



## **GIFT ACCEPTANCE POLICIES AND GUIDELINES**

The purpose of this policy of the West Tennessee Healthcare Foundation, DBA Community Foundation of West Tennessee ("The Foundation") is to serve the best interests of The Foundation, its donors, its grantees, and its community by providing guidelines for negotiating and accepting various gifts. 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, to both the donors and The Foundation, in screening proposed gifts.

It is important to The Foundation that donors feel good about the gifts they make, both in advance and in hindsight. The Foundation urges donors to consult their own financial and legal advisors as they contemplate any gifts to charity, which might have an impact on their tax or estate planning. IRS rules and regulations change constantly, as do legal and accounting solutions. The Foundation can assist in this process but cannot offer tax or legal counsel to donors.

The purpose of the gift must fall within the broad charitable purpose of The Foundation. In addition, The Foundation Board of Trustees ("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 understand how any costs associated with the acceptance of the gift will be covered, either by the donor or through the sale or disposition of the asset. The Foundation must also assure that it can administer the terms of the gift in accordance with the donor's wishes and intentions.

The Foundation also endorses and subscribes to their Confidentiality and Donor Privacy Policies. Copies of those policies can be provided upon request.

### **Authorization**

It is the policy of the Board to encourage donors to make outright, planned, and testamentary gifts to The Foundation. Planned and testamentary gift types include bequests, charitable gift annuities, charitable remainder trusts, charitable lead trusts, retained life estates, gifts of life insurance or retirement assets, interests in business entities such as partnerships or closely-held stock, and other such gift arrangements as may emerge as solutions in tax and estate planning. It is the Board's directive that staff shall seek such gifts, and that adequate staff and resources for a fully effective program are maintained.

### **Purpose of Gifts**

The purposes of all gifts to The Foundation must be related to the mission of The Foundation. When a gift has a specific purpose, the purpose and the procedures for their administration shall be defined, when feasible, in an agreement signed by the donor. Such

agreements are to be written according to existing templates unless amendments are approved by the Executive Committee of The Foundation.

The Foundation will accept gifts without donor restrictions. If such gifts are made, The Foundation will ensure that the gift will be used to further the mission of The Foundation.

### **Procedures for Review of Gifts**

In reviewing gifts to The Foundation, the staff considers the following criteria:

- The charitable intent and ultimate community benefit
- The nature of any restrictions
- The permanency of the gift, or in the case of a non-permanent fund, the long-term relationship with the donor thereof, and the amount of time the fund will remain with The Foundation
- Projected costs of managing the gift asset
- Fee revenues to The Foundation for administering the gift

The Foundation may also seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- Closely held stock transfers that are subject to restrictions or buy-sell agreements
- Documents naming The Foundation as Trustee
- Gifts involving contracts, such as bargain sales or other documents requiring The Foundation to assume an obligation
- Transactions with potential conflict of interest that may invoke IRS sanctions
- Other instances in which use of counsel is deemed appropriate by the Executive Committee

The Foundation management (President, Vice President, Chief Financial Officer) is further authorized to turn down any gifts if they do not fit these criteria, if the donor is unable or unwilling to supply required information, if the gifts in anyway put other Foundation assets at risk, and/or if the gifts are deemed to be intended to establish funds for a purpose that may fall outside the mission, bylaws, and procedures of The Foundation.

### **Types of Funds**

The Foundation establishes funds in response to community needs and donors' charitable priorities. The Board of The Foundation has responsibility for acceptance, management, and disposition of funds. Options for fund structures to accept gifts within The Foundation include:

- Affiliates – Support a variety of charitable purposes and organizations within a specific community, county, or region. A local advisory board is appointed within each affiliate community, which has grantmaking and asset acquisition responsibility for that area.
- Agency Funds – Created by nonprofit organizations as a means of protecting charitable dollars for the future of their mission and their work. Agency funds can be endowed or non-endowed and invested accordingly. All property transferred to an agency fund constitutes a "reciprocal transaction" as specified in Financial Accounting Standard 136 which provides that such property is recognized as a liability of The Foundation and as an asset of the nonprofit organization.

- Community Project Funds (Fiscal Sponsorship) – Created to support a project planned by a community group. The Foundation acts as the fiscal sponsor of the project by receiving gifts and making disbursements for the project. The community group oversees the project within The Foundation’s guidelines.
- Donor Advised Funds – Established by donors for unrestricted purposes. The donor, or persons identified by the donor, maintains the ability to offer recommendations to The Foundation regarding the recipients and the amount of grants from the fund. Advised funds do not have spending requirements and can be invested.
- Endowment Funds – Established as a permanent resource based on donors’ restrictions. A percentage of the fund’s value is available to grant each year, while the principal remains intact and is invested to grow over time.
- Field of Interest Funds – Address a donor’s preference for focus on a broad charitable purpose or area of concern without designation of recipient organization or programs through which charitable purposes may be served. Examples include a geographic area (West Tennessee), a target population (cancer patients), or a type of endeavor (disaster relief). The Foundation’s management determines how the proceeds of these funds are distributed.
- Impact Funds – Unrestricted and provide the greatest flexibility, allowing The Foundation to respond to the community’s pressing needs, through changing times and circumstances. The Foundation’s management determines how the proceeds of these funds are distributed.
- Scholarship Funds – Provide grants for educational purposes to assist individuals in an identified class, such as residents of a particular region, students attending a specific university, or those undertaking a selected course of study. Recipients can be selected by the educational institution, an advisory committee, or The Foundation. Scholarship funds can be invested.

## **Types of Gifts**

The Foundation accepts gifts in the form of the following assets, subject to the conditions described below. In order to provide written substantiation for gifts, the donor’s name and address must be provided.

- Cash – Gifts of cash are acceptable in any form such as cash, check, credit card, among other methods.
- Tangible Personal Property – Gifts of assets such as art, antiques, jewelry, collectibles, boats, airplanes, equipment, gems, and metals, etc. must be accompanied by a qualified appraisal. Unless the property is to be used in connection with The Foundation’s work, it will be sold at the highest possible price as soon as possible after the conveyance. Commitments can rarely be made to keep the gifts of personal property. If a lengthy selling period is anticipated based on a gift of property for which there is not a ready or identifiable market, The Foundation may ask the donor to cover the expenses (ex. Insurance costs, staff time associated with the sale) with a cash gift.

If the value of the donated property exceeds \$5,000, the donor must get a qualified appraisal for contributions of property (other than money or publicly traded securities). The Foundation is not a qualified appraiser for valuing donated property.

- Pledges – Written pledges to make gifts may be made applicable to any fund within The Foundation. A schedule of pledges payable should be included in the fund agreement, a letter of intent, or other written instruction from the donor.
- Securities - The Foundation can accept both publicly traded securities and closely held securities.
  - Publicly Traded Securities - Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a rule, all marketable securities shall be sold upon receipt. In some cases, marketable securities may be restricted by applicable securities laws. In such instances, the final determination on the acceptance of the restricted securities shall be made by the Executive Committee of The Foundation.
  - Closely Held Securities - Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the Executive Committee of The Foundation. However, gifts must be reviewed prior to acceptance to determine that:
    - there are no restrictions on the securities that would prevent The Foundation from ultimately converting those assets to cash,
    - the security is marketable, and
    - the security will not generate any undesirable tax consequences for The Foundation.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities shall be made by the Executive Committee of The Foundation and legal counsel when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

- Life Insurance - The Foundation must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. The Foundation, as owner and beneficiary, may elect to continue to pay the premiums if the donor contributes a fully deductible annual amount that is equal to or greater than the premium.
- Real Estate – Gifts of real estate should be made to The Foundation Charitable Holdings LLC and include certain procedural steps:
  - A site visit to the property
  - An environmental assessment paid for by the donor in order to avoid potential liability for environmental cleanup and toxic and hazardous materials issues related to real estate gifts.

- At least one qualified appraisal provided by the donor, so that unencumbered real property can be accepted at fair market value.
- Evidence of clear title to the property must be provided by the donor (property with multiple owners will be accepted only if all owners of the property agree in writing to the gift).
- Determination as to whether the property has a mortgage or is subject to other liens or encumbrances.
- Prior to the acceptance of a gift of real property, The Foundation and the donor must agree, in writing, on arrangements for paying expenses associated with the property, including taxes and assessments, insurance coverage and maintenance costs.

In addition to the considerations listed above, commercial properties and businesses will be examined in relationship to the potential for exposure of The Foundation to unrelated business taxable income. Further details related to gifts of real estate are included in Appendix A.

- Charitable Gift Annuities- The Foundation may offer charitable gift annuities. A charitable gift annuity is a lump-sum gift, from which donors or their designated beneficiaries receive annual payments, determined by the amount of the gift, age(s) of the beneficiary(ies) and annuity rates in effect at the time of the gift. The minimum gift for funding is \$5,000. There may be two annuitants, but no more. Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Foundation will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the remaining principal will be added to an endowment with restrictions designated by the donor.
- Charitable Remainder Trusts - The Foundation may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Executive Committee of The Foundation. The Foundation will not accept appointment as Trustee of a charitable remainder trust.
- Charitable Lead Trusts - The Foundation may accept a designation as income beneficiary of a charitable lead trust. The Foundation will not accept an appointment as Trustee of a charitable lead trust.
- Retirement Plan Beneficiary Designations - Donors are encouraged to name The Foundation as beneficiary of their retirement plans. Such designations will not be recorded as gifts to The Foundation until the gift is irrevocable. The present value of that gift may be recorded at the time the gift becomes irrevocable.
- Bequests – Bequests to The Foundation enable donors to provide a set amount, a percentage of their estate, or that all remaining assets go to accomplish the designated charitable goals. The Foundation would encourage donors to inform The Foundation of any gifts being contemplated so there is an understanding of the donor's intentions. Donors using planned giving may establish any type of fund. The will, trust, or other documents should specify The Foundation as the charitable recipient and name the fund to which the gift will contribute. The type and purpose of the fund is to be described in detail in a separate fund agreement. If no fund type is detailed in the agreement or bequest, the funds will be added to an endowment with purpose restrictions designated by the donor.

- **Remainder Interests In Property** - The Foundation will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of accepting gifts of real estate. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, The Foundation may use the property or reduce it to cash. Where The Foundation receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary.
- **Oil, Gas, and Mineral Interests** - The Foundation may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest, the gift shall be approved by the Executive Committee, and if necessary, by The Foundation's legal counsel. Criteria for acceptance of the property shall include:
  - Gifts of surface rights should have a value of \$20,000 or greater.
  - Gifts of oil, gas and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).
  - The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate
  - A working interest is rarely accepted. A working interest may only be accepted where there is a plan to minimize potential liability and tax consequences.
  - The property should undergo an environmental review to ensure that The Foundation has no current or potential exposure to environmental liability.
- **Bargain Sales** - The Foundation will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of The Foundation. All bargain sales must be reviewed by the Executive Committee and approved by the Board. Factors used in determining the appropriateness of the transaction include:
  - The Foundation must obtain an independent appraisal substantiating the value of the property.
  - If the Foundation assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
  - The Foundation must determine that it will use the property, or that there is a market for sale of the property, allowing sale within 12 months of receipt.
  - The Foundation must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

### **Changes to this Policy**

The Foundation will occasionally update this policy. Updates will be noted with a date and brief description at the end of the document.

<b>Revised on</b>	<b>Description</b>
04.22.2021	Updated language
10.27.2016	Updated language – Added Section E-I

## APPENDIX A

### Environmental Interview

This interview is designed for use with current and/or prior owners or managers of the property.

Date of Interview \_\_\_\_\_ Interviewer \_\_\_\_\_

Person Interviewed \_\_\_\_\_ Relation to Property \_\_\_\_\_

Property Description \_\_\_\_\_

Type of Property:

Agricultural \_\_\_\_\_ Timber \_\_\_\_\_

Commercial \_\_\_\_\_ Manufacturing \_\_\_\_\_

Undeveloped Land \_\_\_\_\_ Residential \_\_\_\_\_

Other \_\_\_\_\_

1. Indicate prior uses of property. \_\_\_\_\_

2. Are you aware of any environmentally sensitive situations on the property? \_\_\_\_\_

If yes, describe: \_\_\_\_\_

3. For uses identified in question 1, has an environmental license or permit ever been issued?

Yes \_\_\_\_\_ No \_\_\_\_\_

4. Are there any oil, fuel or chemical storage tanks on the property located above or below ground?

Yes \_\_\_\_\_ No \_\_\_\_\_

5. Has an environmental assessment been previously conducted?

Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, provide a copy of the report.

6. If available, attach maps or surveys that describe the property to this questionnaire.

Attached \_\_\_\_\_ None Available \_\_\_\_\_

7. If you are unable to furnish the information requested above, please provide a reliable source that may be able to furnish this information.

## Property Inspection Checklist for Current Environmental Conditions

Name of Inspector \_\_\_\_\_ Date of Inspection \_\_\_\_\_

Owner of Property \_\_\_\_\_ Estimated Size \_\_\_\_\_

Location of Property \_\_\_\_\_ Current Use \_\_\_\_\_

Number of years the current use has been in effect \_\_\_\_\_

Brief history of property use (list past use and former tenants, and source of information)

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## Environmental Site Inspection Checklist

An on-site inspection revealed the following: (Yes / No)

- Stressed or denuded vegetation or unusual barren areas \_\_\_\_\_
- Discoloration, oil sheens or foul/unusual odors in water \_\_\_\_\_
- Dump site \_\_\_\_\_
- Tire/battery/chemical storage or disposal \_\_\_\_\_
- Storage drums \_\_\_\_\_
- Above or below ground storage tanks, vent or filler pipes \_\_\_\_\_
- Evidence of petroleum or oil products \_\_\_\_\_
- Evidence of PCBs (electrical transformers, capacitors) \_\_\_\_\_
- Subject or adjoining property used for industrial purposes \_\_\_\_\_
- Existing structures: If yes, indicate if there is:
  - Evidence of chemical spills/leaks \_\_\_\_\_
  - Evidence of asbestos \_\_\_\_\_
  - Any source of air emission \_\_\_\_\_
- Does property appear on National/State Hazardous Site list? \_\_\_\_\_

If yes to any of the above, describe: \_\_\_\_\_

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## Evaluation of Known Environmental Factors

( ) Based on the evaluation of known, discovered or observed environmental factors, there is no evidence of environmental contamination on this or neighboring properties, and no further action is recommended.

( ) Based on the evaluation of known, discovered or observed environmental factors, there is evidence of possible environmental contamination on this or neighboring properties and further investigation is recommended. (Complete Evaluation of Known Environmental Factors Form if this block is checked.)

\_\_\_\_\_  
Person Completing                      Title                      Date

\_\_\_\_\_  
Acceptance of Form                      Approved By Title                      Date

## Evaluation of Known Environmental Forms

Check the appropriate response to each statement based on all sources of information, including the Environmental Site Inspection Checklist: (Yes / No)

- This property (or adjacent property) appears on federal, state or other environmental agency list of sites identified for environmental investigation or cleanup. \_\_\_\_\_
- This property is developed and used for an industrial or manufacturing purpose. \_\_\_\_\_
- This property is undeveloped land used for landfill or waste dump purpose. \_\_\_\_\_
- The prior, current or proposed use of this property involves the generation, storage, treatment or disposal of any potentially hazardous materials, oil/petroleum products or other substances regulated by environmental laws and agencies.

Specify: \_\_\_\_\_

- Activities on adjacent properties may have contributed to the environmental contamination of the subject property. \_\_\_\_\_
- This property is near a flood plain, wetland or ecologically sensitive area. \_\_\_\_\_
- The Environmental Site Inspection revealed evidence of possible environmental contamination. \_\_\_\_\_
- The donor has revealed potential sources or causes of environmental contamination. \_\_\_\_\_
- This property is used for agricultural purposes. \_\_\_\_\_

( ) Based on the evaluation of known environmental factors, there is no evidence of possible environmental contamination on this or neighboring properties and no further action is recommended.

( ) Based on the evaluation of known environmental factors, there is evidence of possible environmental contamination on this or neighboring properties and further investigation is recommended.

Recommendations: \_\_\_\_\_  
\_\_\_\_\_

Person Completing	Title	Date
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