

Black Hills Area Community Foundation

FISCAL SPONSORSHIP FUND AGREEMENT RAPID CITY COMMUNITY RELATIONS FUND

This agreement ("Agreement") is made between The City of Rapid City, Community Relations Commission ("Fund Organizer"), Black Hills Area Community Foundation (the "Foundation"), a South Dakota nonprofit corporation and charitable organization described in sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code, with principle offices at 803 St. Joseph Street, Rapid City, South Dakota. The parties agree as follows:

Authority.

The Foundation will hold and administer a Fund for charitable purposes to be known as the Rapid City Community Relations Fund (the "Fund"). All property that any person or organization contributes to the Fund in accordance with the provisions of this Agreement and the provisions of the Articles of Incorporation, Bylaws, and Policies of the Black Hills Area Community Foundation, and any future amendments thereof, all of which provisions and amendments are hereby incorporated by reference. All such contributions are irrevocable gifts to the above-mentioned Fund.

Purpose. (Updated March 2023)

The purpose of this fund is to hold and distribute charitable donations for the purpose of supporting the work of the Rapid City Community Relations Commission, using the Fund to promote and financially facilitate the events and activities of Commission including, without limitation, events and activities designed to improve relations between culturally and socially diverse groups in Rapid City through efforts to bridge social and cultural divides that are harmful to community; to educate and inform the public on the importance of unity and diversity in our Community, and the need to be open, inclusive and civil in our relationships; to advocate for greater understanding, healing and reconciliation in our community, and to model and mediate where appropriate to bring people together of diverse cultural and social backgrounds and beliefs.

Distributions.

The Fund is not an endowment. BHACF shall pay the principal of the Fund as the Foundation deems appropriate, in accordance with investment, distribution, and other policies adopted by the foundation and amended from time to time, for charitable purposes as described in this Agreement and the attached application, hereby included by reference. The Foundation, upon request, shall be given access to records, files, and personnel for the purpose of any audits, verifications, or program evaluations it deems necessary. Requests for distribution shall be made in writing by the Project Advisor's. Project advisor's will be as follows:

1. City of Rapid City, City Attorney
2. City of Rapid City, Community Relations Commission Coordinator
3. City of Rapid City, Community Relations Commission Chair

4. City of Rapid City, Community Relations Commission Finance Chair

Payments will be made within two to four weeks of receipt of appropriate documentation and will be limited to the amount of the project fund balance.

Fund Advisor's may approve of an amount of one-thousand dollars without a second Advisor's approval. Any expenditure exceeding this amount will need the approval of two advisors.

Variance Power.

This Agreement is subject to BHACF's authority to vary the terms of the gift. As stated in Article VII, Section 3 of BHACF's bylaws, BHACF shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations, if in the sole judgment of the governing body (without the necessity of the approval of any participating trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the Black Hills area.

Legal considerations.

Gifts to Foundation special project funds are deductible for income tax purposes and are irrevocable. Federal tax law does not permit donors to retain control over assets given to charity. The Foundation retains control and discretion over the use of all contributions it receives and may hold, withdraw, or demand return of funds if any requirement or condition is not met. The project itself is responsible for insurance, debts, liabilities, and other legal expenses. To maintain its own tax-exempt status, the Foundation will review and conclude whether distributions from the special project fund are used exclusively for charitable purposes. The conclusions made by the Foundation regarding whether project funds are used exclusively for charitable purposes, shall be final and not subject to review. Specifically, the Foundation will make sure that distributions of project funds are used for educational, scientific, literary, and charitable purposes and for public welfare, including, but not limited to, the advancement and diffusion of knowledge and understanding of economics, matters of public concerns, finance, education and training, housing, human relations, problems of minority groups, science and technology, economic planning and development, and other subjects related to improved efficiency, development and acceleration of both the quality and quantity of economic growth and employment in the Black Hills area.

Solicitation Policy.

The Project Organizer is responsible for raising funds for the Project. The Foundation must review and approve all prospective funders and fundraising materials in advance of distribution. The following statement should be included in all fundraising materials: Contributions to the fund should be directed to BHACF/NAME of FUND, PO Box 231, Rapid City, SD 57709. Black Hills Area Community Foundation is a 501(c)(3) nonprofit organization. Contributions are deductible to the maximum extent allowable for federal income tax purposes and are governed by BHACF's policies and variance power.

Foundation Recognition.

The Foundation will be publicly recognized at an appropriate sponsorship level in publicity, annual reports, electronic media, and promotions. Use of the Foundation's name will be reviewed with Foundation staff in advance of printing of materials and/or publications.

Prohibitions.

The Fund Organizer may not use, nor allow any project volunteers or employees to use, any part of the project Fund to influence legislation or the outcome of any public election, to carry on any voter registration drive, to make any expenditures that do not comply with the requirements of Section 4945(c)(3) and (4) of the Internal Revenue Code or to undertake any activities for any purpose other than one specific in Section 170(c)(2)(B) of the Internal Revenue Code. Further, the Project Organizer agrees to make sure that all persons associated with the project comply with the requirements of a 501(c)(3) organization. A 501(c)(3) organization:

- must absolutely refrain from participating in the political campaigns of candidates for local, state, or federal office
- must restrict its lobbying activities to an insubstantial part of its total activities
- must ensure that its earnings do not inure to the benefit of any private shareholder or individual
- must not operate for the benefit of private interests such as those of its founder, the founder's family, its shareholders or persons controlled by such interests
- must not operate for the primary purpose of conducting a trade or business that is not related to its exempt purpose which does not benefit a broad class of people.
- may not provide commercial-type insurance as a substantial part of its activities
- may not have purposes or activities that are illegal or violate fundamental public policy
- must satisfy annual filing requirements.

Management and Fees.

The Foundation may commingle the assets of the Fund with the assets of any other Fund or Funds that the Foundation holds and administers, provided that the separate identity of the Fund and the distributions therefrom are at all times properly accounted for and maintained.

Fees are charged by the Foundation to help build BHACF as a community resource, allow staff to provide personalized service, including assistance, education, and connecting donors with strategic funding opportunities and to provide technical assistance to nonprofit organization and cover costs associated with accounting, reporting, and auditing. Fees are charged in accordance with the current policy at the Foundation.

Sales and Use Tax.

The Foundation is not exempt from South Dakota sales tax. If a vendor does not charge sales tax, the Foundation will deduct the use tax from the Fund's balance unless a sales tax exemption certificate is presented. The Project Coordinator is responsible for obtaining a vendor's sales tax exemption certificate.

Annual Report.

The Project Organizer is required to provide a written report describing the Project's activities and furtherance of its charitable mission at the conclusion of the calendar year.

Termination of Sponsorship.

Fiscal sponsorship of this project by the Foundation will conclude on or before [redacted]. At the end of the project, the Project Organizer will provide a report on the activities relating to the Fund's charitable purpose.

Remaining Balance.

At the conclusion of the fiscal sponsorship, should a balance remain in the fund, the Foundation may, in its sole discretion:

1. Grant funds to the **Rapid City Community Relations Fund** 501(c)(3) public charity, if it receives a Letter of Determination from the Internal Revenue Service;
2. Ask another group or unit of government to complete the activities;
3. Transfer the balance in the project fund to another 501(c)(3) qualified public charity;
4. Transfer the balance in the fund to another fund of the Foundation;
5. Seek the Project Organizer's advice on distributions from the project Fund until it reaches a zero balance.

ACKNOWLEDGEMENT AND SIGNATURE

I acknowledge that I have read the Foundation's Fund Agreement and agree to the terms and conditions set forth therein. I hereby certify that, to the best of my knowledge, all information presented on this form is and truthful and that I will notify the Foundation promptly of any changes to the information contained herein.

COMMUNITY RELATIONS COMMISSION/ CITY OF RAPID CITY

Steve Allender, Mayor

Date

ATTEST:

Daniel Ainslie, Finance Director

Date

BLACK HILLS AREA COMMUNITY FOUNDATION

Executive Director, Liz Hamburg

Date