

# STRAND-CAPITOL PERFORMING ARTS CENTER GIFT ACCEPTANCE POLICY

## INTRODUCTION

The mission of the Strand-Capitol Performing Arts Center is to enhance the quality of life in our community by engaging the region in a diverse performing arts and cinematic program through presentations, co-productions, rentals and strategic alliances while facilitate audience development, education, community interaction and economic development while ensuring the financial stability of our organization and the historic integrity of our buildings.

To carry out its programs and purpose as a nonprofit organization, the Strand-Capitol relies on the support of donors' through gifts in various forms. This document sets forth the general policy and guidelines of the Strand-Capitol Performing Arts Center regarding acceptance of current and planned gifts.

These policies are designed to assure that all gifts provide maximum benefits to the Center and the donors who support it, and to protect the interests of all, insofar as possible. The goal of the gift acceptance policies is to encourage funding of the Strand-Capitol without encumbering the organization with gifts which may prove to generate more cost than benefit or gifts which are restricted in a manner not in keeping with the mission and goals of the Center.

The policies outline acceptance of gifts of cash and non-cash property, including securities, life insurance, real property, tangible personal property, intangible personal property, business ownership interests and other non-cash property of value.

### Administration of Gifts

Our Gift Acceptance Committee has responsibility for policy development and for gift approval. The Gift Acceptance Committee consists of the Center's legal counsel, the Chair of the Finance and/or Investment Committee, at least one additional member of the Board of Directors familiar with estates, planned gifts or gift tax law, and the Director of Development. The Committee shall meet ad hoc. Gift approval or declination shall be by majority vote.

Outright financial gifts not accompanied by restrictions imposed by the donor may be accepted by staff under direction of the Director of Development or President/CEO and deposited in the Strand-Capitol's operating fund for use by the Center to fund annual operations. Donors may be given a choice of programs to support.

Gifts that have conditions or restrictions will be subject to review of the Gift Acceptance Committee. However, restricted gifts consistent with the Center's programs, normal operation and/or documented plans may be accepted by staff (e.g., ticket scholarship).

In the case of real property gifts, any donor restrictions should be stated in writing and retained on file. In general, it is most desirable to convert gifts of real and tangible property into cash; however, the Center realizes there may be circumstances and conditions warranting further review. The Strand-Capitol shall ensure the sale of any gifts in accordance with the "related use" requirement of the IRS.

It is the policy of the Strand-Capitol to place all unrestricted cash bequests in endowment. When the bequest principal is held elsewhere and the earnings from principal are directed to SCPAC, unrestricted earnings will be taken into the general operating fund. (revised 12/09).

The Center may accept gifts such as pooled income funds, life estate gifts, and charitable gift annuities upon approval of the Gift Acceptance Committee.

It is the policy that all staff seeks the approval of the Director of Development and, in turn, the Gift Acceptance Committee for any gift which in their judgment differs from a typical gift or poses potential risk or disadvantage to the Strand-Capitol, even if they are otherwise authorized to approve such gifts.

All gifts, bequests and trusts in which SCPAC is beneficiary shall be monitored by the Director of Development (or Planned Giving Officer). Procedures shall include the acquisition and review of relevant court documents pertaining to each estate, calculation of approximate gift value and periodic checks of the distribution process.

SCPAC may retain legal counsel as appropriate when recommended by Gift Acceptance Committee or Board of Directors for:

- The review of certain gifts, such as closely held stock, or closely held stock subject to buy-sell agreements or other restrictions.
- The review of all transactions governed by contracts or legal documents. This would include bargain sales, trusts naming the nonprofit as trustee, or any document obligating the trustee to take action.
- The review of all transactions with potential conflicts of interest. This may include use of board members as sales agents in transactions, leases of gift property to staff or board, etc.
- Other circumstances as required.

The Gift Acceptance Committee will consider acceptance of gifts subject to economic conditions, such as the assumption of donor

indebtedness, joint tenancy arrangements with donors, provisions for life estates and other economic stipulations that may obligate the Strand-Capitol. Generally, the Center will agree to accept such gifts only in cases where there is a reasonable expectation that periodic cash flow will exceed the debt service requirements and/or obligations. In no event will the Strand-Capitol Performing Arts Center enter into agreements that will place a material obligation or a lien upon the Center's assets or revenues.

To encourage funding from individuals and other entities, the Center must be capable of responding quickly, and in the affirmative where possible, to all gifts offered by prospective donors. It is understood that, except where stated otherwise, these policies are intended as guidelines and that flexibility must be maintained since some gift situations can be complex and decisions made only after careful consideration of a number of interrelated factors. Therefore, these policies will in some instances require that the merits of a particular gift be considered and a final decision made only by the Gift Acceptance Committee of the Board of Directors of the Strand-Capitol Performing Arts Center.

## I. OUTRIGHT GIFTS

### A. Cash

1. Gifts in the form of cash and checks shall be accepted regardless of amount unless, as in the case of all gifts, there is a question as to whether the donor has sufficient title to the assets or is mentally competent to legally transfer the funds as a gift to the Center. Gifts of large amounts of cash of unclear origin will be reviewed by legal counsel.
2. All checks must be made payable to the Strand-Capitol Performing Arts Center and shall in no event be made payable to an employee, volunteer or other individual.
3. A check is considered delivered on the date mailed. For receipt/acknowledgment purposes, the postmark will be the determinant of what year the donor will receive credit for the gift.
4. Contributions charged on credit cards are considered received in the year the donor made the charge.
5. No Center goods or services shall be provided by staff to donors in return for a gift, unless otherwise specified as a current benefit for said gift.

### B. Publicly Traded Securities

1. Securities which are readily marketable shall be accepted by staff under direction of the Director of Development. There shall be a standing order to sell securities at the earliest opportunity, thereby converting them to cash. In no event will an employee or volunteer commit to a donor that a particular security will be held by the Strand-Capitol unless authorized to do so by the Gift Acceptance Committee. Any such exceptions must be approved in writing by the Gift Acceptance Committee.

### C. Closely Held Securities

1. Securities which are not readily marketable may only be accepted after approval of the Gift Acceptance Committee and the receipt and review by the Committee of a qualified appraisal.
2. Such securities may be subsequently disposed of only with the approval of the Gift Acceptance Committee.

### D. Real Property

1. No gift of real estate shall be accepted without prior approval of the Gift Acceptance Committee.
2. No gift of real estate shall be accepted without first being appraised as to value and evaluated as to potential environmental problems where appropriate by a party chosen by the Strand-Capitol who shall have no business or other relationship to the donor.
3. In general, real estate will be accepted only if it is likely to be readily marketable and is not likely to involve significant carrying charges or administrative burdens until it can be sold, and any real estate which is accepted will be sold as promptly as possible. The Gift Acceptance Committee may recommend exceptions to these policies in particular cases.
- 4.
5. Special attention shall be given to the acceptance of real estate encumbered by a mortgage, which may involve special tax considerations.

### E. Tangible Personal Property

1. Tangible personal property shall be accepted by the Strand-Capitol when there is reason to believe the property can be quickly disposed, or for the purposes of a special fundraising event.
2. Jewelry, artwork, collections, and other tangible personal property may be accepted:
  - if the employee, agent, or volunteer working on behalf of the Strand-Capitol has reason to

believe the property has significant value; and/or

- if Strand-Capitol elects to hold the property for display or use in furtherance of its mission satisfying the "related use" requirements of the IRS; and/or

-by recommendation of the Gift Acceptance Committee.

3. The Strand-Capitol may elect to sell donated property and use the proceeds for its programs.
4. No tangible personal property shall be accepted that obligates the Strand-Capitol to ownership of it in perpetuity.
5. The Gift Acceptance Committee may require a qualified appraisal of any tangible property.
6. No property which will require special facilities or security to properly safeguard will be accepted without approval of the Gift Acceptance Committee.
- 7.
8. Donors should be notified at the time of receipt of a gift that the Strand-Capitol will, as a matter of policy, cooperate fully in all matters related to tax investigations of non-cash charitable gifts.
8. Responsibility for IRS filings upon sale of gift items: The Director of Finance is responsible for filing IRS form 8282 upon the sale or disposition of any non-marketable asset sold within three years of receipt by the Center when the charitable deduction value of the item is more than \$5,000. This form must be filed within 125 days of the date of sale or disposition of the asset. (See attachments.)

#### F. In-Kind Gifts

1. Acceptance of gifts of equipment, goods, or services that would constitute useful additions and/or budget reductions to the Strand-Capitol is encouraged. In-kind donations will be requested and received under supervision of the Director of Development and may be negotiated as a trade for goods and services.
2. If it is determined that the Center is able to accept an in-kind donation, all pertinent information (e.g. value, general description, and purposes for which it will be used) will be recorded and accounted by the Director of Finance.

#### G. Appraisals and Legal Fees

It will be the responsibility of the donor to secure an appraisal (where required) and the advice of independent legal, financial or other professional advisers as needed for all gifts made to the Center. Appraisal costs will not be borne by the Center.

#### H. Other Property

1. Other property of any description, including mortgages, notes, copyrights, royalties, easements, whether real or personal, shall only be accepted by approval of the Gift Acceptance Committee.

## II. DEFERRED GIFTS

#### A. Bequests

1. Bequests shall be actively encouraged by the Strand-Capitol and should be written to "Strand-Capitol Performing Arts Center, Inc."
2. In the event of inquiry by a prospective donor, representations as to the future acceptability of property proposed to be left to the Strand-Capitol in a will or other deferred gift shall only be made in accordance with the terms and provisions of this document and/or a Planned Gift Program ratified by the Strand-Capitol Board of Directors.
3. Intended bequests of property other than cash or marketable securities should be brought to the attention of the Director of Development and every attempt made to encourage the donor involved to conform his or her plans to the gift acceptance policies of the Strand-Capitol.
4. Gifts from the estates of deceased donors consisting of property which is not acceptable shall be rejected only by recommendation of the Gift Acceptance Committee. The legal counsel of the Strand-Capitol shall expeditiously communicate the decision of the Gift Acceptance Committee to the legal representative of the estate. If there is any indication that the representatives of the estate or any family member of the deceased is dissatisfied with the decision of the Gift Acceptance Committee, this fact shall be communicated to the Strand-Capitol Gift Acceptance Committee or Board of Directors as quickly

as possible.

5. Unrestricted bequests less than \$25,000 will be added to the Center's general unrestricted endowment. To be established as a named endowment fund, the minimum dollar requirement of \$25,000 must be met.
6. When donors desire to designate a purpose for a gift, the Strand-Capitol recommends that the purpose be described as broadly as possible and that detailed limitations and restrictions be avoided. Donors will be encouraged to consult Strand-Capitol management before a proposal is made to establish a restricted bequest. Where possible, the Center requests the insertion of the contingency clause in bequests in order to not unduly limit the benefit that such gifts can provide in the future. (See Attachments.)

#### B. Charitable Remainder Trusts

1. In general, the Strand-Capitol will not serve as trustee of a charitable remainder trust for the benefit of the institution. This policy may only be waived by a written resolution of the Gift Acceptance Committee subsequently approved by the Strand-Capitol Board of Directors. Until such time, donors who are interested in CRTs should be directed to a corporate fiduciary or the York County Community Foundation.
2. The Strand-Capitol will not recommend a particular fiduciary to a donor.

#### C. Charitable Gift Annuities and Deferred Payment Charitable Gift Annuities

1. Charitable gift annuities and deferred payment charitable gift annuities must be approved by the Gift Acceptance Committee prior to acceptance.

#### D. Gifts of Life Insurance

1. The Strand-Capitol will encourage donors to name it to receive all or a portion of the benefits of life insurance policies which they have purchased on their lives.
2. When all the rights in a policy are gifted to SCPAC, the donor shall be informed of the advantages of making a gift of the premium amount to SCPAC and encouraged to continue to make the premium payments.
3. The Strand-Capitol will not agree to accept gifts from donors for the purpose of purchasing life insurance on their lives without prior approval of the Gift Acceptance Committee. Life insurance will not be purchased unless it is first determined that the Strand-Capitol has an insurable interest under applicable state law.

#### E. Legal Counsel

The Strand-Capitol will advise prospective planned gift donors to seek legal counsel prior to finalizing wills and estate plans.

### III. PAYMENT OF FEES RELATED TO GIFTS

#### A. Finder's Fees or Commissions

1. The Strand-Capitol will not pay a fee or commission of any kind to any party as consideration for directing a gift to the Strand-Capitol.

#### B. Professional Fees

1. The Strand-Capitol may retain and pay the reasonable fees and expenses of attorneys, accountants, appraisers, and other professional advisors in connection with gifts to the Strand-Capitol, upon decision of the Gift Acceptance Committee.

### IV. APPROVAL, ACCEPTANCE AND ACKNOWLEDGMENT

#### A. The following named gifts are generally approved in this policy:

1. Naming an Endowment Fund. When the amount of the gift meets the pre-established level (\$25,000) for a named fund within the Center's general endowment.
2. Naming of Rooms, Locations and Facilities. Proposals will be handled individually according to the procedures established herein for approval, with the criteria being fairness, aesthetics and harmony. The Gift Acceptance Committee will handle such proposals individually in concert with the President/CEO.

- B. Proposals for recognition of donors should be presented to the Director of Development who will present each proposal with recommendations to the Gift Acceptance Committee. The Gift Acceptance Committee will accept or make a counter recommendation. In case of disagreement, situations will be referred to the Board of Directors.
- C. The Director of Development shall prepare on behalf of the Gift Acceptance Committee letters of acceptance of a proposed gift within a reasonable period. Unaccepted gifts will be handled on a case-by-case basis.
- D. Acknowledgment of all gifts made to the Strand-Capitol by a donor or donor's estate and compliance with the current IRS requirements in acknowledgement of such gifts is the responsibility of the Director of Development or her designee. Acknowledgment will be made in accordance with IRS Publication 561, "Determining the Value of Donated Property" and IRS Publication 526, "Charitable Contributions." The Director of Development has responsibility for acknowledging in writing to the donor or the donor's estate gifts which have been finally accepted by the Strand-Capitol.

V. CHANGES TO POLICY

The Gift Acceptance Policy will be reviewed annually or sooner as necessitated by changes to legislation or regulations.

ATTACHMENTS

- A. Donor Bill of Rights
- B. Restricted Bequest Contingency Clause
- C. IRS Form 8282 and Instructions
- D. IRS Form 8283 and Instructions
- E. IRS Publication 526, Charitable Contributions
- F. IRS Publication 561, Determining Value of Donated Property
- G. Real Estate Environmental Management Policies

ATTACHMENT B  
RESTRICTED BEQUEST CONTINGENCY CLAUSE

[DONOR] recognizes that over time the needs, policies, circumstances and types of presentations audiences may desire at the Strand-Capitol will change in unforeseen ways. To serve the best interests of the Strand-Capitol, [DONOR] gives the Strand-Capitol Performing Arts Center the ability to make use of funds to fulfill its stated mission while continuing to perpetuate the honor of [DONOR or the NAME OF PERSON for whom the endowment is named].

ATTACHMENT G  
REAL ESTATE ENVIRONMENTAL MANAGEMENT POLICIES

The Director of Finance and the Director of Development shall summarize the following information and present it with a recommendation to the Gift Acceptance Committee.

1. On-Site Inspection Report. One or more representatives of SCPAC shall make an on-site inspection of the property and prepare a written report. SCPAC may retain a licensed contractor to inspect the property.
2. Analysis of Marketability, Holding Costs, and Costs of Sale. The Director of Finance and the Director of Development shall evaluate the net holding costs, if any, and prospective sales costs of the property. Criteria for evaluation shall include:
  - a. present market value, including obtaining a formal appraisal
  - b. marketability- assessment of the market for salability, including likely time-frame for sale
  - c. cost of acquisition
  - d. income potential while the property is held
  - e. encumbrances
  - f. zoning
  - g. appreciation/depreciation potential
  - h. maintenance and repair expense
  - i. loan expense
  - j. property tax, unrelated income tax, and other taxes
  - k. marketing, commission, and closing costs
  - l. improvement, renovation, or retrofitting

When the real property is used to fund a charitable trust for which SCPAC will serve as trustee, arrangements will be made with the donor to fund net trust expenses incurred prior to and sale of the property. In all cases, the donor will be asked to consider paying for or assisting with payment of the costs of evaluating the prospective gift, including the cost of environmental assessments described below.

**Hazardous Materials and Environmental Issues.** SCPAC shall carefully investigate environmental issues related to the property. The on-site inspection described above shall include completion of a Real Property Environmental Inspection Report in form similar to the one attached hereto. For residential property only, where no environmental problems are found or suspected, the Gift Acceptance Committee may approve acceptance of the gifts with no further environmental analysis required.

In all other cases, acceptance of gifts of real property shall require that a Phase I Environmental Site Assessment in compliance with the American Society for Testing and Materials (ASTM) Standard Practice be prepared by a competent environmental professional. The gift may be accepted by the Gift Acceptance Committee if the assessment reveals no presence or likely presence of a hazardous substance. If the Phase I assessment indicates the presence or likely presence of a hazardous substance, SCPAC may elect to obtain a Phase II assessment relative to the specific type of hazardous substance. If the Phase II assessment indicates that the property contains a hazardous substance, SCPAC may accept the gift only upon the approval of the Gift Acceptance Committee based upon advice of legal counsel concerning potential liability under CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980) and other applicable laws.

Approved 5-21-09