

Gift and Fund Acceptance Policies

Community Foundation of North Central Florida

Stating the Purpose of Gifts to the Foundation

The purpose of a gift to the Community Foundation of North Central Florida ("the Foundation") will be defined in a written fund agreement or deferred gift instrument signed by the donor, or his or her appointed representative and if appropriate, an officer of the Foundation.

It is the policy of the Foundation to develop a signed fund agreement prior to receiving a current outright gift, or in the case of a planned gift in which the donor is living, as soon as possible as the Foundation becomes aware of its existence.

The purpose of a gift must fall within the broad charitable purposes of the Foundation. Each proposed fund or gift will be considered on a case by case basis. The Foundation reserves the right to accept or decline any proposed fund or gift to the Foundation.

Standard fund agreements, which have been approved by legal counsel and Foundation Directors and officers, may be used. Fund agreements will be prepared and reviewed by staff and or legal counsel of the Foundation. They may also be submitted to the Foundation's Executive Committee for review.

In most cases, additional gifts may be made to existing funds of the Foundation without restating the original purpose of the gift.

Foundation staff should disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor's decision to make a gift to the Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. They will also be provided with a written fund agreement and encouraged to read the fund agreement and any other documents thoroughly prior to signing.

In particular, donors should be made aware of

- the irrevocability of a gift
- the Foundation's variance power
- the Foundation's spending policy and definition of endowment funds
- in the case of donor-advised funds, applicable policies and limitations
- prohibitions on donor restrictions
- items subject to variability: market value, investment return, and income yield
- applicable administrative and investment management fees

Authority to Accept Gifts

In general, the Community Foundation of North Central Florida staff will be authorized by the board to accept new gifts subject to the policies outline herein. To assist staff in the evaluation of complex gifts and funds, the Executive Committee will have the responsibility to consider and accept gifts and funds.

The Executive Committee will be charged to ensure that gifts received are consistent with these policies and that they are in the best interests of the Foundation with the assistance of advisory members who have expertise in specific types of gifts. Committee members may also review proposed funds or supporting organizations that may fall outside the ordinary scope of staff expertise.

In the case of significant disagreement or hesitancy on the part of this committee, the committee may wish to present the proposed gift or fund in a confidential way to the Foundation board of directors for further consideration.

Which Gifts Require Review

Gifts received in the following forms can be accepted by Foundation staff and will not require prior review and approval by the Executive Committee:

- Cash or Checks
- Marketable securities
The Foundation will add the proceeds (sale price per share multiplied by number of shares minus brokerage fees) of a marketable securities contribution to a fund of the Foundation. In the event the Foundation receives actual stock certificates, these should be properly endorsed by the donor and the Foundation. It is the general policy of the Foundation to sell marketable securities immediately upon receiving them. The Foundation will govern the disposition of securities and will make all decisions regarding the sale or retention of securities.
- Gifts of personal property for the Foundation's offices or programs.

Gifts that may require review or approval by the Executive Committee include:

- Tangible personal property
Tangible personal property may be accepted as a gift. If the value exceeds \$5,000 a donor is required to have a qualified appraisal performed and submitted on IRS form 8283. If the Foundation sells the property within two years, IRS Form 8282 must be filed by the Foundation, informing the donor and IRS of the sale price of the item(s).
- Real property
If a donor wishes to contribute real property or an interest in real property to the Foundation whether as an outright gift or through a deferred giving arrangement, the Foundation staff and Executive Committee shall consider all facts and circumstances whether to recommend accepting the gift. Donors should always be advised to confer with their own counsel to review the terms of the gift. (See details of policies regarding the acceptance of real property on page 6 of this document).

- Closely held and S corporation stock
Donors wishing to make gifts of stock in a closely held corporation or S corporation must have it valued by a reputable independent accounting or appraisal company prior to making a contribution. If the stock is immediately marketable it will be sold. Otherwise the stock will be held by the Foundation until it may be redeemed or sold for cash.

The acceptability of a gift of closely held or S corporation stock will depend on the ultimate financial liability of the Foundation and the amount of management attention required.

- Partnership interests
The Foundation does not accept gifts of general partnership interests due to potential unlimited liability. The acceptability of a gift of a limited partnership interest will depend on the ultimate financial liability of the Foundation and the amount of management attention required. This hard-to value property is best valued by a qualified appraiser. Consideration will be given to whether generated partnership income is unrelated business income subject to income tax.
- Life Insurance Policies
- Gifts whose structures fall outside the ordinary purposes, bylaws and procedures of the Foundation

Emergency Gifts

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

Variance Power

Sometimes a fund just doesn't work anymore. Scientists discover a cure for polio. 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.

Gifts Declined

The Foundation reserves the right to refuse any gift that it believes is not in the best interest of the Foundation. If a gift is not accepted, Foundation staff will contact the prospective donor.

Acknowledgment

Accepted gifts will be acknowledged by staff in accordance with federal regulations.

Restrictions

In conformance 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 there from, in furtherance of its exempt purposes.

Investment of Gifts

The Foundation reserves the right to make any or all investment decisions regarding gifts received in accordance with its Investment Policy.

In making a gift to the Foundation, donors give up all right title and interest to the assets contributed. In particular donors give up the right to choose investments and investment managers, brokers or to veto investment choices for their gifts. Donors may recommend that funds be managed by an independent investment manager which the investment committee will take under advisement.

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 is 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.

Illiquid Assets

The Foundation's general policy is to liquidate all gifts promptly. On occasion, the Executive 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.

- 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 will seek an additional gift of cash or marketable securities to allow the fund to begin making distributions.

Planned & Deferred Gifts

The Foundation’s planned giving program encompasses all types of gifts whose benefits do not fully accrue to the Foundation until some future time (such as the death of the donor or other income beneficiaries or the expiration of a predetermined period of time) or whose benefits to the Foundation are then followed by the interests of noncharitable beneficiaries. The types of planned giving opportunities offered by the Foundation are listed below.

Bequests

The Foundation may receive bequests from people who direct through a will or a trust that certain money or property be transferred to the Foundation. The Foundation encourages such donors to contact the Foundation during their lifetime to discuss their charitable intent. Sample bequest language is available from the Foundation, but donors are encouraged to consult a professional advisor for additional assistance.

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 Trust

Under a charitable remainder unitrust the donor irrevocably transfers money, securities or other property to a trustee selected by the donor. The trustee pays the donor or one or more income beneficiaries designated by the donor a fixed percentage of the net fair market value of the trust's assets, as determined each year. The payments are made for the life or lives of the income beneficiaries or for a fixed period not to exceed 20 years. Upon termination of the income beneficiary interest, the assets of the unitrust will be transferred to the Foundation.

A charitable remainder annuity trust is similar to the unitrust expect that the income beneficiary receives a fixed dollar amount annually for the trust.

The Foundation is willing to serve as trustee for a charitable trusts, including charitable remainder trusts.

Charitable remainder trust guidelines and worksheet, as well as a checklist for charitable remainder trusts funded with real estate, are available from the Foundation for educational purposes.

Charitable Lead Trust

Under a charitable lead trust the Foundation receives an income interest in the trust assets for a period of years or the lives of one or more individuals. At the end of this time the assets are distributed to noncharitable beneficiaries designated by the donor.

Gift Annuities

At the present time the Foundation does not issue charitable gift annuities. Charitable gift annuities are available through the Foundation from outside sources. It reserves the right, however, to review or change this policy at a future date.

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.

Gifts of Life Insurance

A donor may make a gift of life insurance to the Foundation in several ways. The Donor may choose to give a life insurance police irrevocably designating the Foundation as owner and beneficiary and further pledging to make annual gifts to the Foundation in the amount of the annual premium. Premiums would then be paid by the Foundation. The Foundation can also be designated as a percentage beneficiary of a life insurance policy owned by the donor. In addition, the Foundation also accepts tax deductible gifts of insurance policy dividend.

Gifts of life insurance policies may be accepted without special approval if the premiums for the insurance policy are fully paid up and when the donor intends to cancel the policy immediately for its cash surrender value.

Gifts of life insurance will be reviewed on a case by case basis.

Policies for the Acceptance of Gifts of Real Estate

Unencumbered real property will be accepted at fair market value as established by at least one qualified appraisal. In some instances, the Foundation will obtain a formal appraisal and the donor will obtain a second appraisal to eliminate any question of conflict of interest. In most cases, a single appraisal normally paid for by the donor, as negotiated, will be adequate.

Real property that is encumbered by a trust, deed, loan, or mortgage will be accepted only with Executive Committee approval. Before acceptance of real property as a gift, the Foundation and the donor must agree in writing on arrangements for paying expenses associated with the property, including but not limited to a finder's fee (if any), taxes and assessments, appraisal fees, environmental evaluations, insurance coverage, and maintenance costs. Depreciation of real estate and any resulting tax consequences must be taken into account in considering gift proposals.

Tangible personal property associated with real property should be segregated into separate gift proposals. (This policy is intended to avoid the confusion that may result from combining into a single agreement two forms of assets that are treated quite differently under the tax laws.)

In order to avoid potential liability for environmental cleanup and toxic and hazardous waste issues relating to real estate, the Foundation will require inspection of all proposed gifts of real estate and assets relating to real property. Every proposed gift of property shall be subject to an on-site preliminary review by the Foundation. This review shall be submitted in writing to the Executive Committee of the Foundation, together with a recommendation regarding the proposed gift. The Executive Committee may recommend further environmental review by an expert with past real estate experience or knowledge of toxic waste issues prior to final acceptance.

Assets Related to Real Property

Trust deed notes and mortgages will be accepted as gifts using the unpaid principal balance as the fair market value in most cases. If the loan is a purchase money encumbrance, the donor may owe capital gains unpaid at the date of transfer. Mineral rights will be accepted as gifts valuing them under Treasury regulations as applied by expert appraisers and the Foundation's legal counsel. Written understandings with the donor must provide for special attention to depletion allowances and reserves.

Tangible Personal Property

Tangible personal property may be accepted as a gift. The Foundation and the donor must comply with Treasury regulations for obtaining and reporting qualified appraisals.

Procedures for Gift Acceptance of Real Property

A donor must file an IRS Form 8283 with his or her tax return and obtain an independent appraisal to substantiate the charitable deduction for real property in excess of \$5,000 in value.

A subsequent sale of the property within two years of the date of the gift must be reported to the IRS by the Foundation on Form 8282.

In the case of a living donor, the Foundation Phase I Real Estate Checklist (see attached) must be completed to help determine whether acceptance of the gift is prudent.

Gift acceptance must be approved by the Executive Committee.

Acceptance of debt-encumbered property by the Foundation is unlikely if the loan exceeds 50

percent of the property value. Acceptability will be determined on a case-by-case basis.

All real property gifts must be carefully reviewed for undisclosed contingent liabilities. Note that liability for environmental contamination or toxic waste, particularly with oil and gas properties, may be imposed upon any individual or organization in the chain of ownership, even if the damage or contamination occurred prior to their ownership. This “innocent liability” may be avoided by showing reasonable efforts were made to ensure the property was free of contamination. Liability may be extended to all types of property interests, including split or undivided interests (such as royalties, surface rights, subsurface rights, leasehold interests, and working interests).

The Foundation must also review all gifts of residential property (with the assistance of a professional consultant, when appropriate) to determine the need for an environmental audit. An Environmental Checklist (Phase II Audit attached for residential property) must be prepared in each case. The expense of an environmental audit by a licensed professional may not be required as further evidence of “innocent liability” if the Environmental Checklist does not identify any risks of toxic contamination.

A comprehensive environmental audit may be required for non-residential property (Phase II Audit attached for non-residential property), undeveloped realty, and all gifts of any interest in mining or oil and gas properties. The audit must be performed by a properly licensed or certified professional (e.g. geologist or hydrologist). He or she will conduct either a preliminary, intermediate, or extensive environmental audit as may be required to demonstrate due diligence and care in accepting the property as free from contamination. This should be documented properly for legal purposes. In certain cases a donor may be required to execute an indemnity agreement before the gift can be accepted.

A current independent appraisal and preliminary title report should be obtained to confirm value and ownership of the property.

A survey may be obtained if there is any question regarding boundaries, easements, or access to the property.

The donor may place terms or restrictions on the property regarding its use or subsequent sale by the Foundation. Restrictions must be considered by the appraiser for purposes of valuation and must be approved by the Foundation prior to acceptance.

The Foundation must secure adequate insurance coverage for the property.

Shortly after acceptance, the Foundation will seek to sell donated property which it does not plan to use as part of its charitable activities. A timely sale will minimize contingent liabilities, maintenance, and other costs.

The Foundation will not accept, without Executive Committee approval, a gift involving real property that makes the Foundation a principal in a real estate partnership, joint venture, or business activity in which the Foundation participates fully in the risks of operation and has more than limited liability for the conduct of the business (e.g. as a general partner, principal in a joint venture, or as an owner of a “working interest”).

Phase I Checklist

The Community Foundation of North Central Florida REAL ESTATE CHECKLIST AND ENVIRONMENTAL CHECKLIST

Name: Attachments Required Attachments that may be required

Address: Plat maps Survey
Photographs Income and expense information
Copies of deeds or contacts Appraisal
Property tax information Amortization Schedule
Phone: Environmental Checklist Depreciation Schedule
Debt Information Other

Property Location

Have you completed or reviewed the Community Foundation of North Central Florida Environmental Checklist?

Yes No

Is there any evidence of toxic waste contamination Yes No

Describe Property

Dimensions Parcel Size & Number
Original Cost of Property
Legal Description

Property Type: Residential Commercial/Industrial Agricultural Recreational Other

How long has donor owned the property?

How is the title held?

Describe zoning

Describe off-site improvements and utilities

Describe access and rights of way (area around property)

Describe mineral rights

Describe water rights

Market Value Information

Source of Information Amount (est. property value) Is this realistic?
The Foundation \$
Donor \$ Yes No

Other (be specific) \$ Yes No
Other (be specific) \$ Yes No

Property tax assessment

Property Liens (i.e. first/second mortgage, easements)

Major maintenance items needing immediate action. Owner's plans to do repairs?

Is property insured? If not, please explain. Yes No

Opinion of marketability and other observation

List names and phone numbers of realtors that donor recommends who would be potential marketers of the property.

Does the donor have any names of potential buyers of the property? Yes No
If yes, please list names and phone numbers below:

Real Estate Professional's (or other recognized authority) comments on whether or not to accept property.

Recommended action or plan of action

Prepared by:
Comments:

Date:

Phase II Checklist

ENVIRONMENTAL CHECKLIST FOR GIFTS OF REAL PROPERTY USED FOR NON-RESIDENTIAL PURPOSES

Donor Name:

Property Location (or description)

Please attach response to each question, as appropriate. The responses to this checklist must be acknowledged in writing by someone other than Donor. An appraiser or real estate broker would be sufficient, but certainly an environmental engineer would be acceptable. Donor must be informed that the Community Foundation of North Central Florida reserves the right, prior to its acceptance of the proposed gift, to require a full-scale environmental audit of the subject property if the responses to this checklist so warrant. A Phase I environmental audit is required, and the Donor may be required to sign an indemnity agreement.

When was the subject property purchased by the Donor?

If there are buildings on the subject property, when were they constructed?

Describe the subject property.

When was the property last physically observed by the Donor and the person acknowledging this report?

In what type of area is the property located? Residential Commercial Industrial Agricultural Other

What is the current use and zoning of the subject property?

What was the subject property used for prior to its acquisition by the Donor?

At what distance from the subject property is the nearest commercial, agricultural and/or industrial activity? Describe those activities of a commercial, agricultural, or industrial nature within one mile of the subject property?

Is there now or has there ever been an underground fuel oil tank or transformers on the subject property? Yes No

If there are buildings on the subject property, are there any asbestos-containing materials or lead paint used in the buildings? Yes No

Is there evidence of any soil staining, stressed vegetation or garbage or trash disposal or other dumping that has taken place on the subject property? Yes No

Are there any known environmental hazards or risks associated with the subject property, other than those indicated in the responses to questions above?

Prepared by:

Date:

Comments:
