

**COMMUNITY FOUNDATION FOR LOUDOUN AND  
NORTHERN FAUQUIER COUNTIES**

**POLICIES AND PROCEDURES FOR ACCEPTING GIFTS**

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**INTRODUCTION**

**PURPOSE**

The purpose of this Policy and Procedures is to govern acceptance of gifts and to provide guidance to Community Foundation for Loudoun and Northern Fauquier Counties (hereafter “Foundation”) and its Board of Directors (hereafter “Board”) and staff to assist our donors and their professional advisors. The Board assumes all responsibilities in gift acceptance activities and, as appropriate, may delegate related authority to a committee(s) or a representative(s) of its choosing. These policies will be reviewed and periodically updated.

The purposes of the gift must fall within the mission of the Foundation. In addition, the Board and staff must be able to ensure that gifts accepted by the Foundation do not place other assets of the Foundation at risk, and that they can be easily converted into assets that fall within the Foundation’s investment guidelines. The Foundation also must ensure that it can administer the terms of the gift in accordance with the donor’s wishes.

**FOUNDATION RESPONSIBILITIES**

Within the above stated purpose, the Foundation should always consider the interests of the donor as the first priority in planning gifts. The role of Foundation representatives shall be to inform, guide, and assist a donor in fulfilling his or her philanthropic wishes, but never to pressure or unduly influence a donor’s decision. Foundation representatives should maintain a written record of all discussions held with donors.

In particular, donors should be made aware of:

- ◆ the irrevocability of a gift
- ◆ prohibitions on material donor restrictions

- ◆ the donor's responsibility for obtaining necessary appraisals, filing appropriate tax returns, and defending any challenges to claimed tax benefits
- ◆ the Foundation's variance power and final authority in grantmaking and financial management
- ◆ annual fee revenues to the Foundation for administering the gift
- ◆ investment fees and distribution policies of the Foundation
- ◆ the desirability and need for local charitable grantmaking in addition to regional and national interests
- ◆ items subject to variability (market value, investment return, and income yield)
- ◆ the Foundation's commitment to provide donors with periodic financial statements for their component Funds
- ◆ the importance that the donor seek the advice of independent financial, investment and legal counsel prior to making a gift

### CONFIDENTIALITY

All agreements and all information concerning donors and prospective donors shall be held in strict confidence by the Foundation, subject to legally authorized and enforceable requests for information by governing agencies and courts. All other requests for donor information will be honored or allowed only if the donor grants permission, in writing, prior to the release of such information.

In working with donors and their professional advisors, Foundation representatives may become privy to financial information of a confidential nature. To ensure that Foundation representatives do not materially benefit from this knowledge, and to ensure that the knowledge obtained in the Foundation representatives' official capacity does not in any way affect the value of the assets or the financial interests of the donor or violate federal or state securities laws, the Foundation subscribes to standards of confidentiality.

If a Foundation representative gains knowledge of financial dealings involving such situations as the value or ownership of a closely-held corporation; the decision of a corporation to become publicly traded; the retirement of leaders in a corporation or any change in executive responsibilities; the possible takeover or merger of a corporation; or, similar situations that may be considered as access to "insider information:"

- ◆ No Foundation representative or his/her family or other disqualified individuals (as defined by the IRS: any person in a position to exercise substantial influence over the affairs of the Foundation) possessing any such insider information may buy or sell shares in the affected companies.
- ◆ The Foundation staff representative may not discuss any aspect of the situation with any other Foundation representative or any other individuals, inside or outside the Foundation, unless there is a need to involve particular staff members or legal counsel or others because their advice, input or participation is necessary to meet the charitable needs of the donor.

The Foundation representative must treat this information as **strictly confidential** and should use extreme caution when referring to the situation.

### GIFT ACCEPTANCE COMMITTEE

The Foundation maintains a Gift Acceptance Committee (“Committee”). As guided by the Committee, the Foundation reserves the right to refuse any gift that it believes is not within the mission and purpose of this policy and the Foundation.

### GIFTS THAT DO NOT REQUIRE REVIEW OF GIFT ACCEPTANCE COMMITTEE

Gifts received in the following forms can be accepted by a Board appointed representative(s):

- ◆ Cash
- ◆ Checks
- ◆ Publicly traded securities
- ◆ Designation gifts via bequest, charitable trusts, and other instruments

### GIFTS THAT REQUIRE REVIEW

Gifts that require review or approval by the Committee include:

- ◆ Gifts of tangible personal property estimated at \$5,000 or more in value, including such gifts for the Foundation's offices or specific/general programs
- ◆ Gifts that fall outside the Foundation's mission, Certificate of Incorporation, Bylaws, or general procedures
- ◆ Real property
- ◆ Life Insurance
- ◆ Oil, Gas, and Mineral Interests
- ◆ Closely held stock
- ◆ Partnership interests
- ◆ Affiliate Funds and Supporting Organizations, if any
- ◆ New Funds
- ◆ Documents or gifts naming the Foundation as trustee
- ◆ Other

If a gift is not accepted, the donor will be notified in writing immediately. All gift reviews will be handled with confidentiality.

### MATERIAL RESTRICTIONS

In conformity with Treasury Department regulations governing community foundations, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.

<b>GIFT ACCEPTANCE POLICIES FOR OUTRIGHT GIFTS</b>
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### **OVERARCHING POLICIES FOR ACCEPTANCE OF OUTRIGHT GIFTS**

Unless otherwise specified below, the following overall policies guide acceptance of outright gifts to the Foundation:

Federal Tax Implications: The Foundation is a 501(c)(3) public charity. This entitles the donor to receive a charitable income tax deduction equal to the full value of a gift, subject to the adjusted

gross income limitations established by the IRS. The donor may carry over any unused charitable deduction for additional years as advised by their professional advisors.

Minimum Investment: The Foundation will accept an outright gift of cash or publicly-traded securities in any amount to augment an existing Fund. Gifts to establish a component Fund must meet the minimum funding requirement and must meet polices set for new Funds.

When the size of a Fund warrants separate investment consideration, typically for Funds over an amount set forth in the Foundation's Investment and Distribution Policy, the Foundation will endeavor to accommodate requests from donors for separate investment of assets, or use of a particular investment manager, broker or agent in accordance with the Foundation's Investment Policy.

Unrestricted Gifts. Gifts received that are unrestricted by the donor of \$9,999 or less will be placed in the Foundation's General Fund supporting its day-to-day operations. Gifts received that are unrestricted by the donor of \$10,000 or more will be placed equally in the Foundation's Administrative Endowment Fund and Endowment for the Community Fund, unless otherwise directed by the Board of the Foundation.

Gift Acknowledgement: Except with respect to gifts requiring special consideration (see below) gifts shall be acknowledged within a two-week period with a statement of value and tax deduction percentage.

The Foundation is prepared to provide donors with recognition in a degree consistent with the recognition afforded donors of gifts of similar magnitude, immediacy of effect, and degree of restriction.

The Foundation seeks to work with donors to develop agreements with respect to the name, nature and use of their gifts at the time a gift is made. However, the Board shall maintain its variance power with respect to all donor restrictions.

Gift Date: Within two weeks, the Foundation will acknowledge gifts received based on either the date the gift is received by the Foundation (if hand delivered or mailed via a private carrier, i.e. Federal Express) or the date of the Federal postmark, or unconditional delivery of an asset to the Foundation or the Foundation's agent. All gifts of any sum are acknowledged by the Foundation and include charitable deduction values for Federal Income Tax purposes. Gifts of a value of \$250.00 or more will receive an acknowledgement from the Foundation for the donor's use in claiming a charitable deduction for Federal Income Tax purposes. If token premiums are offered for a gift, all gifts of \$75.00 or more will receive a written acknowledgement from the Foundation for the donor's use in claiming a charitable deduction for Federal Income Tax purposes.

Ultimate Use: Donors may use their gift to support the day-to-day operations of the Foundation, add to an established Fund, or to establish any of the Funds offered by the Foundation.

At this time, the Foundation does not serve as trustee for such gift instruments as Charitable Trusts and Charitable Gift Annuities.

Confidentiality: All agreements and all information concerning donors and prospective donors shall be held in strict confidence by the Foundation, its staff, and Board, subject to legally authorized and enforceable requests for information by governing agencies and courts. All other requests for donor information will be honored or allowed only if the donor grants permission, in writing, prior to the release of such information.

**GIFT OF CASH**

The Foundation will accept an outright gift of cash for any amount that supports the mission of the Foundation.

Appraisal Requirements: None

Assets: Checks can be made payable to the *Community Foundation for Loudoun and Northern Fauquier Counties* or any one of its component Funds. Credit cards gifts are also accepted.

**GIFT OF PUBLICLY-TRADED SECURITIES**

The Foundation will accept gifts of marketable, publicly-traded stocks and bonds. As a general rule, gifts of publicly-traded securities will be sold within 24 hours, and the component Fund designated by the donor will be credited with the proceeds from the sale, less any commissions and expenses.

Appraisal Requirements: None, assuming the stock is not subject to SEC or other restrictions. The fair market value of public securities is determined by taking the mean between the high and low prices on the date the gift is transacted.

<b>Delivery</b>	<b>Gift Date</b>
Securities are hand delivered.	Date the stock certificate and stock power are received by the Foundation or the Foundation’s agent.
Securities are mailed via the US Postal Service.	The latter of either the Federal postmark date of the stock power or the stock certificate.
Securities are mailed via an overnight delivery service (e.g. Federal Express).	Date the stock certificate and stock power are received by the Foundation or the Foundation’s agent—not the postmark date.
Securities are delivered to a bank, broker or the issuing corporation instructing the corporation to reissue the securities in the name of the Foundation.	Date the stock is transferred to the Foundation’s name on the corporation’s books.
Securities are delivered through DTC.	Date the stock left the donor’s account. The Foundation will verify the transfer date on all DTC deliveries when possible.
Securities are delivered through DTC but are wired to the wrong account.	The gift is not complete until the conditions for delivery through DTC have been satisfied.

## NEW FUND GIFT ACCEPTANCE POLICIES

### **OVERARCHING POLICIES FOR COMPONENT FUNDS**

Unless otherwise stated, the following policies shall be applied to a component Fund within the Foundation.

**Minimum Investment:** The minimum contribution to establish a Fund is \$10,000. This may be donated in a single lump sum or may be received by multiple donors. The Foundation allows that any of its Fund instruments may be used to create an Acorn Fund with an initial gift of \$2,000 (\$5,000 for Scholarship Funds) with the requirement that, over a five-year period, \$10,000 will be reached (\$25,000 for Scholarship Funds) and the Fund therefore considered endowed. Should an Acorn Fund fail to reach its minimum required amount within a five-year period, money in the Fund shall be placed in the Foundation's Endowment for the Community unless otherwise determined by the Foundation's Board.

**Assets:** Gifts may come in the form of cash, check, publicly traded securities, or, if approved, more complex property, such as restricted stock, closely-held securities or real estate. All assets conveyed by a donor for the purpose of creating or adding to a Fund are wholly owned by the Foundation and constitute an irrevocable gift.

**Investment Management:** The Foundation is authorized at its discretion to direct the investment of any part or all of a Fund in securities or in other property, real or personal, in good faith and with the care that an ordinarily prudent person in like circumstances would invest his or her own funds in similar circumstances. Investment decisions about an individual asset shall be made not in isolation but rather in the context of the Foundation's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the Fund and to the Foundation. The Fund may be co-mingled with other Funds for investment purposes. However, donors shall be allowed to recommend investment advisors.

**Fees:** The fees associated with managing Funds are twofold: (1) The Foundation fee is currently 1% of the market value of each Fund as calculated and assessed under the Foundation's Distribution Policy (fees may be reduced, as detailed in the Investment and Distribution Policy, for large funds). This fee supports the work of the Foundation and the internal costs of Fund administration. It is kept as low as possible to maximize the charitable giving power of the endowment, and, (2) Investment Advisor fees are charged by the investment firms, set by those investment firms from time to time.

Acorn Fund fees with less than \$10,000 shall not be invested but held in the Foundation's checking account. While no fees shall be assessed to Acorn Funds, any and all interest earned on those monies shall be added to the Foundation's General Fund.

Variance Power: All community foundations are required under United States Treasury Regulations to maintain the right to modify the terms of a Fund instrument if, in the judgment of the Foundation's Board of Directors, the restrictions and conditions of the Fund become unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community. Under this so-called "variance power" if a particular issue or field of interest ceases to exist, the Foundation would award grants to projects that are as close to the original purpose as possible.

Reporting: Fund status reports are distributed at least annually to the donor Fund representative. This report shows a summary of grants made during the previous year, including detailed information on contributions, distributions, fees, and total returns. The Foundation shall provide such reports on a timely basis.

Fundraising: Generally, the Foundation does not initiate fundraising on behalf of donor/Fund representatives or their Funds. The Foundation recognizes donor/Fund representatives may wish to fundraise for their specific fund(s). Before undertaking public fundraising to support a Fund of the Foundation a group or individuals should be provided with a copy of the Foundation's policies and processes for donor initiated fundraising.

### **AGENCY FUNDS**

An agency Fund provides permanent support for a specified charitable organization and ensures that all or part of a nonprofit organization's capital endowment will be protected and will generate income in perpetuity.

Distributions: All recommended grant distributions must meet due diligence grant requirements. Distributions to the beneficiaries of agency endowed Funds shall be made annually unless otherwise requested. The amount of the distributions will be determined under the Foundation's Distributions Policy. Beneficiaries may recommend reinvestment of all distributions, after payment of fees, in order to build the Fund. Any special arrangements concerning the distributions from the Fund must be stated in the Fund instrument or requested in writing.

For distributions above and beyond the available annual distribution as determined by the Foundation, Fund agreements must clearly state such options. A standard option available to agency Fund holders shall allow that, in the event of an emergency need of the designated charitable beneficiary that is not covered by the operating budget thereof, upon the written request and majority vote of the governing board of the designated charitable beneficiary, the Foundation may, in its discretion, make a distribution from the Fund of an amount in excess of the available annual distribution, provided, however, that only one such excess distribution may be made in any one calendar year, and at least 75% or \$10,000, which ever is higher, must remain in the Fund's current market value after such excess distribution.

Agency Funds agreements may provide additional unique or special provisions for distributions as agreed to by the Board.

While full Board vote may be prudent in such circumstances, the Board delegates to its representative(s) authorization to approve such special grant requests from agency Funds if

immediately deemed appropriate. The Board shall review, acknowledge, and ratify at its next scheduled meeting all such grants provided.

The Foundation Board of Directors has designated as its representatives for these purposes two or more affirmative votes from: the Executive Committee.

### **DESIGNATED FUNDS**

A designated Fund provides permanent support for a specified charitable organization. For many donors, this is an ideal way to provide ongoing support for organizations that they have supported over the years.

Distributions: All recommended grant distributions must meet due diligence grant requirements. Distributions to the beneficiaries of designated Funds shall be made annually unless otherwise requested. The amount of the distributions will be determined under the Foundation's Distributions Policy. Beneficiaries may recommend reinvestment of all distributions after payment of fees, in order to build the Fund. Any special arrangements concerning the distributions from the Fund must be stated in the Fund instrument or requested in writing.

For distributions above and beyond the available annual distribution as determined by the Foundation, designated Fund agreements must clearly state that, in the event of an emergency need of the designated charitable beneficiary not covered by the operating budget thereof, upon the written request and majority vote of the governing board of the designated charitable beneficiary, the Foundation may, in its discretion, make a distribution from the Fund of an amount in excess of the available annual distribution, provided, however, that only one such excess distribution may be made in any one calendar year, and at least 75% or \$10,000, which ever is higher, must remain in the Fund's current market value after such excess distribution.

Designated Fund agreements may provide additional unique or special provisions for distributions as agreed to by the Board.

While full Board vote may be prudent in such circumstances, the Board delegates to its representative(s) authorization to approve such special grant requests from designated funds if immediately deemed appropriate. The Board shall review, acknowledge, and ratify at its next scheduled meeting all such grants provided.

The Foundation Board of Directors has designated as its representatives for these purposes two or more affirmative votes from: the Executive Committee.

### **DONOR ADVISED FUNDS**

A donor advised Fund is defined as a Fund that:

- Is separately identified with reference to the contribution of a donor or donors,
- Is owned and controlled by the Foundation, and,
- May include advice with respect to the Fund's investments or distributions from the donor advisor(s).

Such Funds are designed to encourage the participation and involvement of a wide range of living donors in the philanthropic interests and activities of the Foundation.



Donor Advisor Successors: Donor advised Fund agreements shall list an advisory committee named at the fund's inception. Any member may resign at any time and additional members may be appointed to the advisory committee by the advisory committee. Any vacancy on the advisory committee shall be filled by the vote of a majority of the remaining members of the advisory committee.

Should no advisory committee recommendations be made for a clearly stated number of successive years in the Fund agreement not to exceed five years, the Foundation's designated Grantmaking Committee shall be authorized to assume selection responsibility and apply the criteria for grants selection as set in the agreement with consideration of past grant recommendations of the donor advisors.

If at any time there is more than one advisor to the Fund, the advisors will appoint a designee and all communications to and from the Foundation will be through the designee. If no designee has been appointed, the Foundation will consider the first advisor named in the agreement to be the designee.

Distributions: All recommended grant distributions must meet due diligence grant requirements. Grant recommendations from Fund advisors may be submitted at any time during the year. With respect to all grants made from a donor advised Fund, grants to individuals or for non-charitable purposes are prohibited and that prohibition should be stated in the donor advised fund agreement. Also stated in the donor advised fund agreement should be a prohibition against grants to donors, advisors, related parties, or any entity controlled thereby. Further, if grants are recommended by the donor to benefit organizations not described in section 170(b)(1)(A) ("public charities"), the Foundation must exercise expenditure responsibility. Public charities do not include many civic and/or club organizations, private non-operating foundations, type III supporting organizations that are not "functionally integrated," or any supporting organization if the grantee supporting organization is controlled by the donor or donor appointee.

Donor advised Funds shall not hold interests in any closely-held businesses, unless specific provision is made therefore and prescribed by the Foundation. If any such interest is held in a donor advised Fund, the Foundation shall apply policy and requirements for holding and disposing of such gifts as prescribed by the Foundation's **Spending and Distribution Policy**.

The amount of annual grants will be determined under the Foundation's Distribution Policy. The available annual distribution is solely a guide to advisors on the dollar amount available for donor-advised grantmaking recommendations and grants may be made in excess of the available annual distribution as long as at least \$10,000 remains in the Fund, unless otherwise restricted by the terms of the gift instrument.

A donor advised **Gift Fund** may be established so as to be spent down, at the discretion of the Foundation, in a specified amount of time as long as a final balance of at least \$10,000 remains as endowment. In these cases, the assets may be invested to support short-term liquid access. As specified in the Fund agreement, the remaining endowment may retain all or aspects of its original

intent, or, it may shift its focus toward general grantmaking as a named Fund under the Community Endowment.

Grant recommendations are advisory only. They may be rejected if found to be outside of the general policies of the Foundation and the established purposes of the Fund, or if they contravene IRS regulations governing the operation of donor advised Funds. Recommendations that would fall outside of Foundation policies include:

- grants to individuals, including grants made directly to an individual and grants made to an institution, such as a school, for the benefit of a specific individual
- grants to fulfill personal pledges or promises
- grants to purchase “memberships” or tickets for benefit events
- grants that do not meet charitable needs of the community
- grants for non-charitable purposes
- grants to a private foundation
- grants, distributions, or benefits to donors, donor advisors, family members of donors or donor advisors, related parties, or entity controlled thereby, including loans, compensation, reimbursement, or similar payments from donor advised funds

Grants to the following may be permitted with the Grants Committee or Board approval with the necessary expenditure responsibility as detailed and defined by the Foundation’s **Grants Due Diligence policy**:

- Grants to non-charities
- Grants to Type III supporting organizations (IRC § 509(a)(3)(B)(iii)) that are not “functionally integrated” (see “Determining Whether a Public Charity is a Supporting Organization” in the Procedures for Grantmaking Due Diligence policy). A functionally integrated Type III supporting organization is one which is not required to make payments to supported organizations due to the activities of the organization related to performing the functions of, or carrying out the purposes of, such supported organizations.
- Any type of supporting organization (even a functionally integrated Type III) if the organization that is being supported is controlled directly or indirectly by either the donor, donor advisor, related party, or any entity controlled thereby
- Grants to international organizations (unless equivalency determination is followed)

Grants from donors advised funds to the Foundation or to other donor advised funds are permitted.

All donor-advisors will be strongly encouraged to make year-end grant recommendations no later than December 15th each year.

### **FIELD OF INTEREST FUNDS**

A field of interest Fund provides grantmaking within a particular area, such as human services, affordable housing, public education, conservation, or the performing arts.

**Distributions**: All recommended grant distributions must meet due diligence grant requirements. Unless otherwise provided by the Fund instrument, distributions will be made annually. The

amount of distributions will be determined under the Foundation's Distribution Policy. Any special arrangements concerning the distributions from the Fund must be stated in the Fund instrument.

A field of interest Gift Fund may be established so as to be spent down, at the discretion of the Foundation, in a specified amount of time as long as a final balance of at least \$10,000 remains as endowment. In these cases, the assets may be invested to support short-term liquid access. The remaining endowment may retain all or aspects of its original intent, or, it may shift its focus toward general grantmaking as a named Fund distributed through the Community Endowment.

### **SCHOLARSHIP FUNDS**

Whether a lasting memorial to a special person or to meet current charitable needs, a scholarship Fund provides access to educational opportunities for a wide variety of students—from pre-school to post-graduate to special populations for unlimited areas of study, locally, statewide, or nationally.

Minimum Investment: The minimum contribution to establish a scholarship Fund is \$25,000. This may be donated in a single lump sum or an acorn Fund may be created and reach the \$25,000 requirement over a five-year period. A gift of \$5,000 or more must be received to create an acorn scholarship Fund. Should the seed Fund fail to reach \$25,000 within a five-year period, money in the Fund shall be placed in the Foundation's Community Endowment.

All scholarship awards will be made on an objective and nondiscriminatory basis from a pool of persons chosen on the basis of criteria reasonably related to the purposes of the particular fund from which the grant is made (for this purpose, limitations based on sex, religion, or race are permitted where not contrary to public policy).

Selection procedures for scholarship awardees and selection committees shall be determined by the Foundation's Policies and Procedures for Awarding Scholarships in effect from time to time.

Fees: The fees associated with scholarship Funds, in addition to Investment Advisor fees, shall be 2% (two percent) of endowed and pass-through funds whereby a Fund Selection Committee undertakes all review, interview and selection advisory roles; or, 3% (three percent) of endowed and pass-through funds whereby a Foundation Selection Committee undertakes all review, interview, and selection roles. Fees may be reduced, as detailed in the Investment and Distribution Policy, for large funds.

Acorn Fund fees with less than \$25,000 shall not be invested but held in the Foundation's checking account. While no fees shall be assessed to acorn Funds, any and all interest earned on those monies shall be added to the Foundation's General Fund.

Distributions: Unless otherwise provided by the Fund instrument, distributions will be made annually and to the school or institution for the benefit of the awardee. The amount of distributions will be determined under the Foundation's Spending Policy. Any special arrangements concerning the distributions from the Fund must be stated in the Fund instrument.

A scholarship gift Fund may be established so as to be spent down, at the discretion of the Foundation, in a specified amount of time as long as a final balance of at least \$25,000 remains as endowment. In these cases, the assets may be invested to support short-term liquid access. The remaining endowment will be added to Fund for the Community with the word "scholarship" removed from the Fund's name as applicable.

The Foundation administers the following types of scholarship Funds:

- ◆ Scholarship Grants. A donor may choose to create a Fund that provides scholarship grants to individuals, including high school, college and graduate school students, to enable the recipients to complete an undergraduate or graduate education in the field of their choice at the university, college or graduate school of their choice. The Foundation also from time to time holds and administers certain funds that make grants to students in primary and secondary school to attend various educational programs and to other individuals for vocational or other training
- ◆ Individual Achievement Awards. A donor may create Funds that make grants to individuals in recognition of achievement in the fields of art, literature, education, science, public or community service, or for other charitable or civic achievement. Such awards may not be intended to finance any specific activities of the recipients and may not impose conditions on the manner in which the prizes or awards may be expended by the recipient. Also, the recipient can not be required to render substantial future services as a condition to being the recipient.
- ◆ Awards and Prizes to Achieve a Specific Objective. A donor may create a Fund that grants to individuals to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee that relates to the Foundation's mission. Eligible individuals may include graduate students, scholars, professionals, and other individuals with specialized skills or knowledge. Scholarships also may be awarded to pay for a course of study leading to a certificate or to achieve a skill level, such as art or vocational school. Such scholarships may cover the cost of tuition and related expenses
- ◆ Designated. With this type of Fund, the available annual distribution is automatically paid, annually, semi-annually or quarterly to a nonprofit institution (college, vocational school, etc.) named by the donor. It is the institution's responsibility to annually determine award recipients.
- ◆ Community Scholarship Funds. The Foundation allows the creation of Community Scholarship Funds funded or established by multiple donors, with no separate identification or reference to any donor and with no tracking of or accounting for contributions of specific donors within the fund. A Fund selection committee, the members of which must be annually approved in advance by the Board, shall be authorized to interview and recommend to the Board recipients of community scholarship awards.

### **UNRESTRICTED FUNDS**

Unrestricted Funds are the most flexible type of Fund, and also the most responsive to changing community needs. Unrestricted Funds are ideal for donors who want to build maximum versatility

into their charitable giving and place responsibility for selecting the most appropriate grantees with our Board.

Unrestricted Funds will be placed in the Community Endowment Fund. However, donors of such Funds totaling \$10,000 or more may create a named Fund, and the named Fund shall be considered a sub-component Fund within the Community Endowment Fund.

Distributions: All recommended grant distributions must meet due diligence grant requirements. Distributions will be made in accordance with the current practices of the Board of Directors' authority in discretionary grantmaking and its delegation of such authority.

An unrestricted Gift Fund may be established so as to be spent down, at the discretion of the Foundation, in a specified amount of time as long as a final balance of at least \$10,000 remains as endowment. In these cases, the assets may be invested to support short-term liquid access. The remaining endowment may continue to be a named Fund.

## GIFT ACCEPTANCE POLICIES FOR PASS THROUGH GIFTS

### **OVERARCHING POLICIES FOR ACCEPTANCE OF PASS THROUGH GIFTS**

The Foundation will accept pass through gifts as a service to its donors who have or are establishing endowment funds within the Community Foundation. Such gifts will be held in cash and not invested and will be placed in the Foundation's consolidated money market fund to await distribution. Distribution of pass through gifts must meet policy guidelines. All interest earned on those monies shall be added to the Foundation's General Fund.

Upon special review and approval of the Grants Committee or the Gift Acceptance Committee, pass through gifts generated by donors who have not created endowment funds may be accepted. As a rule, however, such gifts must help to address a highly, unmet need in the community and will likely be assessed higher administrative fees.

Distributions: All recommended grant distributions must meet due diligence grant requirements. The Board may delegate to its representative(s) authorization to approve pass through grant recommendations. The Board shall review, acknowledge, and ratify at its next scheduled meeting all such grants provided.

The Foundation Board has designated as its representatives for these purposes two or more affirmative votes from: the President of the Board, the Chair of the Grantmaking Committee, or, any two members of the Executive Committee.

Appraisal Requirements: The same requirements as a non-pass-through gift apply. See specific asset type for further information.

Minimum Investment: Generally, a donor has created or is creating an endowment Fund meeting policy guidelines.

Administrative Fee: As a rule, no fees are applied to pass-through gifts associated with an established Fund that typically require one lump sum gift from the donor(s). For established Funds or pass through gifts with robust programming and grantmaking, including multiple gifts from the donor(s) or multiple pass-through grants per year, a 2% administrative fee may be assessed either (a) on the Fund's current market value monthly, or (b) on the total sum of a gift(s) intended to be distributed as pass-through, whichever is greater, at the discretion of the Board or the Grants Committee of the Foundation.

## GIFTS REQUIRING SPECIAL CONSIDERATION

### **TANGIBLE PERSONAL PROPERTY**

Tangible personal property (artwork, coin collections, jewelry, *etc.*) may be accepted as a gift. The property must be saleable and the donor must agree that the property can be sold unless the Foundation agrees to use the property for a specific use related to our tax-exempt status.

As a general rule, the Foundation will not accept automobiles but will refer the donor to such organizations that do to directly benefit a charitable recipient.

Appraisal Requirements: Qualified appraisals are required for personal property gifts exceeding a value of \$5,000. The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations.

Minimum Investment: The Foundation will accept an outright gift of tangible personal property in any amount to augment an existing Fund. Gifts to establish a Fund must meet the minimum funding requirement.

Federal Tax Implications: When the gift to the Foundation is related to its exempt function, the donor can deduct the full present fair market value, up to 30% of adjusted gross income, with a five-year carryover. Because a community foundation is not an art museum or a similar type of organization that would reasonably have a mission-related use of many types of donated articles, and its most likely fate will be sale, then the use would be considered "unrelated." In these cases, the deduction is for the cost basis or fair market value, whichever is lower.

The donor will be responsible for filing the appraisal and the appraiser's credentials with their income tax return to receive a charitable deduction.

Requirement for Acceptance: Before tangible personal property can be accepted, the Board or its authorized committee must be sure that the property is either of direct value to the Foundation for its mission, or is marketable and of sufficient value to justify the expenditure of resources involved in the sale.

The donor shall prepare and deliver a letter explaining the donation, requested restrictions for use of the gift, and provide background and detail on the tangible property. For example, accompanying a gift of art, the letter shall explain what is known about the art and how the donor came by its ownership.

Gift Date: The date the property is received by the Foundation is the delivery date for purposes of establishing a charitable deduction.

Ultimate Use: The Foundation will use the proceeds from the sale of tangible personal property to establish any of the Funds offered by the Foundation as prescribed in a new Fund letter. If no instructions are received by the Foundation as to the recommended charitable purpose or the minimum funding requirement can not be satisfied, the gift can be used for general grantmaking, added to an existing Fund with the Foundation, or added to the General Fund.

The Foundation will not accept tangible property for the establishment of a deferred gift such as a charitable remainder trust, pooled income fund, or charitable gift annuity.

**CLOSELY-HELD STOCK**

Proposed gifts of closely-held stock must be reviewed and approved by the Board or authorized committee. The Foundation will not accept closely-held stock for which there is no market or that would occur when applicable agreements prohibit sale of the stock or when applicable agreements require that the buyer be approved by the corporation or the other shareholders. Note that closely-held stock gifts to establish or add to a donor advised Fund must adhere to policy for such donor advised Funds. Please refer to the Foundation’s **Investment and Distributions Policy**.

Appraisal Requirements: A gift of non-publicly traded stock for which a federal income tax charitable deduction of more than \$10,000 will be claimed is subject to the “qualified appraisal” rules. The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations.

Minimum Investment: The Foundation will accept gifts of closely-held stock in any amount to augment an existing Fund as allowed by the Foundation’s Investment and Distribution Policy. Gifts to establish a Fund must meet the minimum funding requirement.

If the Board or authorized committee in consultation with the Investment Committee decides to hold the closely-held securities, the securities will be held as an asset of the specific Fund to which it was given. The investment performance of the component Fund holding the closely-held securities is neither affected by, nor does it have an impact on, the investment performance of the other assets of the Foundation. If, on the other hand, the Board or authorized committee, in consultation with the Investment Committee, chooses to sell the closely-held securities, then the proceeds would be invested along with the other assets of the Foundation.

Gift Date: A gift of closely-held securities is considered complete upon the unconditional delivery of the asset to the Foundation or the Foundation’s agent. Guidelines for determining the date of gift are as follows:

<b>Delivery</b>	<b>Gift Date</b>
Securities are hand delivered.	Date the stock certificate and stock power are received by the Foundation or the Foundation’s agent.

Securities are mailed via the US Postal Service.	The latter mailing date of the stock power or the stock certificate.
Securities are mailed via an overnight delivery service (e.g. Federal Express).	Date the stock certificate and stock power are received by the Foundation or the Foundation's agent--not the postmark date.

Distributions: Distributions from a Fund invested entirely in closely-held stock is limited to the income earned by those securities less fees assessed by the Foundation.

Federal Tax Implications: There are excellent tax incentives for contributing stock of a closely-held corporation to a Fund with the Foundation. If some or all of the stock can be contributed to a Fund of the Foundation before the negotiation of the terms of a sale of the corporation or its stock are begun, considerable financial resources can be made available for charitable purposes at the lowest after-tax cost to the donor.

Sometimes donors will be interested in giving closely-held stock to the Foundation even if the business is not likely to be sold. Typically, the donor contributes shares of stock to a Fund in the Foundation. The Foundation reserves the right to hold or dispose of the stock as it sees fit. In considering the sale of closely-held stock, the Foundation will not guarantee or pre-arrange such sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.

As a general rule, gifts of securities are sold as soon as possible. The Fund, which the donor established, is then credited with the proceeds from the sale, after commissions and expenses, if any. In the case of gifts of stock of closely-held corporations that are not readily marketable at the time of the gift, it should reasonably appear that the stock will be sold or converted into income-producing property within a specific time frame. On occasion, the Foundation's Investment Committee may consider the annual dividend and overall return of a closely-held stock sufficiently attractive that the Foundation may hold that stock for a longer period of time than others.

Fees: Closely-held stocks vary greatly from company to company. Some can be sold and the resulting assets reinvested by the Foundation almost immediately. In those cases, the regular Foundation fees will be assessed to the Fund in question. Other securities have no immediate marketability, but they present the potential for long-term capital appreciation. Some of the closely-held stocks that the Foundation, at the advice of its Investment Committee, may choose to hold produce significant dividends, while others produce little or no dividends. Given this wide disparity of situations, the Foundation reserves the right to establish fee agreements for each of the stocks donated that will best serve the long-term interests of the Foundation. All fee arrangements will be discussed and presented in written form to donors prior to the donation of the closely-held stock. All fees are subject to change.

Need for Legal Counsel: The Foundation will not assume responsibility for providing financial, investment, or legal advice to donors but shall encourage all prospective donors to seek independent financial, investment, and legal advice prior to making gifts of closely-held securities.



The Foundation's legal counsel shall review any shareholder, buy-sell, or other agreements that impose any restrictions or limitations upon the sale or transfer of the stock.

#### Procedure for Accepting Gifts of Closely-Held Stock:

- ◆ In negotiating the sale of closely-held stocks, a fair market value (price per share) will be established at the time of sale. In some cases, the Foundation may obtain an independent appraisal of the value of the stock prior to agreeing to a proposed sale of the stock. In addition, the donor will be advised that if the property listed on IRS Form 8283 is sold, liquidated, or otherwise disposed of within two years of receipt, the Foundation is required to file a separate report within 125 days with the IRS on IRS Form 8282 (“Donee Information Return”) and disclose facts about the disposition.

#### What the Foundation Will Not Do:

- ◆ Except in extraordinary circumstances, the Foundation will not pay for legal assistance, appraisals or other services on behalf of the donor. Any such payments shall be reported as income to the donor and shall be in accordance with all legal and ethical requirements.
- ◆ The Foundation will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.
- ◆ In many cases, upon the subsequent sale of closely-held stock, there will be a stock purchase agreement setting forth the proposed terms and conditions of sale. The Foundation cannot join in or participate in the issuance of warranties or representations or in indemnification agreements.
- ◆ The Foundation will not enter into any agreements restricting the free transfer of the stock.

#### **LIFE INSURANCE**

There are several types of life insurance available on the market to provide protection to one’s family. The need for life insurance protection may be less as an individual grows older. Accordingly, the life insurance policy’s benefit can be transferred to the Foundation and used for charitable purposes when the policyholder deems the coverage is no longer necessary.

The Foundation will accept gifts of unencumbered life insurance (i.e. no policy loan) if the Foundation is made owner and primary beneficiary of the policy. If premium payments can no longer be made (either there is insufficient value in the policy to keep the policy in force or the Foundation chooses to discontinue premium payments) then the policy will be surrendered.

Appraisal Requirements: The donor must get a qualified appraisal if the deductible gift exceeds \$5,000 at the time of the donation. The appraisal may not be made by the insurance company issuing the policy nor the agent who arranged for its purchase, but rather by an independent appraiser. The appraisal must be performed no more than 60 days before the gift and no later than the due date for filing the donor’s income tax return. The donor is not entitled to a charitable income tax deduction in the absence of an appraisal.

Minimum Investment: The Foundation will accept gifts of life insurance in any amount as an outright gift or to augment an existing Fund, or to meet the minimum funding requirement to establish a new Fund.

Federal Tax Implications: To ensure a charitable income tax deduction for a gift of life insurance, the donor must relinquish ownership of the policy by assigning all rights, titles, and interest in the policy to the Foundation. The death proceeds from the contract will be received by the Foundation free of federal income and estate taxes, probate and costs and delays, brokerage fees or other transfer costs.

The charitable income tax deduction will be based on the donor's cost basis in the policy (net premiums paid by the policyholder) or the cash value of the policy, whichever is less. The tax deduction is limited to 50% of the donor's adjusted gross income. Any excess may be carried forward for up to five additional years.

Premiums payments are considered gifts of cash and therefore are fully deductible as a charitable income tax deduction, subject to the 50% adjusted gross income limitation, if the Foundation is the owner of the policy. It is recommended that the donor send a check directly to the Foundation and have the Foundation pay the premium to the life insurance company to ensure the most favorable tax treatment.

The charitable income tax deduction for a paid-up life insurance policy is for the replacement cost of the policy or the net premiums paid on the policy, whichever is less. The replacement cost of a single-premium or paid-up policy is the single premium the same insurer would charge for a policy of the same amount at the insured's attained age (increased by the value of any dividend credits and reduced by the amount of any loans outstanding).

Naming the Foundation as beneficiary of the life insurance contract without relinquishing ownership does not entitle the donor to a charitable income tax deduction. Furthermore, the proceeds of the policy are includable in the donor's estate at death. The estate would subsequently be entitled to an offsetting estate tax charitable deduction.

The Internal Revenue Code denies the donor a charitable income tax deduction if the donor's entire interest in the property is not donated.

Ultimate Use: Donors may use their gift to establish any of the Funds offered by the Foundation. If the minimum funding requirement cannot be met, the gift can be used for general grantmaking purposes or added to an existing Fund with the Foundation.

### **OIL, GAS, AND MINERAL INTERESTS**

The Foundation may accept oil and gas property interest, when appropriate. The Foundation will not accept such gifts with extended liabilities or other liens. Further, the Foundation must give careful consideration to the marketability and sale of such a gift in order to facilitate a timely sale.

If the interest is a working interest, the Foundation shall consider the need to work with the donor to develop a plan to minimize impact. If the interest is a Sub-S corporation, or working interest generating unrelated business taxable income, the Foundation shall assess and include the tax cost upon sale of the asset.

Oil, gas, and mineral interests shall also be evaluated for any and all environmental impacts and issues before gift acceptance.

Minimum Investment: As a rule, consideration for such gift acceptance shall be made for gifts that have a value of \$20,000 or greater and whereby past history income from the gift validates yield on the average of at least \$3,000 per year in royalties or other income.

Appraisal Requirements: The donor must get a qualified independent appraisal of the interests. The appraisal must be performed no more than 60 days before the gift and no later than the due date for filing the donor's income tax return. The donor is not entitled to a charitable income tax deduction in the absence of an appraisal.

Ultimate Use: Oil, gas, and mineral interests shall be sold as soon as practical upon receipt unless the income generated from holding the interests is deemed sufficient to justify holding them. No monies will be distributed from a Fund until the oil, gas, or mineral interest is liquidated and fees have been assessed in arrears. Such gifts may be used to establish any of the Funds offered by the Foundation once the interests are sold and all associated fees and expenses are paid.

Time Considerations: Donors should be advised that gifts of oil, gas and mineral interests require a minimum of 12 weeks to process after receipt of the completed documentation and information is provided by the donor.

Federal Tax Implications: While such gifts may yield meaningful tax deductions and avoidance of capital gains, tax benefits will vary based on the type of interest owned and whether the donor is an investor or a business operator. The form of ownership may have an effect on the gift's tax results and donors shall be strongly encouraged to seek investment and legal counsel.

Need for Counsel: The Foundation assumes no responsibility for providing financial, investment, or legal advice to donors but shall encourage all prospective donors to seek independent financial, investments and legal advice prior to entering into any gift of Oil, Gas and Mineral interests with the Foundation.

The Foundation shall seek legal counsel to undertake and execute all gifts of Oil, Gas and Mineral interests.

## **REAL ESTATE**

The Foundation will assist donors who want to make charitable gifts using real estate. The following policies and procedures are designed to protect the interests of the donor and the Foundation. Each situation will be evaluated on a case-by-case basis.

Appraisal Requirements: The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes. The appraisal must be performed no more than 60 days before the gift and no later than the due date for filing the donor's income tax return. The donor is not entitled to a charitable income tax deduction in the absence of an appraisal.

Minimum Investment: The Foundation will accept gifts of real estate where the net proceeds are expected to meet minimum Fund requirements.

Property which is subject to liens, unpaid mortgages, deeds of trust, judgment liens, unpaid taxes or assessments, mechanics' liens or other encumbrances will be accepted only in exceptional circumstances and upon advice from the Foundation's legal counsel. If accepted, property that is subject to encumbrances will be evaluated as a "bargain sale" (a bargain sale is an arrangement whereby a donor offers property to the Foundation for an amount less than its current fair market value.)

Time Considerations: Donors should be advised that gifts of real estate require an average of 8-10 weeks to be processed after receipt of the completed documentation provided in Appendix A by the donor.

Federal Tax Implications: There are excellent tax incentives for contributing real estate to a Fund with the Foundation. If real estate can be contributed to a Fund of the Foundation before the negotiation of the terms of a sale of the real estate are begun, considerable financial resources can be made available for charitable purposes at the lowest after-tax cost to the donor.

Sometimes donors will be interested in giving real estate to the Foundation even if the real estate is not likely to be sold. Typically, the donor contributes the real estate to a Fund in the Foundation. The Foundation reserves the right to hold or dispose of the real estate as it sees fit. In considering the sale of the real estate, the Foundation will not guarantee or pre-arrange such sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.

If the donor itemizes his or her deductions, s/he is entitled to receive a charitable income tax deduction equal to the fair market value of the gift (for property held by the donor longer than 12 months), subject to the 30% adjusted gross income limitation established by the IRS. Real property held for less than 12 months by the donor is deductible at cost subject to the 50% adjusted gross income limitations. The donor may carry over any unused charitable deduction for an additional five years.

Need for Counsel: The Foundation assumes no responsibility for providing financial, investment, or legal advice to donors but shall encourage all prospective donors to seek independent financial, investments and legal advice prior to entering into any real estate transaction with the Foundation.

In general, the Foundation shall seek legal counsel to undertake and execute all gifts of real estate.

Ultimate Use: The Foundation will use the proceeds from the sale of the real estate to establish any of the Funds offered by the Foundation as prescribed in a new Fund letter. If no instructions are received by the Foundation as to the recommended charitable purpose or the minimum funding requirement can not be satisfied, the gift shall be applied as set forth in this policy for unrestricted gifts: Gifts received that are unrestricted by the donor of \$9,999 or less will be placed in the Foundation's General Fund supporting its day-to-day operations. Gifts received that are unrestricted by the donor of \$10,000 or more will be placed equally in the Foundation's Administrative Endowment Fund and Endowment for the Community, unless otherwise directed by the Board.

Procedures for Accepting Real Estate:

- ◆ Upon initial inquiry, the donor will be asked to complete a Gift of Real Estate form and return it to the Foundation with appropriate maps and documentation. (Appendix A).
- ◆ Following an offer of a gift of real estate, a member of the Foundation staff or an authorized representative will visit the property. A representative may be a local realtor or an individual selected by the Board or authorized committee. The purpose of the visit will be to determine the nature and type of the property and to identify any potential problems not evident from initially supplied information that would hinder or prevent the Foundation's sale of property.
- ◆ Whenever practicable, arrangements will be made to have a realtor analyze the property to evaluate the existence of a market for such property.
- ◆ As a general rule, the donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes.
- ◆ The donor must furnish the Foundation with evidence of title, which shows that title to the property is free and clear except for current real estate taxes and restrictions of record, which would not create any economic burden on the Foundation. In general, the Foundation will require that title be conveyed to it by a general warranty deed.
- ◆ The Foundation will obtain a Phase 1 Environmental Site Assessment. The cost of the study will be charged to the donor's fund or be paid from the net proceeds of the sale. No property will be accepted if there is a likelihood of any liability that could attach to the Foundation as a result of its taking title to the property. The Environmental Site Assessment shall be addressed to the Foundation for future liability protection.
- ◆ Prior to accepting a gift of real estate, the Foundation will conduct an analysis of the anticipated cash flow in the proposed transaction. This analysis shall determine the maximum exposure the Foundation may incur and the level of risk that is associated with the receipt, ownership, and eventual sale of the property.
- ◆ Prior to acceptance of the property, the Foundation and the donor must agree in writing on arrangements for paying expenses associated with the property, such as commissions, real estate taxes, title insurance, utilities, insurance, and maintenance costs. Generally, the Foundation will not advance funds for the payment of such expenses. However, arrangements

can be made to take the expenses associated with the transaction from the proceeds of the sale. Donors should consult with their advisors as to the tax-deductible nature of such expenses.

- ◆ After the above requirements have been satisfied, the Board or authorized committee will have the authority to accept or refuse a gift of real property. The committee will weigh carefully its ability to manage the property for the time necessary to sell the property or, if the property should become a short-term or long-term asset of the Foundation the costs and benefits of such asset ownership. Acceptance of income-producing property may subject the Foundation to unrelated business income tax, so such properties must be considered carefully.
- ◆ The Board or authorized committee may refuse any offered gift of real property that is judged not to be in the best interests of the Foundation.
- ◆ It is advised that the donor express in writing that the property is a gift and that s/he clearly specifies what the Foundation can and cannot do with the property. However, the more restrictions the donor places on the use or disposition of a property, the greater the risk to the donor of having its charitable contribution deduction challenged by the IRS. When questions arise, such a letter plays an important role in preventing any “misunderstandings” between the donor, his or her heirs, and the Foundation.
- ◆ It is the donor’s responsibility to prepare the deed and other instruments, which are necessary to transfer the property to the Foundation. All proposed transfer instruments must be reviewed by the Foundation’s legal counsel prior to acceptance.
- ◆ The donor shall be apprised that, unless otherwise agreed, any and all expenses associated with the gift acceptance shall be borne by the final sale proceeds.
- ◆ Legal title to all real property conveyed to the Foundation shall be held in the name of the Foundation.
- ◆ The Foundation will secure title insurance in the full amount of the value of the gift parcel of real estate.
- ◆ The Foundation shall acquire property insurance to cover casualty losses to any improvements on the real estate and, if such improvements are located in a HUD designated flood area, obtain flood insurance, if available.
- ◆ If the gift is accepted, the Foundation will have the deed recorded, acknowledge the gift, and provide the donor with IRS Form 8283 which must be signed by a Foundation representative and the appraiser and submitted to the IRS by the donor. (This form substantiates the charitable deduction for real property in excess of \$5,000 in value.) Establishing the value is the responsibility of the donor.
- ◆ After accepting a real estate gift, as appropriate, arrangements will be made to sell the property through a qualified real estate professional. While it is anticipated that in most circumstances the sale price will equal or exceed the appraised value of the property, the terms of the sale will

take into account current market conditions, availability of financing and other factors. Any offer that is below 80 percent of the appraised value must be approved by the Board or authorized committee.

- ◆ If the Foundation sells the property within two years, the Foundation must file IRS Form 8282 informing the donor and the IRS of the amount for which the property sold.
- ◆ Should the property be determined as beneficial to hold as a short- or long-term asset, discussions and planning may need to include agreements on rent income from the property, security deposit ownership of current renters, and other related matters.

#### Testamentary Gifts of Real Estate:

- ◆ Upon becoming aware that the Foundation has been named to receive a gift under any Will that has been admitted to probate or any trust arrangement, the Foundation will contact the executor, trustee, or other legal representative of the estate, and determine if the Foundation's gift consists of land or, if the Foundation is a residuary beneficiary of the estate, whether the residue passing to the Foundation will contain any land.
- ◆ If the Foundation will or may receive land in satisfaction of the gift, the Board or authorized committee will ask the executor, trustee, or other legal representative to conduct an environmental study similar to the one that the Foundation would require if it were to receive an *inter-vivos* gift. If the executor, trustee, or other legal representative has not made the study and if it does not do so, the Foundation should make its own study or decline to accept the gift.
- ◆ In a circumstance whereby a gift of real estate is transferred to fulfill an estate bequest, an appraisal is not necessary for federal tax purposes but necessary in order to determine current market value of the gift. In general, an appraisal costs under such estate fulfillment conditions shall be borne by the proceeds of the sale of the property.

Timeline Checklist. The following is an ideal chronological order for actions needed for any and all gifts of real estate:

- Donor expresses interest in donating real estate.
- Donors are given "Gift of Real Estate Form" to fill out and return completed along with maps and additional documentation as available; donor told such gifts require 8-10 weeks minimum to process from receipt of completed form. Donor is told that completed transaction also will require appraisal produced by donor (see exceptions Testamentary).
- With Completed "Appendix A Gift of Real Estate Form" in hand, staff and one or more authorized representatives visit property, taking note of all concerns, ideas, or issues.
- The donor provides to the Foundation a proposal in writing that states (a) acceptable arrangements for expenses associated with the property, such as the Phase I Environmental Review, title insurance, utilities including heat, taxes, sales commissions, insurance, *etc.*, and (b) donor restrictions for what can/cannot be done with the property and the proceeds of its potential sale. Donors should consult with their advisors regarding the tax-deductibility

of such expenses donated. The final transaction should also include a General Warranty Deed provided by the donor.

- Foundation seeks opinion of one or more real estate agents for estimated value, asking price, and ease of sale of property.
- Donor produces evidence of title and validates that there is no known economic burden to property.**
- Cash flow analysis drafted to anticipate costs of transaction and ownership and will of the donor to complete gift.
- The Gifts Acceptance Committee or otherwise authorized committee convenes to review preliminary results to approve continuation of the gift.
- Donor provides completed appraisal.
- Foundation conducts a Phase I Environmental Review and undertakes Title Policy.
- Foundation retains attorney to review intended transactions.
- With all documented elements in hand, the Foundation convenes its Gifts Acceptance Committee or otherwise authorized committee to review, accept, or refuse a gift of real property. If not refused, process continues.
- Donor prepares deed and other instruments needed to transfer property.
- All deeds, titles, and materials undergo review by attorney to prepare for gift closing.
- Foundation shall hold in its name legal title to property; secure title insurance; acquire property insurance; transfer utilities.
- Foundation will record the deed, substantiate the gift with written acknowledgement, and provide the donor with IRS Form 8283, first signed by the appraiser, followed by signature of a representative of the Foundation. If property is to be sold, the Foundation shall complete details with a listing agent.
- If sold within two years, the Foundation will file an 8282.



**Community Foundation for Loudoun and Northern Fauquier Counties**

APPENDIX A  
GIFT OF REAL ESTATE FORM

Please complete this form to the very best of your ability. Detail provided here will provide important information as we consider your generous gift of real estate.

Please include with this form copies of maps, surveys, appraisals, and deeds if possible.

- I. Owner(s) \_\_\_\_\_ Phone \_\_\_\_\_
- Address \_\_\_\_\_
- Property location \_\_\_\_\_
- Land area (acres or sq. ft.) \_\_\_\_\_
- Building area (sq. ft. each floor) \_\_\_\_\_
- Zoning \_\_\_\_\_
- Is the Property currently Listed with an Agent for Sale or Lease or has it been so listed within the past three years? \_\_\_\_\_
- \_\_\_\_\_
- Replacement cost of building \_\_\_\_\_
- Current property insurance coverage \_\_\_\_\_
- Date of acquisition/form of acquisition \_\_\_\_\_
- Current cost basis (includes improvements) \_\_\_\_\_
- Principal balance of mortgage \_\_\_\_\_ Current fair market value \_\_\_\_\_
- Assessed value for real estate taxes \_\_\_\_\_
- Real estate taxes \_\_\_\_\_
- Land value \_\_\_\_\_ Building value \_\_\_\_\_
- Most recent appraisal (date) \_\_\_\_\_ Appraised value \_\_\_\_\_

Appraiser \_\_\_\_\_  
 (If possible, please provide a copy of the appraisal)

Occupancy status after transfer of title to charity:

Unimproved (no buildings) \_\_\_\_\_  
 Unoccupied (building, but no occupant) \_\_\_\_\_  
 Occupied (building with occupants) \_\_\_\_\_

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

<b>II. Title/Zoning</b>	<b>Yes</b>	<b>No</b>
A. Title	_____	_____
B. Zoning variances, violations or special permits	_____	_____
C. Zoning violations	_____	_____
D. Restrictions, covenants, or easements	_____	_____
E. Survey available (if yes, please provide a copy)	_____	_____

<b>III. 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. Rental/Condominium/Cooperative</b>	_____	_____
A. Building systems	_____	_____
1. Leases (if yes, please provide copies)	_____	_____
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             | _____ | _____ |
| E. | Cooperative Agreements               | _____ | _____ |

**V. Environmental** **Yes** **No**

- |    |   |       |       |
|----|---|-------|-------|
| 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. Utilities:
  - Gas \_\_\_\_\_
  - Oil \_\_\_\_\_
  - Electric \_\_\_\_\_
  - Water/sewer \_\_\_\_\_
  - Other \_\_\_\_\_
  - Are deposits held for any of the above? \_\_\_\_\_
- 3. Services:
  - 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

\_\_\_\_\_  
Owner

Date \_\_\_\_\_

\_\_\_\_\_  
Owner

Date \_\_\_\_\_