



# Gift Acceptance Policy

These gift acceptance policies and guidelines are set forth to:

- Protect the interests of donors of charitable gifts to The Community Foundation (TCF).
- Protect the interests of TCF.
- Delineate the administrative responsibilities of TCF with respect to charitable gifts.

These guidelines cannot embrace all areas in which judgment must be exercised. TCF staff and Board of Directors must exercise sound judgment in handling situations not specifically covered. In view of the importance of charitable gifts to TCF and the community-at-large, those charged with attracting and maintaining them must be given wide latitude and, at the same time, must insure that the dignity and integrity of TCF, the good of the community and the best interest of TCF's donors be maintained.

## **TCF Responsibilities**

TCF staff will disclose to all prospective donors certain important benefits and liabilities that reasonably could be expected to influence the donor's decision to make a gift to TCF. In particular, donors will be made aware of:

- the irrevocability of a gift,
- prohibitions on certain donor restrictions, and
- items subject to external conditions not controlled by TCF (e.g., market value, investment return and income yield for example).

TCF will not provide specific tax, financial or legal advice to a donor. The role of TCF staff is to inform, guide and assist the donor in fulfilling his or her philanthropic wishes but never to pressure or unduly influence a donor's decision.

TCF adheres to the principles and practices set forth in the Donor's Bill of Rights (see Appendix A).

## **Role of the Board of Directors**

The Board of Directors (the "Board") is responsible for policy-making and oversight of TCF's operations and may amend or supplement these policies and guidelines at any time.

## **Variance Power**

Federal income tax regulations require that a community foundation's governing instruments include a "variance power." The variance power contained in TCF's Bylaws states that the Board can 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, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community.

## **Funds**

TCF has developed several types of funds to help donors carry out their philanthropy and encourage donors to help TCF accomplish its mission. These funds are subject to policies approved by the Board of Directors. A donor may contribute to any existing fund of TCF or may wish to establish a new fund

of one of the types described below. As a general policy, TCF will establish a separate fund upon the donor's request subject to a minimum contribution value established by TCF. The initial minimum amount to establish most of the funds described below is \$5,000, but funds are typically established for a donation between \$10,000 and \$1 million. Note that this policy and amounts are subject to change.

All funds described in this section below are governed by a written fund agreement between TCF and the donor as well as by applicable federal and state laws.

Following is a brief description of the types of funds available through TCF.

#### *Community Endowment*

The Community Endowment is a pool of unrestricted endowed funds established for the greatest flexibility and benefit of the Harrisonburg and Rockingham County community. The Community Endowment accepts gifts of any size and is the perfect vehicle for a donor to give back to this community without designating a specific need. The Board of Directors determines how distributions from discretionary funds are used.

Unrestricted gifts of less than \$10,000 will be placed in TCF operating fund. Unrestricted gifts of \$10,000 or more shall go to the Community Endowment.

#### *Area of Interest Funds*

An Area of Interest Fund allows a donor to choose a specific area of interest for which to provide regular funding without limiting contributions to only one organization in that area. Distributions will be determined by TCF and may be made to any nonprofit organization or charitable initiative that falls within the scope of that area of interest. When deemed appropriate, TCF may create an advisory committee to make recommendations for such distributions. This type of fund is usually endowed.

Examples of area of interest funds include, without limitation, funds designated to assist children and youth, to support environmental or beautification efforts, or to promote the arts and culture.

#### *Donor Advised Funds*

A Donor Advised Fund allows a donor to support nonprofit organizations and charitable initiatives by recommending grants. The fund may be endowed or non-endowed. TCF Board has final authority to approve grants from donor advised funds.

#### *Corporate Advised Funds*

A Corporate Donor Advised Fund allows a corporation to establish a fund at a time that is best from a tax standpoint and then enjoy recommending grants to nonprofit organizations and charitable initiatives over a period of time. TCF Board has final authority to approve grants from these funds.

#### *Pass-Through Funds*

A Pass-Through Fund is used for a gift that is more temporary gift in nature. It enables a donor to make a single contribution to TCF and then advise that distributions be made to various nonprofit organizations or charitable initiatives. A pass-through gift may also come to TCF as a planned/estate gift.

### *Designated Funds*

A Designated Fund enables a donor to advise annual distributions to a single or multiple nonprofit organizations and charitable initiatives as established by the donor when the fund is set up. The fund is usually endowed. Generally, distributions are determined by applying TCF's Endowed Funds Annual Distribution Policy.

### *Agency Funds or Endowments*

An Agency Fund or Endowment is established by a nonprofit organization to establish a fund for its own benefit within TCF. By doing so, an organization or initiative can gain greater diversification of investments than it could independently, while minimizing administrative burdens and expenses. This is also a means of savings or for a perpetual stream of annual income. An agency wishing to transfer funds to TCF to establish an Agency Fund or Endowment must submit a resolution from its Board of Directors stating that the majority of the board members approved the action.

### *Scholarship Funds*

Scholarship Funds allow a donor to establish an endowment to fund annual scholarships based on parameters the donor defines. TCF will manage as much or little of the process as the donor requests. A minimum of \$25,000 is required to create a Scholarship Fund. It is desirable that the Scholarship Fund to be established while the donor is living, allowing TCF staff to work through a cycle of distributing funds for students, addressing questions that will arise during that process. Funds are sent directly to the college the recipient chooses.

### *Signature Foundation*

A Signature Foundation is a fund for the donor who has the means to leave a legacy of giving back to the community at \$1,000,000 or more. Most Signature Foundation Funds are endowed and usually bear the family name and symbolize the donor's care and generosity to Harrisonburg & Rockingham County. This could be a gift from an individual donor or a transfer of assets from a private foundation where the private foundation name is retained as the fund name, and as a Signature Foundation at TCF. These funds can be Donor Advised Funds, Designated Funds or Area of Interest Funds.

### *Fundraising Fund*

A Fundraising Fund benefits a nonprofit organization or charitable initiative. TCF will acknowledge gifts and manage pledges on behalf of the organization.

### *Supporting Organizations*

A supporting organization is a grant-making organization that avoids the burdens of private foundation tax status by being operated, supervised, or controlled by, or in connection with, TCF. Supporting organizations generally operate somewhat independently of TCF, and they must operate exclusively for the benefit of TCF.

## **Authority and Procedures for Accepting Gifts**

### *Committee Roles and Responsibilities*

The Board of Directors and Community Engagement Committee have specific responsibilities with respect to Development. The Community Engagement Committees will assist in developing fund-

raising plans and goals for TCF and will actively participate and carry out TCF's development efforts. In addition, the responsibilities of the Board include periodic review and recommendations of development and gift acceptance policies and guidelines that are consistent with established policies and guidelines for Board approval.

#### *Gift Procedures*

The Executive Director has the overall authority to handle inquiries, negotiate with donors, assemble documentation, and retain expert technical consultants on behalf of TCF. The Executive Director is authorized to accept all gifts and bequests on behalf of TCF unless one or more of the following circumstances applies:

1. The gift or bequest includes a restriction or suggestion regarding TCF's use of funds that would raise legal, ethical, policy or practical concerns for TCF;
2. The gift or bequest includes instructions on investment allocation of gift assets or designation of investment manager of such assets; or
3. In the judgment of the Executive Director, there are other risks or concerns that should be reviewed by the Committee.

#### *Procedure for review of gifts*

When the Executive Director, Chair and/or the Board determine that a potential gift requires further review, the Executive Director or Chair will present the terms of the gift to the Executive or Governance Committee. Presentation to the Executive/Governance Committee will take the form determined most useful by the Executive Director, e.g. phone call, email, online meeting or written communication to all available Committee members depending upon the complexity of the gift and the issues involved.

If one or more members of the Executive/Governance Committee believes that a gift or bequest should not be accepted, or that the full Board of Directors should review it, the issue will be referred to the full Board of Directors for consideration at its next regular meeting or, if time considerations make it necessary, at a special meeting. Results of the review process will be presented to the Board of Directors at its next regularly scheduled meeting. Action on the gift or bequest will not require further approval by the Board of Directors, except in the case of Designated Funds where the Board will have final approval prior to a fund's acceptance as a component fund.

Gifts requiring Executive/Governance Committee review will be handled promptly. If a gift is not accepted, the donor will be notified by staff promptly. Gift reviews will be handled with confidentiality if necessary.

Gifts requiring immediate action (e.g., gifts on December 31, or pending sale of property) may be exempted from full Executive Committee review if, in the judgment of the Executive Director, in consultation with the Board Chair, that gift may be accepted without significant reservations or in any way jeopardizing TCF's tax exempt status.

The Chair may, in an emergency or for other good reason, modify the procedure set forth in this policy for a particular gift or bequest, but shall do so only after reasonable consultation with other members of the Executive/Governance Committee and shall report the modification to the full Board of Directors at its next regular meeting.

## Policies and Guidelines

### *Criteria*

In reviewing gifts to TCF, staff and/or the Executive/Governance Committee will consider the following criteria:

- Is there charitable intent and will the community ultimately benefit?
- Is the nature of any restrictions within our expertise or policies?
- Is the gift permanent, or in the case of a non-permanent fund, how long will the fund remain with TCF?
- Will the property require ongoing management? What are the projected costs of managing the gift asset? Who will bear the expense? Who will bear the liability?
- Can the gift asset be converted into an income-producing asset?
- Does the gift asset expose TCF to unreasonable risk or burden, either in terms of dollars or staff/professional time?

### *Gifts Generally Not Requiring Special Review*

Gifts of cash, publicly traded securities or paid up life insurance policies may be accepted by the Executive Director without prior approval of the Executive/Governance Committee.

### *Cash*

TCF will accept an outright gift of cash of any amount, although gifts to establish a separate fund at TCF must meet the minimum funding requirements set by the Board. A donor may establish a fund in a single transaction, or agree to build to the minimum over whatever period of time is mutually acceptable to the donor and TCF.

### *Publicly-traded Securities*

TCF will accept gifts of publicly traded stocks and bonds at fair market values as determined under Internal Revenue Service rules. As a general rule, gifts of publicly traded securities will be sold as soon as possible, and the fund the donor established or designated will be credited with the proceeds from the sale, after commissions and expenses, if any. Gifts of securities must be valued at \$1,000 or more.

### *Life Insurance Policies*

TCF will encourage outright gifts of life insurance. The transfer of existing policies should be absolute with full ownership vested in TCF, which will have the right to surrender the policy if it so desires. The policy should have a net cash value with no outstanding loans. When applicable, the donor should agree to contribute on an annual basis the amount necessary to maintain the policy in force.

### *Retirement Plans or other "Income in Respect of a Decedent" (IRD) Assets*

TCF may be named as primary, secondary, partial or contingent beneficiary of an IRA and/or a retirement plan. The retirement plan administrator should be consulted to determine the proper designation procedure. The underlying assets will determine the level of gift acceptance review.

Methods for gifting retirement assets include:

- Naming TCF as successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse;
- Creating a testamentary charitable remainder trust with the assets upon the death of the

asset owner, naming TCF as remainder beneficiary.

#### *U.S. Savings Bonds*

Gifts of U.S. Savings Bonds are generally acceptable without special review.

#### *Gifts That May Require Special Review (Illiquid Assets)*

The following gifts may require consideration by the Executive/Governance Committee, in consultation with legal counsel where appropriate, on a case-by-case basis.

#### *Tangible Personal Property*

TCF may accept gifts of tangible personal property. In order to claim a deduction the donor will be required to seek a qualified appraisal for gifts of \$5,000 or greater. This is discussed further in the "Donor Responsibility" section below. Donors should consult with their tax advisors regarding the effect and treatment of any such gift.

TCF will evaluate proposed gifts of tangible personal property on a case-by-case basis with specific consideration of the salability of the property and expenditures necessary to accept or maintain the gift. The donor will be responsible for obtaining any appraisal necessary to comply with federal, state or local law.

#### *In-kind gifts*

In-kind gifts may be accepted and acknowledged by TCF. TCF will not attempt to place a value on donated equipment or services. It is the donor's responsibility to verify the value on the donated goods or services (under current law, contributions of services receive no tax deduction). Those who contribute services may be entitled to a tax deduction for their out-of-pocket expenses including mileage, as allowed under the Internal Revenue Code.

#### *Real Property*

The general policy regarding gifts of real property is as follows:

- a. All real property will be held by a separate limited liability company of which TCF is the sole member.
- b. The real property must have significant value in relation to both (a) the costs of holding and selling the property and (b) any liability or exposure in connection with ownership of the property.
- c. No resale agreement may be made or signed, nor any purchaser identified, prior to the gift being made.
- d. The real property must be considered to be marketable within a six month, or other reasonable, time period.
- e. As a rule, TCF will liquidate such assets as soon as practical and will reinvest the proceeds in the appropriate fund.
- f. TCF will evaluate the cost of holding and/or improving the real property against the cost of liquidating it immediately.
- g. TCF will not accept debt-encumbered real property, unless special circumstances so warrant.
- h. TCF will not accept real property located outside the U.S., unless special circumstances so warrant.
- i. Gifts of real property require a qualified appraisal. See Donor Responsibility, below.
- j. TCF reserves the right to refuse any gift of real property for any reason.

- k. All expenses associated with the evaluation (if not otherwise furnished), acquisition, retention and sale of the real property will be paid for and accounted for by TCF and shall be reimbursed to TCF at the time the real property is sold, with net proceeds used to create the named fund.

#### *Interests in Business Entities*

If TCF is offered a gift of a business interest, for example a limited partnership interest, consideration shall be given to the following: (a) the nature of the underlying assets; (b) the identity and reliability of the general partner; (c) whether income flowing from the asset is unrelated business income; (d) whether the veil of limited liability is a reliable shield from actual liability; (e) whether the cash flow from the asset will give TCF an adequate return after possible tax liabilities and assessments; and (f) any other matter raised by TCF Staff or Executive/Governance Committee Members.

The following will also be reviewed: (a) the partnership agreement or other organizational documents; (b) any leasing arrangements; (c) debt obligations; (d) tax returns; (e) K-1's; and (f) an exit strategy. Special attention shall be paid to tax and other laws with regard to Subchapter S Corporations concerning potential Unrelated Business Income Tax liabilities.

As a general matter, TCF will not accept a gift of a general partnership interest due to the unlimited liability of general partners.

TCF will not accept a gift of any interest in a sole proprietorship.

In cases where an interest gifted to TCF is promptly liquidated, but its value is less than the minimum required to establish a fund, the gift generally shall be directed to TCF's Community Endowment. The donor generally shall not have the option to direct such a gift unless it is to one of TCF's existing funds.

#### *Excess Business Holdings*

Notwithstanding any other provision hereof, TCF shall not accept any gift of a business interest in a business enterprise for a donor advised fund that TCF determines would likely subject TCF to tax under Section 4943 of the Internal Revenue Code regarding "excess business holdings."

The Pension Protection Act of 2006 amended section 4943 of the Internal Revenue Code to limit ownership of closely-held business interests in a Donor Advised Fund. The holdings of a Donor Advised Fund, together with the holdings of disqualified persons (defined as including the donor, advisor, members of their families and businesses they control) may not exceed any the following: (a) 20% of the voting stock of an incorporated business; (b) 20% of the profits interest of a partnership, joint venture, or the beneficial interest in a trust or similar entity; and (c) any interest in a sole proprietorship. These limitations do not apply if the Donor Advised Fund holds an interest that does not exceed two percent of the voting stock and two percent of the value of the business.

Donor Advised Funds receiving gifts of interests in a business enterprise have five years from the date of 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. To prevent a violation of these rules, TCF will divest itself of such holdings within five years of the date it acquired the asset. If such divestiture is not possible or practical, TCF shall transfer the asset into a new or existing fund that is not a Donor Advised Fund.

In cases where a gift could implicate the excess business holding rules, TCF will notify a potential donor of the foregoing before the gift is made.

#### *Bargain sales*

A “bargain sale” is a sale of property to TCF for an amount less than the property’s current fair market value. The excess of the value over the sale price represents a contribution. The amount of the allowable deduction for a bargain sale will be determined by the rules of the Internal Revenue Service relating to bargain sales, and the bargain sale may generate a gain for the donor.

#### *Life Estate Arrangements*

A donor may contribute a personal residence, vacation home, farm, etc., to TCF and retain the right to occupy the property until death. Upon the donor’s death, ownership of the entire interest shall pass to TCF. Such gifts will be subject to the same rules governing other gifts of real property.

#### *Planned and Testamentary Gifts*

TCF’s planned and testamentary giving program encompasses gifts which are not received by TCF until the death of the donor or other income beneficiaries.

Donors using planned and testamentary gift techniques may establish any of the fund types listed above. Will, trust or other documents should specify TCF as the charitable recipient and name the fund to which the donor’s gift will contribute. The type of fund and purpose of the fund may be described in detail in a separate fund agreement.

#### *Investment of Gifts*

TCF reserves the right to make any and all investment decisions regarding gifts to it, in accordance with its Investment Policy, and amended from time to time. In making a gift to TCF, the donor gives up all rights, title and interest in the contributed assets. This includes, without limitation, a relinquishment of the right to choose investments and investment managers, brokers, or to veto investment choices regarding the assets.

#### *Donor Recognition, Stewardship and Gift Acknowledgement*

TCF recognizes the paramount role of donors as partners with TCF in achieving its charitable purposes. TCF provides donors and other interested parties of gifts and grants from named funds. Donors are provided log-in information to view all information on a fund.

All gifts to TCF will be acknowledged and receipted in writing in a timely fashion (within 30 days) and in accordance with applicable law in force at the time of the gift. TCF will provide donors with periodic reports regarding the fund’s activities as may be appropriate or required, including market value and information necessary to the donor for preparing federal and state tax returns.

#### *Confidentiality and Anonymity*

All agreements with donors and all information concerning donors and prospective donors will be held in strict confidence by TCF. No director, committee or staff member or volunteer of TCF, either during or after his or her term or service, shall release any non-public information, except as may be required by legally authorized and enforceable requests for information by government agencies and courts. No director, officer, employee or volunteer of TCF will provide any information in response to a subpoena or other form of request without consulting legal counsel to TCF. All other requests for or

releases of information concerning a donor will be honored or allowed only if permission is obtained from the donor prior to the release of such information.

It is TCF's policy not to release, sell or license any information in its database without a donor's consent.

A donor's expressed wishes for public anonymity will be respected. Internally, only those staff members with a need to know for legal, processing or other substantive reasons will know the donor's name or details of the gift.

#### *TCF Legal Counsel*

TCF will seek the advice of legal counsel when appropriate in matters pertaining to its development program. All agreements, contracts and other legal documents relating to the development program will be reviewed by legal counsel prior to execution or use, with the exception of standard form documents described in below which have not been modified or supplemented.

#### *Standard Form Documents*

For administrative ease and convenience, TCF will develop standard fund agreements and other documents relating to TCF's development program as deemed appropriate. Legal counsel will review all such standard forms. The standard forms will be updated and revised as appropriate. TCF will provide standard forms to a prospective donor and the donor's advisors upon request and encourage their use whenever practicable.

#### *Donor's Counsel*

TCF's staff may encourage each prospective donor to seek professional advice when considering a gift to TCF and to have the terms of all proposed agreements reviewed by the donor's own legal and/or financial advisors.

#### *Donor Responsibility*

TCF will advise donors that it is the donor's responsibility to obtain and pay for any necessary appraisals, to file appropriate tax returns, and to defend against any challenges to claims for tax benefits. TCF will also advise the donor that there are no representations or indemnities with regard to the income, estate, gift or other tax consequences of any gift to TCF.

Additionally, when the value of a gift of property (other than cash or publicly traded stock) is over \$500, Donors must file I.R.S. Form 8283 with the I.R.S.

It is the donor's responsibility to provide an appraisal of all property (except cash and publicly-traded securities) with a value of \$5,000 or over to support a charitable deduction (Reg. Sec. 1.170A-13(c)(i)(i)). The appraisal must be done either within 60 days of the date of the gift or any time prior to the due date (or extended due date) of the income tax return.

If TCF receives property valued in excess of \$5,000 (or in excess of \$10,000 in the case of non-publicly traded stock), TCF will sign a copy of the appraisal report (Form 8283) which the donor attaches to his/her income tax return. By doing so, TCF is certifying receipt of the gift but not necessarily acquiescing in or agreeing with the value determination.

TCF will file I.R.S. form 8282 (Donee Information Return) with the I.R.S. and send a copy to the donor if TCF sells the gifted property within two years of receipt. I.R.C. sec. 6050L(a)

*Integrity of TCF's Activities*

TCF staff and Board members

- Cannot benefit personally from fees related to gifts received;
- Cannot participate in any activity which could be deemed a conflict of interest;
- Shall not pay a finders fee or other private inurnments to anyone as a result of such person's involvement in acquiring gifts for TCF.

Programs, trusts, contracts or commitments that would benefit TCF at the expense of the donor's interests will not be urged upon any donor. To ensure donors' goals are accomplished, all efforts will be made to solidify those goals through meetings and appropriate documentation.

*Promotion and Public Education*

TCF staff will establish appropriate ongoing programs and systems for educating and informing donors and prospective donors about TCF, its mission, activities and the community's charitable needs.

*Material Restrictions*

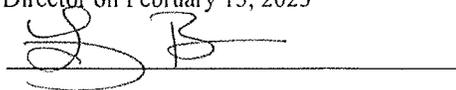
TCF reserves the right to refuse any gift if it believes that acceptance of such gift is not in the best interests of TCF. In conformity with Treasury Department regulations governing community foundations, gifts to TCF may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents TCF from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.

Approved at a regular meeting of the Board of Directors on November 16, 2016

Amended by the Board of Directors on November 16, 2022

Amended by the Board of Director on February 15, 2023

Corporate Secretary

A handwritten signature in black ink, appearing to be 'S B', is written over a horizontal line. The signature is stylized and cursive.

## Appendix A: Donor Bill of Rights

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations they are asked to support, we declare that all donors have these rights:

1. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for intended purposes.
2. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.
3. To have access to the organization's most recent financial statements.
4. To be assured that their gifts will be used for the purposes for which they were given.
5. To receive appropriate acknowledgment and recognition.
6. To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.
7. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
8. To be informed whether those seeking donations are volunteers, employees of the organization, or hired solicitors.
9. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.
10. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

*Developed by the American Association of Fundraising Counsel, Association for Healthcare Philanthropy, Council for Advancement and Support of Education, and the Association of Finance Professionals.*

