

## General Development Policies & Guidelines

### GIFT ACCEPTANCE POLICY

#### **Purpose**

The purpose of these fund and gift acceptance policies is to advance the Foundation's mission of connecting caring people, important causes, and community resources to create positive impact. By providing guidelines for negotiating and accepting various types of gifts for different types of funds, these policies are designed to serve the best interests of the Foundation, donors who support the Foundation's programs through charitable gifts, and a prosperous community. These policies are established to assure that each gift to the Foundation is structured to provide maximum benefits to the community, the donor, the Foundation and the beneficiaries of the Foundation's charitable programs and activities.

#### **Scope**

These policies address both current and deferred gifts, with an emphasis on specific types of deferred gifts and gifts of non-cash property. The goal is to encourage financial support for the Foundation without encumbering it with gifts which either generate more cost than benefit, or which may be restricted in a manner that is not in keeping with the Foundation's charitable purposes or applicable laws governing charitable gifts. These policies also describe the types of funds that the Foundation maintains.

*Notwithstanding anything in this policy to the contrary, the Foundation, upon Board approval, reserves the right to waive any requirements herein with respect to acceptance of specific gifts.*

#### **Ethical Standards in Dealing with Donors**

Every person acting for or on the Foundation's behalf shall adhere to those standards set forth in *A Donor Bill of Rights*, the *Association of Fundraising Professionals (AFP) Code of Ethics*, and the *Model Standards of Practice for the Charitable Gift Planner* (attached).

The Foundation is committed to the highest ethical standards of philanthropy and development. In all transactions between potential donors and the Foundation, the Foundation will aspire to provide accurate information and full disclosure of the benefits and liabilities that could influence a donor's decision, including with respect to:

- the Foundation's fees
- the irrevocability of a gift
- prohibitions on donor restrictions
- items that are subject to variability (such as market value, investment return, and income yield)
- the Foundation's responsibility to provide periodic financial statements with regard to donor funds
- investment policies and other information needed by donors to make an informed choice about using the Foundation as a vehicle of charitable gifts.

**In addition, all donors will be strongly encouraged to discuss their gifts with their own financial and tax advisors before signing any gift agreement.** The role of the Foundation's staff is to inform, guide, and assist the donor in fulfilling his or her philanthropic goals, without pressure or undue influence.

The Foundation recognizes the paramount role of donors and their gifts to the Foundation in executing its charitable mission. In carrying out the Foundation's development program, staff will recognize and acknowledge donors in appropriate ways, both publicly and privately, subject to the Foundation's Privacy and Confidentiality policies. Donors reserve the freedom to determine the degree and type of recognition that they prefer and the Foundation respects the confidentiality of donors who do not wish to be publicly recognized.

## **Funds**

The Foundation offers several different types of funds. These include:

**Unrestricted Funds.** Gifts to these funds help the Foundation help our community address our community's most pressing needs and our most compelling opportunities. The Foundation makes distributions and grants to support effective work of charitable organizations throughout the area we serve and beyond.

**Field of Interest Funds.** These funds support a charitable purpose designated by the fund's donor or donors. Distributions are determined by the Foundation consistent with the fund's purposes. Where appropriate, the Foundation may create an advisory committee to make recommendations for distributions.

**Designated Funds.** These funds support a charitable organization designated by the fund's donor or donors. Distributions generally are determined by applying the Foundation's spending policy to the assets held in the fund.

**Agency Endowments.** These funds are created by charitable organizations that designate themselves as the fund's beneficiary. Distributions generally are determined by applying the Foundation's spending policy to the assets held in the fund. The IRS requires that all agency funds be subdivided into an agency and a community component. Although all funds are under the control of the Community Foundation, the Financial Accounting Standards Board, (FAS Accounting Standard 136) requires that the balance in the agency portion of the fund be included on the agency's balance sheet as an asset.

**Scholarship Funds.** These funds provide financial assistance to students at schools, colleges, and universities. Scholarship funds can also support vocational training and assistance in paying for special courses. Donors recommend eligibility criteria and may serve on selection committees but cannot represent a majority of committee membership.

**Donor Advised Funds.** Donors suggest grants to charitable organizations for staff review and board approval.

## **Variance Power**

Sometimes a fund just doesn't work anymore. For example, scientists discover a cure for a disease or a charitable organization goes out of existence. The Foundation has the ability to address these situations through its variance power. This power gives the Foundation's board the ability to make changes to a fund when its purpose is no longer necessary, can no longer be fulfilled, or has become inconsistent with the charitable needs of the community. This power to update funds helps protect donors by avoiding the need for complex and costly legal proceedings.

### **Authority to Accept Gifts**

Acceptance by Officers & Designated Employees. Any of the Foundation's officers or employees designated by the Foundation's Finance Committee may accept, for and on the Foundation's behalf, any of the following:

- Cash
- Checks
- Marketable securities

Acceptance by Finance Committee. All other gifts, including those listed below, will require review and, if appropriate, approval by the Foundation's Finance Committee. The following gifts require the Committee's review and approval:

- Closely-held and S corporation stock
- Partnership interests
- Limited liability company interests
- Accounts receivable (e.g., gifts of loans, notes, mortgages)
- Real property
- Gifts of intellectual property, mineral reserves, precious metals
- Artwork, coin collections, jewelry, etc.
- Life insurance and annuity policies

Emergency Gifts. Notwithstanding the Finance Committee's authority above, gifts requiring immediate action (such as gifts in late December) may be exempted from full Committee review if, in the CEO's judgment, in consultation with the Treasurer and the Finance Committee Chair, that gift may be accepted without in any way jeopardizing the Foundation's exempt status.

Timing of Review. Gifts requiring Committee review will be handled promptly. Foundation staff will immediately notify donors if a gift is not accepted.

### **Authority to negotiate and sign gift agreements**

Subject to the Finance Committee's review and approval authority, the Foundation's CEO, will have the authority to handle inquiries, negotiate with donors, assemble documentation, retain expert and technical consultants, and execute agreements on the Foundation's behalf, or appoint staff as necessary.

### **Purpose of gifts**

The purpose of each gift to the Foundation must fall within the Foundation's broad charitable purposes. The Foundation may decline to accept any gift that is not in its best interest. Factors that may be considered include: material restrictions or conditions by the donor that prevent the Foundation from freely and effectively employing the gift assets or the income from such assets to further its charitable purposes, risk factors that may affect other assets of the Foundation, or the Foundation's ability to administer the terms of the gift in accordance with the donor's wishes.

### **Minimum gifts**

Subject to the policies set forth in this document, the Foundation may accept gifts to existing funds of any size. Gifts to establish a separate fund at the Foundation must meet the minimum funding requirements set by the Board. The minimum gift to establish a separate fund is \$20,000. A donor may establish a fund in a single transaction, or agree to build the fund to the minimum over five years' time. Exceptions are subject to the approval of the Foundation's CEO.

## **Investment of gifts**

The Foundation reserves the right to make any or all investment decisions regarding gifts to it in accordance with its Investment Policy Statement, as amended from time to time. In making a gift to the Foundation, the donor gives up all rights, title and interest to the assets contributed. In particular, the donor relinquishes the right to choose investments and investment managers, brokers, or to veto investment choices for the contributed assets.

## **Costs of accepting and administering gifts**

Generally, costs associated with the acceptance of a gift, such as the donor's attorneys' fees, accounting fees, and appraisal and escrow fees, are borne by the donor. The direct costs of administering gifts are generally paid out of the assets of the individual funds. Custodial, investment, and administrative fees are paid from the respective funds in accordance with the Foundation's guidelines and fee schedules. The Foundation reserves the right to assess a set-up fee.

## **Donor Initiated Fundraising**

Because the Foundation is legally responsible for all fundraising undertaken on its behalf, fundraising undertaken by donors in connection with funds of the Foundation must be approved in advance by the Foundation pursuant to the Foundation's policy on fundraising by donors. All such fundraising activities are also subject to the Foundation's supervision. For more information refer to the Donor Initiated Fundraising Policy.

## **Excess business holdings**

The Pension Protection Act of 2006 amended section 4943 of the Internal Revenue Code to limit ownership of closely-held business interests in a donor advised fund. A fund's holdings, together with the holdings of disqualified persons (donor, advisor, members of their families and businesses they control) may not exceed any of the following:

- 20% of the voting stock of an incorporated business;
- 20% of the profits interest of a partnership, joint venture, or the beneficial interest in a trust or similar entity;
- Any interest in a sole proprietorship.

These limitations do not apply if the donor advised fund holds an interest that does not exceed two percent of the voting stock and two percent of the value of the business.

Donor advised funds receiving gifts of interests in a business enterprise have five years from the receipt of the interest to divest holdings that are above the permitted amount, with the possibility of an additional five years if approved by the Secretary of the Treasury. To prevent a violation of these rules, it is the Foundation's policy to divest itself of such holdings within five years from the date the Foundation acquired the asset. If that is not possible, the asset will be transferred to a new or existing fund that is not an advised fund.

## **Types of gift assets**

Generally, gifted assets will be either:

“liquid” assets - cash or marketable securities, or

“illiquid” assets - everything that is not cash or marketable securities.

With respect to non-cash assets, it is the Foundation's general policy to liquidate all gifts promptly. On occasion, the Finance Committee may decide that it will not liquidate certain gifts immediately. Factors the Committee will consider include:

- Market conditions – a gift may be retained for a reasonable period of time if the likely sales price would be substantially less than the asset's real value. Similarly, a large block of stock

might be sold over a period of time in order not to artificially depress the price. The Finance Committee may consult with investment advisors in such situations.

- Use by the foundation – the Foundation may elect to keep gifts that it will employ directly in furtherance of its exempt purposes. For example, the Foundation might keep real property that it will use as its offices.
- Desirability as an investment – on rare occasions, the Foundation may be given property that it wishes to retain as an investment. Considerations in this decision include the projected return and how the asset fits into the Foundation's investment portfolio.

If a fund's illiquid assets do not generate a sufficient return to permit grantmaking that is consistent with the assets' value, the Foundation may seek an additional gift of cash or marketable securities to allow the fund to begin making distributions.

Subject to Board approval, the Foundation may accept the following types of gifts:

### **Liquid assets**

#### **Cash**

The Foundation accepts gifts of cash

- In currency of the United States;
- By checks made payable to the Foundation or the component fund; or
- By credit cards or wire transfer to the Foundation's account(s).

#### **Publicly-Traded Securities.**

The Foundation accepts gifts of marketable, publicly-traded stocks and bonds. As a general rule, publicly-traded stocks and bonds contributed to the Foundation will be redeemed or sold as soon as practicable. All proceeds from such redemption or sale less commissions and expenses are then credited to the component fund to which the stocks or bonds were originally contributed. The Foundation may accept gifts of publicly-traded stocks and bonds in any amount to any existing fund. However, gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement.

*Appraisal.* No appraisal is required so long as the stock or bond is not subject to any restrictions, including those imposed by contract or the Securities Exchange Commission. Where appraisal is not required, the value of the gift is determined by calculating the mean of the high and low prices of the securities on the date of the gift.

### **Illiquid assets**

#### **Real Estate.**

This policy applies to all gifts of real property, including outright gifts of residential and commercial property and farmland; bargain-sale transactions; and gifts of remainder interests in which the donor retains a life estate. The Foundation does not accept gifts of time shares.

Gifts of real property must be reviewed by the Finance and Real Estate Committees. Subject to the Committees' approval, the Foundation may accept gifts of real property to any fund. Gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement. In deciding whether to accept real property gifts the Foundation will:

- Determine whether the real estate gift has an acceptable minimum value.
- Confirm that the donor has legal capacity and is entitled to convey the property through copies of deed, title report, or other documents, provided by donor.

- Determine whether, if property is encumbered by debt, the debt is of a level that will not unduly burden the Foundation or adversely affect the marketability of the property. Generally, the Community Foundation will accept gifts of property that include outstanding debt.
- Perform a market and financial analysis prior to acceptance of the gift to determine whether the gift is a financially sound acquisition.
- Weigh its ability to manage commercial property for the time necessary to sell the property. For example, income producing property may subject the Community Foundation to unrelated business income tax and/or other types of expenses, including but not limited to, upkeep of land, maintenance of buildings and management of property.
- Evaluate whether any restrictions on the gift desired by donor will jeopardize the classification of such gift as charitable.

*Appraisal.* Each gift of real property giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal. The Community Foundation may require an ALTA/ASCM Land Title Survey based on the property presented.

*Distributions.* Distributions from a component fund that consists entirely of real property are limited to the net income generated by the property less fees assessed by the Foundation and any unrelated business tax imposed thereon.

*Liquidation.* The Foundation will generally seek to sell real property as soon as possible and generally will not accept gifts that cannot be liquidated within three years.

*Procedures for Accepting Gifts of Real Property.* Donors will provide the information and documents requested in the Real Property Donation Checklist and the Real Property Inquiry Form at the earliest possible time prior to the acceptance of the gift. Copies of those forms are appended to this policy. The Foundation may request additional information or documents when necessary for evaluation of the proposed gift.

Whenever possible, a member of the Foundation staff or an authorized representative will visit the property to determine its nature and type and to identify any potential problems not evident from information supplied by the donor that might hinder or prevent the foundation's sale of the property.

*Environmental Assessment.* If the property type warrants, Donors will provide at least a Phase I Environmental Report with disclosure of any environmental problems or statement that none exists.<sup>1</sup>

#### Closely-Held Stock and S Corporation Stock.

Gifts of closely-held and S corporation stock must be reviewed by the Finance Committee. Subject to the Committee's approval, the Foundation may accept gifts of closely-held or S corporation stock in any amount to any existing fund. Gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement. The Foundation may accept gifts of stock in closely-held or S corporations that generate unrelated business income only if certain agreements are reached with the donor and/or the corporation. These include an agreement by the donor that the taxes on the unrelated business income and the Foundation's associated administrative expenses (e.g., accounting and tax return preparation) will be charged against the fund holding the contributed stock. Further, the donor should agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expenses to the extent there is insufficient cash in the subject fund balance to cover such taxes and expenses.

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<sup>1</sup> Not every property will warrant an environmental assessment, however the Foundation reserves the right to require such assessment at Donor's expense.

*Appraisal.* Each gift of closely-held or S corporation stock giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

*Distributions.* Distributions from a component fund that consists entirely of closely-held or S corporation stock are limited to the income generated by the securities less fees assessed by the Foundation and any unrelated business tax imposed thereon.

*Liquidation.* The Foundation will generally seek to redeem or sell closely-held or S corporation stock contributed as soon as possible and generally will not accept gifts that cannot be liquidated within three years.

*Procedures for Accepting Gifts of Closely-Held or S Corporation Stock.* The following procedures apply to all proposed gifts of S corporation stock:

- The Foundation will review corporate governing documents to determine the rights and obligations associated with the stock and whether or not the Foundation should undertake such obligations in light of such rights.
- The Foundation will review the corporation's most recent tax returns and the donor's most recent K-1 to determine the nature of the income associated with the stock (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to the Foundation's standards of suitability or be approved by the Foundation's counsel.
- As a condition for the Foundation's acceptance of the gift, a written agreement between the donor and the Foundation should be in place that provides for the payment of administrative expenses and unrelated business income taxes generated by the stock to the extent there is insufficient cash in the fund to which the stock has been donated to cover such expenses and taxes. The agreement should also require the donor to indemnify the Foundation against all liabilities incurred by the donor on account of the stock up to the date of the gift.
- The donor shall provide the Foundation with all documents which outline, discuss or relate to the duties and liabilities which shareholders have, including Shareholder Agreements.

#### General Partnership Interests.

The Foundation generally does not accept gifts of general partnership interests due to the unlimited liability of general partners.

#### Limited Partnership Interests.

Gifts of limited partnership interests must be reviewed by the Finance Committee. Subject to the Committee's approval, the Foundation may accept gifts of limited partnership interests in any amount to any existing fund. Gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement. The Foundation reserves the right to carefully screen all proposed gifts of limited partnership interests to ensure that they place no undue risk upon the Foundation.

The Foundation generally does not accept gifts of interests in partnerships that carry on active business. Interests in passive, investment-type limited partnerships such as those holding real estate, stocks and bonds, are preferred.

The Foundation may accept gifts of limited partnership interests that generate unrelated business income only if certain agreements are reached with the donor. These include an agreement by the donor that the taxes on the unrelated business income and the Foundation's associated administrative expenses (e.g. accounting and tax return preparation) will be charged against the fund holding the partnership interest. Further, the donor would have to agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expenses to the extent there is insufficient cash in the subject fund balance to cover such taxes and expenses.

*Appraisal.* Each gift of limited partnership interest must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

*Distributions.* Distributions from a component fund that consists entirely of limited partnership interests are limited to the income distributed to the Foundation by the partnership less fees assessed by the Foundation and any unrelated business income taxes imposed thereon.

*Liquidation.* The Foundation will generally seek to redeem or sell limited partnership interests contributed to it within three years.

*Procedures for Accepting Limited Partnership Interests.* The following procedures apply to all proposed gifts of limited partnership interests:

- The Foundation will review the partnership governing documents to determine the rights and obligations associated with the limited partnership interest and whether or not the Foundation should undertake such obligations in light of such rights. If required, the donor should be asked to obtain the other partners' consent to the gift as a condition to the Foundation's accepting the gift.
- The Foundation will review the donor's most recent K-1 and the partnership's tax returns to determine the nature of the income associated with the limited partnership interest (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to the Foundation's form or be approved by the Foundation's counsel.
- As a condition for the Foundation's acceptance of the gift, a written agreement between the donor and the Foundation income should be in place that provides for the payment of administrative expenses and unrelated business taxes generated by the interest to the extent there is insufficient cash in the fund to which the interest has been donated to cover such expenses and taxes. The agreement should also require the donor to indemnify the Foundation against all liabilities incurred by the donor on account of the limited partnership interest up to the date of the gift.

#### Limited Liability Company Interests

The same considerations given to gifts of limited partnership interests apply to gifts of interests in limited liability companies.

#### Tangible Personal Property.

The Foundation accepts gifts of personal tangible property (e.g. artwork, coin collections, jewelry) only if: (i) the Foundation determines that the property will be used in furtherance of the Foundation's exempt purposes or (ii) the Foundation will be able to sell the property. If the property is to be sold, the Foundation will accept the gift only if it has sufficient value to justify the expenditure or resources required for such sale. The Foundation may accept gifts of personal tangible property in any amount to any existing fund. Gifts of tangible personal property to establish a new component fund at the Foundation must meet the applicable minimum funding requirement.



*Appraisal.* Each gift of personal tangible property for which the donor expects a charitable deduction exceeding \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining and paying for such appraisal.

*Procedures for Accepting Personal Tangible Property.* The following procedures apply to all proposed gifts of personal tangible property:

- The Foundation will review all prior appraisals and authentication documents, if any, relating to the property.
- If the property is to be sold, the Foundation will ascertain the market for such property and estimate the costs to be incurred in connection with the sale as well as the costs of holding the property prior to sale.
- All costs incurred by the Foundation in connection with the holding and sale of the property shall be charged against the sale proceeds, with the balance being credited to the fund to which the property has been contributed.

### Life Insurance

The Foundation may accept gifts of life insurance policies so long as: (a) the policy is not encumbered (*i.e.*, there is no outstanding loan against the policy); and (b) the Foundation is made the policy's owner and primary beneficiary. When premium payments can no longer be made because there is insufficient value in the policy to keep it in force, or because the Foundation chooses to discontinue premium payments, the policy will be surrendered. The Foundation may accept gifts of life insurance in any amount to any existing fund. Gifts of life insurance policy to establish a new component fund at the Foundation must meet the applicable minimum funding requirement.

*Appraisal.* Each gift of life insurance policy giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law.

### **ADDITIONAL CONSIDERATIONS FOR ACCEPTANCE OF ILLIQUID ASSETS**

In connection with the acceptance of many types of illiquid assets, the Foundation may incur costs such as unrelated business income tax, fees or commissions associated with the sale or liquidation of assets, asset management and holding costs, consultant fees or other expenses outside the normal scope of the Foundation's administrative costs. Accordingly, as a condition of the Foundation's acceptance of the gift, the Foundation may require a pledge or other written agreement between the donor and the Foundation that provides for the payment of all or a portion of any such costs or expenses, including unrelated business income taxes, to the extent there is insufficient cash in the donor's fund to which the asset(s) have been donated to cover such costs.

### **DEFERRED GIFTS & PLANNED GIVING.**

These are gifts whose benefit does not fully accrue to the Foundation until some future time, or whose benefits are split with non-charitable beneficiaries. Foundation representatives are authorized to solicit direct charitable gifts through wills or trusts, as well as contributions to establish gift annuities or charitable trusts. The Foundation will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts. In cases where the gifts are complex, the CEO may request review by the Finance Committee.

In order to clarify the donor's intent for a planned gift commitment and preserve the donor's wishes, the Foundation will work with the donor to establish a memorandum of charitable intent, which will be retained at the Foundation until the deferred gift is realized.

### Bequests

The Foundation accepts bequests from donors who have directed in their wills or trusts that certain assets be transferred to the Foundation and will honor the wishes of the donor as expressed, but

reserves the right of refusal as necessary and appropriate. Sample bequest language for restricted and unrestricted gifts is available from the Foundation, to donors and/or advisors, upon request. The Foundation may not be named as Executor for a donor in his/her will and will not serve if named. The Foundation may create a named fund in memory of the donor, if there is no stipulation for anonymity.

#### Retirement Plans or IRA Accounts

Donors may make lifetime gifts of retirement assets or name the Foundation as the beneficiary of their plan. Retirement plans include, but are not limited to, Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans.

#### Life Income Gifts

The Foundation will work closely with donors to implement planned giving options that provide income to a donor or his/her designees, as well as financial benefit to the Foundation (split-interest gifts). Options include:

**CHARITABLE REMAINDER TRUSTS (CRT).** This trust makes payments to one or more beneficiaries for their lifetimes, or for a fixed term, or a combination of both. Assets are put into a trust, beneficiaries are paid, and when the trust term ends, the remainder in the trust passes to the Foundation for its charitable purposes. The donor names a Trustee to manage the trust and determines whether the payout will be fixed (a charitable remainder annuity trust or variable (a charitable remainder unitrust. Trusts can be set up during the donor's lifetime or by will. The Foundation encourages donors to consult their own legal counsel and tax advisors to create a charitable remainder trust. At the donor's request, the Foundation will confer with his/her advisors to assist in establishing the trust from which it will ultimately benefit. The Foundation will not serve as Trustee of the trust.

**CHARITABLE LEAD TRUST (CLT).** This trust first makes distributions to the Foundation for a specified period, with the remainder reverting to the donor or another beneficiary at the end of the period. It may be set up during one's lifetime or in a will. The Foundation will work closely with the donor and/or his advisor to create the trust, but will not serve as Trustee.

**CHARITABLE GIFT ANNUITY (CGA).** This planned gift is based on a gift of cash or securities in exchange for lifetime income, either immediate or deferred, to the donor. It is a contract between the donor and the Foundation and is backed by our total assets. The gift is in part a charitable gift and in part the purchase of an annuity.

Revocable "Living" Trusts. The donor creates a revocable trust during the donor's lifetime to manage affairs and control the disposition of the donor's estate after death. The donor may receive all the trust income for life, add or remove property from the trust, modify or cancel the whole trust arrangement at any time. The Foundation can be named as a designated beneficiary. The Foundation will not serve as Trustee of the trust.

Life Estate. A donor may wish to contribute a personal residence or farm to the Foundation and retain the right to use the property until death. Upon the donor's death, the Foundation owns the entire interest in the property.

Bargain Sale. A donor may wish to make a gift by selling an asset to the Foundation for a price less than its fair market value. The donor qualifies for an income tax charitable deduction for the difference between the sale price and fair market value. If part of the property has appreciated part of the gain is considered to have been realized in the sale price and part of it in the gift. The bargain sale reduces the net cost of the gift. Cost of sale of the property becomes the obligation of the Foundation when it chooses to sell.

### **Real Property Donation Checklist**

1. Exact legal name of donor and federal identification number.
2. Description of property (copy of deed).
3. Description of any buildings or other structures located on the land.
4. Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey.
5. Information regarding existing zoning status.
6. Information on all ingress/egress for the property.
7. Description of prior use of the property.
8. Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
9. Disclosure of any contemplated or anticipated condemnations, right-of-ways or other actions by municipalities that may affect the subject property.
10. Phase I environmental report on the property, including environmental report on any structures located on the real estate.
11. Evidence of title, such as title examination and report, title insurance commitment, or schedule describing any liens, encumbrances, or title matters affecting the property.
12. Copy of appraisal showing the fair market value of the property current within sixty days.
13. Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property.
14. Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, and similar items.



## Real Property Inquiry Form

### I. General Information

Owner(s):

Address:

Phone:

Property Location:

Land area (acres or square feet):

Building area (sq. ft. each floor):

Zoning:

Replacement cost of building:

Current property insurance coverage:

Date of acquisition / form of acquisition:

Current cost basis (includes improvements):

Principal balance of mortgage:

Assessed value for real estate taxes:

Real estate taxes:

Land value:

Building value

Most recent appraisal date:

Appraised value:

Appraiser:

Occupancy status after transfer of title to charity (select one):

Unimproved (no buildings)

Unoccupied (building, but not occupant)

Occupied (building with occupants)

Please indicate by checking "yes" your awareness of any condition or problem which may affect the title or marketability of the property. Use Section VII to provide additional information.

<b>II.</b>	<b>Title/Zoning</b>	<b>Yes</b>	<b>No</b>
A.	Title	_____	_____
B.	Zoning variances, violations or special permits	_____	_____
C.	Zoning violations	_____	_____
D.	Restrictions or easements	_____	_____
E.	Survey available	_____	_____
<b>III.</b>	<b>Condition of Building</b>	<b>Yes</b>	<b>No</b>
A.	Foundations/slab	_____	_____
B.	Basement water/dampness/sump pump	_____	_____
C.	Roof leaks	_____	_____
D.	General structural	_____	_____
E.	UFFI (formaldehyde insulation)	_____	_____
F.	Asbestos	_____	_____
G.	Lead paints	_____	_____
H.	Termites/ants/pests	_____	_____
I.	Swimming pool	_____	_____
J.	Radon	_____	_____
K.	Building systems	_____	_____
	1. Plumbing	_____	_____
	2. Electrical	_____	_____
	3. Heating	_____	_____
	4. Air conditioning	_____	_____
	5. Hot water	_____	_____
	6. Water supply	_____	_____
	7. Sewage; type	_____	_____
	8. Other fixtures	_____	_____
<b>IV.</b>	<b>Rental/Condominium/Cooperative</b>	_____	_____
A.	Building systems	_____	_____
	1. Leases	_____	_____
	2. Rental arrears	_____	_____
	3. Last month's rent/security deposit	_____	_____
B.	Common area fees in arrears	_____	_____
C.	Building or sanitary code violations	_____	_____
D.	Operating/capital budget	_____	_____
<b>V.</b>	<b>Environmental</b>	<b>Yes</b>	<b>No</b>
A.	History of property		
	1. Property has prior or current use for industrial, commercial, agricultural, manufacturing, waste disposal or any other non-residential purposes	_____	_____
B.	Condition of property		
	1. Stressed or denuded vegetation or unusual barren areas	_____	_____
	2. Discoloration, oil sheens, or foul/unusual odors in water	_____	_____

- |    |  |       |       |
|----|--|-------|-------|
| 3. | Storage drums  | _____ | _____ |
| 4. | Above or underground storage tanks; vent or filler pipes   | _____ | _____ |
| 5. | Evidence of oil or other chemicals in soil   | _____ | _____ |
| 6. | Evidence of PCBs   | _____ | _____ |
| 7. | Evidence of toxic air emissions  | _____ | _____ |
| C. | Adjacent properties  |       |       |
| 1. | Properties adjacent or close to subject have conditions requiring "yes" answer to any questions in (A) and (B) above | _____ | _____ |
| D. | Flood plain/wetlands/drainage  | _____ | _____ |
| E. | Endangered plants or wildlife  | _____ | _____ |

Are you aware of any other information concerning any part of the land or buildings which might affect the decision of a buyer or affect value of property or affect use by buyer? \_\_\_\_\_

## VI. **Property Expense Budget**

To hold this property as a Foundation asset, the following income and expenses are anticipated:

- |    |                                       |               |
|----|---------------------------------------|---------------|
| A. | Income                                | <b>Annual</b> |
| 1. | Rent                                  | _____         |
| 2. | Other                                 | _____         |
| B. | Expenses                              | _____         |
| 1. | <u>Real estate taxes:</u>             |               |
|    | First payment due _____ (date) _____  |               |
|    | Second payment due _____ (date) _____ |               |
| 2. | <u>Utilities:</u>                     |               |
|    | Gas                                   | _____         |
|    | Oil                                   | _____         |
|    | Electric                              | _____         |
|    | Water/sewer                           | _____         |
|    | Other                                 | _____         |
| 3. | <u>Services:</u>                      |               |
|    | Caretaker/property manager            | _____         |
|    | Landscaping                           | _____         |
|    | Heating/cooling service contract      | _____         |
|    | Snow removal                          | _____         |
|    | Pool services                         | _____         |
|    | Common area charge (condominium)      | _____         |
|    | Security                              | _____         |
|    | Other                                 | _____         |
| 4. | Maintenance/Repairs                   | _____         |
| 5. | Insurance                             | _____         |

**Total Expenses**

**Net Income (Loss)**

**VII. Additional Information on Sections II through VII**

**VIII. Acknowledgments**

Owner(s) hereby acknowledge that the information set forth above is true and accurate to the best of my (our) knowledge

_____	Date _____
Owner	
_____	Date _____
Owner	

## **A DONOR BILL OF RIGHTS**

PHILANTHROPY is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights: A DONOR BILL OF RIGHTS

I To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

II To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

III To have access to the organization's most recent financial statements.

IV To be assured their gifts will be used for the purposes for which they were given.

V To receive appropriate acknowledgement and recognition. VI To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.

VII To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

VIII To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.

IX To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

X To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

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## **ASSOCIATION OF FUNDRAISING PROFESSIONALS CODE OF ETHICS**

**ETHICAL STANDARDS** (Adopted 1964; amended Oct 2014) The Association of Fundraising Professionals believes that ethical behavior fosters the development and growth of fundraising professionals and the fundraising profession and enhances philanthropy and volunteerism. AFP Members recognize their responsibility to ethically generate or support ethical generation of philanthropic support. Violation of the standards may subject the member to disciplinary sanctions as provided in the AFP Ethics Enforcement Procedures. AFP members, both individual and business, agree to abide (and ensure, to the best of their ability, that all members of their staff abide) by the AFP standards.

### **PUBLIC TRUST, TRANSPARENCY & CONFLICTS OF INTEREST**

Members shall:

- not engage in activities that harm the members' organizations, clients or profession or knowingly bring the profession into disrepute.
- not engage in activities that conflict with their fiduciary, ethical and legal obligations to their organizations, clients or profession.
- effectively disclose all potential and actual conflicts of interest; such disclosure does not preclude or imply ethical impropriety.
- not exploit any relationship with a donor, prospect, volunteer, client or employee for the benefit of the members or the members' organizations.
- comply with all applicable local, state, provincial and federal civil and criminal laws.
- recognize their individual boundaries of professional competence.
- present and supply products and/or services honestly and without misrepresentation. establish the nature and purpose of any contractual relationship at the outset and be responsive and available to parties before, during and after any sale of materials and/or services.
- never knowingly infringe the intellectual property rights of other parties.
- protect the confidentiality of all privileged information relating to the provider/client relationships.
- never disparage competitors untruthfully.

### **SOLICITATION & STEWARDSHIP OF PHILANTHROPIC FUNDS**

Members shall:

- ensure that all solicitation and communication materials are accurate and correctly reflect their organization's mission and use of solicited funds.
- ensure that donors receive informed, accurate and ethical advice about the value and tax implications of contributions.
- ensure that contributions are used in accordance with donors' intentions. ensure proper stewardship of all revenue sources, including timely reports on the use and management of such funds.
- obtain explicit consent by donors before altering the conditions of financial transactions.

### **TREATMENT OF CONFIDENTIAL & PROPRIETARY INFORMATION**

Members shall:

- not disclose privileged or confidential information to unauthorized parties.
- adhere to the principle that all donor and prospect information created by, or on behalf of, an organization or a client is the property of that organization or client.
- give donors and clients the opportunity to have their names removed from lists that are sold to, rented to or exchanged with other organizations.
- when stating fundraising results, use accurate and consistent accounting methods that conform to the relevant guidelines adopted by the appropriate authority.

## COMPENSATION, BONUSES & FINDER'S FEES

Members shall:

- not accept compensation or enter into a contract that is based on a percentage of contributions; nor shall members accept finder's fees or contingent fees.
- be permitted to accept performance-based compensation, such as bonuses, only if such bonuses are in accord with prevailing practices within the members' own organizations and are not based on a percentage of contributions.
- neither offer nor accept payments or special considerations for the purpose of influencing the selection of products or services.
- not pay finder's fees, commissions or percentage compensation based on contributions.
- meet the legal requirements for the disbursement of funds if they receive funds on behalf of a donor or client.

## **MODEL STANDARDS OF PRACTICE FOR THE CHARITABLE GIFT PLANNER**

### **PREAMBLE**

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent. This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

### **I. PRIMACY OF PHILANTHROPIC MOTIVATION**

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

### **II. EXPLANATION OF TAX IMPLICATIONS**

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

### **III. FULL DISCLOSURE**

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

### **IV. COMPENSATION**

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

### **V. COMPETENCE AND PROFESSIONALISM**

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

### **VI. CONSULTATION WITH INDEPENDENT ADVISORS**

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisors of the donor's choice.

### **VII. CONSULTATION WITH CHARITIES**

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In

cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

#### VIII. DESCRIPTION AND REPRESENTATION OF GIFT

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

#### IX. FULL COMPLIANCE

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

#### X. PUBLIC TRUST

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999.