| PASO DEL NORTE COMMUNITY FOUNDATION | Policy | No. 7 |
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| | Gift Acceptance, Management and Distribution | Page: 1 of 11 |
| | | Original Date: 11/21/13 |
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**Purpose:**

To ensure stewardship, transparency and accountability in the management of charitable contributions to the Foundation and to protect the interests of donors and the Foundation.

**Policy:**

This policy outlines: 1) the types of gifts the Foundation may accept, 2) the types of funds the gifts may support, 3) the management of such funds, 4) the distribution (spending) from such funds, 5) the acknowledgement of donors and gifts, and 6) additional provisions.

1. **Gift Acceptance**

   A. **General.** The Foundation may accept both cash and non-cash gifts. Prospective donors are encouraged to speak with Foundation staff to ensure that the Foundation can accomplish the donor's charitable goals.

   B. **Irrevocability.** Except for certain fiscal agency and supporting organization relationships, all gifts to the Foundation are irrevocable. Once property is gifted to the Foundation, that gift, including gifts held in any type of fund, becomes property of the Foundation and cannot be returned to the donor.

   C. Gift Restrictions. Gifts to the Foundation may be classified as "with donor restrictions" and "without donor restrictions." Unless otherwise agreed to in writing by the Foundation, all gifts to the Foundation shall be classified as unrestricted. Unrestricted assets are those that have no donor-imposed restrictions or where the Board has variance power. Gifts to Donor-Advised and Designated Funds shall be unrestricted.

   D. Endowment Funds. The Foundation works with donors to establish unrestricted, donor-advised, designated and scholarship endowment funds to support the long-term needs of the community. It is the Foundation's goal to preserve the purchasing power of such endowment funds over time (defined as the gift principal plus inflation) while recognizing the need to balance short-term and long-term goals of the donor and Foundation.

   E. **General Memorial Fund.** Unless otherwise designated by the donor, gifts made in honor or memory of loved ones shall be placed in the Foundation's unrestricted General Memorial Fund.

F. **Gift Instruments.** Where appropriate, the Foundation shall enter into a written gift instrument with the donor, specifying the terms of any restricted or designated gift, which may include provisions regarding donor recognition.

G. **Gift Approval**. The CEO has the authority to handle inquiries, negotiate with donors, assemble documentation, retain expert consultants and accept gifts of cash and marketable securities on behalf of the Foundation. All gift reviews will be handled with confidentiality. If a gift is not accepted, the donor will be notified in writing promptly. The Foundation may seek the advice of legal counsel in matters relating to acceptance of gifts including but not limited to: 1) interests in closing held business entities, 2) documents naming the Foundation as trustee, 3) gifts involving contracts, such as bargain sales, or other documents requiring the Foundation to assume an obligation, 4) transactions with a potential conflict of interest, 5) gifts of real estate, and 6) gifts with restrictions.

H. **Gifts.** The Foundation may accept the following gifts:

1. **Cash**. The Foundation gratefully accepts an outright gift of cash contributions in any amount. A donor may establish a fund in a single transaction or through a pledge paid over a specified period of time that is mutually acceptable to the donor and the Foundation. Cash gifts shall be made by personal, cashiers or certified check made payable to the Foundation or by wire transfers of immediately available funds to an account or accounts designated by the Foundation.

2. **Bequest.** The Foundation gratefully accepts bequests, including those for a specific amount, for a percentage of the donor's residual estate, or for a specific asset owned by the donor through a will or trust. The Foundation will give credit to the donor's estate for a bequest when it is received. However, if the bequest is distributed to the Foundation in a form other than cash, ordinarily the Foundation will sell the non-cash bequest and give the donor credit for the sales proceeds, net of sales commissions and other direct expenses. Bequests will be applied for the charitable purpose requested by the donor, as long as those requests are reasonable and promote charitable purposes of the Foundation.

3. **Securities.** The Foundation gratefully accepts publicly traded stocks and bonds at fair market values as transferred to an account maintained by the Foundation or delivered physically with the donor’s signature or stock power attached.

Unless otherwise specified by the donor or directed by the Board, and unless the gift of stock enhances the mix of equities in the Foundation's portfolio as approved by the Investment Committee, securities will be sold as soon as practical following receipt. Consideration will be given to deferring the sale of gifts from major stockholders, officers, and directors for which there may be security law restrictions on prompt sale. The Foundation will give credit for the value of the securities on the date of the gift. For federal tax purposes, the donor must use the value on the gift date. The Foundation will cover the cost of the transaction. The donor's fund will be credited with the proceeds from the sale, after commissions and expenses, if any.

4. **Real Estate. The Foundation** may accept an outright gift of real estate including developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, the Foundation shall require an initial environmental review of the property to ensure that the property has no environmental problem. If the initial inspection reveals a potential problem, the Foundation shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall be an expense of the donor. A title binder shall be obtained by the Foundation prior to the acceptance of the real property gift when appropriate. The cost of this title binder shall be an expense of the donor. The Board and legal counsel shall review and decide whether to accept real property based on the following factors: 1) whether the property is useful for the purposes of the Foundation, 2) the marketability of the property, 3) any encumbrances, leases, restrictions, reservations, easements, or other limitations associated with the property; 4) any carrying costs associated with the property, including insurance, property taxes, mortgages, notes or other costs; and 5) any concerns which the environmental audit revealed.
   The Foundation may accept a remainder interest in a personal residence, farm, or vacation property. Upon acceptance, the donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the life tenant, the Foundation may use the property or sell it. Expenses for maintenance, real estate taxes, and any property indebtedness shall be paid by the donor or life tenant.

5. **Oil, Gas, and Mineral Interests.** The Foundation may accept oil and gas property interests. Prior to acceptance of the mineral interests, the Foundation shall require an initial environmental review of the property to ensure that the property has no environmental problem. If the initial inspection reveals a potential problem, the Foundation shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall be an

expense of the donor. The Board and legal counsel shall review and decide whether to accept oil, gas, and mineral interests subject to the following limitations: 1) the property should not have extended liabilities or other considerations that make receipt of the gift inappropriate; and 2) working interest should only be accepted after consideration of potential liability and tax consequences.

6. **Tangible Personal Property.** The Foundation may accept gifts of tangible personal property. The Foundation will evaluate and approve proposed gifts of personal property on a case-by-case basis with specific consideration given to the salability of the property and expenditures necessary to accept or maintain the gift. The Foundation will give credit for the cash realized from the sale of the gift net of sales commission and other direct expense for storage or sale. In order to claim a deduction, the donor will cover the cost of any appraisal. Donors should consult their tax advisors regarding the effect of the type of property and its tax characterization (e.g. depreciated or appreciated) on the possible charitable deduction available. **The Foundation also** will accept gifts of tangible property to be used in its programs provided that such property is in good working condition and is, in fact, needed by and useful to the Foundation. The Foundation will give credit for the estimated value, as determined by a qualified appraisal at the donor's expense, unless waived by the Foundation.

7. **Closely-Held Business Interests.** In considering whether to accept a gift of stock or interest in a closely-held business entity, the Board shall consider: 1) restrictions on the securities that would prevent the Foundation from ultimately converting the securities to cash, 2) marketability of the securities, and 3) any undesirable consequences for the Foundation from accepting the securities. In making its determination, the Board should review: 1) all of the governing documents for the entity, 2) financial statements and income tax returns for the three most recent years of the entity, 3) copies of any valuation report prepared to report the gift for tax purposes, and 4) such other documents that the Board determines necessary. Non-marketable securities shall be sold as quickly as possible.

8. **Life Insurance Policy. The Foundation** may accept designation as beneficiary and owner of a life insurance policy. The life insurance policy will be recorded as a gift once the Foundation is named as both beneficiary and irrevocable owner of a life insurance policy. The gift shall be valued in accordance with generally accepted accounting principles. If the donor contributes future premium payments, the Foundation will include the entire amount of the additional

premium payment as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Foundation may: 1) continue to pay the premiums, 2) convert the policy to paid up insurance, or 3) surrender the policy for its current cash value.

9. **Retirement Plan Benefits.** The Foundation may accept designations as the beneficiary of all or a portion of a donor's retirement plan benefits. The Foundation will record the gift when it is irrevocable and the donor will be given credit for the amount received.

10. **Charitable Gift Annuity.** The Foundation may accept Charitable Gift Annuities and will work with donors on the terms and conditions of such gifts.

11. **Charitable Lead Trust.** The Foundation may accept designations as income beneficiary of a charitable lead trust. The Foundation will not accept an appointment as trustee of a charitable lead trust.

12. **Charitable Remainder Trust.** The Foundation may accept designations as remainder beneficiary of a charitable remainder trust. The Foundation will not accept appointment as trustee of a charitable remainder trust.

I. **Memorials and Gifts.** The Foundation accepts contributions in honor and memory of family and friends. Undesignated honorary/memorial gifts will be placed in the Foundation's General Memorial Fund. Designated memorial funds are used as specified by the donor. The Foundation will send a thank you/tax letter to the donor making the honorary/memorial gift and a letter of acknowledgement to the family/friend that a gift has been made.

## 2. Types of Funds

A. **Foundation Funds.** The Foundation has developed several types of funds to help donors fulfill their philanthropic goals and encourage donors to help the Foundation accomplish its charitable purposes. Donors may establish a Named Fund with a gift or pledge of $5,000 or more over a five-year period using a simple Gift Instrument that sets forth the terms of the fund. Named Funds are separately accounted for within the Foundation. The PDNF provides annual accounting of Named Funds to the donor. A donor may contribute to an existing fund or establish a new fund as described below.

1. **Donor-Advised Fund:** a charitable giving fund that allows donors to make tax-deductible contributions and provide recommendations on how their gifts will be distributed in furtherance of the charitable purposes of the Foundation. Though the Board will consider all such recommendations, the Board will have ultimate authority to determine how actual distributions will be made from each donor advised fund. See Donor-Advised Fund Policy.

2. **Designated Fund:** a charitable giving fund that can be established to support a specific, qualified nonprofit organization or area of concern in the Paso del Norte region as approved by the Board. Gifts to a particular designated fund will support, in the manner determined by the Board, the charitable organization(s) benefitted by that fund. Designated funds shall be unrestricted. Funds designated for health (eg. Health Funds) will support the mission of the Health Foundation.

3. **Scholarship Fund:** a charitable giving fund dedicated to providing grants for educational purposes. They may be designated in several ways, such as for a use at an educational institution or for a particular course of study. A donor establishing a scholarship fund must work with the Foundation to formulate a specific written set of guidelines under which such scholarship will operate. If the scholarship fund is established through a bequest without established guidelines, the Foundation will prepare the scholarship guidelines with the donor's intent in mind. Scholarships will only be awarded to qualifying educational institutions and not directly to individuals. Scholarship funds shall be unrestricted. See Scholarship Policy.

4. **Supporting Organization:** from time to time, and subject to approval of the Board, the Foundation may become a supported organization to one or more tax exempt organizations. A supporting organization relationship may be beneficial to a grantmaking organization by allowing it to avoid the burdens of private foundation tax status by being operated, supervised or controlled by, or in connection with the Foundation. Supporting organizations generally operate somewhat independently of the Foundation, and they must operate exclusively for the benefit of the Foundation.

## 3. Management

**A. General.** It is the preference of the Foundation that, to the extent feasible, assets from current and future gifts be commingled with other assets of the Foundation and with the assets of the Paso del Norte Health Foundation (the "PdNHF") for investment purposes. By investing in this manner, the Foundation can thus achieve a measure of efficiency and investment diversity that would be impossible if it were to attempt to administer the funds separately. The Foundation will assign a value to each component fund making up the commingled fund based on the relative value of the fund to the entire commingled fund. At the same time, the actual cash income earned by the fund during the valuation period will be allocated to each individual fund on the same basis. All investments shall be selected in conformance with the investment policies established by the PdNHF from time to time. The Joint Investment Committee of the PdNHF and Foundation oversees investment of Foundation assets and reports to the Board.

B. **Separate Investment of Fund Assets and Investment Managers.** Donors who establish funds in the Foundation give up all right, title and interest to the assets transferred and such gifts may contain no material restriction that would prevent the fund from being considered as a component fund of the Foundation under IRS rules. In particular, donors give up the right to choose investments and investment brokers or to veto investment choices for their gifts. The Foundation will consider requests from donors for separate investment of fund assets, or for use of a particular investment broker or agent, and will consult with donors for such funds, only when circumstances warrant it. The Foundation may apply additional administrative fees to separately invested fund assets to cover any additional expenses associated with such investment. The investment firm must be approved by the Joint Investment Committee.

C. **Distributions (Spending).** See Section 4 of this document.

**Prohibited Transactions**. Donors sometimes ask whether a grant from a Donor-Advised Fund may be made that seeks to satisfy a pledge or commitment made by the donor to a charitable organization or to purchase tickets to a charitable event or that have some element of personal benefit to the donor or to any other private individual. The Foundation may not make these types of grants, because those expenditures would not be exclusively charitable in nature. If the Foundation engaged in this type of conduct, it could jeopardize its tax exemption because all charitable organizations must be organized and operated exclusively for charitable purposes and may not make gifts or grants that would confer a private, non-charitable benefit upon the creators of the fund or other individuals.

D. **Support Fee.** The Foundation will assess a support fee on its funds. The Board reserves the right to modify this fee schedule from time to time. Current support fees shall be blended based on the following schedule:

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| **Up to $1 million** | **0.85%** |
| **Next $1 million - $5 million** | **0.5%** |
| **Over $5 million** | **0.35%** |

**Support fees will be charged in the following manner:**

**For endowment funds invested for the long-term with the Paso del Norte Health Foundation:** the appropriate fee will be applied on a pro rata basis based on the market value of the fund at the end of the month divided by 12.

For short-term funds, non-invested funds in the Paso del Norte Foundation: the appropriate fee will be applied on new gifts into the fund at the end of the month.

4. **Distributions (Spending)**

A. **Annual Disbursements**. The Paso del Norte Foundation desires to make distributions on an annual basis from all funds. To promote the long-term growth of the Foundation's asset base and preserve the inflation-adjusted value of the portfolio over time, for those funds that are considered endowment in nature, the Foundation will distribute up to 4% a year of the investment assets based on the value of the assets on December 31 and market conditions, as determined by the board. Donors may request a complete distribution of the value of the fund to a qualified charity, minus any fees, as along as the board approves the distribution.

B. **Approval Thresholds**. The Board of Directors will approve all grants/distributions in excess of $100,000, unless otherwise part of a Board-approved budget for any particular program, donor-advised fund, fiscal agent fund or other designated fund. The Board delegates the approval of grants/distributions up to $25,000 to the CEO and up to $100,000 to the Executive Committee, unless pre-approved by the board as part of a Board-approved program, donor-advised, fiscal agent fund or other designated fund budget. The Board will approve all PDNF Challenge Fund grants, regardless of size.

C. **From Donor-Advised Funds.** The Foundation will distribute funds as advised by the donor and approved by the board. See Donor-Advised Fund Policy.

D. **From Designated Funds.** The Foundation will distribute funds as designated by the donor and approved by the board. If endowment in nature, the Foundation will distribute up to 4% a year of the investment assets based on the value of the assets on December 31 and market conditions of the prior year, as determined by the board. If non-endowment, the Foundation may distribute 100% of the funds, excluding any fees or expenses related to managing the funds, as established by the board.

E. **From Funds Designated for Health.** The Foundation will notify the Health Foundation annually on funds available to support Health Foundation programs and initiatives. The Health Foundation will be responsible for the deployment of these funds and will report back to the Foundation on the use of funds and outcomes achieved as a result, also on an annual basis. The Health Foundation will use its existing grantmaking process to deploy such funds.

F. **From Scholarship Funds.** The Foundation will distribute scholarship funds as designated by the donor and approved by the board. See Scholarship Policy.

G. **For Request for Proposals.** Some Foundation funds may require the use of a Request for Proposals in the distribution/grant making of funds. The CEO will be responsible for the development and release of all Requests for Proposals or other solicitations for grants and program-related contracts.

**5. Acknowledgement, Recognition and Reporting**

A. **General.** The Foundation recognizes the role of donors as partners with the Foundation in achieving its charitable purposes. Staff will recognize and acknowledge donors in appropriate ways both publicly and privately, subject to the confidentiality provisions noted below.

B. **Donor Responsibility.** The Foundation always advises donors, that they, rather than the Foundation, are responsible to determine, value, and report any gifts made to the Foundation, pay for any required appraisals, file all appropriate tax returns and defend any challenges by the IRS to the donor's claim for a tax benefit. Although the Foundation may furnish advice and information to donors concerning the tax treatment of gifts to the Foundation, the Foundation makes no representations with regard to the tax consequences of any gift to the Foundation and encourages donors to seek the advice of their accountant, attorney, or other tax counsel in this regard.

C. **Gift Acknowledgement.** All gifts to the Foundation will be acknowledged and receipted in writing in a timely fashion and in accordance with current IRS requirements for acknowledging gifts.

D. **Donor Recognition.** Donors making gifts or pledges of $5,000 or more will be given the right to establish a named fund in the Foundation. Named funds will be recognized annually in the Foundation's annual report.

E. **Reporting.** Donors making gifts or pledges of $5,000 or more will receive personalized reports, at least annually, on the performance and activity of their fund(s).

F. **Uncollectable.** The Foundation Board will review unpaid pledges and determine if any pledge is not collectable on an annual basis. For audit purposes, pledges will be discounted per generally accepted accounting principles.

G. **Confidentiality and Anonymity.** All agreements with donors and all information concerning donors and prospective donors will be held in strict confidence by the Foundation, subject to legally authorized and enforceable requests for information by government agencies and courts. It is the Foundation's policy not to release, sell or license any information in its database without the donor's consent. A donor's expressed wishes for public anonymity will be respected. Internally, only those staff members with a need to know for legal, processing or other substantive reasons will know the donor's name or details of the gift.

H. **Filing of Form 8282.** To the extent applicable, the Foundation shall file Form 8282, Donee Information Return, with the IRS upon the sale or disposition of any charitable deduction property sold within three years of receipt by the Foundation. Charitable deduction property means any donated property (other than money and publicly traded securities) if the value claimed by the donor exceeds $5,000 per item or group of similar items donated by the donor to one or more donee organizations. The Foundation shall file Form 8282 within 125 days of the date of sale or disposition of the asset.

6. **Additional Provisions**

A. **Conflict of Interest.** Foundation staff and board members: 1) cannot benefit personally from fees related to gifts received, 2) cannot participate in any activity which could be deemed a conflict of interest, and 3) shall not pay a finder's fee or other private inurement to anyone as a result of such person's involvement in acquiring gifts for the Foundation.

**B. Material Restrictions.** The Foundation reserves the right to refuse any gift that it believes is not in the best interests of the Foundation. The Foundation will not accept gifts that: 1) violate the terms of the Foundation's governing documents, 2) would jeopardize the Foundation's status as an exempt organization under federal or state law, 3) are too difficult or expensive to administer, 4) are for purposes that do not further the Foundation's charitable purposes or objectives; or 5) could damage the reputation of the Foundation.

**C. Variance Power of the Foundation.** As mentioned above, and notwithstanding the restrictions on disposition imposed by the donor, federal law requires that the Foundation have the power to periodically review the restrictions or conditions imposed upon the use of designated funds. If the Board determines that the purpose for which the gift was originally designated or restricted is no longer possible or practical, it may designate an alternate use or uses as close to the original intent of the donor as possible, as expressed in the gift instrument. Although this power is required to be included in the governing instrument of the Foundation and is applicable to all funds under its administration, the Foundation does not expect to have to exercise this power and would reserve its use to those cases clearly requiring such action.

**D. Ultimate Control.** Federal tax and securities laws require that the Foundation Board have ultimate control over its assets. The Foundation discourages restrictive language in the legal instrument creating the gift because it continues to be a subject of intense scrutiny by the IRS and may be a source of misunderstanding between the donor and the Foundation. If audited by the IRS, the donor and the Foundation would have to prove that the donor did not control the use of the gift. The Foundation must be ultimately accountable in every respect for the charitable recipients, the investment and the administration of a fund. In order to protect the Foundation's donors, the standard gift instrument used by the Foundation must include language vesting control exclusively in the Foundation. The IRS periodically reviews the extent to which foundations comply with these rules. If the facts and circumstances indicate that the donor's advice is routinely followed, the IRS will treat such advice as in fact direction. This may cause the disqualification of the fund as a component fund of the Foundation and have adverse tax ramifications to the donor and the Foundation.

**<u>Responsibility:</u>** Board of Directors, CEO, VP Development, Development Department