

Rose Community Foundation

GIFT ACCEPTANCE Policies & Guidelines

Amended and Accepted by the Board of Trustees
October 20, 2020

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PURPOSE

These Gift Acceptance Policies and Guidelines (these “policies and guidelines”) govern the solicitation and acceptance of gifts by Rose Community Foundation ("the Foundation"), and provide guidance to prospective donors and their outside advisors who assist in the gift planning process. These policies and guidelines apply to all gifts, both current and planned, to the Foundation for any of its programs or services. The goals of these policies and guidelines are to encourage giving by individuals and entities and to optimize the gift acceptance process without encumbering the Foundation with gifts that may prove to generate more cost than benefits, or that are restricted in a manner that is not consistent with the mission of the Foundation.

The types of current gifts that the Foundation may accept, subject to these policies and guidelines, include cash, publicly-traded securities, closely-held stock and other business interests, certain oil and gas interests, real property, and tangible personal property. The types of planned gifts that the Foundation may accept, subject to these policies and guidelines, include bequests, charitable gift annuities (immediate and deferred), charitable remainder trusts, charitable lead trusts, gifts of life insurance policies and proceeds, remainder interests in property, retirement assets, and such other gift arrangements as the Gift Acceptance Committee (described below) may from time to time approve.

The solicitation and acceptance of gifts by the Foundation is subject to the oversight of the Board of Trustees of the Foundation (the “Board”) or a subcommittee appointed by the Board to which the Board has delegated its authority. In order for the Foundation to respond quickly, and in the affirmative when possible, to all gifts offered by prospective donors, the Board has delegated its authority hereunder to a subcommittee consisting of the Chair of the Board, Chair of the Investment Committee, and the members of the Foundation’s Audit and Finance Committee (hereinafter referred to as the “Gift Acceptance Committee”). The Gift Acceptance Committee may further delegate to the Investment Committee analysis of the economic and investment characteristics of specific gifts to the Foundation. Any exceptions to these policies and guidelines must be approved by the Gift Acceptance Committee.

STATEMENT OF PRINCIPLES

1. The policy of the Foundation is to inform, serve, guide, or otherwise assist donors who wish to support the Foundation activities, but never under any circumstances to pressure or unduly persuade.
2. No proposed gift will be accepted or program promoted which is not in the best interests of the donor, or which violates the governing documents or policies of the Foundation, or any provision of federal or state law applicable to the Foundation.
3. The Foundation staff working with a donor shall in all cases encourage the donor to discuss the proposed gift with independent legal, financial and/or tax advisors of the donor's choice. This policy is designed to ensure that the donor receives a full and accurate explanation of all aspects of the proposed charitable gift and its appropriateness to the donor's objectives and circumstances.
4. The Foundation will remain open and accessible to its donors, providing full communication of its activities, use of funds, policies and procedures.

5. The Foundation will strive to maintain the highest level of integrity with its donors by always acting in the best interest of philanthropy and scrupulously avoiding actual or apparent conflicts of interest or any conduct that would tend to bring discredit to the donor and/or the Foundation. All information about the donor and proposed gift is strictly confidential.
6. The President and Chief Executive Officer (CEO) and persons designated by that office are authorized to negotiate planned gift agreements with prospective donors, following these policies and guidelines. Each particular agreement need not be reviewed by legal counsel, provided it is based on a form of agreement that has been reviewed and approved by legal counsel.
7. These policies and guidelines provide that certain proposed gifts must be reviewed and approved for acceptance by the Gift Acceptance Committee. At the Committee's discretion, a proposed gift may be submitted to the Foundation's legal counsel for its review and recommendations.
8. The Foundation shall not engage in offering legal or tax advice to donors or prospective donors. Information on giving arrangements, including the Foundation's standard donor agreements, may be supplied, and donors and prospective donors shall be urged to contact their personal professional advisors.
9. The Foundation is solely responsible for determining that any donor restriction as to the use of contributions has been observed. In the event a donor's restriction is no longer possible to observe, or is no longer relevant, the Board is solely responsible for using the funds to support a charitable purpose as consistent as possible with the original purpose of the fund.

GIFT ACCEPTANCE COMMITTEE

In order for the Foundation to respond quickly, and in the affirmative when possible, to all gifts offered by prospective donors, the Board hereby establishes a Gift Acceptance Committee and delegates to the Gift Acceptance Committee the responsibility to review and approve, subject to these policies and guidelines, the following gifts offered to the Foundation:

- a. Closely-held stock and other business interests, such as limited partnership interests and limited liability company membership interests
 - b. Royalty interests
 - c. Real property
 - d. Tangible personal property
 - e. Remainder interests in property
 - f. Bargain sales
 - g. Any other offered gift referred to the Gift Acceptance Committee by the Foundation staff
- The Gift Acceptance Committee is hereby authorized to take action via e-mail. If the majority of the members of the Gift Acceptance Committee determine that a proposed gift needs to be approved by the full Board of Trustees, they may refer the matter to the Board for Board consideration.

RESTRICTIONS ON GIFTS

The Foundation will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with the Foundation's mission, purposes and priorities. In order for the Foundation to comply with the Treasury Regulations governing community foundations, a gift to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income therefrom, in furtherance of its exempt purposes.

A proposed gift that would result in a donor advised fund owning an interest in a corporation, partnership, limited liability company or trust as further described below may be subject to rules contained in section 4943 of the Internal Revenue Code, concerning "excess business holdings." In general, a proposed gift that would result in the donor advised fund owning:

- A greater than 20% interest in a corporation, partnership, limited liability company (LLC) or trust, or
- Any interest in such an entity if the donor or persons related to the donor will retain an interest in the entity and if the fund's interest, when combined with the interest retained by the donor and persons related to the donor, would exceed 20%, may implicate the excess business holdings rules. These rules apply to interests in entities engaged in the active conduct of a trade or business and specifically exclude interests in which at least 95% of the gross income of the entity is derived from certain passive sources (examples of these are interests in investment partnerships and LLCs which own real estate, nonworking oil and gas interests, tangible personal property, remainder interests in personal residences and farms, and life insurance). Under a "de minimis" rule, the excess business holdings rules may not apply if the donor-advised fund will not own a more than 2% interest in an entity. The Foundation will determine whether to accept the gift of an interest in such business interests after considering the implications of these regulations.

GUIDELINES FOR ACCEPTING GIFTS

CURRENT GIFTS

1. Cash

- (a) The Foundation will accept a current cash gift of any amount, subject to any minimum funding requirements adopted by the Foundation. A donor may also make a cash pledge to be paid over whatever period of time is mutually acceptable to the donor and the Foundation.
- (b) All checks should be made payable to Rose Community Foundation and shall in no event be made payable to an employee, agent, or volunteer for the credit of the

Foundation. The Foundation will deposit checks made out to other payees only when the Foundation is confident that the check is intended to be deposited to a fund at the Foundation, and only with the approval of a Foundation officer.

2. Publicly-Traded Securities

- (a) Securities that are traded on any public Stock Exchanges may be accepted by the Foundation. Generally, such securities will be immediately sold by the Foundation, unless otherwise referred to the Investment Committee by the President and CEO. In no event shall the Foundation commit to a donor that a particular security will be held by the Foundation.

3. Closely-Held Stock and Other Business Interests

- (a) Gifts of closely held stock and other business interests, including limited partnership interests and limited liability company membership interests, may be accepted only after review and approval by the Gift Acceptance Committee.
- (b) Such gifts will be reviewed and accepted on a case-by-case basis after the Gift Acceptance Committee has evaluated: (i) any potential cash calls to which the Foundation would be subject as a result of owning such interests, (ii) the probability that the Foundation will be able to liquidate the interests within a reasonable period of time with consideration given to potential liquidity streams from the interest, (iii) whether the acceptance, holding and/or sale of such interests may have adverse tax or other consequences to the Foundation, and (iv) whether the acceptance, holding and/or sale of such interests may expose the Foundation to any other risks or liabilities.
- (c) Contributions of such interests shall be carefully discussed with the donor and the donor's advisors.
- (d) General partnership interests will not be accepted.

4. Oil & Gas Interests

- (a) Royalty interests may be accepted only after review and approval by the Gift Acceptance Committee.
- (b) Working interests will not be accepted.

5. Real Property

- (a) Gifts of real property may be made in various ways – for example, outright, charitable remainder trusts, remainder interests, and bargain sales. These guidelines pertain to gifts of real property in general.
- (b) Gifts of real property may be accepted only after review and approval by the Gift

Acceptance Committee. In making the determination of whether to accept or reject a gift of real property, the Gift Acceptance Committee shall follow the procedures as set forth in Attachments 1 (Gifts of Real Property) and 3 (Environmental Policies).

- (c) In determining whether to accept gifts of real property, the Gift Acceptance Committee shall consider the related ongoing costs, such as property taxes, insurance, utilities and maintenance. The Gift Acceptance Committee may request the donor to continue to be responsible for such costs after transferring title to the property to the Foundation.
- (d) Real property that is encumbered by a trust deed loan or mortgage will be accepted only in exceptional circumstances.

6. Tangible Personal Property

- (a) Gifts of tangible personal property, including jewelry, artwork collections, books, and collectibles, may be accepted only after review and approval by the Gift Acceptance Committee. Tangible personal property valued at \$5,000 or more is subject to an appraisal as required by IRS Form 8283.
- (b) No personal property shall be accepted by the Foundation unless there is reason to believe the property can be liquidated quickly.

7. Bargain Sales

- (a) The Foundation may enter into a bargain sale arrangement subject to the guidelines contained in these policies and guidelines for the property that is the subject of the bargain sale. All bargain sales must be reviewed and approved by the Gift Acceptance Committee.
- (b) A gift of mortgaged property will constitute a bargain sale. Because the amount of indebtedness is treated as a relief of liability, there could be unexpected tax consequences to the donor. The donor should be informed of this and advised to consult with the donor's tax advisor.
- (c) The Foundation must obtain an independent appraisal substantiating the value of the property. Ordinarily the price paid for the property by the Foundation should not exceed 60 percent of its appraised value.

PLANNED GIFTS

1. Bequests

- (a) Bequests have historically been the most important kind of planned gift, and they have contributed significantly to the Foundation. The encouragement of bequests will be one of the highest priorities of the Foundation.
- (b) In order to ensure that bequests are properly designated and in the best interests of

the donor, the Foundation staff will urge the donor to obtain the advice of a professional advisor, and will provide sample bequest language for restricted and unrestricted gifts, including endowments. In addition, the Foundation staff will invite the donor to provide to the Foundation a confidential copy of that section of the donor's will naming the Foundation as a beneficiary.

- (c) If a donor proposes to devise to the Foundation property other than cash or marketable securities, the Foundation will advise the donor that the property that is the subject of the gift must satisfy these policies and guidelines.

2. Charitable Gift Annuities

- (a) The Foundation may offer charitable gift annuities.
- (b) The minimum gift for funding a gift annuity is \$10,000. The minimum age for life income beneficiaries of a gift annuity shall be 60. A deferred annuity may be established at age 50 with distributions to be deferred until at least age 60. No more than two life income beneficiaries will be permitted for any gift annuity. Annuity payments shall be made on a semi-annual basis.
- (c) Gift annuities issued in the state of Colorado must comply with Colorado state law and meet the disclosure requirements under the Philanthropy Protection Act of 1995.
- (d) For new gift annuities, the Foundation may choose to be guided, although not bound, by the suggested rates recommended by the American Council on Gift Annuities.
- (e) Gift annuities may be managed by the Foundation, and the Foundation may employ agents and advisors to assist with the administration and investment of gift annuity assets.
- (f) Ordinarily, the Foundation will not accept real estate, tangible personal property, or any other illiquid asset in exchange for a current charitable gift annuity.

3. Charitable Remainder Trusts

- (a) A donor may create a charitable remainder trust by irrevocably transferring assets to a trustee who manages the assets and provides a specified distribution of income at least annually to one or more beneficiaries for life or a period not exceeding 20 years. On the death of the beneficiaries or at the end of the trust term, the assets are distributed to the Foundation for its restricted or unrestricted use.
- (b) The Foundation may accept designation as remainder beneficiary of a charitable remainder trust.
- (c) The Foundation will not serve as trustee of a charitable remainder trust.

4. Charitable Lead Trusts

- (a) A donor may create a charitable lead trust by irrevocably transferring assets to a trustee who manages the asset and provides a specified distribution of income to a charitable beneficiary or beneficiaries during the term of the trust. At the termination of the trust, the trust corpus is distributed to one or more non-charitable beneficiaries.
- (b) The Foundation may accept designation as income beneficiary of a charitable lead trust.
- (c) The Foundation will not serve as trustee of a charitable lead trust.

5. Life Insurance

- (a) An outright gift of a paid-up life insurance policy to the Foundation will be accepted provided that the Foundation is named owner and irrevocable beneficiary of the policy.
- (b) An outright gift of a partially paid-up life insurance policy to the Foundation may be accepted so long as the Foundation is under no obligation to expend its assets to maintain the policy. In the event a policy is contributed on which premiums remain to be paid, the donor must pledge to continue paying premiums. If the donor does not pledge to continue paying premiums, the gift will be accepted only if the donor gives the Foundation permission to determine the most beneficial use of the life insurance policy, including but not limited to cashing out the policy or abandoning the policy.
- (c) The Foundation may be named as a percentage or contingent beneficiary of a life insurance policy.
- (d) If the face value of the policy exceeds \$5,000, the Foundation shall advise the donor that the IRS will require a qualified appraisal.
- (e) The Foundation will not participate in split dollar or reverse split dollar life insurance.
- (f) The Foundation will not serve as trustee of an irrevocable life insurance trust.

6. Remainder Interests In Property

- (a) The Foundation may accept a remainder interest in a personal residence, farm, or vacation property subject to the guidelines contained in these policies and guidelines for gifts of real estate, including review and approval by the Gift Acceptance Committee. The donor or another person may continue to occupy the real property for a term of years or the life of the donor and/or another person. At the termination of the life estate, the Foundation will own the property and may sell it.
- (b) The donor shall continue to be responsible for property taxes, insurance, utilities,

and maintenance during the term of the life estate unless the Foundation, upon prior approval of the Gift Acceptance Committee, agrees to assume responsibility for any of these items.

7. Retirement Assets

- (c) A donor may gift to the Foundation account-type retirement plans, in which a balance accumulates as principal. These types of plans include Individual Retirement Accounts (IRAs), 401(k) plans, 403(b) plans, and defined contributions plans. Annuity plans, such as defined benefit plans, in which retirement benefits are paid out as income, and principal does not accumulate, generally cannot be used for charitable gifts.
- (d) Methods for gifting retirement assets include:
- Naming the Foundation as successor or contingent beneficiary for all or part of the assets upon the death of either the retirement account owner, or the owner's spouse. This direction is made on the beneficiary designation form of the retirement account, and not in the donor's will.
 - Creating a testamentary charitable remainder trust funded with retirement assets upon the death of the retirement account owner, and naming the Foundation as remainder beneficiary and non-charitable heirs as income beneficiaries.

MISCELLANEOUS PROVISIONS

1. **Appraisals and fees for gifts to the Foundation.** It is the donor's responsibility to secure a qualified appraisal (where required) of property contributed to the Foundation, and the donor shall pay all costs (including costs of the qualified appraisal, costs of independent legal counsel, and costs of any environmental assessment required) associated with the contribution of property to the Foundation. The Gift Acceptance Committee may make exceptions to this general rule only if such exceptions comply with the procedures outlined in Attachment 1 (Gifts of Real Property) and/or Attachment 3 (Environmental Policies), as appropriate.
2. **Independent legal counsel.** It is the donor's responsibility to consult independent legal counsel for all gifts made to the Foundation.
3. **Valuation of gifts for development purposes.** The Foundation will record gifts received by the Foundation on its books according to generally accepted accounting principles.
4. **General rules for gifts of property.** For any gifts of property received by the Foundation, the Foundation will not establish or corroborate the value of such property for the purpose of substantiating the donor's income tax charitable deduction. In addition, no restrictions may be placed on the manner in which the Foundation may use or dispose of property received by gift. As a general rule, the Foundation will sell contributed property as soon as reasonably possible.

5. **Responsibility for IRS Filings upon sale of gift items.** The Chief Financial Officer of the Foundation is responsible for filing IRS Form 8282 upon the sale or disposition of any donated property (other than marketable securities) sold within three years of receipt by the Foundation when the charitable deduction value of the item is \$5,000 or more. The Foundation must file this form within 125 days of the date of sale or disposition of the asset.

6. **Acknowledgement of Gifts.** Acknowledgment of all gifts made to the Foundation and compliance with the current IRS requirements in acknowledgment of such gifts shall be the responsibility of the Foundation. Acknowledgment of gifts shall be made by using Attachment 2, Letter of Receipt.

CHANGES TO GIFT ACCEPTANCE POLICIES AND GUIDELINES

These policies and guidelines have been reviewed and accepted by the Board of Trustees of Rose Community Foundation and will be reviewed periodically as determined by the Board or the Gift Acceptance Committee. The Board of Trustees must approve any changes to or deviations from these policies and guidelines.

Approved on the 20th day of October, 2020.

ATTACHMENT 1

GIFTS OF REAL PROPERTY

General Policy Statement

The Foundation recognizes that gifts of real property create significant legal and economic issues; therefore, the Foundation has established policies and guidelines for such gifts. Pursuant to the policies and guidelines, the authority for the acceptance, management, and disposal of such gifts, within specified parameters, has been delegated by the Board to the Gift Acceptance Committee and to the Foundation management.

Although the determination of whether to accept a gift of real property will be made based on the specific circumstances of the proposed gift, the following represent general procedures and guidelines.

1. Requirements Pertinent to Gifts of Real Property.

A prospective donor who wishes to make a gift of an interest in real property to the Foundation, or the personal representative of an estate in which a devise of an interest in real property is contained, shall submit a written request for acceptance of the gift to the Gift Acceptance Committee.

- a. Each such request should be accompanied by the following, to the extent available:
 - (1) A complete legal description and, if applicable, street address of the real property.
 - (2) At the option of the Gift Acceptance Committee, a survey showing the exact location of the real property.
 - (3) The current tax notice, the prior year's tax bill, and evidence of the most recent payment.
 - (4) A preliminary title report. The report shall be reviewed for:
 - proper legal ownership by the donor;
 - the existence of covenants, conditions or restrictions which may affect its value to the Foundation;
 - the rights which another party may have in the use of the surface, air or subsurface of the property through easements or options; and
 - the existence of any tax liens, encumbrances or judgment items.

Coincident with the Foundation's acceptance of the gift, a title insurance policy, paid for by the donor, must be provided to the Foundation.

- (5) Copies of any documents representing deeds of trust or other security interests encumbering the property, a summary of the payment terms of any such obligations, and the proposed donor's plans regarding payment of such obligations.
 - (6) A summary description of all insurance policies in force with respect to the real property and the amount of the annual premiums due with respect to such policies.
 - (7) At the option of the Gift Acceptance Committee, a physical inspection report.
 - (8) Any existing Phase I or other environmental assessments. At its option, the Gift Acceptance Committee may request that the donor conduct and pay for a current or updated Phase I environmental assessment of the property meeting the requirements set forth in Attachment 3 (Environmental Policies).
 - (9) If the proposed gift is of an undivided interest in the real property, a copy of any tenants-in-common or other agreement, together with all amendments, which may affect the ownership of such real property.
 - (10) Where applicable, documents shall be required demonstrating that the donor has the authority to transfer the interest in real property to the Foundation without the consent of any other party. If applicable, information relating to any restrictions on the ability of the Foundation to sell the property will be required.
 - (11) If the Foundation accepts the gift of real property, an acknowledgment letter signed by the donor in the form of Attachment 2, Letter of Receipt.
 - (12) Copies of any current leases of the property together with all tenant information.
 - (13) A copy of a qualified appraisal of the property that conforms to the Uniform Standards of Professional Appraisal Practice, and is a qualified appraisal for federal tax purposes.
- b. Prior to accepting any gift of real property or an interest in real property, a member of the Gift Acceptance Committee or the Foundation staff shall physically inspect the real property unless the Gift Acceptance Committee has approved other arrangements.
 - c. Any transfer of real property to the Foundation shall be by general or special warranty deed unless otherwise approved by the Gift Acceptance Committee.

- d. The Foundation will follow the environmental policies established by the Board and contained in Attachment 3, Environmental Policies.
- e. Prospective donors will be encouraged to make gifts of interests in real property where the interest in the real property is readily marketable. If the interest in real property being offered to the Foundation is not readily marketable, the Gift Acceptance Committee may request the donor to provide a cash gift to the Foundation in an amount sufficient to pay for the anticipated expenses related to the ownership of the real property during the period prior to the time it can be readily sold, as determined by the Gift Acceptance Committee.
- f. Every effort will be made by the Gift Acceptance Committee to reduce or eliminate the potential for the Foundation liability from the acceptance and future ownership by the Foundation of any interest in real property. Such efforts may include the Foundation forming a single-member limited liability company to accept the property.

2. Acceptance of Property.

- a. Acceptance of gifts of real property requires approval by the Gift Acceptance Committee.
- b. The President and CEO of the Foundation is authorized to execute documents necessary to accept such property, subject to the condition listed above.
- c. The Foundation will prepare and distribute to the Foundation Trustees no later than the next regularly scheduled meeting of the Board a full description of any real property received plus any other information requested by the Board.

3. Management of Properties.

- a. Records Management and Reporting: the Foundation will maintain appropriate records for all real property received by gift, and will prepare an annual report to the Board summarizing the status of such property.

ATTACHMENT 2

LETTER OF RECEIPT

Letter of Receipt

Dear (Donor):

The purpose of this letter is to acknowledge receipt of your charitable gift to Rose Community Foundation (hereinafter “the Foundation”) of the property described in the attachment to this letter. The Foundation has required, and you have accepted, certain understandings in connection with this gift which are also described in the attachment.

You have not imposed, and the Foundation has not accepted, any conditions, restrictions, or limitations on the manner in which the Foundation may use or dispose of the property. The Foundation may sell or otherwise transfer or dispose of any or all of its interest in the property at any time, in its sole discretion. When it does, it shall comply with any and all applicable reporting requirements, including those of the Internal Revenue Service.

In order to ensure that your gift is deductible to the fullest extent of the law, please note that the Foundation has exclusive legal control over your contribution, and the Foundation affirms that no goods or services were provided to you in consideration, in whole or in part, for this donation.

If the foregoing accurately reflects our understanding, please sign this letter in the space provided below.

Very truly yours,

Rose Community Foundation

By: _____

ACCEPTED AND AGREED as of the date set forth below:

(Donor)

Date

(Donor)

Date

ATTACHMENT 3

ENVIRONMENTAL POLICIES

General Policy

1. Policy

It is the policy of Rose Community Foundation (hereinafter "the Foundation") not to accept gifts of real estate or interests in real estate which could result in the Foundation liability under laws (including common law), statutes, regulations or local ordinances relating to hazardous substances, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9601 et seq; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq; the Clean Water Act, 33 U.S.C. §§ 1251 et seq.; the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq. and their state and local counterparts (collectively, "Environmental Laws"). For the purposes of these Environmental Policies, the term "hazardous substances" shall be interpreted to include any pollutants, contaminants, wastes or other chemical, biological or radiological materials that present a substantial risk to human health or the environment, including but not limited to those regulated pursuant to Environmental Laws.

The Foundation will review the potential for such liability in connection with each and every parcel of real estate which may be proposed to be transferred to the Foundation by virtue of a will or inter vivos gift. This review shall be for the specific purpose of determining whether or not the property potentially contains or previously contained hazardous substances. A decision will be made as to whether or not this property will be accepted based on initial environmental assessments as set out in the following procedures.

The Foundation retains the right to refuse or accept property in the event potential liability is evidenced by environmental assessment(s), site examination, or investigation into prior uses, or for any other reason.

2. Procedure for Reviewing Potential Environmental Liability

- a. The donor will be advised of the Foundation's need to avoid liability in connection with the risk of hazardous substance contamination to the property, which is proposed to be given. A letter attached as Environmental Law Impact on Real Property Ownership will be sent to the donor requesting information needed to determine whether an environmental assessment is required. A Phase I environmental assessment complying with current standards of the American Society for Testing and Materials ("Phase I") should be conducted for all vacant land and all properties that have been used for commercial, industrial or agricultural purposes.
- b. The Foundation will gather information from the donor using the attached Prior Uses Questionnaire.

- c. Representatives of the Gift Acceptance Committee (“Committee Reps”) will conduct an on-site examination of the property using the attached Site Examination Checklist form.
- d. With respect to residential property, the Committee Reps shall report to the Gift Acceptance Committee with a recommendation as to whether a Phase I should be conducted based upon the information the Committee Reps have gathered pursuant to paragraphs 2b and c above.
- e. After considering the information gathered pursuant to paragraphs 2a-d, as applicable, the Committee Reps shall report to the Gift Acceptance Committee with a recommendation to the Committee as to whether the property should be accepted by the Foundation or if additional assessments should be conducted.

NOTE: The Foundation may elect to require Phase I without first performing its own on-site inspection and evaluation.

- f. Properties which meet the following criteria may be considered for acceptance if:
 - (1) The prior uses of the property and surrounding properties are not of a nature that, in the judgment of the Board, may have exposed the property to hazardous substance contamination. See the attached Examples of Prior Uses with Potential Risk for examples of uses with potential risk. This list is not all-inclusive; and
 - (2) Either the site inspection of the property revealed no evidence of hazardous substance contamination or an existing environmental assessment or an environmental assessment requested by the Foundation substantiates that the property is free of such contamination.
- g. Where a Phase I is conducted, the Foundation shall retain an Environmental Professional meeting the requirements of an “Environmental Professional” as set forth in 70 Fed. Reg. 66070, 66108 (Nov. 1, 2005) (to be codified at 40 C.F.R. § 312). The donor will be asked to pay for the Phase I. The Explanation of Environmental Assessments attached to this document discusses the usual procedure for such assessments.
- h. If the Phase I indicates that the property may be contaminated with hazardous substances, the Foundation may reject the property or request additional assessments. The Gift Acceptance Committee will forward to the donor its recommendation with a summary of the findings of the environmental assessment.

Environmental Law Impact on Real Property Ownership

Dear Donor:

As part of the current national focus on cleaning up our environment, strict legislation has been passed which may seriously affect owners of property which is found to be contaminated.

In effect, any current or prior owner of such property may be held liable, without fault, for costs to reduce or eliminate contamination found on the property.

Rose Community Foundation (hereinafter “the Foundation”) has adopted certain policies and procedures for its donors designed to identify and avoid the potential risk posed by environmental contaminants, a copy of which is enclosed for your review. These policies provide for on-site examination of the property by the Foundation representatives at the election of the Foundation, and may require the Foundation to conduct environmental assessment of the property to be paid for by the donor.

In order to facilitate the evaluation process and assist the Foundation in determining whether an environmental assessment should be performed, please complete the attached questionnaire if you have knowledge of the prior use of the property.

Please note your approval to conduct an environmental assessment of the property by signing and returning the completed questionnaire to the Foundation.

Thank you for your cooperation and assistance.

Sincerely,

Rose Community Foundation

By: _____

Date: _____

Environmental Considerations Policy

Prior Uses Questionnaire

Donor Name: _____

Information Source: _____

Location of Property:

Description of Property:

Agriculture _____

Commercial/Industrial _____

Undeveloped Land ____ Other ____

Age of Buildings (years) _____

1. If known, please indicate prior uses of property and the dates of such uses.
2. For uses identified in No. 1 above, has an environmental license or permit ever been issued? If so, provide details.
3. Are there any oil, fuel, or chemical storage tanks on the property located above or below ground? If so, please provide the location, approximate size, contents, age, and type (if known) of each tank and associated lines and state whether the tanks have been registered within the State of Colorado. Provide copies of registration forms.
4. Do any of the structures on the property contain asbestos products or asbestos- containing materials (“ACM”)? If testing has been conducted, please provide copies of the results of such testing.

5. Do any of the structures on the property contain lead-based paint? If any testing has been conducted to determine the presence of lead-based paint, please provide copies of the results of such testing.

6. Is radon gas present in any of the structures located on the property? If any radon gas tests have been conducted, please provide copies of the results of such testing.

7. Are you aware of the presence of any molds or fungi within any structures on the property? If any tests for molds or fungi have been conducted on the structures on the property, please provide copies of the results of such testing.

8. Have any environmental assessments been previously conducted?

Yes _____ No _____

If so, provide a copy of the report(s).

5. If available, attach maps or surveys that describe the property.

I hereby consent to the performance of an environmental assessment of the property described above.

OWNER OF PROPERTY:

By: _____

Date: _____

Environmental Considerations Policy

Site Examination Checklist

Date of Site Examination: _____

Name of Examiner: _____

Donor Name: _____

Location of Property: _____

1. Is there any visible evidence that the ditches or canals or other surface waters (i.e., streams, ponds, water retention pools, "puddles") are polluted?

Yes _____ No _____

2. Is there any visible evidence of potentially hazardous materials such as chemicals, garbage, or metal containers stored or disposed of on the property?

Yes _____ No _____

3. Are there any areas of the property that have no vegetation, visible staining of soils, or have a suspicious odor?

4. Are there any commercial buildings on the property constructed before 1979 (these often contain asbestos)?

5. Regarding undeveloped property, are there controls against unauthorized access, such as gates or fences?

Are there (locked) gates to prevent use of access roads?

Yes _____ No _____

Is the property fenced?

Yes _____ No _____

Is the property posted?

Yes _____ No _____

Are there other controls?

Yes _____ No _____

6. From a review of the tax maps and a drive around the property, if possible, does any surrounding property appear to be used or ever used in a manner which would be considered a potential risk use?

Yes _____ No _____

7. Attach photographs of the property, particularly any photographs showing potential hazards.
8. Additional comments:
9. Further action recommended:

NOTE: Yes or no answers to any of the above questions do not by themselves suggest that an environmental assessment is needed. If concern exists, a Phase I assessment by an environmental assessment company might be appropriate. What to look for: A partial list of items that should warrant concern is:

1. Stained soils, concrete, or asphalt paving.
2. Stained sinks and toilets (some companies try to dispose of their chemicals by pouring them down the sink or in the toilet). Additional concerns would be the type of sewage disposal system on the property: septic tank or city sewers.
3. Stained storm drains (some owners dispose of chemicals directly down storm drains or they pour chemicals on the site which sometimes make their way to the storm drains).
4. Evidence of stressed vegetation (vegetation damage) or absence of vegetation where it would be expected.

5. Standing lagoons, pits, or ponds with suspicious contents.
6. Oily sheen or discoloration of surface water.
7. Foul or unusual odors or noxious fumes.
8. Observed storage tanks or lines and/or storage drums (improper storage of drums or tanks that could leak into the ground).
9. Sprayed-on fire proofing.
10. Leaking pipes, electrical transformers, tanks, barrels, or containers.
11. Flaking ceiling tiles, floor tiles, or insulation (possible asbestos concerns).
12. Acoustical plaster.
13. Electrical transformers or capacitors which may contain polychlorinated biphenyl (PCBs).
14. Gas pumps or bases for pumps that have been removed (a sure sign of underground storage tanks).
15. Above ground storage tanks.
16. Sickly wildlife.
17. Asbestos used in construction of building (particularly in structure built prior to the mid-1970s).
18. Mold or discoloration of interior surfaces often associated with flooding, lead in water pipes or other infiltration of water into the interior of structures.

Property Uses. Uses of the property should also be considered. Some property uses require strong chemicals which, when disposed of properly, pose no threat. However, improperly disposed chemicals could be dangerous. Some present and past uses of concern are:

- Battery shops
- Landfills
- Lawn mower repair
- Paint shops
- Plating shop
- Body shops
- Junkyards and recycling
- Industrial properties operations
- Veterinarian clinics
- Dry cleaners
- Automotive repair shops
- Gas stations
- Aviation centers
- Undeveloped land with access
- Other (_____)

Environmental Considerations Policy

Examples of Prior Uses with Potential Risk

1. Agriculture
2. Asbestos products
3. Auto parts/repair shops
4. Aviation centers
5. Batteries/transformers
6. Body shops
7. Cement or cement products
8. Chemicals
9. Dry cleaning
10. Electroplating
11. Farming/fertilizers
12. Food canning, preserving, or processing
13. Funeral home
14. Furniture refinishing
15. Gas stations
16. Glass or glass products
17. Industrial sites
18. Junkyards and recycling centers
19. Landfill or dump site
20. Leather tanning or refinishing
21. Machine shop
22. Metal fabrication/plating works
23. Mined for oil, gas, or other materials
24. Paint or decorating supplies
25. Pest control (fungicides, insecticides, rodenticides, pesticides)
26. Petroleum products manufacturing, refining, or handling
27. Photo processing
28. Plating shops
29. Plastics or synthetic products
30. Printing
31. Repair or maintenance of vehicles
32. Rubber products
33. Service or gas stations
34. Soaps or detergents
35. Swimming pool supplies
36. Timber or paper products processing
37. Veterinarian centers

Explanation of Environmental Assessments

Use of an Environmental Professional

Any environmental assessments conducted pursuant to these Environmental Policies should be undertaken by a qualified environmental assessment professional meeting the requirements for an "Environmental Professional" set forth in 70 Fed. Reg. 66070, 66108 (Nov. 1, 2005) (to be codified at 40 C.F. § 312), which include individuals holding a Professional Engineer's or Professional Geologist's license or registration, or other relevant state license or registration for the performance of environmental inquiries and meeting other requirements of full-time experience in this field as set forth in the above-referenced regulation. Environmental Professionals generally perform "phased" examinations of properties on an "as directed" basis.

Environmental Assessments

Environmental assessments are usually "phased" or "stepped," meaning that there are several levels of examination ranging from the more fundamental to the more sophisticated, with separate costs for each level. The decision as to whether it is necessary to advance from one phase to the next is generally based upon the results of the prior phase. The following "phases" appear to represent the norm:

1. Phase I Assessment

The Phase I Assessment shall comply with the requirements of American Society for Testing and Materials standard ("ASTM") E1527-05 for the conduct of a Phase I environmental assessment and 70 Fed. Reg. 66,108 (to be codified at 40 C.F.R. part 312). In general, a Phase I Assessment provides data to determine if there is a possible contamination of the property. Consists of site inspection, historic research, review of public record, examination of facility records, and interviews of past and present owners/operators. Samples of soil, water, and potential asbestos-containing materials may be taken. Usually requires two to four weeks to complete.

2. Phase II Assessment

Provides information to define the nature and extent of contamination. The purpose is to qualify and quantify the problem. Includes greater detail in analysis of data gathered in Phase I and extends to sampling and testing of soil, water, and facilities. Usually requires three to six weeks to complete.

3. Phase III Assessment

Provides further data regarding the degree and quantity of contamination and plan(s) or remediation, including cost estimates. Includes sophisticated testing and analysis. Usually requires six to twelve weeks to complete. May include preparation of remediation or clean-up plan.