



## **Gift Acceptance Policy**

### **Purpose:**

The purpose of this policy is to serve the best interests of The Community Foundation for the Greater Capital Region (the "Foundation" or "CFGCR") and its donors by providing guidelines for negotiating and accepting various types of gifts for various types of funds.

Given the increasing complexity of IRS regulations, and the increasing volume of gifts other than cash or publicly traded securities, the Foundation recognizes the need to carefully screen proposed gifts. The purposes of the gift must fall within the broad charitable purpose of the Foundation. In addition, Foundation Board and staff must be able to ensure that gifts accepted by CFGCR 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 must also ensure that it can administer the terms of the gift in accordance with the donor's wishes.

### **Foundation Responsibilities:**

The Board of Directors is responsible for policy-making and oversight of the Foundation's operations. With Respect to all restricted gifts, the Foundation's bylaws give the Directors the specific power to modify fund restrictions and conditions. This variance power states that the Directors may modify any restriction or condition on the distribution of funds for any specified charitable purpose or to specified organizations, if in the sole judgment of the Board (without the approval of any participating trustee, custodian or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable purpose of the Foundation.

Foundation Board and 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. In particular, donors should be made aware of:

- the irrevocability of a gift,
- prohibitions on donor restrictions,
- items subject to variability (market value, investment return, and income yield), and
- the Foundation's responsibility to provide periodic fund balance statements.

Staff should maintain a record of discussions with donors in the Foundation's donor database (FIMS). The role of Foundation staff 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.

**Procedure for Review:** Any gifts that require further review (as stated below) require approval by the Board of Directors or the Executive Committee acting in its place. The terms of the gift will be presented to the Board/Committee for review. Presentation to the Committee will take the form

determined most useful by the President, e.g. conference call, e-mail or written communication to all available members depending upon the complexity of the gift and the issues involved.

**Approval:** Approval by a quorum of the Board or Executive Committee is required in order for a gift requiring approval (see below) to be accepted. Such approval can be in verbal or written form, but must be documented and presented to the entire Board of Directors at its next meeting.

## **FORMS OF GIFTS TO THE FOUNDATION**

Gifts to the Foundation take on a variety of forms. Many are outright gifts made by living donors, either on a one-time or periodic basis. Others are deferred gifts that take effect upon a donor's death, or at a specified point in the future. It is the policy of the Foundation to liquidate all property gifts within a reasonable time after receiving the property.

### **Gifts Not Requiring Board Review**

**Cash.** The Foundation accepts cash, checks, credit card payments and money orders.

**Marketable Securities.** The Foundation accepts gifts of publicly traded stocks and bonds.

- Such securities and bonds will be acknowledged at fair market value as determined under IRS rules. Securities for which there is a recognized market are generally valued at the arithmetic mean of the highest and lowest selling prices for that stock or bond in its principal sales market on the date of the gift. The value of a share in a mutual fund is its public redemption price (the "bid price") in effect at the time of the gift.
- When the securities are in "street name," they are transferred to the Foundation's account. Thereafter, the Foundation may either sell or hold the securities for the benefit of the fund identified by the donor.
- When the gift is in the form of physical securities, the Foundation will sell the securities for the benefit of the fund identified by the donor.

### **Gifts Requiring Board Review**

#### **Other Business Interests**

Privately held Stock. Gifts of stock in closely-held C corporations, S corporations and limited partnership interests for current or deferred gifts will be evaluated on a case by case basis and will be subject to approval by the Board or Executive Committee. All such gifts must be valued by a qualified appraiser. The qualified appraiser cannot be the donor, taxpayer, donee, nor an agent of any of these. The cost of an appraisal shall be paid by the donor.

Partnership Interests and Interests in Limited Liability Companies (LLC). The Foundation does not accept gifts of general partnership interests. Prior to approval of gifts of limited partnership interests or interests in a LLC, all relevant partnership and LLC agreements will be reviewed by Foundation staff and legal counsel with particular attention given to the activity of the partnership/LLC and how allocations are made. Further, the underlying assets and liabilities of the partnership/LLC will be reviewed. The Foundation will consider limited partnership interests in family limited partnerships subject to review by staff and legal counsel. (*See Family Limited Partnership Gift Acceptance Policy Statement – Appendix D*)

- **Costs Associated with Gift Acceptance**

The Foundation will charge the resulting fund its costs associated with accepting the business interest (e.g. unrelated business income and attorney fees), upon assurance from the donor that there will be enough in the fund to pay these costs. Otherwise the donor must agree to contribute additional cash to the fund to pay such costs.

- **Limitation on accepting gifts of assets to donor advised funds**

The Foundation places a limitation on accepting gifts of assets (e.g. gifts of stock in closely-held C corporations, S corporations and limited partnership interests) to a donor advised fund. When the aggregation of assets held by a donor advised fund, donor, donor advisors and related parties exceeds approximately 20% of the voting stock or profit interest in a business entity, the Foundation will divest excess holdings of the donor advised fund within 5 years, or will petition the IRS for an extension of term to liquidate the offending concentrations in businesses.

### **Real Estate**

Prior to approval, Foundation staff and legal counsel review such gifts. Concerns include legality, mortgages, easements, restrictions, and environmental problems. Until the property is sold, the donor must provide for obligations such as taxes and insurance. *(See Checklist of Desired Items In Connection with Consideration or Acceptance of Real Estate Donation – Appendix A)*

### **Tangible Personal Property**

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 purpose related to its exempt purpose. At least one qualified appraisal by an independent professional is required. Prior to approval, Foundation staff and legal counsel review such gifts.

### **Deferred Gifts**

The Foundation may accept different types of deferred gifts, upon review and approval by the Board.

- **Bequests.** The Foundation accepts bequests from persons who have directed in their wills that certain assets be transferred to the Foundation.
- **Life Insurance.** The Foundation accepts life insurance policies for which the donor has relinquished ownership by assigning all rights, title, and interest in the policy to the Foundation. If the insurance policy is not fully paid, the usefulness of the gift is judged on a case-by-case basis. If the policy is accepted, the Foundation may choose either to cash it in for the current surrender value or continue to pay the premium. (e.g., the Foundation may pay the premium on a policy for which the donor provides an annual contribution equal to the premium). Donors may also purchase new life insurance naming The Community Foundation for the Greater Capital Region as owner and beneficiary and provide an annual contribution equal to the premium. *(See Life Insurance Gift Acceptance Policy – Appendix C)*
- **Life Income Arrangements.** The Foundation accepts several types of deferred giving arrangements that can be established by the donor during his or her lifetime or through a will, and can be structured to provide a life income for him or her or a loved one. Life income arrangements include: charitable remainder annuity trusts, charitable remainder unitrusts, and remainder interests in a residence or farm. *(See Charitable Remainder Trust Gift Acceptance Policy – Appendix B)*
- **Charitable Lead Trusts.** The Foundation also accepts charitable lead trusts which provide income over a term of years or a person's lifetime to charity.

### **USE OF GIFTS**

The Foundation offers a continuum of funds designed to be responsive to donor needs. The following options are available:

#### Unrestricted Funds:

Periodically the Foundation receives gifts as a result of a bequest. Unless otherwise directed by the donor or guided by language within the donor's will, the Foundation will allocate the funds accordingly: 40% to the Judith N. Lyons Administrative Endowment Fund; 40% to the Community Impact Fund; and 20% to the Foundation's operating budget.

Gifts to Establish a Fund at the Foundation:

Donors may choose to designate gifts to any of the component funds of the Foundation, or to establish a named fund. The following funds are available:

Gifts in any amount may be directed to:

- The Community Impact Fund
- The Judith N. Lyons Administrative Endowment
- Any existing component fund of the Foundation

The following funds may be established with minimum contribution of \$5,000:

- Donor Advised Funds
- Field of interest funds
- Designated Funds

Scholarship funds may be established with a minimum gift of \$15,000.

**ACKNOWLEDGMENT**

Donors will receive an expression of sincere thanks and gratitude from the Foundation and an acknowledgement of the gift in accordance with federal regulations.

**PUBLICITY**

No public media exposure with respect to a donor's gift will be generated without the consent of the donor.

**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 therefrom, in furtherance of its exempt purposes.

**INVESTMENT OF GIFTS**

It is the policy of the Foundation to convert all gifts to cash within a reasonable time after receiving the property. The Foundation reserves the right to make any or all investment decisions regarding gifts in accordance with its Investment Policy. In making a gift to the Foundation, donors give up all rights, 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. However, when the size of a fund warrants separate investment consideration, the Foundation may consult with donors on investment options for such funds.

**COSTS OF ACCEPTING AND ADMINISTERING GIFTS**

Generally, costs associated with the acceptance of a gift, such as attorney fees, accounting fees, and other professional fees, as well as other costs to establish a gift, such as appraisal, escrow, evaluation, and environmental assessment fees, will be borne by the donor.

The direct costs of administering outright and planned gifts of the Foundation will be borne from the assets of the individual funds, except for those special circumstances as determined by the

Board of Directors. Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the Foundation's guidelines and fee schedules.

**CONFIDENTIALITY**

Foundation staff shall maintain strict control over files and information received from or about donors or prospective donors so as to maintain confidentiality of such information.

**APPENDIX A:**  
**Checklist of Desired Items In Connection with**  
**Consideration or Acceptance of Real Estate Donation**

All real estate gifts for The Community Foundation for the Greater Capital Region must be approved by the Board. Prior to approval, Foundation staff and legal counsel review such gifts. Until the property is sold, the donor must provide for obligations such as taxes and insurance. For further information or to discuss a gift of real property, contact John Eberle, President and CEO, at [jeberle@cfgr.org](mailto:jeberle@cfgr.org) or (518)446-9638.

The following is a list of information the Foundation would find helpful in considering a gift of real estate.

1. Exact legal name of donor and federal I.D. number.
2. Description of property.
3. Description of any buildings or other structures located on the land.
4. Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey.
5. Information regarding mortgage, if any.
6. Information regarding existing zoning status.
7. Information on all ingress/egress for the property.
8. Description of prior use of the property.
9. Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
10. Disclosure of any contemplated or anticipated condemnations, right-of-ways, or other actions by municipalities that may affect the subject property.
11. Phase I environmental report on the property, including environmental report on any structures located on the real estate.
12. Specimen of title insurance commitment or schedule describing any liens, encumbrances, or title matters affecting the property.
13. Copy of appraisal showing the fair market value of the property current within 180 days.
14. Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property.
15. Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, etc.
16. Specimen of proposed Seller's Affidavit disclosing any and all tenants, leases, security instruments, graves or cemetery parcels, etc.

17. Draft of proposed Warranty Deed conveying title from proposed donor to The Community Foundation for the Greater Capital Region, Inc.

**APPENDIX B:**  
**Charitable Remainder Trust Gift Acceptance Policy**

- The Foundation may accept charitable remainder interest from any charitable remainder trust if the Foundation determines it is in its best interest to accept the gift.
- Charitable remainder trusts shall be in a form substantially similar to the forms approved by the Treasury Department otherwise determined to be appropriate by the Foundation's legal counsel.
- The Foundation encourages the use of a Trustee suitable to the donor including banks or other appropriate institutions. The Foundation will consider serving as Trustee at a market rate if the Foundation is the irrevocable remainder beneficiary. Should the Foundation be selected to serve as Trustee, the Foundation will provide donor's advisors with certain necessary Trustee provisions.
- The Foundation encourages donors to consult their own legal counsel and tax advisors to create a charitable remainder trust. When desirable, the Foundation will provide sample documents and calculations for the donor and his or her advisors to review.



**APPENDIX C:**  
**Life Insurance Gift Acceptance Policy**

The Foundation may accept life insurance policies as gifts to the Foundation on the following terms:

- The Foundation shall be both the owner and the beneficiary of any policy accepted by the Foundation. The Foundation may decline to accept any insurance policy if it is not in the best interest of the Foundation to accept the proposed gift.
- The donor agrees that the proceeds from the policy will be the property of the Foundation for such purposes as designated by the donor, subject to the policies and procedures of the Foundation.
- The Foundation shall have no obligation to continue premium payments on insurance policies.
- If any insurance policy lapses for non-payment prior to maturity because a donor fails to provide sufficiently for premium payments, the Foundation may redeem the policy and apply the proceeds from any cash settlement to the Foundation for such purposes as designated by the donor, subject to the policies and procedures of the Foundation.
- The minimum dollar amount of the life insurance policies to be considered for acceptance by the Foundation is \$50,000.
- The Foundation does not participate in charitable split donor insurance plans.

**APPENDIX D:**  
**Family Limited Partnership Gift Acceptance Policy Statement**

Prior to The Community Foundation for the Greater Capital Region accepting family limited partnership interests, the Foundation's staff and legal counsel must review the partnership agreement. The Foundation will review the agreement's structure, function, and underlying assets. Issues to be reviewed include but are not limited to the following:

- Value of the limited partnership interest. Generally, a minimum discounted value of the limited partnership interest, as established by a qualified appraisal, of \$10,000 is required.
- The beneficiary of both the income stream and the liquidation proceeds of the limited partnership interest must be the Foundation.
- Costs to the Foundation in holding the interest such as administrative responsibilities, tax return preparation and unrelated business income tax. The donor may be asked to cover all or some of these costs, particularly the unrelated business income tax, which may be generated by phantom income.