
PUBLIC POLICY

POLICY 7.01 – Asset Development: Gift Acceptances

I. POLICY

The Putnam County Community Foundation, (the “Foundation”), serves the charitable interests of its donors and the community through its gift acceptance and philanthropic services. The purpose of these gift acceptance policies is to provide guidelines for negotiating and accepting various types of gifts for different types of funds. These policies are designed to serve the best interests of the Foundation, donors who support the Foundation’s programs through charitable gifts, and a healthy and caring community. These policies are established to encourage financial support for the Foundation without encumbering it with gifts which either generate more cost than benefit, or which may be restricted in a manner that is not in keeping with the Foundation’s charitable purposes or applicable laws governing charitable gifts. These policies address both current and deferred gifts, with an emphasis on specific types of deferred gifts and gifts of non-cash property.

All gifts must serve the charitable purposes of the Foundation and are subject to the approval of the Board of Directors (the “Board”). The Foundation cannot accept gifts, which include material restrictions.

Exceptions to these policies must be approved by 2/3 vote of the Board at a regular or special meeting.

II. DEFINITIONS

A. Charitable Purposes: The Foundation exists for charitable purposes. It can accept gifts only if the donor intends for the gift to be used for charitable purposes as defined by the law. Charitable activities are defined in Treas. Reg. Section 1.501(c)3-1(d)(2) to include the following:

- i. Relief of the poor, the distressed, or the underprivileged
- ii. Advancement of religion
- iii. Advancement of education or science
- iv. Erecting or maintaining public buildings, monuments, or works
- v. Lessening the burdens of government
- vi. Lessening neighborhood tensions
- vii. Eliminating prejudice and discrimination
- viii. Defending human and civil rights secured by law
- ix. Combating community deterioration and juvenile delinquency.

B. Material Restriction: A material restriction is a condition on a gift placed by a donor that prevents the Foundation from “freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.” The component funds of the Foundation (including donor-advised funds) cannot contain any material restrictions. For detail and IRS codes, see Legal Compendium, pp. 65-75.

C. Minimum gift: Subject to the policies set forth in this document, the Foundation may accept gifts to existing funds of any size. However, no distribution shall be made from an

endowment fund until such time as the endowment's historic gift value equals or exceeds the minimum required for an endowment of that type as that minimum may be changed by the Foundation from time to time. If after three years, the endowment's historic gift value is less than the required minimum, the Foundation reserves the right to close the endowment and devote the remaining assets in the Fund for charitable purposes that most nearly resemble, in the opinion of the Board of the Foundation, the original intended purpose of the Fund.

- D. Fund Agreement:** A legal contract describing the conditions and responsibilities involved in establishing a designated, named fund within the Foundation. Foundation legal advisors will review all formal fund agreement templates. Each potential Fund Founder is encouraged to obtain legal review of the fund agreement.
- E. Variance Power:** The Foundation's Board of Directors has the legal power to make changes to a fund or endowment when its purpose is no longer necessary, can no longer be fulfilled, or has become inconsistent with the charitable needs of the community. This power to update funds when needed, helps protect donors by avoiding the need for complex and costly legal proceedings. The Foundation will submit required reports to the Indiana Attorney General's Office in accordance with the law, as the law may be amended from time to time.

III. ETHICAL STANDARDS IN DEALING WITH DONORS

A. Ethical Standards Statement

The Foundation is committed to the highest ethical standards of philanthropy and development. In all transactions between potential donors and the Foundation, the Foundation will aspire to provide accurate information and full disclosure of benefits and liabilities that could influence a donor's decision including the following:

- i. The irrevocability of a gift
- ii. Prohibitions on donor restrictions
- iii. Items that are subject to variability such as market value, investment return, and income yield
- iv. The Foundation's responsibility to provide periodic financial statements with regard to funds
- v. Investment policies and other information needed by donors to make an informed choice about using the Foundation as a vehicle for charitable giving.

B. Informed Decision-Making Practices

Policies, forms, literature, and verbal conversations consistently encourage donors to consult with independent professional advisors prior to making gifts to the Foundation. All persons establishing a fund will be informed of the Foundation's Statement of Donor Rights.

C. Preservation of Donor Interests

- i. It is the policy of the Foundation that the best interest of the donor and donor intent is always primary.
- ii. The role of the Foundation's staff is to inform, guide, and assist the donor in fulfilling his or her philanthropic goals, without pressure or undue influence.
- iii. No program, agreement, trust, contract or commitment shall be knowingly urged upon any prospective donor, which would benefit the Foundation at the expense of the donor's interest and welfare.
- iv. The Foundation strives to discern and follow not only the technical and legal requirements of a donor's gift, but also the spirit of the gift and the donor's

charitable intent.

D. GIFT ACCEPTANCE AND GIFT INSTRUMENT SIGNING AUTHORITY

- i. Any of the Foundation's Board members or employees may accept gifts of cash, checks, or electronic transfers on behalf of the Foundation.
See Policy 1.01 - Board Delegation of Authority
- ii. The Executive Director has the authorization to accept and process the following gifts within Foundation guidelines:
 - a. Cash
 - b. Marketable securities
 - c. Bequests
 - d. Life insurance
 - e. Gifts of grain
 - f. Charitable gift annuities
- iii. Review by the Finance Committee and approval by the Board is required for all other types of gifts.
 - a. The Board reserves the right to refuse a gift and will provide a written explanation for any such refusal within 60 days
- iv. In judgement with the Executive Director, gifts with the potential of causing appearances of impropriety, creating an expectation of improper influence or requiring activities the Foundation is unable to fulfill, will be reviewed by legal counsel and the Executive Committee prior to acceptance.

E. TYPES OF GIFTS ACCEPTED

- i. To mostly fulfill the donor wishes, the Foundation accepts a variety of different types of gifts, including but not limited to:
 - a. Cash
 - b. Publicly-traded securities
 - c. Wills and bequests
 - d. Life insurance
 - e. Tangible gifts including real property
 - f. Real estate
 - g. Gifts of grain
 - h. Retirement assets including IRA charitable rollover
 - i. Charitable gift annuities, both immediate and deferred

F. COSTS OF ACCEPTING AND ADMINISTERING GIFTS

- i. Generally, costs associated with the acceptance of a gift are borne by the donor and include the following:
 - a. Donor's attorney's fees
 - b. Accounting fees
 - c. Appraisal and escrow fees
- ii. The direct costs of administering gifts are generally paid out of the individual funds' assets.

G. INVESTMENT OF GIFTS

- i. The Foundation reserves the right to make any or all decisions regarding investment of gifts in accordance with its Investment Policy, as amended from time to time.

- a. In making a gift to the Foundation, the donor gives up all rights, title, and interest to the assets contributed.
 - b. In particular, the donor relinquishes the right to choose investments and investment managers, brokers, or to veto investment choices for the contributed assets.
- ii. The Foundation offers various investment vehicles and, when allowed by Foundation policy and permitted under law, the Foundation will consider investment recommendations from donors.

H. FUNDRAISING BY DONORS

Because the Foundation is legally responsible for all fundraising undertaken on its behalf, fundraising undertaken by donors in connection with funds of the Foundation must be approved in advance by the Foundation pursuant to the Foundation's Donor-Initiated Fundraising Policy. All such fundraising activities are also subject to the Foundation's supervision.

See Policy 7.03 - Asset Development: Donor-Initiated Fundraising

I. GIFT ACKNOWLEDGEMENT AND RECOGNITION

- i. If a gift is accepted, each donor will receive documentation of receipt of the gift and regular communication from the Foundation regardless of the gift.
- ii. Donors reserve the freedom to determine the degree and type of recognition they prefer with the following considerations in mind:
 - a. Gifts will be publicly recognized according to Foundation policies unless instructed otherwise.
 - b. In carrying out the Foundation's development program, staff will recognize and acknowledge donors both publicly and privately subject to the Foundation's Confidential Information Policy.
See Policy 1.06 - Governance: Confidential Information Policy
 - c. The Foundation respects the confidentiality of donors who do not wish to be publicly recognized.
- iii. Every gift acknowledgement letter informs the donor of the following:
 - a. That gifts are irrevocable
 - b. That the Foundation has exclusive legal control of the gift

7.01.1 - Acceptance Procedures for Gifts of Cash

I. GENERAL PROCEDURES

- iv. The Foundation accepts gifts of cash in the following ways:
 - a. United States currency
 - b. Checks payable to the Putnam County Community Foundation
 - c. Credit card
 - d. Electronic transfer to the Foundation's accounts
- v. Gifts of cash will generally be accepted and processed by the Foundation staff unless the Foundation's Board determines that it meets one or more of the following criteria:
 - a. Acceptance of the gift may be seen as a conflict of interest
 - b. Acceptance of the gift may cause the appearance of impropriety
 - c. The Foundation cannot meet the restrictions placed upon the gift or on the recognition request

7.01.2 - Acceptance Procedures for Gifts of Publicly-Traded Securities

I. GENERAL PROCEDURES

A. Definitions

- i. **Value of Gift:** The amount of the donation of the securities will be determined by taking the mean value between the high and low quotes on the date of the gift multiplied by the number of shares tendered or as determined by current IRS regulations.
- ii. **Date of Gift:** Depending upon the means of transfer, the date of the gift will be as follows:
 - a. If delivered in-person, The date the Foundation received the hand-delivered certificate and stock power
 - b. If mailed, the date the certificate and stock power are postmarked
 - c. If an electronic transfer, the date the Foundation receives the transfer
- iii. **Stock Power:** A power of attorney document used to transfer ownership of a registered security or account from the owner to another party.

B. Types of securities that may be accepted include the following:

- i. Publicly-traded stocks
- ii. Bonds
- iii. Mutual funds
- iv. Treasury bills

C. Types of securities that will not be accepted include the following:

- i. Securities which, in any way, create a liability to the Foundation
- ii. Securities that have no apparent value

D. Gifts of securities accepted by the Foundation are subject to the same policies as gifts of cash.

See Section II.A. Gifts of Cash

E. Some securities which have additional procedures for acceptance are as follows:

- i. Gifts of securities that are not readily marketable may be accepted only after thorough investigation by the Board and such advisors that the Board deems appropriate.
- ii. In general, gifts of bonds that require a holding period will be accepted and cashed when the holding period has expired.
- iii. Prior to the acceptance of an E Savings Bond or other non-assignable security, the Foundation will inform a potential donor that ordinary income may be incurred.

F. The Foundation's Board and its investment professionals will govern the disposition of securities and will make all decisions regarding the sale or retention of securities.

G. Securities will not be sold until they are in the Foundation's account to prevent the donor from incurring capital gains.

H. The amount of income tax deduction is determined by the donor's financial advisors.

I. Procedures for Accepting Securities

- i. Prior to accepting the security, Foundation staff will gather the following information:
 - a. Determining with the donor the purpose of the gift
 - b. Determining what type of security is being gifted
 - c. Determining when the security will be transferred
 - d. Determining where specific certificates of securities are held

- ii. Securities in the Possession of a Broker
 - a. Foundation staff will provide the broker with the account number where the securities are to be wire transferred.
 - b. Foundation staff will notify the broker that securities are not to be sold prior to transfer.
 - c. Foundation staff will provide the broker with the Foundation's tax ID number.
 - d. Foundation staff will notify the investment manager of the transfer.
 - e. Upon receipt of the securities transfer, the investment manager will provide the Foundation with documentation of the high, low, and average market price of the securities on the date of gift.
- iii. Securities in Possession of the Donor
 - a. Foundation staff will arrange an inventory of the certificates which includes a representative for the donor.
 - b. Transfer of ownership will occur within the following two methods:
 - (1) The donor or another authorized signer will sign the backs of the stock certificates to the ownership of the Foundation.
 - (2)** If the backs of a certificate are not signed by an authorized signer, a stock power will be completed. If the securities are mailed, they should not be endorsed. A signed stock power with a signature guarantee should be mailed separately. The Foundation will never send or store a security certificate(s) and a stock power(s) together.

7.01.3 - Acceptance Procedures for Gifts of Life Insurance

I. GENERAL PROCEDURES

- A. Authority to accept gifts of life insurance policies are subject to the Board Delegation of Authority Policy.

See Policy 1.01 - Governance: Board Delegation and Authority

- B. In general, the Foundation will not accept life insurance gifts with the expectation that the Foundation will make the premium payments.
- C. The Foundation may accept gifts of life insurance policies so long as the policy is not encumbered, i.e., there is no outstanding loan against the policy.
- D. The Foundation may accept gifts of life insurance policies that are both paid up in full and not paid up.
 - i. For non-paid up life insurance policies, donors may arrange with the Foundation to make the premium payments in the following process:
 - a. The donor may make annual gifts in the amount of the life insurance premium payments to the Foundation.
 - b. These gifts are tax deductible to the fullest extent of the law.
 - c. The Foundation will make the life insurance premium payments.
- E. In general, the Foundation will keep the life insurance policy in force.

F. Donor Responsibility

The following are the responsibility of the donor:

- i. Choose the life insurance agent
 - ii. Choose the insurance company
 - iii. For policies currently in existence, provide a statement from the issuing insurance company regarding the value of the policy at the date of contribution
 - iv. Identification of the charitable purpose of the life insurance policy in writing.
 - a. A fund agreement may be established.
 - b. If no designation, the Foundation's Board will determine the philanthropic purpose.
- G. The amount of the income tax deduction is determined by the donor's financial advisors, but in general it is the cost basis or cash surrender value, whichever is less. It is not the face value of the policy.
- H. In the event that a donor ceases making premium payments, the Foundation will consider the following options
 - i. Cash surrender
 - ii. Exchange for paid up policy with a lower face value
 - iii. Using accumulated/future dividends to make premium payments
 - iv. Using cash value to keep policy in force, or other options.
- I. Each gift of a life insurance policy giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law.
- J. The Foundation as a Beneficiary**
 - i. Persons naming the Foundation as a beneficiary of a life insurance policy are eligible to become members of the Legacy Society but are not eligible for a charitable gift tax deduction.
 - a. In order for the IRS to view a gift of life insurance as a charitable gift, the donor must make the Foundation both the owner and beneficiary of the

insurance policy. Indiana Code 27-8-18 allows a charity to own a life insurance policy on an individual.

K. Donor Gift Recognition

- i. Donor gift recognition for policies not paid in full will be the cash value of the policy on the date of the contribution.
- ii. Donor gift recognition for policies that are paid in full will be the face value of the policy.

7.01.4 - Acceptance Procedures for Gifts of Tangible Property

I. GENERAL PROCEDURES

- A. Authority to accept gifts of tangible property are subject to the Board Delegation of Authority Policy.
See Policy 1.01 - Governance: Board of Delegation Authority
- B. The Foundation accepts gifts of personal tangible property (e.g. artwork, coin collections, jewelry) which is either:
 - i. usable by the Foundation in furtherance of its exempt purposes,
 - ii. can be sold in a reasonable amount of time.
- C. The Board will take various factors into account when deciding to accept gifts of personal property, including but not limited to:
 - i. Appraised value of the property
 - ii. Transportation
 - iii. Storage costs
 - iv. Costs of selling
 - v. Maintenance and repair
 - vi. Usefulness
 - vii. Management and administrative costs
 - viii. Marketability
- D. The Foundation reserves the right to consult with its own counselors and appraisers in determining whether or not to accept gifts of tangible property.
- E. All proposed gifts of personal tangible property are subject to the following:
 - i. The Foundation will review all prior appraisals and authentication documents, if any, relating to the property.
 - ii. If the property is to be sold, the Foundation will ascertain the market for such property and estimate the costs to be incurred in connection with the sale as well as the costs of holding the property prior to sale.
 - a. All costs incurred by the Foundation in connection with the holding and sale of the property shall be charged against the sale proceeds, with the balance being credited to the fund to which the property has been contributed.
 - b. If the Foundation sells the property within two years, the Foundation will file IRS Form 8282 informing the donor and the IRS the amount for which the item(s) were sold.

D. Donor Responsibility

The following are the responsibility of the donor:

- i. Generally, all costs incurred through the evaluation of the property including the appraisal and survey.
- ii. The establishment of the value of the property.
- E. Each gift of personal tangible property for which the donor expects a charitable deduction must exceeding \$5,000 must be appraised in accordance with federal tax law.
 - i. In accordance with federal tax law, the appraisal summary must be described on the back of IRS form 8283 and signed by the appraiser.

F. Tax Deductions

- i. The Donor's tax advisor must determine the legal tax deduction allowed for a gift of tangible property. Acknowledgement letters will only include a description of the

tangible property that is being donated and the intentions of the Foundation for its use which may be selling the property.

ii. Fair Market Value

In general the donor may claim a tax deduction for the fair market value if:

- a. The donor has held the property for at least one year and one day
- b. The property has a use related to the exempt purposes of the Foundation.

iii. Cost Basis

A donor who makes a gift of tangible property that has an unrelated use to the organization may claim a charitable deduction for the cost basis of the property. Property that has an unrelated use or property that is immediately sold is property that is not related to the purpose or function of the Foundation's exempt purposes.

G. Specific Information for Gifts of Art and Collectibles

- i. The decision whether or not the art is put to a related use remains with the Foundation.
- ii. The donor must provide one qualified appraisal as to the value of the artwork or collectible(s) dated no earlier than 60 days before the proposed date of the gift.
- iii. The gift will be placed on the Foundation's books at \$1.00 unless a valid, independent appraisal is supplied.
- iv. The Foundation reserves the right to obtain its own independent appraisal, if necessary.
- v. In reviewing the acceptance of the gift, the Board shall take the following into consideration
 - a. The Foundation's interest in the item
 - b. Whether the item(s) is usable by the Foundation
 - c. Whether the item(s) is marketable
 - d. The Foundation's ability to safeguard the item(s)
 - e. The cost to insure the item(s) from theft, loss, and/or destruction

H. Specific Information for Gifts of Furniture

- i. Gifts of furniture may be accepted if the furniture is either usable by the Foundation or can be quickly sold.

I. Specific Information for Gifts of Vehicles

- i. Gifts of automobiles and other vehicles may be accepted if the vehicle is in working order and can be used by the Foundation or sold.
- ii. Vehicles will be valued by the Foundation at the retail "blue book" price, less any necessary repairs.

7.01.5 - Acceptance Procedures for Gifts of Real Estate

I. GENERAL PROCEDURES

- A. Authority to accept gifts of real estate are subject to the Board Delegation of Authority Policy.
See Policy 1.01 - Governance: Board Delegation of Authority
- B. This policy applies to all gifts of real property, including:
 - i. Outright gifts of residential property
 - ii. Outright gifts of commercial property
 - iii. Outright gifts of farmland
 - iv. Bargain sale transactions
 - v. Gifts of remainder interests in which the donor retains a life estate.
- C. The Foundation does not accept gifts of time shares.
- D. The Foundation may not accept real property if there is a problem with the title or title insurance.
- E. The Board will take various factors into account when deciding to accept gifts of personal property, including but not limited to:
 - i. Usability by the Foundation
 - ii. Readily marketable by the Foundation – ability to sell and convert to income-producing assets within a reasonable amount of time.
- F. In general any costs associated with the acceptance of a property will be charged to the Fund or to the donor. In some circumstances, the Board will consider whether the advantages of the potential gift warrant incurring these costs itself.
- G. The Foundation reserves the right to consult with its own counselors and appraisers in determining whether or not to accept gifts of real estate.

H. Required Information when Considering a Gift of Real Estate

- i. In general, it is the responsibility of the donor and their attorney, realtor, and/or CPA to provide the following information to the Foundation:
 - a. Recorded legal description of the property
 - b. Copy of the current year's property tax bill
 - c. A title review identifying the chain of owner's in the title for fifty (50) years and including the following information:
 - (1) Deed
 - (2) Conditions
 - (3) Covenants
 - (4) Restrictions
 - (5) Assessed Value
 - (6) Improvements
 - (7) Tax Level
 - (8) Back Taxes, if any
 - (9) Association agreements to discern fees or assessments that may be due
 - (10) Lease or rental agreements, if any
 - (11) Notes or mortgages, if any
 - (12) Signed environmental problems disclosure statement
- ii. Depending on the history of the real property, the following may also be requested and is at the responsibility of the donor and their attorney, realtor, and/or CPA to provide the information to the Foundation:
 - a. A Phase I Environmental Review and Phase II Environmental Review

- b. Staked survey
 - c. An inspection by a licensed inspector
 - d. Engineer's report
- iii. The Foundation may request additional information and/or documents when necessary in evaluating the proposed gift.
 - a. Whenever possible, a representative of the Foundation will visit the property to determine its nature and type to identify any potential problems not evident from information supplied by the donor that might hinder or prevent the sale of the property.

I. Issues to Consider in Evaluating a Gift of Real Estate

In deciding whether to accept gifts of real property, the Foundation will:

- i. Determine whether the real estate gift is an acceptable minimum value.
- ii. Confirm that the donor has legal capacity and is entitled to convey the property through copies of deed, title report, etc., provided by donor.
- iii. Determine whether, if property is encumbered by debt, the debt is of a level that will not unduly burden the Foundation or adversely affect the marketability of the property.
- iv. Perform a market and financial analysis prior to acceptance of the gift to determine whether the gift is a financially sound acquisition.
- v. Weigh its ability to manage commercial property for the time necessary to sell the property. For example, income producing property may subject the Foundation to unrelated business income tax and/or other types of expenses, including but not limited to, upkeep of land, maintenance of buildings and management of property.
- vi. Evaluate whether any restrictions on the gift desired by donor will jeopardize the classification of such gift as charitable.
- vii. Determine whether the property has an exempt use by the Foundation and if the property will be held for or sold.
- viii. **Costs of Acquisition, Holding, and Sale**
Prior to acceptance, the Board will consider the cost of evaluating, accepting, and disposing of the property to ensure that the Foundation will receive a significant contribution after these costs. This analysis will include the following:
 - a. Present market value
 - b. Future market value – potential for appreciation
 - c. Encumbrances
 - d. Net cost of sale
 - e. Holding costs – maintenance, management, repair, debt, taxes, insurance, etc.
- ix. **Impact on Public Relations**
Prior to acceptance, the Board will consider any potential negative public relations issues that may arise as a result of acceptance or rejection of the gift.
- x. **Donor Gift Expectations**
If the market analysis is significantly less than the appraisal or donor's expectations, this should be reviewed with the donor.
- xi. **Liability Issues**
The Board will consider whether the gift of real estate should be held in a separate corporation or trust until its sale such as a supporting organization rather than a component fund.

J. Restrictions on Property with Environmental Hazards

- i. Each potential donor will be required to warrant that the property is free from environmental hazards and agree to pay such costs should they arise in the future.
- ii. No property will be accepted which has excessive environmental or structural problems, or where the holding (carrying) cost may approach or exceed sale proceeds.
- iii. The Board will investigate potential dangers of current and past hazardous conditions on or near the property including any issues identified by the donor in the Environmental Impact Disclosure Statement.
- iv. The following prior uses or locations of the property, which is not exhaustive, should be investigated by a thorough environmental study before the property is accepted:
 - a. Service stations and trucking facilities
 - b. Underground fuel storage facilities
 - c. Chemical and manufacturing plants
 - d. Printing facilities
 - e. Photo development companies
 - f. Dumps and landfills
 - g. Dentist offices
 - h. Clothing cleaners
 - i. Property adjoining any past or present industrial complex
 - j. Any property where is a suspected presence of asbestos
 - k. Any property where there is suspected contamination

K. Appraising the Property

- i. An independent licensed appraiser selected by the Foundation will perform the appraisal
 - a. and will submit the completed appraisal and IRS Form 8283 to the Foundation.
 - b. The appraisal of the property must be done within 60 days of the date of the gift.
- ii. A copy of the completed IRS Form 8283 will be provided to the donor upon acceptance of the gift by the Board.

L. Tax Deductions

- i. The value of the gift for tax deductions is established by the donor and their tax advisors, but is generally the appraised value.

M. Distributions from a Component Fund

Distributions from a component fund that consists entirely of real property are limited to the following:

- i. The net income generated by the property less associated costs
- ii. Fees assessed by the Foundation
- iii. Any unrelated business tax imposed thereon.

N. Determining Whether to Hold or List Gifts of Real Estate

- i. Within 60 days of receipt of the gift of real property, the Board will decide whether the property is to be listed immediately or retained for future sale or use by the Foundation.
 - a. In general, donated property will be sold.
 - b. The Board will retain property in some situations including but not limited to the following:
 - (1) The property will be used by the Foundation for program purposes
 - (2) The property has the potential for exceptional appreciation
 - (3) There is a charitable reason for retaining the property.

(4) There is a financial benefit for the Foundation.

O. Specific Procedures for Listing and Selling Gifts of Real Estate

- i. If the property is to be sold, the Foundation bears the following responsibilities:
 - a. List the property either directly or with an experienced broker
 - b. List the property at no less than the original appraised value
 - (1) The Foundation has absolute discretion regarding when and at what price the property will be sold.
 - (2) In general, the Foundation will not sell property for less than the appraised value within two years of the date of gift.
 - c. Present all offers to purchase the property to the Board for acceptance of an offer
 - (1) Acceptance of an offer will be documented in Board meeting minutes and by the signatures of the individuals identified in the corporate resolution
 - d. Obtain a release from liability for environmental problems
- ii. If the Foundation sells the property within two years, the Foundation will file IRS Form 8282 informing the donor and the IRS the amount for which the item(s) were sold.
- iii. The donor cannot have previously arranged for the sale of the property as this constitutes a material restriction.

7.01.6 - Acceptance Procedures for Gifts of A Business or Commercial Real Estate

I. GENERAL PROCEDURES

- A. Authority to accept gifts of a business or commercial real estate are subject to the Board Delegation of Authority Policy
See Policy 1.01 - Governance: Board Delegation of Authority
- B. Gifts of commercial properties or business will be evaluated not only on the basis of property taxes and mortgage liabilities, but also taking into consideration the following:
 - i. The Foundation's policies that prohibit it from operating a business or engaging in unrelated business, unless specifically authorized to do so by the Board.
 - ii. The Foundation's potential to pay income tax on unrelated business income (UBIT).
 - a. For additional information on UBIT and the tax code, see the Legal Compendium, pp. 96-104.
 - iii. The Foundation's potential to incur the additional administrative costs to establish more elaborate accounting systems and to prepare a separate tax return (Form 990-T)
 - iv. The Foundation's status as a not-for-profit corporation receiving no tax benefit from depreciation of property
 - v. The Foundation's potential to incur "material restrictions", such as a requirement to assume mortgages, leases, or contracts in connection with the contribution of property, which would make the contribution a non-component fund.
 - vi. The Foundation's operating responsibilities and costs in connection with holding the property

7.01.7 - Acceptance Procedures for Gifts of Charitable Gift Annuities

I. POLICY

- A. The Foundation will accept and administer charitable gift annuities in accordance with the Indiana Code which provides a blanket statutory exemption from Charitable Gift Annuity Regulations.
- B. A charitable gift annuity is a contractual agreement between a donor and the charity issuing the gift annuity under which the donor makes an irrevocable gift of cash or property to a qualified charity. In exchange for the donated property, the charity agrees to pay a fixed amount periodically for the lifetime of one or two annuitant(s). The gift transaction is part a gift to charity and part a purchase/sale of an annuity.
- C. The Foundation will determine prudent investment protocol for each gift annuity and will consider establishing a gift annuity pool with enough assets.
 - i. The Foundation will limit the total charitable gift annuity pool to no more than 20% of the total endowment.
- D. Exceptions to this policy must be approved by a 2/3 vote of the Board at a scheduled meeting.

II. GENERAL PROCEDURES

- A. Authority to accept a charitable gift annuity is subject to the Board Delegation of Authority Policy.
See Policy 1.01 - Governance: Board Delegation of Authority
- B. **Charitable Gift Annuity Contract Information**
The Foundation will create a Charitable Gift Annuity Contract which is the legal contract that establishes the terms of the agreement between the Foundation and the donor. It will specify the charitable purpose of the gift.
 - i. The minimum gift to establish a gift annuity at the Foundation will be cash or the fair market value of publicly-traded securities valued at \$10,000.
 - ii. The minimum age of an annuitant on the date that payments begin is sixty (60).
 - iii. The Foundation will establish Gift Annuity contracts with the following gifts:
 - a. Cash
 - b. Publicly-traded securities
 - iv. The Foundation will establish a Gift Annuity contract on a case-by-case basis upon recommendation by the Finance Committee and approval by the Board for the following gifts:
 - a. Real property
 - b. Life insurance
 - v. The date of a gift annuity will be the later of either:
 - a. The date the gift was approved by the Board
 - b. The date the gift was given to a Foundation representative or the stock was transferred
 - vi. The following information must be obtained by the Foundation to create the contract:
 - a. One or two lives
 - b. Deferred or immediate
 - c. Start date
 - d. Birthdate(s)

- e. Type of gift
- f. Cash basis, if applicable
- g. Social Security Number (SSN)
- h. If helpful or necessary, current earnings on gift assets and current tax bracket
- vii. While gift annuity agreements at the time of gift are limited to one life or two lives in succession, the Foundation may write annuity contracts for:
 - a. One life
 - b. Two lives in succession
 - c. Joint and survivor annuity contracts
 - d. Testamentary gift annuity contracts for the benefit of another person.
- viii. The Foundation will write Immediate Gift Annuity contracts, which begin within one year of the date of gift.
- ix. The Foundation will write Deferred Gift Annuity contracts whose initial payment is at least one year after the date of gift.
 - a. The deferral period may be at the discretion of the donor

C. Federal Disclosure Requirements to Annuitants

As required by federal law, the Foundation will document that it has disclosed to an annuitant the following information:

- i. Name of the Foundation
- ii. Physical mailing address of the Foundation
- iii. Identification of the Foundation's directors
- iv. Identification of the Foundation's staff members
- v. Non-profit corporation information
- vi. The entity having custody of the assets
- vii. A description of different types of funds and an explanation that the fund only contains assets devoted to charity
- viii. The total assets of the Foundation
- ix. Reporting information
- x. General investment management information including:
 - a. Investment objectives
 - b. Investment strategy
 - c. Investment asset allocation
 - d. The use of consultation and professional advisors
 - e. Historical investment returns
 - f. Fees
- xi. Foundation exemption from federal laws requiring registration with the Securities Exchange Commission (SEC)
- xii. Higher annuity rates available through a commercial insurance company or other financial institutions
 - a. No charitable gift is intended in the purchase of a commercial annuity
- xiii. Current ACGA rates for persons of the same age
- xiv. Estimated taxable income information

D. Statement of Accountability

The Foundation will follow all regulations in the states it offers gift annuity agreements and will consider requirements including but not limited to:

- i. A segregated gift annuity fund
- ii. Maintaining a minimum segregated reserve for gift annuities
- iii. Registration requirements

- iv. A separate checking account(s)
- v. Investment requirements
- vi. Fees
- vii. Reporting

E. Annuity Rates to be Paid to Annuitant(s)

- i. The Foundation Board establishes the maximum annuity rate to be paid to each annuitant in a fair and prudent manner, and will not exceed the rates established annually by the American Council on Gift Annuities, Indianapolis, Indiana which are based upon actuarial data.
- ii. The fixed annuity payout amount paid by the Foundation to the annuitant will conform to Clay Brown Rules and be determined by the Board of the Foundation.
- iii. Each potential annuitant will be informed of the Uniform Gift Annuity Rate based upon the actuarial age of the annuitant(s).
- iv. The annuity rates must provide a charitable deduction of at least 10% of the value of the assets given. The annuity agreement will be written on the fair market value of the donation on the gift date.

F. Clay Brown Rules for Charitable Deductions

In accordance with the Clay Brown Rules (IRC 514(c)5), the present value, or charitable deduction, of the annuity:

- i. Must be less than 90% of the total value of the property transferred in exchange for the annuity
- ii. The annuity cannot be payable over more than two lives, and the lives must be in being at the time the gift annuity is established
- iii. The gift annuity agreement must not specify either a guaranteed minimum or maximum number of annuity payments
- iv. The amount of the periodic annuity payments cannot be subject to adjustment (by reference to the actual income produced by the transferred property).

G. Accounting

The Foundation will account for gift annuities separately and be able to determine the remainder market value of each gift annuity at its termination.

H. Payouts from Gift Annuities

- i. The Foundation will ensure semi-annual annuity payments unless otherwise designated by the donor.
- ii. Annuity payments will only be made with the social security number (SSN) or the tax identification number
- iii. Annuity payments will be rounded upward to ensure that each payment will be the same amount.
- iv. Annuity payments will be mailed in time to arrive on the payment due date.
- v. The income payout period of a charitable gift annuity must be measured by one or two lives. The annuity cannot be any of the following:
 - a. payable for a fixed term of years
 - b. guaranteed for a minimum number of years
 - c. terminated when a maximum number of years has been reached
- vi. A portion of each payment will be tax free until the annuitant has reached actuarial life expectancy, and a portion of each payment will be ordinary income.
 - a. If appreciated stock was used to create the annuity, a portion of the payment will be capital gains income.

- vii. Administrative fees will be assessed annually upon the fair market value of the assets, based upon the current administrative fee schedule of the Foundation.
- viii. A Form 1099 including capital gains information will be issues to each annuitant by January 31 of each year and copies sent to the government by February 28.
 - a. In the event that an annuitant cannot be located, the Foundation will conduct a reasonable search pursuant to the laws of the State of Indiana and the Internal Revenue Code.
- ix. The remaining value of the annuitant's estimated life payments is adjusted annually as part of the annual audit and is listed as a liability.

7.01.8 - Acceptance of Deferred or Planned Gifts

I. GENERAL PROCEDURES

- A. The benefits from deferred or planned gifts do not fully accrue to the Foundation until some future time and may be split with non-charitable beneficiaries.
- B. Foundation representatives are authorized to solicit direct charitable gifts through wills as well as contributions to establish gift annuities or charitable trusts.
- C. The Foundation will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts.
- D. In cases where gifts are complex, the Executive Director may request review by the Finance Committee.

II. SPECIFIC INFORMATION FOR VARIOUS DEFERRED OR PLANNED GIFTS

A. Bequests

- i. The Foundation accepts bequests from donors who have directed in their wills that certain assets be transferred to the Foundation and honors the wishes of the donor as expressed, but reserves the right of refusal as necessary and appropriate.
- ii. Sample bequest language for restricted and unrestricted gifts is available from the Foundation, to donors and/or advisors, upon request.
- iii. The Foundation may not be named as Executor for a donor in their will and will not serve if named.
- iv. If the minimum gift size is achieved, the Foundation may create a named fund in memory of the donor, if there is no stipulation for anonymity.

B. Retirement Plans or IRA Accounts

- i. Donors may make lifetime gifts of retirement assets or name the Foundation as the beneficiary of their plan. Retirement plans include, but are not limited to, Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans.

C. Life Income and Split-Interest Gifts

Donors may create gifts that provide income to a donor or their designee and financial benefit to the Foundation as a split-interest gift(s). Options include the following:

i. Charitable Remainder Trust

- a. This trust makes payments to one or more beneficiaries for their lifetimes, or for a fixed term, or a combination of both. Assets are put into a trust, beneficiaries are paid, and when the trust term ends, the remainder in the trust passes to the Foundation for its charitable purposes.
- b. The donor names a Trustee to manage the trust and determines whether the payout will be fixed (a charitable remainder annuity trust (CRAT)) or variable (a charitable remainder unitrust (CRUT)).
- c. Trusts can be set up during the donor's lifetime or by will.
- d. The Foundation encourages donors to consult their own legal counsel and tax advisors to create a charitable remainder trust.
- e. At the donor's request, the Foundation will confer with their advisors to assist in establishing the trust from which it will ultimately benefit.
- f. The Foundation will not serve as Trustee of the trust.

ii. Charitable Lead Trust

- a. This trust first makes distributions to the Foundation for a specified period with the remainder reverting to the donor or another beneficiary at the end of the period.
- b. The donor may set up this trust during their lifetime or in a will.
- c. The Foundation will work closely with the donor and/or their advisor to create the trust.
- d. The Foundation will not serve as Trustee of the trust.

iii. Life Estate

- a. A donor may wish to contribute a personal residence or farm to the Foundation and retain the right to use the property until death.
- b. Upon the donor's death, the Foundation will own the entire interest in the property.

iv. Charitable Gift Annuity

See 7.01.7 - Acceptance Procedures for Gifts of Charitable Gift Annuities