



TO: Board of Estimates, Office of Comptroller
FROM: AGC1000 - City Council : AGC1000 - City Council
DATE: 07/31/2023
SUBJECT: Governmental/Charitable Solicitation Application for Patterson Park
Splash Pad

ACTION REQUESTED OF BOARD OF ESTIMATES:

The Board is requested to approve a Application .

PERIOD OF CONTRACT/AGREEMENT: Based on Board Approval

AMOUNT AND SOURCE OF FUNDS:

Transaction Amount: \$ 0.00

Project Fund	Amount
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BACKGROUND/EXPLANATION:

Donations will be solicited from Baltimore businesses, civic leaders, the foundation community, and the general population. A potential donor list will be composed of individuals, organizations, businesses, and foundations that contribute to the economic, social, and cultural vitality of Baltimore City. Most of the individual and corporate entities fitting that description are not controlled donors. However, those potential donors who are controlled donors with respect to the City Council or the Board of Estimates will not be targeted or singled out in any way and will be solicited, if at all, in the same manner as the other potential donors.

In light of the closure of Patterson Park Pool in Summer, Councilmember Cohen is collaborating with the Administration and a coalition of elected officials and community partners (Delegate Robbyn Lewis, Friends of Patterson Park, Patterson Park Neighborhood Association, Comité Latino de Baltimore) to establish a pop-up splash pad in or near Patterson Park.

Councilmember Cohen and his staff intend to raise \$15,000 in this campaign. These funds will pay for water features, water usage, free or discounted refreshments, and cultural/recreational programming.

Baltimore City Code Article 8, Section 6-26, prohibits solicitation or facilitating the solicitation of a gift. An exception was enacted in 2005 to permit certain solicitations that are for the benefit of an official governmental program or activity, or a City endorsed charitable function or activity.

Ethics Regulation 96.26B sets out the standards for approval, which includes the requirement that the program, function or activity to be benefited and the proposed solicitation campaign must be endorsed by the Board of Estimates or its designee.

MBE / WBE Participation not required / The purchaser is not using city funds or receiving any city subsidies to purchase the property

COUNCIL DISTRICT: 1st District

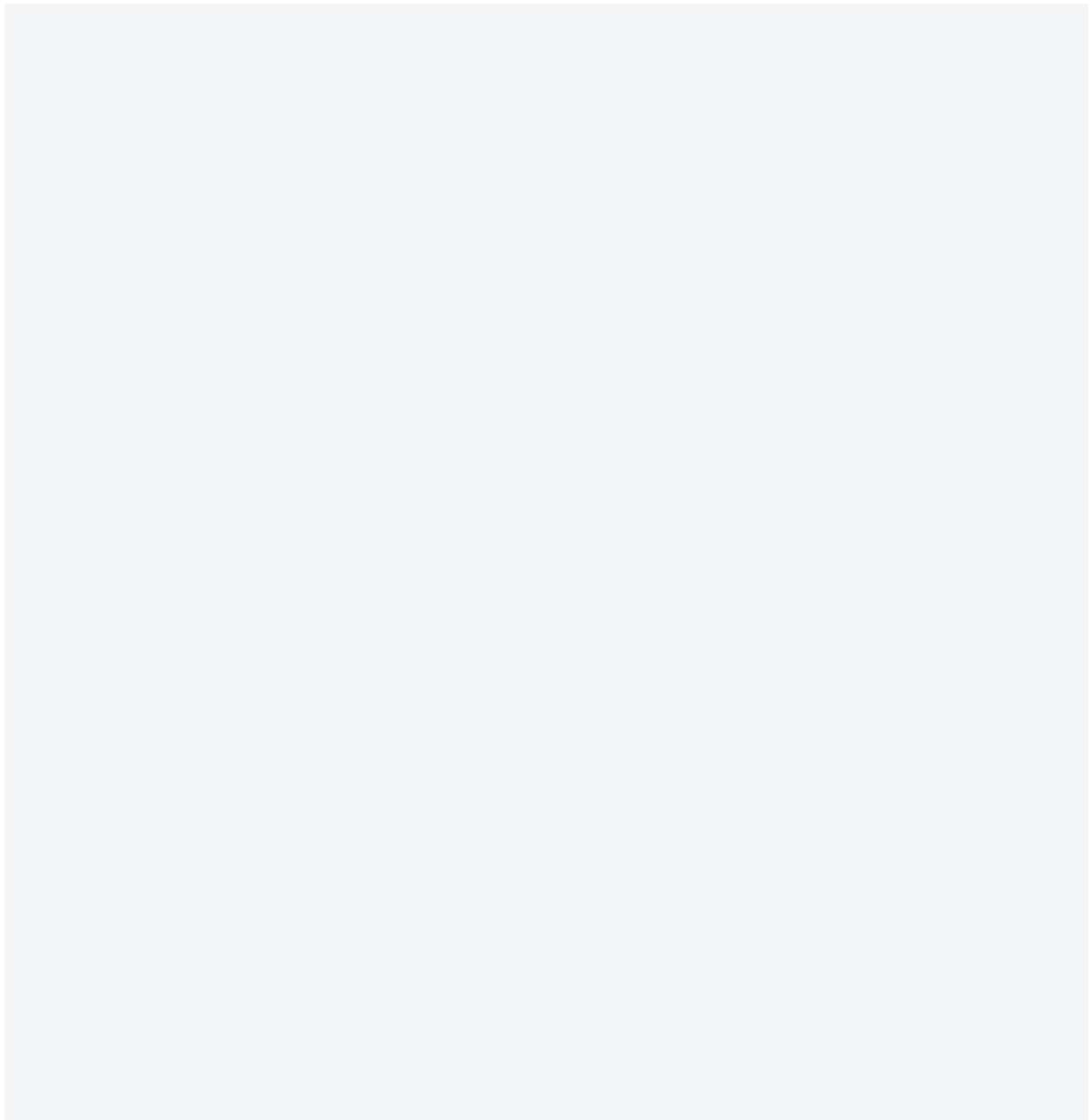
EMPLOY BALTIMORE:	LIVING WAGE:	LOCAL HIRING:	PREVAILING WAGE:
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N/A	N/A	N/A	N/A
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1% FOR PUBLIC ART: N/A.

ENDORSEMENTS:

Law has reviewed and approved for form and legal sufficiency





BALTIMORE CITY ETHICS BOARD
100 N. Holliday Street, Suite 635 / Baltimore, MD 21202
ethics@baltimorecity.gov / 410-396-7986

**GOVERNMENTAL/CHARITABLE GIFT SOLICITATION WAIVER –
APPLICATION FOR APPROVAL
DIRECTIONS AND GENERAL INFORMATION**

Note: *Bold-italicized terms* are defined at the end of these directions.

I. BACKGROUND

Section 6-26 {"Gifts: Solicitation prohibited"} of the Baltimore City Public Ethics Law, contained in Article 8 of the City Code, generally prohibits any *public servant* from soliciting or facilitating the solicitation of a *gift*, "whether on the *public servant*'s own behalf or on behalf of another *person*," from any *person* that the *public servant* "knows or has reason to know" is a *controlled donor*.

Section 6-27 {"Gifts: Acceptance prohibited"} further prohibits any *public servant* from accepting a *gift*, even if unsolicited, from any *person* that the *public servant* "knows or has reason to know" is a *controlled donor*.

These prohibitions have long been recognized to apply even if the "gift" is being solicited to support a governmental function or charitable endeavor. For this reason, City *public servants* should avoid broad solicitation efforts, such as fundraising, which could reach *controlled donors*.

An exception was enacted in 2005 to permit certain solicitations that are "for the benefit of an official governmental program or activity or a City-endorsed charitable function or activity" and have been pre-approved by the Ethics Board.

More recently, the Ethics Board adopted Regulation 06.26.1 to standardize and clarify the requirements and procedures for invoking this exception. (The full text of the Regulation is available on the Ethics Board's website: <https://ethics.baltimorecity.gov/gift-solicitation-waivers>.)

II. GENERAL STANDARDS FOR APPROVAL

Ethics Board Regulation 06.26.1(B) provides the following general standards for Ethics Board approval:

1. The solicitation must be for the exclusive benefit of a governmental or charitable function, program, or activity.
2. **The program, function, or activity to be benefitted and the proposed solicitation campaign must have been endorsed by the Board of Estimates or its designee(s).**

3. The solicitation must be directed at a broad range of potential donors and may not specially target *controlled donors*.
4. The campaign must be designed and conducted so as to avoid any suggestion that contributors might receive special access or favored treatment from any City *agency* or any *public servant*.
5. The solicitation must be approved in advance by the Ethics Board, on written request of the *sponsoring agency*.
6. The solicitation must be conducted in accordance with the terms and conditions of the Ethics Board's approval.

III. WHEN AND WHERE TO APPLY

An application for Ethics Board approval must be submitted to the Ethics Board at ethics@baltimorecity.gov at least 45 days before any *controlled donor* is solicited, directly or indirectly.

IV. ACTIVITY REPORTS AND RECORDS

The *sponsoring agency* must periodically report solicitation activities to the Ethics Board, in a form consistent with generally accepted standards in the practice of accounting¹, as follows:

1. A Final, Cumulative Report must be filed within 30 days after all solicitations have been made and anticipated donations received.
2. Interim Reports must be filed on the following schedule, depending on the aggregate value of donations sought by the campaign:
 - (i) for campaigns seeking \$50,000 or more in donations, once every 3 months;
 - (ii) for campaigns seeking between \$5,000 and \$50,000, once every 6 months; and
 - (iii) for campaigns seeking less than \$5,000, only the Final, Cumulative Report is required.

The *sponsoring agency* must make and maintain detailed records to assure complete reporting of all of the information required to be disclosed in the Reports. Activity reports must be signed as accurate by the *sponsoring agency* and *fiscal sponsor*. (See Form 627.)

V. FORMS AND INFORMATION

Additional forms and instructions for the application and activity reports are available on the Board's website at <https://ethics.baltimorecity.gov/gift-solicitation-waivers>.

Any questions about the waiver application and/or reporting process should be directed to Ethics Board staff at ethics@baltimorecity.gov or 410-396-7986.

¹ You may review the Governmental Accounting Standards on the Governmental Accounting Standards Board's website, accessible here: <https://gars.gasb.org/>. For free access, choose "Basic View."

DEFINITION OF TERMS

All defined terms are indicated by *bold italics*.

“Agency”/ “City agency”

- (a) *General*. “Agency” or “City agency” means any department, board, commission, council, authority, committee, office, or other unit of City government.
- (b) *Inclusions*. “Agency” or “City agency” includes:
 - (1) Baltimore Children and Youth Fund;
 - (2) Baltimore City Parking Authority;
 - (3) Baltimore Development Corporation;
 - (4) Baltimore Police Department;
 - (5) Enoch Pratt Free Library of Baltimore City;
 - (6) Housing Authority of Baltimore City;
 - (7) Local Development Council, South Baltimore Video Lottery Terminal;
 - (8) Pimlico Community Development Authority;
 - (9) South Baltimore Gateway Community Impact District Management Authority; and
 - (10) any individual not embraced in a unit of City government who exercises authority comparable to that of the head of a unit of City government.

“Controlled donor”

“Controlled donor” means any *person* that:

- (1) does or seeks to do business of any kind, regardless of amount:
 - (i) with an *agency*; or
 - (ii) with another *person* in connection with or in furtherance of that other *person’s* contract with an *agency*;
- (2) engages in an activity that is regulated or controlled by an *agency*;
- (3) is a lobbyist with respect to matters within the jurisdiction of an *agency*;
- (4) has a financial interest that might be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of an *agency*; or
- (5) is an owner, partner, officer, director, trustee, employee, or agent of any *person* described in items (1) through (4).

“Fiscal Sponsor”

“Fiscal sponsor” means the person who is responsible for the custody, accounting, and distribution of donations. The fiscal sponsor may not be an individual employed by the sponsoring agency.

“Gift”

“Gift” means the transfer of any thing or any service of economic value, regardless of the form, for less than adequate, identifiable, and lawful consideration. “Gift” does not include political contributions that are regulated under state law.

“Person”

“Person” means:

- (1) an individual;
- (2) a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind; and
- (3) a partnership, firm, association, corporation, or other entity of any kind;
- (4) except as used in the City Code, Article 8, Subtitle 9, for the imposition of criminal penalties, a governmental entity or an instrumentality or unit of a governmental entity.

“Public Servant”

“Public servant” means any official or employee of the City of Baltimore or of any *agency* of the City.

“Sponsoring agency”

“Sponsoring agency” means:

- (1) the City *agency* that, under the City Code, Article 8, § 6-26(b) and R 06.26.1, seeks to conduct a solicitation for an official governmental program or activity or for a charitable function or activity; or
- (2) if more than one City *agency* is involved, the *agency* designated to coordinate the solicitation.



BALTIMORE CITY ETHICS BOARD
 635 City Hall, Baltimore, Maryland 21202
 Phone: 410-396-7986
 Email: ethics@baltimorecity.gov

Date Received: _____

GOVERNMENTAL/CHARITABLE GIFT SOLICITATION WAIVER – APPLICATION FOR APPROVAL

Name of Benefitted Program/Charity:

PART A. SPONSORING AGENCY.

Agency Name:

Contact Person/Coordinator:

Address:

Phone:

Email:

PART B. PURPOSE OF PROPOSED SOLICITATION.

I. Identify the specific governmental or charitable program, function, or activity for which solicitations will be made.

II. Describe the specific purposes to which contributions and other receipts will be applied.

III. Select the appropriate range for the aggregate value of the contributions sought:

- \$500,000 or more
- Between \$150,000 and \$500,000
- Between \$50,000 and \$150,000
- Between \$5,000 and \$50,000
- Less than \$5,000

PART C. WHEN AND HOW SOLICITATION TO BE CONDUCTED.

I. Proposed starting date of solicitation efforts:

II. Proposed ending date of solicitation efforts:

III. Describe the categories of persons to be solicited and by whom and how those solicitations will be made.

IV. Identify all *public servants* and other individuals at the request of the *sponsoring agency* who will solicit contributions.

V. Describe measures to be taken to ensure that the solicitation (i) will be directed at a broad range of donors and (ii) will not specially target *controlled donors*.

VI. Describe measures to be taken to avoid any suggestion that contributors might receive special access or favored treatment from any *agency* or *public servant* of the City.

PART D. FISCAL SPONSOR (PERSON RESPONSIBLE FOR CUSTODY, ACCOUNTING, AND DISTRIBUTION OF DONATIONS)

NOTE: The *fiscal sponsor* may not be an individual employed by the *sponsoring agency*.

Entity Name:

Contact Person:

Address:

Phone:

Email:

- I. Disclose the person or persons within the distributing entity who will be responsible for fund distribution and accounting.**

- II. Describe how the funds will be held pending distributions, e.g., held in a trust or other dedicated account, in a general account, co-mingled with other funds, etc.**

- III. What measures will be taken by the distributing entity to ensure that the donations will actually be used for the intended purpose?**

IV. What measures are in place to account for the donations? In the event that donations exceed the charitable need, please state how the additional funds will be allocated or dispersed.

[Redacted area for response to Question IV]

V. Please provide details about the measures that will be taken by the distributing entity to ensure to ensure that *controlled donors* will not receive preferential treatment.

[Redacted area for response to Question V]

PART E. SIGNATURE AND AFFIRMATION .

Part E should be completed by the *sponsoring agency* upon completion of the application.

I, [Redacted] [Name], on behalf of [Redacted]
[Sponsoring Agency], affirm under the penalties of perjury that the contents of this application and all accompanying attachments are accurate to the best of my knowledge, information, and belief.

[Redacted Signature] [Redacted Date]
Signature Date

PART F. CITY ENDORSEMENT [ONLY TO BE COMPLETED BY BOE OR DESIGNEE].

Part F should only be completed by the Board of Estimates or its designee(s).

- Endorsed by the Board of Estimates
- Endorsed by the Designee of the Board of Estimates: [Redacted]

[Redacted Signature] [Redacted Date]
Clerk Signature Date

Office of Councilmember Zeke Cohen - Summer 2023 Patterson Park Splash Pad- Responses to Part D

I. Disclose the person or persons within the distributing entity (Friends of Patterson Park) who will be responsible for fund distribution and accounting.

Fund distribution and accounting will be handled primarily by Lesley Gardiner, the organization's bookkeeper in partnership with the organization's Executive Director, Jennifer Robinson. Ms. Robinson is responsible for signing the checks and oversight of all procurement.

II. Describe how the funds will be held pending distributions, e.g., held in a trust or other dedicated account, in a general account, co-mingled with other funds, etc.

Donations will go in the Friends of Patterson Park's Operating account at M&T Bank but will be designated as restricted for the intended purposes and held in a subaccount in our Quickbooks accounting system.

III. What measures will be taken by the distributing entity to ensure that the donations will actually be used for the intended purpose?

The Friends will work in close partnership with Councilman Cohen's office to ensure the donations are used for the intended purpose. We can provide a monthly accounting of expenses and payment confirmation and in many cases respond to more frequent requests.

IV. What measures are in place to account for the donations? In the event that donations exceed the charitable need, please state how the additional funds will be allocated or dispersed.

We will use our QuickBooks accounting system to thoroughly account for all donations. Prior to beginning fundraising, we will determine a budget to cover the charitable need and will stop accepting donations once the target amount is reached. Under no circumstance will the amount raised exceed \$50,000.

V. Please provide details about the measures that will be taken by the distributing entity to ensure that *controlled donors* will not receive preferential treatment.

No donor, controlled or otherwise, will receive preferential treatment by Friends of Patterson Park. We will include language on webpage for donations that states the potential benefits to youth and community members and informs donors that they will not gain favors or special access to Friends of Patterson Park, Councilmember Cohen, or any other government official.