsten Hands, Kelly Elam, Karen Gasvoda, Leigh Griffing, Geana Elensky, Scott Paasch, Donna Gaukler, Betsy Willet, Elizabeth Erickson, Shirley Kinsey, Dale Bickell, Steve Johnson, Department Attorney

FROM: Jim Nugent, City Attorney

DATE October 30, 2018

RE: Montana State Law allows cities to solicit and accept bequests, donations, or grants of money, property, services or other advantages and comply with any condition that is not contrary to the public interest.

FACTS:

A City of Missoula neighborhood council is interested in attempting to raise monetary donations to be donated to the City of Missoula earmarked for a neighborhood project. The issue of the City accepting donations seems to arise every year at least once.

ISSUE:

May the City of Missoula accept donations of money earmarked for a neighborhood project?

CONCLUSION:

Yes, subsection 7-1-4124(7) MCA authorizes Montana cities and towns to accept monetary donations.

LEGAL DISCUSSION:

Title 7, chapter 1, part 41 is entitled "MUNICIPALITIES". Section 7-4124 MCA is entitled "POWERS" and sets forth numerous powers possessed by a municipality.

Subsection 7-1-4124(7) MCA provides as follows:

"7-1-4124. POWERS. A municipality with general powers has the power, subject to the provisions of state law, to:(7) solicit and accept bequests, donations, or grants of money,

property, services or other advantages and comply with any condition that is not contrary to the public interest.”

Pursuant to section 7-1-101 MCA the powers of self-government local government units includes but is not limited to the powers granted to general power governments.

Also, it should be noted that Montana Constitution article XI, subsection 4(2) provides that “THE POWERS OF INCORPORATED CITIES AND TOWNS AND COUNTIES SHALL BE LIBERALLY CONSTRUED.” (emphasis added).

Another Montana Constitutional provision to be aware of is article VIII entitled “STRICT ACCOUNTABILITY” which provides:

“Section 12. STRICT ACCOUNTABILITY. The legislature shall by law insure STRICT ACCOUNTABILITY OF ALL REVENUE RECEIVED AND MONEY SPENT BY THE STATE, COUNTIES, CITIES, TOWNS, and all other local government entities. (emphasis added).

CONCLUSION:

Yes, subsection 7-1-4124(7) MCA authorizes Montana cities and towns to accept monetary donations.

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/s/ Jim Nugent

Jim Nugent, City Attorney

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