

## **SAMPLE GIFT ACCEPTANCE POLICIES AND GUIDELINES**

The Livonia Community Foundation (hereinafter the "Foundation"), a not for profit organization organized under the laws of the State of Michigan, encourages the solicitation and acceptance of gifts for purposes that will help the Foundation to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the Foundation or for the benefit of any of its programs.

The mission of the Livonia Community Foundation is to:

Receive and administer funds which support and assist, and to make grants and gifts in aid in the support and assistance of the following:

1. Promotion and development of community resources, properties and civic treasures.
2. Promotion, support and development of public interest of the arts and other local cultural undertakings.
3. Promotion of charitable programs and charitable activities for the welfare of the community and the needs of its citizens, which shall include, but shall not be limited to the areas of health, social services, safety, housing, education, and similar areas, all for the benefit of the City of Livonia and its citizens.

### ***I. Purpose of Policies and Guidelines***

The Board of Trustees of the Foundation and its staff solicit current and deferred gifts from individuals, corporations, and other foundations to secure the future growth and missions of the Foundation. It is the purpose of these policies and guidelines to govern the acceptance of gifts to the Foundation and to provide guidance to prospective donors and their advisors when making gifts to the Foundation. The provisions of these policies shall apply to all gifts received by the Foundation for any of its programs or services.

### ***II. Use of Legal Counsel***

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

- a. Review of closely held stock transfers that are subject to restrictions or buy-sell agreements.
- b. Review of documents naming the Livonia Community Foundation as Trustee.
- c. Review of all gifts involving contracts, such as bargain sales or other documents requiring the Livonia Community Foundation to assume an obligation.

- d. Review of all transactions with potential conflict of interest that may invoke IRS sanctions.
- e. Such other instances in which use of counsel is deemed appropriate by the Gift Acceptance Committee

### ***III. Conflict of Interest***

All prospective donors shall be strongly urged to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. The Foundation will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving, shown as an appendix to this document.

### ***IV. Restrictions on Gifts***

Any gift is subject to acceptance by the Board of Trustees. In general, the Foundation will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. The Foundation will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter or the Internal Revenue Code, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the Foundation. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Gift Acceptance Committee of the Foundation. The Board of Trustees' duty in accepting any gift is to protect the assets of the Foundation.

### ***V. The Gift Acceptance Committee***

The Board of Trustees shall act as the Foundation's Gift Acceptance Committee, but they may appoint a special Gift Acceptance Committee.

The gift acceptance committee is charged with the responsibility of reviewing gifts made to the Foundation, properly screening and accepting those gifts, and making recommendations to the Board of Trustees on gift acceptance issues where appropriate.

### ***VI. Types of Gifts***

#### **A. Types of Gifts**

1. Cash
2. Tangible Personal Property
3. Securities
4. Real Estate
5. Remainder Interests in Property
6. Oil, Gas, and Mineral Interests
7. Bargain Sales

8. Life Insurance
9. Charitable Gift Annuities
10. Charitable Remainder Trusts
11. Charitable Lead Trusts
12. Retirement Plan Beneficiary Designations
13. Bequests
14. Life Insurance Beneficiary Designations

B. The following criteria govern the acceptance of each gift form:

1. **Cash:** Cash is acceptable in any form under \$10,000.00 without proper IRS disclosure. Checks shall be made payable to the Livonia Community Foundation and shall be delivered or mailed to the Foundation's administrative offices.
2. **Tangible Personal Property:** All gifts of tangible personal property shall be examined in light of the following criteria:
  - Does the property have the capacity to fulfill the mission of the Charity?
  - Is the property marketable?
  - Are there any undue restrictions on the use, display, or sale of the property?
  - Are there any carrying costs for the property?

The final determination on the acceptance of other tangible property gifts shall be made by the Gift Acceptance Committee of the Foundation.

3. **Securities:** The Foundation may 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 general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Investment Committee. In some cases marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the Gift Acceptance 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 Gift Acceptance Committee of the

Foundation. However, gifts must be reviewed prior to acceptance to determine that:

- There are no restrictions on the security 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 Charity.

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 Gift Acceptance Committee of the Foundation and legal counsel where necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

4. **Real Estate:** Gifts of real estate may include developed or undeveloped property, or property subject to a prior life interest. Prior to acceptance of real estate, the Foundation shall require an initial environmental review of the property to insure that the property is not contaminated with environmental damage. Environmental inspection forms are attached as an appendix to this document. In the event that the initial inspection reveals a potential problem, the Charity shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be an expense of the donor.

Where appropriate, a title binder shall be obtained by the Foundation prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor.

Prior to acceptance of the real property, the gift shall be approved by the Gift Acceptance Committee of the Foundation and by its legal counsel. Criteria for acceptance of the property shall include:

- Is the property useful for the purposes of the Charity?
- Is the property marketable?
- Are there any restrictions, reservations, easements, or other limitations associated with the property that limit its usefulness?
- Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
- Does the environmental audit reflect that the property is not damaged?

5. **Remainder Interests In Property:** The Foundation may accept a remainder interest in a personal residence, farm, or vacation home subject to the provisions of paragraph 4. above. 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.
6. **Oil, Gas, and Mineral Interests:** The Charity may accept oil and gas property interests, where appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the Gift Acceptance 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.
  - If the interest is a working interest, the organization should determine the impact on the Foundation so that it may develop a plan to minimize that impact if accepted.
  - The property should undergo an environmental review to ensure that the Foundation has no current or potential exposure to environmental liability.
7. **Bargain Sales:** The Foundation may enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the Charity. All bargain sales must be reviewed and recommended by the Gift Acceptance Committee and approved by the Board of Trustees. 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.

8. **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. If the donor contributes future premium payments, the Charity will include the entire amount of the additional premium payment as a gift in the year that it is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Foundation may:

- Continue to pay the premiums,
- Convert the policy to paid up insurance, or
- Surrender the policy for its current cash value.

9. **Charitable Gift Annuities:** The Foundation may offer through an agent charitable gift annuities. The minimum gift for funding shall be \$5,000. The Foundation President may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Foundation President may approve exceptions to this payment schedule.

The Foundation shall not accept real estate, tangible personal property, or any other liquid asset in exchange for current charitable gift annuities. The Foundation may accept real estate, tangible personal property, or other liquid assets in exchange for deferred gift annuities so long as there is at least a 5 year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the President of the Foundation approves the arrangement.

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 funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to the Foundation's general endowment funds, or to such specific fund as designated by the donor.

10. **Charitable Remainder Trusts:** The Foundation may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Gift Acceptance Committee of the Foundation. The Foundation will not accept appointment as Trustee of a charitable remainder trust.

11. **Charitable Lead Trusts:** The Foundation may accept a designation as income beneficiary of a charitable lead trust. The Board of the Foundation will not accept an appointment as Trustee of a charitable lead trust.
12. **Retirement Plan Beneficiary Designations:** Donors and supporters of the Foundation shall be encouraged to name the Foundation as beneficiary of their retirement plans. Such designations shall not be recorded as gifts to the Foundation until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
13. **Bequests:** Donors and supporters of the Foundation shall be encouraged to make bequests to the Foundation under their wills and trusts. Such bequests shall not be recorded as gifts to the Foundation until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
14. **Life Insurance Beneficiary Designations:** Donors and supporters of the Foundation shall be encouraged to name the Charity as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to the Charity until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

## VII. Miscellaneous Provisions

- A. **Securing appraisals and legal fees for gifts to the Foundation:** It shall be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to the Foundation.
- B. **Valuation of gifts for development purposes:** The Foundation shall record a gift received by the Foundation at its valuation for gift purposes on the date of gift.
- C. **Responsibility for IRS Filings upon sale of gift items:** The Gift Acceptance Committee of the Foundation is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the Foundation where the charitable deduction value of the item was \$5,000 or greater. The Foundation must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.

- D. Acknowledgement of all gifts made to the Foundation and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the Board of Trustees. IRS Publication 561 *Determining the Value of Donated Property* and IRS Publication 526 *Charitable Contributions* are attached to these policies as an Appendix.

### **VIII. Changes to Policies**

These policies and guidelines have been reviewed and accepted by the Board of Trustees of the Foundation. The Gift Acceptance Committee of the Foundation must approve any changes to or deviations from these policies.

Approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

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President, Board of Trustees, The Livonia Community Foundation

### **ATTACHMENTS**

1. Model Standards of Practice of the Charitable Gift Planner
2. Environmental Review Forms
3. IRS Form 8282 and Instructions
4. IRS Publication 561 Determining the Value of Donated Property
5. IRS Publication 526 Charitable Contributions