

# **Community Foundation of Southern Wisconsin**

## **Gift Acceptance policy**

# **Community Foundation of Southern Wisconsin, Inc.**

## **Gift Acceptance Policy**

### **General Policies**

#### **Purpose of Gift Acceptance Policies**

The purpose of this policy of the Community Foundation of Southern Wisconsin is to serve the best interest of the Foundation, its donors, and a healthy, caring community by providing guidelines for negotiating and accepting various types of gifts for various types of funds. Given the increasing complexity of IRS regulations, the volume of real estate and other property gifts, and state and federal environmental laws, the Foundation recognizes the value in carefully screening proposed gifts.

The purpose of the gift must fall within the broad charitable purpose of the Foundation. In addition, the Foundation Board and staff must be able to assure 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 must also be sure that it can administer the terms of the gift in accordance with the donor's wishes.

### **FOUNDATION'S RESPONSIBILITIES**

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. 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)
- ◆ The Foundation's responsibility to provide periodic financial statements on donors funds

Staff should maintain a written record of discussions with donors. 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.

## **FORM OF GIFTS TO THE FOUNDATION**

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

- ◆ Cash or cash equivalents
- ◆ Credit card gifts
- ◆ Checks
- ◆ Marketable securities
- ◆ Gifts of personal property for use in Foundation offices or programs
- ◆ Life insurance policies, except as noted below

### **Gifts requiring Board approval**

- ◆ Tangible personal property that is not readily marketable
- ◆ Real estate/properties
- ◆ Closely-held and C and S Corporation stock
- ◆ Partnership and LLC interests
- ◆ Accounts receivable (gifts of loans, notes, mortgages, etc.)
- ◆ Gifts of intellectual property, mineral reserves, precious metals and other types of assets carrying their own challenges
- ◆ Gifts whose structure falls outside the ordinary purposes, bylaws and procedures of the Foundation
- ◆ Life insurance policies requiring future premium payments by the Foundation

**See Appendix A for detail on each gift category**

## **GIFTS DECLINED**

The Foundation reserves the right to refuse any gift it believes is not in the best interests of promoting a healthy, caring community

## **TYPES OF FUNDS**

The Foundation offers a continuum of funds designed to be responsive to donor needs. All types of Foundation funds can provide added value to philanthropy in the community. Permanent endowment funds are invested in the pooled asset fund for maximum appreciation. Endowment funds are subject to the Foundation's spending policy, which include the intent that the corpus or principal is not invaded for granting purposes. The fund types are listed in the order of maximum added value.

**ENDOWED DISCRETIONARY FUNDS** (Funds with the potential to benefit the entire community on a long term basis)

### **Undesignated**

An undesignated fund is the donor's broadest option. An undesignated fund can reach out to all charitable organizations serving the arts, education, health, and human services. The Foundation funds those projects that best meet the community's most pressing needs even when those needs change over time. By making a gift or bequest to create an

undesignated fund, a donor can create a living legacy that will grow and change as the community does.

The undesignated fund is best suited for:

- ◆ The donor who wants his or her gift to have the broadest impact on a community over time.
- ◆ The client who recognizes that community agencies and needs change over time and wants his or her gift to remain flexible to respond to those changes.

### **Field-of-Interest Funds**

Field of interest funds allow donors to address a cause or issue of particular importance to them without being locked into naming specific charities. The donor names the purpose of the fund, such as meeting the needs of children, combating illiteracy, or promoting the arts. The Foundation identifies the projects that can most effectively accomplish that goal at any given time.

The field of interest fund is most appropriate for:

- ◆ The donor who has an abiding interest in a particular charitable cause rather than specific organizations.
- ◆ The donor who recognizes that charitable organizations change in mission.
- ◆ The donor who wishes to fund emerging projects with a certain target audience.

**ENDOWED RESTRICTED FUNDS** (The funds with which the Foundation adds value to certain areas of the community)

### **Designated Fund**

The designated fund names a particular charity or charities to benefit from the fund. The designated charity benefits from the Foundation's pooled investment management capabilities, and the donor has the assurance of knowing that, if the organization ceases to exist, the Foundation's Board will preserve his or her intent by redirecting the fund toward an agency with a similar mission. Designated funds are most appropriate for:

- ◆ The donor who wishes to support a particular charity but wants third-party oversight to ensure that principal is not invaded or that the gift is used as he or she specified.
- ◆ The donor who wants to make an endowment gift to a charity that does not have extensive investment management capability.

### **Scholarship Funds**

A scholarship is designed to provide students the opportunity to obtain higher education. Scholarships can be tailored to the donor's desires. They can be designed for a specific college or technical college, or a specific career. Scholarships recipients can be chosen based on grades, income, community activities, school activities etc... whatever the donor wants to set as parameters.

### **Advised Funds**

The donor retains an advisory capacity in making grants from the fund. The minimum level of individual grant distribution shall be \$100. All grants made from advised funds will be distributed to other charitable entities provided they meet the qualifications set forth by sections 501(c)(3) and 170(b)(1)(A) of the Internal Revenue Code. A grant from an advised fund cannot be used to satisfy an irrevocable personal or corporate pledge or obligation of the donor, or to provide a benefit to the donor such as paying membership dues. The donor-advised fund is able to use both principal and interest if the donor wishes.

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

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

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. Community foundations that held such assets in donor advised funds on the date of enactment will have a much longer period to divest under the same complicated transition relief given to private foundations in 1969.

In addition:

- ◆ Generally, when an advised fund is established, the fund may, upon the donor's request, be advised by a person representing up to two generations—the donor's and one additional generation.
- ◆ When advisors from the second-generation become active advisors, the fund, if not already endowed, will become an endowed fund (unless the donor has left other instructions) and the Foundation's spending policy will determine the amount available for distribution annually.
- ◆ In addition, the donor (and the successor advisors) will be encouraged to take advantage of the knowledge and expertise of the Foundation's grantmaking staff. The Foundation will encourage advisors to give a portion of the grant funds remaining to the Legacy Endowment Fund of CFSW.

The Board will consider an exception to the above policy upon request of the donor to involve a third generation. The response to a donor who has requested that a third generation be included as successor advisors will take into account the desire of the donor to encourage/expect that:

- A. Successor advisor (whether residing within the service area of the Foundation or not) will be active participants in the fund.
- B. A portion of the advised fund will remain within the service area of the Foundation.

**NON- ENDOWED RESTRICTED FUNDS** (Funds with which the Foundation adds minimal value to the community)

**Pass-through Funds**

Pass-through funds are created primarily for time-specific projects and are not invested in the Foundation's long-term pooled assets, rather they are invested in highly liquid money market accounts in order to meet the needs of the funds. These funds allow disbursement of principal and are not restricted by the Foundation's spending policy.

**Capital Campaign Funds**

The Foundation will accept and administer capital campaign funds. The cost of administering the non-endowed portion of the campaign will be estimated up front and an appropriate fee will be agreed upon at the inception of the campaign.

**ACKNOWLEDGMENT**

Donors shall receive an expression of sincere thanks and gratitude from the Foundation and an acknowledgement of the gift 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 therefrom, in furtherance of its exempt purpose.

**ACTING AS TRUSTEE**

The Foundation may not serve as a trustee. Further, no employee shall serve as a trustee, conservator, executor, or personal representative for one of the Foundation's donors or prospects

**INVESTMENT OF GIFTS**

It is the policy of the Foundation to convert all gifts to cash as soon as possible. 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 asset contributed. In particular, donors give up the right to choose investments, investment managers, brokers or to veto investment choices for their gifts.

However, when the size of the fund warrants a separate investment consideration, the Foundation will endeavor to accommodate requests from donors for separate investment of fund assets, or use of a particular investment manager, broker or agent in accordance with the Investment Policy, and may consult with donors on investment options for such funds.

### **COST OF ACCEPTING AND ADMINISTERING GIFTS**

Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, 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 by the assets of the individual funds, except for those special circumstances as determined by the Gift Acceptance Committee. Custodial, investment and administrative fees will be paid from the respective funds in accordance with the Foundation's guidelines and fee schedule.

### **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.

Adopted by the Board of Directors October 16, 2002  
Revised July 18, 2012  
Revised April 17, 2013  
Revised/Approved July 26, 2017

## **Appendix A**

### **Forms of Gifts to the Foundation**

Gifts to the Foundation take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon a donor's death.

If the value of a gift other than cash or marketable securities exceeds \$5,000, a donor is required to have a qualified appraisal performed and submitted to the IRS on form 8283. If such gifts are sold within two years of receipt at a price other than the appraised value, Form 8282 must be filed by the Foundation.

The Foundation reserves the right to accept or reject any gift as it sees fit. It is the policy of the Foundation to convert all gifts to cash as soon as possible. Real estate and other assets which have potential liability associated with them will only be accepted if the Foundation agrees to accept the property.

#### **Cash**

The Foundation accepts cash, checks, or money orders made payable to the Community Foundation of Southern Wisconsin or any of its funds.

#### **Marketable Securities**

The Foundation will add the net proceeds resulting from the sale of a marketable securities contribution to a fund of the Foundation.

#### **Stock in Privately Owned Companies and Partnerships**

Donors wishing to make gifts of stock in a closely-held C corporation or S corporation, or a gift of a partnership or LLC interest, must have it valued by a qualified independent valuation, accounting or appraisal company prior to making a contribution. If it is immediately marketable, it will be sold. Otherwise, it will be held by the Foundation until it is able to be redeemed or sold for cash.

Generally, the Foundation does not accept gifts of general partnership or LLC interests due to potential unlimited liability.

The acceptability of a gift of closely-held C or S corporation stock, or a partnership or LLC interest will depend on the ultimate financial liability of the Foundation, the amount of management attention required, whether the gift provides minority or majority control, or whether the donor requires that such interest not be sold.

Consideration will be given to whether the C or S corporation, or partnership or LLC interest, generates unrelated business taxable income, if there is corresponding revenue to pay such taxes, the nature of the business, record-keeping and accounting requirements, and how quickly the gift can be converted to cash.



### **Life Insurance Policies**

The Foundation will accept gifts of permanent life insurance policies if the Foundation is named as owner of or is assigned ownership of such policies. Policies continuing on a premium-paying basis will be maintained as such by the Foundation as long as the donor makes gifts to the Foundation in the amount of the premiums due. Premiums can be a reducing amount if dividends are directed toward future premiums. Should such premium gifts not be forthcoming, the Foundation may, on the recommendation of the Board, elect:

- ◆ To have the Foundation continue the premium payments.
- ◆ To surrender the policy in exchange for its cash surrender value.
- ◆ To involve procedures under which the existing policy values can sustain the policy without further outlay of Foundation funds for premium. This can take on any of the following forms:
  - ◆ Change the dividends to Net (have the dividends pay future premiums)
  - ◆ Use the Automatic Premium Loan feature (Borrow against the cash value to pay future premiums)
  - ◆ Use a combination of the two previous options (Have the dividends pay as much of the premium as possible and borrow against the cash value for the remainder amount)
  - ◆ Change the policy to “Paid-Up,” in which case, no more premiums will be due.

The Foundation discourages the contributions of life insurance policies subject to policy loans and reserves the right to accept or reject such policies as well as those carrying assignments to other entities. The Foundation will consider its own interest, and the best interest of the donor, in light of tax ramifications in determining on a case-by-case basis the acceptability of encumbered life insurance policies

### **Gifts Naming Multiple Beneficiaries**

From time-to-time, donors may wish to designate multiple beneficiaries of proceeds from their life insurance policies, IRAs, other qualified retirement plans, pooled income funds, gift annuities, or other forms of gifts to the Foundation. The Foundation encourages donors to name other charitable organizations as beneficiaries on the contract. However, if the Foundation is named as sole beneficiary and then requested to distribute funds to other organizations, the following guidelines shall apply:

- A. The Board will take into consideration the amount of the total gift, the amount designated for the Foundation (both discretionary and restricted), the added value to the community, and in the case of life insurance policies, whether or not the premiums are paid up.
- B. In the case where the Foundation becomes the sole owner of a donor’s life insurance policy, the Foundation subsequently has the exclusive right to change the beneficiary/distributee designations. It can then name the Foundation or other charitable organizations as beneficiaries. These other charitable organizations must

qualify as such under Section 501(c)(3) and which are described under section 170(b)(1)(A) of the Internal Revenue Code.

If a policy beneficiary/distribute designation is to be changed to a charitable organization other than the Foundation, the Foundation shall consider the charitable intentions of the donor. It is understood, however, that a donor's recommendations in this regard are advisory and that the Foundation, as owner of the policy, retains exclusive authority to direct the death benefits, maturity, and surrender proceeds of the policy.

### **Estate / Real Property**

If a donor wishes to contribute real property, or an interest in real property, to the Foundation either directly or through a life estate arrangement, the Board shall consider all facts and circumstances in determining whether to recommend accepting the gift. Donors always should be advised to confer with their own counsel to review the terms of the gift.

Following the Appendix is the Community Foundation of Southern Wisconsin *Real Estate Donor Guidelines, Real Estate Contribution Agreement, Condition Report and Real Estate Acceptance Policy*. These Documents will be utilized for all transactions involving real estate gifts.

### **Tangible Personal Property**

The donor will be advised whether the gift will be retained and used by the Foundation or disposed of immediately.

### **Accounts Receivable**

The Foundation will consider gifts of loans, notes, and mortgages, subject to review by the Board.

### **Bequest Gifts**

The Foundation will apply 5% of a bequest, once received, to the Legacy Fund for Operations.