

# Gift Acceptance Policies & Guidelines

Prepared for

**XYZ**

DATE

These gift acceptance policies have been provided by Betsy A. Mangone, Vice President of the Philanthropic Services Group of *The Denver Foundation*. They have been downloaded from the website of the *Colorado Planned Giving Roundtable*, [www.cpgr.org](http://www.cpgr.org) (<http://www.cpgr.org/docs/giftpolicies.pdf>).

*They are intended to provide general gift acceptance standards and guidelines to nonprofit organizations. They accurately represent IRS definitions and guidelines as of June 2005, but may not be reviewed for accuracy on a regular basis thereafter. These policies and guidelines are not intended to provide tax or legal advice of any kind.*

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# Document 1

## Gift Acceptance Policies & Guidelines XYZ

### **Gift Acceptance Policies And Guidelines**

#### **AUTHORIZATION**

The XYZ is authorized to encourage donors to make both outright and deferred gifts. Outright gifts of cash and other property will be a priority interest. If outright gifts are not readily negotiable, they will be subject to the approval of the Board of Directors. The types of deferred gifts to be accepted include bequests, charitable gift annuities (immediate and deferred), charitable remainder trusts, charitable lead trusts, retained life estates, gifts of life insurance policies and proceeds, pooled income funds and such other gift arrangements as the Board of Directors (hereinafter "the Board") may from time to time approve. All programs, solicitation plans, and activities shall be subject to the oversight of the Board, or additional committees appointed by the Board.

#### **PURPOSE**

1. To ensure that tax-deductible gifts are received in a manner consistent with the Internal Revenue Code and do not jeopardize the XYZ's taxexempt status.
2. To minimize XYZ's incurrence of potential liabilities.
3. To limit the acceptance of gifts which are difficult to administer and inconsistent with the XYZ's investment policy, which is designed to ensure funds for operations for current and future years.

#### **POLICIES**

1. The policy of XYZ is to inform, serve, guide, or otherwise assist donors who wish to support XYZ's activities, but never under any circumstances to pressure or unduly persuade prospective or current donors.
2. No gift will be accepted or program promoted which is not in the best interests of the donor or violates the policies, bylaws or charter of XYZ.
3. Persons acting on behalf of XYZ 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, and shall insist that the donor seek such counsel when the gift is irrevocable. 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. XYZ should always seek to serve the charitable giving needs and objectives of its donors by encouraging contributions and volunteerism and properly recognizing the material and personal contributions of its donors
5. XYZ should remain open and accessible to its donors, providing full communication of its activities, use of funds and policies and procedures.
6. XYZ must always strive to maintain the highest level of integrity with its donors, 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 XYZ.
7. Requests by donors for anonymity will be honored. Permission to publicly recognize a donor and his/her gift will be assumed unless otherwise requested.
8. The Development/Communications and Special Gifts Officer and persons designated by that office are authorized to negotiate gift agreements and arrangements with prospective donors, following program guidelines approved by the Board.
9. All gift agreements requiring execution by XYZ shall first be reviewed and approved as to form by XYZ's legal counsel. However, legal counsel need not review each particular agreement provided it is based on a prototype agreement that has been reviewed and approved.
10. Outright gifts of cash, publicly traded securities and life insurance do not require approval by the Board.
11. The following gifts must be reviewed and approved by the Board. Before acceptance, relevant information about the gift shall be ascertained, including a copy of any appraisal secured by the donor. XYZ also reserves the right to secure its own appraisal.
  - a. Outright gifts of real estate, closely held stock, tangible personal property, partnership interests, and other property interests, real and personal, not readily negotiable.
  - b. Charitable remainder trusts—if XYZ is serving as trustee or cotrustee. Please refer to number 13 below.
  - c. Charitable lead trusts—when possible.
  - d. Charitable gift annuities—immediate and deferred.
  - e. Retained life estate in a residence or farm.
  - f. Bargain sales and arrangements other than charitable remainder trusts where the donor receives an income or other payment from XYZ.
12. XYZ is authorized to offer and accept charitable gift annuities—immediate and deferred—and shall invest assets contributed for annuities. XYZ may employ agents and advisors to facilitate the investment of these assets. A regular report of charitable gift annuities, immediate and deferred, will be presented to the Board.

13. XYZ prefers not to serve as trustee of charitable remainder trusts except when it is in the best interest of the donor and XYZ or when it is impractical to name another trustee. Agreement to act as trustee shall be subject to prior approval of the Board and/or the Board in consultation with XYZ's legal counsel. XYZ is authorized to arrange for a trust institution to manage charitable remainder trusts where XYZ is the remainderman.
14. XYZ will not serve as trustee for charitable lead trusts and will not serve as trustee for irrevocable life insurance trusts.
15. The costs of administration of charitable remainder trusts and charitable lead trusts may be an expense of the respective trusts.
16. XYZ is permitted to accept gifts and contributions only as authorized in these policies. The following guidelines are established to assure that planned gifts accepted by XYZ will be cost-effective and beneficial to all parties involved. The Board shall approve exceptions to these policies.
17. These policies and guidelines shall be reviewed at least annually.
18. Existing planned gift arrangements shall be audited periodically and a report submitted to the Board.
19. XYZ or its representatives shall not engage in offering legal or tax advice to donors or gift prospects. Information on giving arrangements shall be supplied, and donors and prospects shall be urged to contact their personal professional advisors.

## **GUIDELINES FOR ACCEPTING GIFTS**

1. Outright Gifts
  - a. Description

An outright gift refers to a contribution of cash or property in which the donor retains no interest and which can be used currently by XYZ. Securing outright gifts is XYZ's highest priority, and donors who are able to make an outright gift will be encouraged to do so.
  - b. Guidelines
    - 1) XYZ will accept an outright gift of any amount, however, gifts to establish a named endowment must meet the minimum funding requirements set by the Board.
    - 2) Outright gifts of real estate, closely held stock, tangible personal property, partnership interests, and other property interests, real and personal, which are not readily negotiable, must be reviewed and approved by the Board.
    - 3) Gifts subject to any conditions or prearrangements may only be accepted after full disclosure and approval by the Board.
2. Pledges

Pledges are generally to be completed within five years. Gifts of over \$5 million may extend over a longer period of up to ten-years with Board approval.

Oral pledges generally will not be recognized or recorded until either a signed pledge card or a letter of intent is received by the XYZ.

### 3. The Charitable Gift Annuity

#### a. Description

A charitable gift annuity is a contract between XYZ and the donor whereby XYZ agrees to pay the donor (and/or other person named by the donor) a lifetime annuity in return for a gift of cash, securities, or other property. The payment may continue for the life of a second individual, such as a spouse. The annual payment is a fixed sum, the amount of which is based on the size of the gift and the number and ages of the beneficiaries. Rates of return under a charitable gift annuity are lower than the rates offered by commercial insurance companies so that a significant residuum will remain for XYZ. Written notice of this fact will be communicated to the donor both during the gift negotiation stage and in the gift annuity contract cover letter in bold type.

Gift annuities issued in [insert state of Donor's residence] shall comply with [insert state of Donor's residence] state law and meet the disclosure requirements under the Philanthropy Protection Act of 1995.

#### b. Guidelines

- 1) The current minimum amount for an annuity agreement is \$10,000.00.
- 2) For new contracts, XYZ will be guided, but not bound, by the suggested rates recommended by the American Council on Gift Annuities.
- 3) Agreements shall be limited to two lives. In most instances the minimum age for the annuitants will be 60 for immediate annuities and 50 for deferred annuities, with the initial payment at 60. Exceptions may be made with prior approval of the Board.
- 4) Gift annuities may be managed by XYZ staff and/or agents and advisors hired by XYZ.
- 5) Gift annuities must meet governing individual state laws.
- 6) XYZ prefers to provide quarterly payments to gift annuity donors.

### 4. Charitable Remainder Trusts

#### a. Description

The charitable remainder trust is a separately administered trust established by the donor. It provides for payments to the donor and/or other named beneficiary(ies) either for life or a term of years (not exceeding twenty), whereupon the remaining trust assets are distributed to one or more charities. A charitable remainder annuity trust pays a fixed amount (at least five percent) of the original fair market value of the assets initially contributed to the trust. This amount does not change, and no additional gifts may be made to the annuity trust after its creation. Payments made in any one year by a charitable remainder annuity trust to individual beneficiaries may not exceed 50 percent of initial fair market value of the trust. A charitable remainder unitrust pays a fixed percentage (at least five percent) of the fair market value of trust assets, as valued annually. Because the value of assets can be expected to change from year to year, the unitrust payment will vary in amount each year. Additional

contributions may be made to the trust after it is established. Payments made in any one year by a charitable remainder unitrust to individual beneficiaries may not exceed 50 percent of the fair market value of the trust on the most recent valuation date. The present value of XYZ's remainder interest in the charitable remainder unitrust must equal 10 percent (or more) of the initial fair market value of the trust. This rule also applies to additions to existing charitable remainder unitrusts. There are three traditional varieties of a unitrust. A "straight" unitrust pays the stipulated amount, even if it is necessary to invade principal to do so. A "net-income" unitrust pays the lesser of the stipulated amount or the actual net income, so principal would not be invaded. A "net-income with make-up provision" unitrust is similar to the net income unitrust except that excess earnings can be applied to cover accrued deficiencies resulting from the net income being less than the stipulated amount. A newer variety, the "Flip" unitrust, should be considered for trusts funded with real estate or family corporations.

b. Guidelines

- 1) Where XYZ is named as trustee or co-trustee, the minimum amount for funding a charitable remainder trust will be \$100,000 absent advance Board approval of a lesser amount. If the donor selects an external trustee, the minimum will be whatever amount is acceptable to that trustee.
- 2) Where XYZ is named as trustee or co-trustee, XYZ will provide full disclosure to the donor on the investment portfolio as required by the Philanthropy Protection Act of 1995.
- 3) XYZ recommends that beneficiaries be age appropriate unless the trust is for a term of years.
- 4) XYZ recommends limiting the number of beneficiaries to two where payments are to be made for the life of the beneficiaries.
- 5) Ordinarily XYZ will not accept responsibility as a trustee of a charitable remainder trust instrument that is or will be funded with the following assets:
  - ◆ encumbered real estate
  - ◆ margined securities
  - ◆ sole proprietorships
  - ◆ limited partnerships (unless the Board has given specific approval)
  - ◆ working interests in oil and gas fields
  - ◆ general partnership interests

5. The Charitable Lead Trust

a. Description

A charitable lead trust is a trust in which the income, or "lead" interest, is paid to XYZ, and the "remainder" interest is given to one or more non-charitable beneficiaries, who could be either the donor or family members. The amount paid to XYZ is either a fixed sum (an "annuity trust" interest) or a percentage of trust assets as valued each year (a "unitrust" interest).

b. Guidelines

- 1) XYZ will not serve as sole trustee or co-trustee of a charitable lead trust.

- 2) The trust term may be at the discretion of the donor, subject to the approval of XYZ or other trustee.

## 6. Life Insurance

### a. Description

There are various methods by which a life insurance policy may be contributed to XYZ. Each method requires a thorough evaluation of the policy, insurance company and benefit to XYZ. A donor may:

- 1) Assign irrevocably a paid-up policy to XYZ
- 2) Assign irrevocably a life insurance policy on which premiums remain to be paid as long as XYZ is owner and beneficiary
- 3) Name XYZ as a primary or successor beneficiary of the proceeds
- 4) Establish a new life insurance policy with XYZ as the applicant, owner and beneficiary.

Under extraordinary circumstances XYZ may choose to provide for a payment of premium or premiums for the policy.

### b. Guidelines

XYZ will accept any gift of a life insurance policy provided that it is under no prearranged obligation to expend its assets to maintain the policy. No portion of the proceeds may be paid to anyone or any organization that is not qualified as a tax-exempt entity under IRS Code Section 501(c)(3). XYZ has the unrestricted right to fully exercise its powers as the owner, including the power to surrender, select payment options, designate beneficiaries and withdraw or borrow cash values. In the event a policy is contributed on which premiums remain to be paid, the donor must pledge to continue paying premiums or give XYZ permission to surrender the policy for cash value. XYZ will not participate in split-dollar or reverse split-dollar plans, or other partial interest programs. Any charitable insurance program, such as those promoted by the life insurance industry or individual insurance agent(s), shall be entered into only after a thorough explanation has been provided to the Board and the Board has voted to proceed with the program.

## 7. Retained Life Estate

### a. Description

An individual may transfer to XYZ title to a personal residence or farm, and the donor or another person retains use of the property for a term of years or the life of the donor and/or another person.

### b. Guidelines

The donor shall continue to be responsible for real estate taxes, insurance, utilities, and maintenance after transferring title to the property unless XYZ, upon prior approval of the Board, agrees to assume responsibility for any of these items. The donor shall also be responsible for obtaining a qualified appraisal. Each retained life estate gift will be individually negotiated and approved by the Board.

## 8. Bargain Sale

### a. Description

A "bargain sale" is a sale of property to XYZ for an amount less than the property's current fair market value. The excess of the value over the sales price represents a contribution. The bargain sale price may be paid either in a lump sum or in installments. A gift of mortgaged property will constitute a bargain sale. Since the amount of indebtedness is treated as a relief of liability, there could be adverse tax consequences to the donor. The donor will be informed of this in writing and urged to consult with a tax advisor.

b. Guidelines

In order to determine the true, fair market value of the asset, it must be adequately appraised. In most cases, the donor will be responsible for appraisal costs. XYZ, upon approval of the Board and legal counsel, may purchase real estate, securities, or other property on a bargain sale basis. **Ordinarily the price paid for the property should not exceed 60 percent of its appraised value.** A gift should not be encouraged from a donor unless it is clear that there is donative intent.

9. Gifts of Real Estate (Real Property)

a. Description

Gifts of real estate may be made in various ways: outright, charitable remainder trust, retained life estate, and a bargain sale. These guidelines pertain to gifts of real estate in general. For further reference, please refer to XYZ's detailed Gift Acceptance Policy for Gifts of Real Estate.

b. Guidelines

- 1) All property gifts received will be converted to cash at the earliest opportunity.
- 2) In general, all associated expenses of a gift of property to the XYZ are to be borne by the donor, unless otherwise approved by the trustees.
- 3) The donor shall secure a qualified appraisal of the property.
- 4) XYZ (or trustee in case of a charitable remainder trust) shall determine if the donor has clear title to the property.
- 5) The donor shall secure a Phase I environmental audit and the results shall be given to the Board. (Please see XYZ's detailed Gift Acceptance Policy for Gifts of Real Estate.) No property containing toxic wastes shall be accepted prior to the removal or other remedies assuring that XYZ assumes no liability whatsoever in connection with such toxic wastes.
- 6) Ordinary mortgaged property will not be accepted as an outright gift, however, exceptions may be made when the property has sufficient equity to justify assumption of the liability and the property is marketable.
- 7) Mortgaged property shall not be accepted for a charitable remainder trust unless the trust would not be disqualified and the income from the property is sufficient to cover all liabilities.
- 8) If a donor wants to give real estate and retain income, a "net-income", "net-income with make up provision", or a "Flip" charitable remainder unitrust is the preferred instrument. Usually real estate will not be accepted for a charitable remainder annuity trust or a charitable gift annuity.
- 9) XYZ will not manage real property and the property must be readily marketable.

## 10. Gifts of Closely Held Stock and Other Business Interests

### a. Description

Donors may make gifts of closely held stock and limited partnership interests. These can be accepted by XYZ as long as XYZ assumes no liability in receiving them, and the property can be sold within a reasonable period of time.

### b. Guidelines

- 1) To be considered for acceptance, limited partnership interests must not subject XYZ to cash calls or other liability and must not have adverse tax consequences for XYZ.
- 2) Closely held stock may be accepted if the probability exists of selling it within a reasonable period of time to the corporation, other stockholders, or to others interested in acquiring the corporation. Contributions of "S" Corporation stock will be carefully discussed with the donor(s) and their advisors.
- 3) Royalty interests will be considered but working interests will not be accepted.
- 4) Outright gifts of real estate, closely held stock, tangible personal property, partnership interests, and other property interests, real and personal, not readily negotiable must be reviewed and approved by the Board.

## 11. Bequests

### a. Description

Bequests have historically been the most important kind of deferred gift, and they will contribute significantly to the fundraising revenue of XYZ. The encouragement of bequests will be one of the highest priorities of XYZ.

### b. Guidelines

Sample bequest language for restricted and unrestricted gifts, including endowments, will be made available to donors and their attorneys to ensure that the bequest is properly designated. Donors will be urged to obtain the advice of a professional advisor to create a bequest that is in their best interest. Donors will also be invited to provide a confidential copy of that section of their will naming XYZ. During the probate of estates containing a bequest to XYZ and during the post-death administration of revocable trusts containing dispositive provisions benefiting XYZ, the Development/Communications and Special Gifts Officer of the bequest program, in consultation with XYZ's legal counsel and Chair of the Board (or his/her designee on the Board) shall represent XYZ in all dealings with the attorney and personal representatives of the estate.

## **GIFT VALUATIONS**

1. In cases where gifts are made in cash, the valuation is the amount of the gift.
2. Gifts of publicly traded securities will be valued at the average of the high and the low publicly quoted prices on the date complete ownership is received.
3. Gifts of closely or privately held corporate stock will be valued based upon a qualified independent appraisal, done within the time frame required by the Internal Revenue Service, for full tax benefits to be received.
4. Gifts of real property will be reported based on the appraised value as determined by a qualified independent appraiser within 60 days of the date of transfer.

5. Gifts of life insurance will be valued, for recognition purposes, based on the cash surrender value as of the date of transfer.

#### **APPRAISAL REQUIREMENTS**

1. Gifts of property, other than publicly traded securities, must be accompanied by an appraisal if the estimated value exceeds \$5,000. A qualified, independent appraiser must provide the appraisal. The appraiser cannot be associated with the donor or with the XYZ or any of its employees. When the gift is to fund a specific recognition opportunity, the donors shall agree to make up any short fall upon conversion to cash.
2. The XYZ reserves the right to refuse gifts of property when it is determined that the donor has not complied with the Internal Revenue Service appraisal requirements or when the advice of legal and/or tax counsel is not being obtained.
3. All gifts of art must be accompanied by an independent appraisal completed no earlier than 60 days prior to the date of the gift. The cost of the appraisal is the donor's sole responsibility.
4. All costs associated with obtaining a qualified appraisal will be borne by the donor.

#### **GIFT DISPOSITION**

1. Property gifts of all kinds are to be converted to cash at the earliest convenience.
2. Marketable securities generally must be liquidated within five days of title transfer.
3. Non-publicly traded securities and other properties are liquidated at the earliest possible time, keeping in mind market impact.
4. For liquidation purposes, closely held stock will be offered to the corporation that issued the stock, other shareholders, or the market in general.
5. Gifts of real estate generally will be turned over to a broker immediately upon receipt for disposition based on current market conditions.

# Document 2

## Detailed Policy on Acceptance, Management and Sale of Gifts of Property

### XYZ Policy on Acceptance, Management, and Sale of Gifts of Property

#### General Policy Statement

It is the policy of XYZ to accept gifts of real property. Such gifts may include residences, vacation homes, business or commercial property (developed or undeveloped).

XYZ recognizes that gifts of real estate create significant legal and economic issues. XYZ recognizes that policies and procedures for such gifts should be established under which the authority for the acceptance, management, and disposal of such gifts, within the specified parameters, is delegated to management.

XYZ will not accept delivery of real estate either as an outright donee or in a fiduciary capacity as a trustee unless the Board is satisfied that procedures pertaining to zoning, title and environmental hazards have been met.

Although each determination will be made based on the specific circumstances of the proposed gift, the following represent general procedures and guidelines.

Gifts of real property are subject to the approval of the Board.

#### 1. Requirements for Gifts of Real Estate.

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

- a. A proposed gift of an interest in real estate shall be referred to the Board. Each 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 Board, a survey showing the exact location of the real property.
  - 3) The current tax notice and evidence of the most recent payment.

- 4) A preliminary title report ordered. The report will be reviewed for:
    - ◆ proper legal ownership by the donor
    - ◆ the existence of covenants, conditions or restrictions which may affect its value to XYZ
    - ◆ the rights which another party may have in the use of the surface, air or subsurface of the property through easements or options
    - ◆ the existence of any tax liens, encumbrances or judgment items.At the option of the Board, an existing title insurance policy for the property or a current title insurance commitment to insure the real property, together with copies of any documents that appear as exceptions to title on such policy or commitment are required.
  - 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 obligation.
  - 6) A summary description of all insurance policies in force with respect to the real property and the amount of the annual premium due with respect to such policies.
  - 7) At the option of the Board, a physical inspection report and/or an environmental assessment of the property.
  - 8) 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.
  - 9) If the proposed gift is a partnership interest, a copy of the current partnership agreement or business formation agreement, together with all amendments, and evidence that all required filings have been made at the Federal level and with the state in which the partnership or business was organized.
  - 10) Where applicable, documents are required demonstrating that the donor has the authority to transfer all or a partial interest of the real property, or interest in real property or partnership business interest, to XYZ without the consent of any other party. If other such consents have been given, information relating to any restrictions on the ability of XYZ to sell the property will be required.
  - 11) Copies of any current leases of the property together with all tenant information.
  - 12) An acknowledgment letter signed by the donor in the form of Letter of Receipt, attached to these guidelines.
  - 13) A copy of an independent qualified appraisal (paid for by the donor) when required by the Internal Revenue Service or state tax authorities.
- b. It will be the policy of XYZ that, unless waived by the Board, the donor will pay all costs associated with the contribution of interests in real property. For example, if the Board recommends an environmental assessment, the donor will be asked to defray this cost. Costs of the qualified appraisal will be borne solely by the donor.

- c. Prior to accepting any gift of real property or an interest in real property, a member of the Board shall physically inspect the real property unless the Board has approved other arrangements.
  - d. Any transfer of real property to XYZ shall be by general or specific warranty deed unless otherwise approved by the Board.
  - e. The Board will follow the environmental policies established by the Board attached hereto as Guidelines for Accepting Gifts of Real Estate Environmental Considerations Policy and Procedures and obtain written environmental audits where necessary with respect to the real property.
  - f. Prospective donors will be encouraged to make gifts of real property or interests in real property that are readily saleable. If the real property or interest in real property being offered to XYZ is not readily saleable, the Board may request the donor to provide a cash gift to XYZ 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 Board.
  - g. In the case of a proposed gift of an interest in a partnership/business interest, the Board shall determine whether or not additional capital contributions will be required by the partnership within the five-year period following the gift. In the event such capital contributions are anticipated, the Board may request that the donor (i) contributes additional cash as necessary to allow XYZ to make such capital contributions; (ii) executes a promissory note or pledge obligating the donor or the donor's successors to make such capital contributions if and when they are declared due and payable or (iii) makes acceptable arrangements to protect XYZ.
  - h. Every effort will be made by the Board to reduce or eliminate the potential for XYZ's liability in the acceptance and future ownership by XYZ of any real property or interest in real property.
2. Acceptance of Property.
- a. Limits of Authority: XYZ's Board Chair shall have the authority to accept gifts of tangible personal and real property with a fair market value (FMV) of less than \$100,000, if the above conditions are met. **Acceptance of gifts of property with a proposed FMV greater than \$100,000 requires approval by the Board.**
  - b. Execution of Documents: XYZ's Board Chair **plus one other voting officer of the board (or two voting officers in the absence of the President)** are authorized to execute documents necessary to accept such property, subject to the conditions listed above.
  - c. Book Value: Gifted property will be booked according to generally accepted accounting principles.
  - d. Reporting to the Board: XYZ will prepare and distribute to the XYZ's Board no later than the next regularly scheduled meeting of the Board a full description of the property received plus other information requested by the Board.
  - e. IRS. Reporting: XYZ shall identify the specific IRS. Reporting requirements for gifts of appreciated property and shall establish controls that assure that reports are filed on a timely basis. (See above.)

In any case in which, within two years from the date of the gift, XYZ sells the property with respect to which it has received an IRS Form 8283, XYZ must report

the details of the sale and gift to the Internal Revenue Service on IRS Form 8282. It will generally be the policy of XYZ to sell gifts of property. XYZ will insist that no restrictions be placed on the manner in which XYZ may use or dispose of the property as is consistent with the attached Letter of Receipt. XYZ will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.

3. Management of Properties.

- a. Records Management and Reporting: XYZ will maintain records for all gift properties and will prepare for XYZ's trustees and/or their designated agents a summary report on a quarterly basis of the status of gifts property.



# Document 4

## Environmental Considerations Policies and Procedures

### XYZ

#### **Guidelines for Accepting Gifts of Real Estate Environmental Considerations Policy and Procedures**

#### 1. Policy.

It is the policy of XYZ not to accept gifts of real estate or interests in real estate which could result in XYZ's liability for environmental contamination under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended by Super Fund Amendment and Reauthorization Act of 1986 (SARA), other such amendments that may be adopted in the future, or any other applicable laws or regulations.

XYZ will review the potential for such liability in connection with each and every parcel of real estate that may be proposed to be transferred to XYZ 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 contaminants or hazardous wastes. 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.

XYZ retains the right to refuse or accept property in the event potential liability is evidenced by the initial environmental assessment, 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 XYZ's need to avoid liability in connection with the risk of 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.
- b. The Board will gather information from the donor using the Prior Utilization Questionnaire attached.
- c. Representatives of the Board will conduct an on-site examination of the property using the Environmental Site Examination Checklist and will report the findings to the Board with a recommendation of whether a formal environmental assessment should be conducted. NOTE: XYZ may elect to require an environmental assessment without first performing its own on-site inspection and evaluation.
- d. Properties which meet the following criteria may be considered for acceptance if:

- 1) The prior utilization of the property and surrounding properties are not of a nature that, in the judgment of the Board, may have exposed the property to contamination. See the attached Examples of Prior Utilization with Potential Risk for examples. This list is not all-inclusive.
  - 2) Either the site inspection of the property revealed no evidence of contamination or an existing environmental assessment or an environmental assessment requested by XYZ substantiates that the property is free of contamination.
- e. If there is concern about possible contamination, XYZ should use an environmental assessment company to conduct an environmental assessment of the property. The donor may be asked to incur the cost. The Explanation of Environmental Assessments attached to this document discusses the usual procedure for such assessments.
  - f. If the assessment report indicates that the property may be contaminated, XYZ may reject the property. The Board will forward its recommendation with a summary of the findings of the environmental assessment.

# Document 5

## Environmental Law Impact Letter to Donors

### **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 that 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.

XYZ has adopted certain policies and procedures for its donors designed to identify and avoid the potential risk posed by environmental contaminants. A copy is enclosed for your review. These policies provide for on-site examination of the property by the XYZ's representatives at the election of the XYZ, and may require environmental assessment of the property.

In order to facilitate the evaluation process and assist the XYZ 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 XYZ. Thank you for your cooperation and assistance.

Sincerely,

XYZ

By: \_\_\_\_\_

Date: \_\_\_\_\_

# Document 6

## Environmental Prior Use Questionnaire

### **Environmental Considerations Policy Prior Property Utilization Questionnaire**

Donor Name: \_\_\_\_\_

Information Source: \_\_\_\_\_

Location of Property:

Description of Property:

Agriculture \_\_\_\_\_ Commercial/Industrial \_\_\_\_\_ Undeveloped Land \_\_\_\_\_  
Other \_\_\_\_\_ Age of Buildings (years) \_\_\_\_\_ Residential \_\_\_\_\_

1. If known, please indicate prior utilization of property.
2. For each utilization 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 located on the property 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 whether the tanks have been registered within the state. Provide copies of registration forms.

4. Has an environmental assessment been previously conducted?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If so, provide a copy of the report.

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. I FURTHER SWEAR AND ATTEST THAT THE INFORMATION PROVIDED ABOVE IS TRUE, COMPLETE AND ACCURATE AND MAY BE REASONABLY RELIED UPON BY XYZ.

OWNER OF PROPERTY:

\_\_\_\_\_  
(Name)

By: \_\_\_\_\_

Date: \_\_\_\_\_

# Document 7

## Environmental Site Examination Checklist

### 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 without vegetation?  
Yes \_\_\_\_\_ No \_\_\_\_\_
  4. Are there any areas of the property with a suspicious odor?  
Yes \_\_\_\_\_ No \_\_\_\_\_
  5. Are there any commercial buildings on the property constructed before 1979 (these often contain asbestos)?  
Yes \_\_\_\_\_ No \_\_\_\_\_
  6. 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 \_\_\_\_\_
  7. 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 that would be considered a potential risk?  
Yes \_\_\_\_\_ No \_\_\_\_\_

8. Attach photographs of the property, particularly any photographs showing potential hazards.
9. Additional comments:
10. 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.

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, e.g., 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 sheens 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 fireproofing.
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 that may contain polychlorinated byphenyls (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).

Property Uses. Property uses 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:

- |  |   |
|--|---|
| <input type="checkbox"/> Battery shops           | <input type="checkbox"/> Landfills                        |
| <input type="checkbox"/> Lawn mower repair       | <input type="checkbox"/> Paint shops                      |
| <input type="checkbox"/> Plating shop            | <input type="checkbox"/> Body shops                       |
| <input type="checkbox"/> Junkyards and recycling | <input type="checkbox"/> Industrial properties operations |
| <input type="checkbox"/> Veterinarian clinics    | <input type="checkbox"/> Dry cleaners                     |
| <input type="checkbox"/> Automotive repair shops | <input type="checkbox"/> Gas stations                     |
| <input type="checkbox"/> Aviation centers        | <input type="checkbox"/> Undeveloped land with access     |
| <input type="checkbox"/> Other _____             |   |

# Document 8

## Environmental Examples of Potential Risks

### **Environmental Considerations Policy Examples of Prior Utilization 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

# Document 9

## Environmental Assessments

### **Environmental Considerations Policy and Procedure** **Explanation of Environmental Assessments**

#### Use of an Environmental Engineer/Consultant

The environmental assessment should be undertaken by a qualified environmental assessment professional. These professionals perform "phased" examinations of properties on an "as directed" basis.

#### Environmental Assessments

Environmental assessments are usually "phased" or "stepped," meaning there are several levels of examinations ranging from the fundamental to the more sophisticated, with separate costs for each level.

1. 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 asbestoscontaining 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.