

GIFT ACCEPTANCE POLICY

The Community Foundation of the Rappahannock River Region (“Foundation”) welcomes gifts of real and personal property that will benefit the Foundation and help it achieve its charitable purposes. The following guidelines for accepting gifts are designed to serve the best interests of the Foundation, the donors who support the Foundation’s programs through charitable gifts, and a healthy and caring community.

A. Authority of Officers to Accept Gifts: The officers and the Executive Director of the Foundation can accept all gifts of cash, publicly traded securities, mutual funds and life insurance policies (so long as the policy is not encumbered (*i.e.*, there is no outstanding loan against the policy) which name the Foundation as the owner and beneficiary.

B. Authority of the Board of Governors: The Foundation may accept other noncash gifts at the discretion of the Board of Governors, including, but not limited to the following noncash gifts:

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

C. Guidelines for All Gifts:

(i) The Foundation will only accept gifts which are consistent with their 501(c)(3) status.

(ii) In the event that a donation is not accepted, the Foundation will communicate the reason in writing to the donor.

(iii) In the event that a bequest or trust distribution is not accepted, the Foundation will communicate the reason in writing to the executor or trustee.

(iv) When the size of a gift warrants separate investment consideration, and when otherwise permitted by law, the Foundation may endeavor to accommodate

requests from donors for separate investment of the gift, or use a particular investment manager, broker or agent in accordance with the Foundation's Investment Policy, and may consult with donors on investment options for such gift.

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

(vi) Subject to the policies set forth in this document, the Foundation may accept gifts of any size to existing funds. The minimum gift for establishing a new fund is \$10,000.

D. Funds

The Foundation offers several different types of funds. All distributions are determined by the Foundation's fund agreement and spending policy. These funds include:

- (i) Unrestricted Funds – These funds support the development of timely and strategic grants that address critical needs in our community. The Foundation makes distributions to support effective work of charitable organizations throughout the area we serve.
- (ii) Field of Interest Funds - Field of interest funds are often established to support particular interest areas, specific program initiatives, causes or geographic areas.
- (iii) Designated Funds - Donors who wish to support a specific agency or cause can establish a designated fund.
- (iv) Organization/Agency Funds – These funds support program and/or administrative needs of specified organizations.
- (v) Donor-Advised Funds – Donor-advised funds are established by donors who wish to actively participate in the grant-making process. Individuals who establish a donor advised fund recommend charitable projects or organizations they want to support.
- (vi) Scholarship Funds – These funds provide financial assistance to students at schools, colleges and universities. Scholarship funds can also support vocational training and assistance in paying for special courses. Donors recommend eligibility criteria and may serve as advisors on The Community Foundation's Scholarship Committee.

E. Guidelines for Noncash Gifts:

(i) The Foundation will sell all noncash gifts as soon as practical. On occasion, the Foundation may decide that it will not liquidate certain gifts immediately based on market conditions, use by the Foundation and desirability as an investment. The Foundation will not hold gift property for more than three years to avoid the IRS tax reporting requirements.

(ii) The Foundation may sell or liquidate any gift property at any time (unless otherwise agreed in writing). Its intention to either resell the property or to retain and use it to further its charitable activities should be made clear to the donor at the time of the gift.

(iii) Title to the gift property should be transferred to the Foundation and must be free and clear of any monetary liens or encumbrances and properly documented with Deed of Gift in a form acceptable to the Foundation.

(iv) The Foundation will follow IRS guidelines for Noncash Charitable Contributions, and will complete IRS Form 8283 for donations exceeding \$5,000 and IRS Form 8282 when donations are disposed of within three years of receipt. Individual donors must obtain an independent appraisal to substantiate (on IRS Form 8283) the charitable deduction for certain gifts of property in excess of \$5,000 in value (\$10,000 for closely-held stock). The Foundation should recommend that the donor consult his or her accountant regarding the IRS Form 8283 reporting requirements for non-cash gifts (other than publicly traded securities) in excess of \$5,000 value.

(v) All gifts of personal property shall be carefully reviewed for undisclosed contingent liabilities. Liability for certain environmental or toxic contamination 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 assure the property was free of contamination. Liability may extend to tangible personal property (e.g., radioactive equipment) or intangible personal property (e.g., partnership interests, contract rights, and split or undivided interests in property. Note: In some states certain percentage royalties, overriding royalties and leasehold interests in mineral or oil and gas properties are deemed to be tangible personal property).

(vi) The Foundation requires that all gifts of a personal property interest in mining, or oil and gas properties and any other gift which the Foundation deems appropriate, must be inspected by a properly licensed or certified professional as may be required to demonstrate due diligence and care in accepting the property as free from contamination. This inspection should be documented properly for legal purposes.

(vii) The Foundation will not accept, without Board of Governors approval, a gift making it a principal in a joint venture, real estate partnership, real estate limited liability company or business activity in which it 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).

(viii) Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rules now apply to donor advised funds as if they were private foundations¹. That is the holdings of a donor advised fund in a business enterprise, together with the holding of persons who are disqualified persons with respect to that fund, may not exceed any of the following:

- Twenty percent² of the voting stock³ of an incorporated business

- Twenty percent of the profits interest of a partnership or joint venture of the beneficial interest of a trust of similar entity

Ownership of unincorporated businesses that are not substantially related to the fund's purposes is also prohibited.

Donor advised funds receiving gifts of interest in a business enterprise after the date of the PPA's enactment will have five years to divest holding that are above the permitted amount, with the possibility of an additional five years if approved by the Secretary of the Treasury. Funds that currently hold such assets will have a much longer period to divest under the same complicated transition relief given to private foundations in 1969.⁴

¹ Only the donor advised fund, not the sponsoring charity is to be treated as a private foundation.

² Thirty-five percent if it can be shown that persons who are not disqualified persons have effective control of the business.

³ The donor advised fund will be barred from holding non-voting stock of an incorporated business unless the disqualified person collectively own less than 20 percent of the voting stock.

⁴ Excess holdings acquired by purchase must be disposed of immediately. If purchases by disqualified persons cause the donor advised fund to have excess holding, the donor advised fund will have 90 day to dispose of the excess.

F. Guidelines for Gifts of Real Estate:

(i) 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.

(ii) The Foundation will not hold real property in excess of three years to avoid IRS tax reporting requirements. A subsequent sale of property within three years of the date of the gift must be reported to the IRS by the Foundation on Form 8282. The Foundation will seek to sell donated real property which it does not plan to use as part of its charitable activities in a timely manner to minimize contingent liabilities, maintenance, and other costs.

(iii) The Foundation Real Estate Checklist (see section F below) must be completed to determine whether acceptance of the gift is prudent.

(iv) The Board of Governors must approve the acceptance of the gift, which approval shall depend upon certain factors, including but not limited to insurance, maintenance, taxes, environmental condition, title and marketability.

(v) It is unlikely that the Foundation will accept real property encumbered with a monetary lien; however, acceptability will be determined on a case-by-case basis.

(vi) All real property gifts must be carefully reviewed for undisclosed contingent liabilities. Note that liability for environmental contamination or toxic waste 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.

(vii) The Foundation shall review all gifts of residential property (with the assistance of a professional consultant when appropriate) to determine the need for an environmental audit. The expense of an environmental audit by a licensed professional may not be required as further evidence of "innocent liability" if the review of existing reports or the inspection of the real property does not identify any risks of toxic contamination.

(viii) An environmental site assessment is required for non-residential property, such as gifts of farm or ranch land, commercial and industrial property, undeveloped realty, and all gifts of any interest in mining or oil and gas properties. The assessment must be performed by a properly licensed or certified professional, who will conduct either a preliminary, intermediate, or extensive environmental assessment as may be required to demonstrate due diligence and care in accepting the real property as free from contamination. This assessment should be documented properly for legal purposes. The donor may be required to execute an indemnity agreement before the gift can be accepted.

(ix) A current independent appraisal and a preliminary title report should be obtained, and title updates and a title policy through the date of donation (recording of the Deed), preferably at the donor's expense, to confirm value and ownership of the property. The Foundation or its attorney will review all documents regarding title to the property.

(x) Generally, the Foundation will take title to the real property by general warranty deed and convey title by special warranty deed.

(xi) A survey should be obtained if there is any question regarding boundaries, easements, or access to the property.

(xii) Generally, the Foundation should not accept donations of real property with restrictions on use or future transfers. The Foundation must approve any restrictions prior to acceptance, including an assessment of the impact the restrictions will have on the value of the real property.

(xiii) The Foundation must secure adequate commercial liability and property insurance coverage for the real property.

G. Checklist for Gifts of Real Estate:

The Foundation may require the donor of real property to provide or discuss the following:

1. Legal name of donor and federal I.D. number.
2. Copy of the most recent deed to the real property.
3. An improvement survey of the real property showing the boundary lines of the real property, access, buildings and other improvements, easements, and other matters of record.
4. Current title report, commitment or title policy reflecting any monetary liens, encumbrances, easements and restrictions affecting the real property.
5. Information regarding existing zoning and current or prior uses of the real property and adjacent properties, including the specific disclosure of any storage tanks or potential environmental factors affecting the property.
6. Disclosure of any contemplated or anticipated condemnations, right-of-ways or other actions by municipalities that may affect the property.
7. Phase I environmental report on the property, including environmental report or building inspections on any structures located on the real property.
8. Disclosure of amount of existing real property taxes, insurance premiums and assessments attributable to the property.
9. Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expense for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, etc.
10. Specimen of proposed Seller's Affidavit disclosing any and all tenants, leases, security instruments, graves or cemetery parcels, etc.
11. After initial review, the donor will be asked to provide additional data and documentation to facilitate the Foundation's due diligence process to determine whether to accept the gift. The cost of this additional information will be the responsibility of the donor.
12. After approval of the gift, the Foundation may require the following prior to the transfer of the real property to the Foundation:
 - a. A qualified appraisal, as defined in Treasury Regulations Section 1.170-13(c), showing the fair market value of the property.
 - b. A completed IRS Form 8283, entitled Noncash Charitable Contribution Appraisal Summary.
 - c. General Warranty Deed.
 - d. Title insurance acceptable to the Foundation.
 - e. Any other documents and supporting materials required to complete the property conveyance.