



ROSCOMMON COUNTY  
**COMMUNITY  
FOUNDATION**

# **GIFT ACCEPTANCE POLICY**

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ROSCOMMON COUNTY  
**COMMUNITY  
FOUNDATION**

# GIFT ACCEPTANCE POLICY

## **PURPOSE**

The purpose of this policy is to serve the best interests of the Roscommon County Community Foundation (Community Foundation) and its donors by providing guidelines for negotiating and accepting various types of gifts for various types of funds. Given the increasing complexity of IRS regulations, the volume of real estate and other property gifts, and state and federal environmental laws, the Community Foundation recognizes the value in carefully screening proposed gifts.

The purposes of the gift must fall within the broad charitable purpose of the Roscommon Community Foundation. In addition, the Community Foundation's Board and staff must be able to ensure that gifts accepted do not place other assets of the Roscommon County Community Foundation at risk, and that they can be easily converted into assets that fall within the Community Foundation's investment guidelines. The Community Foundation must also ensure that it can administer the terms of the gift in accordance with the donor's wishes.

## **COMMUNITY FOUNDATION RESPONSIBILITIES**

The Board of Trustees is responsible for policy-making and oversight of Roscommon County Community Foundation's operations. All gift policies referenced in this gift acceptance policy have been adopted by a majority vote of the trustees. Community Foundation bylaws give the trustees the power to modify fund restrictions and conditions. This variance power states that the trustees 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 (without the approval of any participating Trustee, custodian or Agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community.

Community Foundation staff should disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor's decision to make a gift to the Roscommon County Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. In particular, donors should be made aware of:

- the irrevocability of a gift,
- prohibitions on donor restrictions,
- items subject to variability (market value, investment return, and income yield),
- Roscommon County Community Foundation's responsibility to provide periodic financial statements on donor funds, and
- Roscommon County Community Foundation's responsibility to provide a donor bill of rights to donors.

Staff should maintain a written record of discussions with donors. The role of Community Foundation staff shall be to inform, guide and assist a donor in fulfilling his or her philanthropic wishes, but never to pressure or unduly influence a donor's decision.

## **GIFT ACCEPTANCE COMMITTEE AND PROCEDURE FOR REVIEW**

**Gift Acceptance Committee:** The Vice Chairman, Executive Director and two members of Roscommon County Community Foundation Board of Trustees, at least one of whom is a member of the Finance Committee, constitute the Gift Acceptance Committee, hereafter known as the "Committee."

**Procedure for Review:** Upon the determination of the Executive Director and Chairman, that a potential gift requires approval by the Gift Acceptance Committee, the terms of the gift will be presented to the Committee for review. Presentation to the Committee will take the form determined most useful by the Executive Director, e.g. telephone call, e-mail, or written communication to all available Committee members depending upon the complexity of the gift and the issues involved.

**Approval:** Approval by a quorum (three members) of the Gift Acceptance Committee, at least one of whom shall be a trustee, is required in order for a gift to be accepted. Such approval can be in verbal or written form, but must be documented and presented to the Chief Financial Officer (CFO), and must be filed with the gift documentation.

**Procedure for Referral:** After an initial review by the Gift Acceptance Committee, in some circumstances as determined by the Committee or as outlined in Appendix A, the matter will be submitted to the Chairman. A decision will be made at this level or when necessary, advice will be sought from legal counsel or other professionals or the matter will be addressed by the Board of Trustees.

## **FORMS OF GIFTS TO THE COMMUNITY FOUNDATION**

### **Guidelines on Assets Used to Make Gifts:**

Gifts to the Roscommon County Community Foundation take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon a donor's death or other forms of deferred gifts. It is the policy of the Community Foundation to convert all gifts to cash as soon as possible.

### **Gifts Not Requiring Committee Review:**

- Cash or cash equivalents, Checks - *except as noted below*
- Publicly-Traded Securities and Bonds
- Gifts of personal property for use in Community Foundation offices or programs
- Life insurance policies - *except as noted below*
- Planned gifts: Bequests - in accordance with Appendix A and B guidelines

**See Appendix A - "Forms of Gifts to the Roscommon County Community Foundation"**

**See Appendix B - "Guidelines for Acceptance of Planned Gifts"**

### **Gifts Requiring Committee Review:**

- Gifts of cash from public or donor initiated fundraising
- Closely-held C corporation and S corporation stock
- Partnership interests
- Life insurance policies requiring future premium payments by the Community Foundation
- Real Estate/Real property
- Tangible personal property that is not readily marketable
- Intangible property: Gifts of intellectual property
- Accounts receivable (gifts of loans, notes, mortgages, etc.)
- Planned gifts:
  - Retirement Plan Assets
  - Life Insurance
  - Charitable Remainder Trusts
  - Charitable Gift Annuities
  - Pooled Income Fund
  - Charitable Lead Trusts
  - Gifts of Property with Retained Life Estate
  - Bargain Sales
- Gifts whose structure fall outside the ordinary purposes, bylaws, and procedures of the Roscommon County Community Foundation

**See Appendix B - “Guidelines for Acceptance of Planned Gifts”**

**See Appendix C - “Policies and Guidelines for Promoting Funds”**

### **GIFTS DECLINED**

Roscommon County Community Foundation reserves the right to refuse any gift it believes is not in the best interests of the Community Foundation. In addition, the Community Foundation will not knowingly accept a charitable gift from a donor who:

- Has insufficient income and assets remaining after making a gift to provide for his/her needs such as personal support and healthcare.
- Has insufficient income and assets remaining after the gift to provide for his/her heirs for whom he/she is fiscally responsible.
- Has an apparent insufficient mental capacity to make a rational decision.
- Has insufficient input from competent financial, legal, and/or personal counsel.

### **TYPES OF FUNDS**

Roscommon County Community Foundation offers a range of funds designed to be responsive to donor needs. A standard Fund Agreement is required to establish an individually named fund with the Community Foundation. The minimum fund balance for each fund type is as follows:

- Unrestricted Fund: \$5,000 minimum endowed
- Field-of-Interest Fund: \$5,000 minimum endowed
- Geographic Affiliate Fund: \$5,000 minimum endowed
- Donor Advised Fund: \$10,000 minimum endowed

- Designated Fund: \$5,000 minimum endowed
- Non-Profit Organization Fund: \$20,000 minimum endowed
- Scholarship Fund: \$10,000 minimum endowed
- Supporting Organizations: \$5,000 minimum endowed
- Special Project/Community Initiative Fund: \$20,000 minimum non-endowed

See Appendix D - *“Types of Funds”*

See Appendix E - *“Roscommon County Community Foundation Service Fees”*

The Community Foundation will consider special requests to establish Funds below the Fund Minimum, stated above, subject to review of the Gift Acceptance Committee and approval of the Chairman. This is generally the case with fiscal sponsorship funds, memorial funds or funds established in conjunction with a bequest.

## **ACKNOWLEDGMENT**

Donors shall receive an expression of sincere thanks and gratitude from the Community Foundation and an acknowledgement of the gift in accordance with federal regulations within 48 business hours of acceptance of the gift.

## **PUBLICITY**

No public media exposure with respect to a donor’s gift will be generated without the consent of the donor.

## **RESTRICTIONS**

In conformance with Treasury Department regulations governing community foundations, gifts to the Roscommon County Community Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Community Foundation from freely and effectively employing the transferred assets or the income derived there from, in furtherance of its exempt purposes.

## **ACTING AS TRUSTEE**

No employee shall serve as a trustee, conservator, executor, or personal representative for one of the Roscommon County Community Foundation’s donors or prospects unless specifically approved by the Community Foundation Chairman. The Board of Trustees will be made aware of such trusteeships. All officers shall report such relationships to the Board of Trustees.

## **INVESTMENT OF GIFTS**

It is the policy of the Roscommon County Foundation to convert all gifts to cash as soon as possible. The Community Foundation reserves the right to make any or all investment decisions regarding gifts in accordance with its Investment Policy.

In making a gift to the Roscommon County Community Foundation, donors give up all rights, title, and interest to the assets contributed. In particular, donors give up the right to choose investments and investment managers, brokers, or to veto investment choices for their gifts.

However, when the size of a Fund warrants separate investment consideration (typically over \$1

million), the Community Foundation will endeavor to accommodate requests from donors for separate investment of Fund assets, or use of a particular investment manager, broker or agent in accordance with Roscommon County Community Foundation's Investment Policy, and may consult with donors on investment options for such Funds.

### **COSTS OF ACCEPTING AND ADMINISTERING GIFTS**

Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees as well as other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor.

The direct costs of administering outright and planned gifts of the Foundation will be borne from the assets of the individual Funds, except for those special circumstances as determined by the Gift Acceptance Committee.

Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the Foundation's guidelines and fee schedules.

### **CONFIDENTIALITY**

Roscommon County Community Foundation staff shall maintain strict control over files and information received from or about donors or prospective donors so as to maintain confidentiality of such information.

### **AUTHORITY TO NEGOTIATE**

Roscommon County Community Foundation management and administrative officers authorized to accept letters of transmittal and amendments thereto and to negotiate and sign charitable giving agreements with prospective donors are:

- The President, or in absence of the President, the
- Vice President, or the
- Executive Director

# APPENDIX A

## FORMS OF GIFTS TO THE COMMUNITY FOUNDATION

### **Guidelines on Assets Used to Make Gifts**

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

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

Roscommon County Community Foundation reserves the right to accept or reject any gift as it sees fit. It is the policy of the Community Foundation to convert all gifts to cash as soon as possible.

### **Cash**

The Community Foundation accepts cash, checks, or money orders made payable to the Roscommon County Community Foundation.

### **Guidelines for non-exempt organizations accepting charitable gifts of cash on behalf of component funds:**

All checks must be made payable to Roscommon County Community Foundation. The name of the fund should be written on the memo line of the check or on the remittance envelope. Checks issued to an organization other than Roscommon County Community Foundation cannot be accepted and will be returned with a letter of explanation to the sender.

The Community Foundation must approve, in advance of printing or production, all written or spoken materials (including letterhead, brochures, remittance envelopes, website content and radio or television announcements) related to solicitations to promote a Fund.

If the organization provides a remittance form or envelope the following disclosure information must be included:

- a) The "Name" Fund is a component fund of the Roscommon County Community Foundation. Application of the Community Foundation's name, component Fund name and logo must be approved in advance of printing or production.
- b) All gifts to Roscommon County Community Foundation are irrevocable.
- c) The Community Foundation reports the list of donors to the organization unless the donor specifically requests otherwise.
- d) The Community Foundation mailing address and telephone number.
- e) No goods or services were received in exchange for this contribution.

The Community Foundation will supply a list of donors, to the specific Fund, with contact information to the organization upon request. This list can be provided as hard copy or an electronic excel file. The Community Foundation will assist a Fund in creating a remittance form or envelope (at the component Fund's expense) which can include the name of the Fund, the Funds purpose, and the required disclosure information.

**Cash from donor-initiated fundraising:**

Donor-initiated fundraising events refer to those public fundraising events conducted by an individual or a non-exempt organization that are intended to raise dollars for Roscommon County Community Foundation component Funds. For example, a golf outing, fundraising dinner, auction, raffle, or other special event would be considered a public fundraising event. The term is not intended to encompass the annual giving to Funds through the Community Foundation's year-end letter and other solicitations for purely charitable purposes.

Roscommon County Community Foundation is staffed to develop endowment and other Funds through the acquisition of major and planned gifts and to cultivate new and existing relationships with donors. The Community Foundation is not equipped to operate donor-initiated or public fundraising events for its component Funds that rely upon the use of the Roscommon County Community Foundation's tax-exempt status in order to offer contributors a charitable tax deduction for their participation. The Community Foundation is held accountable for meeting all federal, state and local legal requirements for charitable solicitations related to Funds of the Roscommon County Community Foundation. It cannot delegate this responsibility to any other parties. In general, the Community Foundation will administer a donor-initiated fundraising event in association with a Fund only under extenuating circumstances and with prior approval of the Roscommon County Community Foundation's Board of Trustees.

**See Appendix C - "Policies and Guidelines for Promoting Funds"**

**Publicly-Traded Securities and Bonds:**

The Community Foundation will accept gifts of publicly traded securities and bonds for current or deferred gifts. Bonds not routinely reported in financial journals will be valued by a bond specialist. E savings bonds will not be accepted as an outright gift because they are by nature not assignable; however such bonds are acceptable as part of an estate gift. Stock subject to Section 144 restrictions, buy-sell agreements, or other restrictions on sale may be accepted subject to the approval of the Gift Acceptance Committee or Board of Trustees.

Such securities and bonds will be valued at fair market value as determined under IRS rules. Securities for which there is a recognized market are generally valued at the arithmetic mean of the highest and lowest selling prices for that stock or bond in its principal sales market on the date of the gift. The value of a share in a mutual fund is its public redemption price (the "bid price") in effect at the time of the gift.

The date of the gift is the date the security is:

- a) unconditionally delivered or mailed in proper negotiable form to the Community Foundation or its agent;
- b) the date the security is transferred and held in "street name" on the books of a brokerage firm:  
or



- c) the date the security is transferred on the books of the issuing corporation when delivered to the corporation for transfer in the Community Foundation's name.
- d) when gifts are transferred directly to one of Roscommon County Community Foundation's existing accounts, notification should be sent by the donor so that the Community Foundation can expeditiously receipt and acknowledge the gift.

**Other Business Interests:**

Gifts of stock in closely-held C corporations, S corporations and limited partnership interests for current or deferred gifts will be evaluated on a case by case basis and will be subject to approval by the Gift Acceptance Committee or Board of Trustees. All such gifts must be valued by a qualified appraiser. The qualified appraiser cannot be the donor, taxpayer, donee, or an agent of any of these. The cost of an appraisal shall be paid by the donor. Roscommon County Foundation will accept a business interest only subject to the absence of any liability by the Community Foundation, including cash calls on limited partnerships or other liabilities that would have adverse consequences for the Foundation. In the case of a business interest that is to be sold, the Community Foundation generally will not join in or participate in the issuance of warranties, representations, indemnification agreements, or covenants not to compete. The Community Foundation will charge the resulting Fund its costs associated with accepting the business interest (e.g. unrelated business income and attorney fees), upon assurance from the donor that there will be enough in the fund to pay these costs. Otherwise the donor must agree to contribute additional cash to the Fund to pay such costs.

**See “Procedures for Review of Business Interest Gifts”**

**Limitation on accepting gifts of assets to donor advised funds:**

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. A fund's holdings, together with the holdings of disqualified persons (donor, advisor, members of their families and businesses they control) may not exceed any of the following:

- 20% of the voting stock of an incorporated business;
- 20% of the profits interest of a partnership, joint venture, or the beneficial interest in a trust or similar entity;
- 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 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, it is the Roscommon County Community Foundation's policy is to divest itself of such holdings within five years from the date the Community Foundation acquired the asset. If that is not possible, the asset will be transferred to a new or existing fund that is not an advised fund. Because they are not “business enterprises,” the rule will not apply to most gifts of real property, although undeveloped land may become a business enterprise under some circumstances. Interests in investment partnerships and LLCs—including family partnerships, hedge funds, REITs, and so forth—are excluded from the definition of business enterprise as long as 95 percent or more of the entity's income is from passive sources. Examples of other property gifts that are excluded

because they are not business enterprises include: oil and gas interests (non-working); life insurance; tangible personal property (as long as it is not inventory); and remainder interests in personal residences and farms.

### **Life Insurance Policies:**

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

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

The Community Foundation discourages the contributions of life insurance policies subject to policy loans and reserves the right to accept or reject such policies as well as those carrying assignments to other entities. The Community Foundation will consider its own interest and the best interest of the donor in the light of tax ramifications in determining on a case-by-case basis the acceptability of encumbered life insurance policies. Particular care will be given to problems of self-dealing, jeopardy investments, and unrelated business income in this regard.

### **Real Estate/Real Property:**

The Community Foundation will accept gifts of real estate for current or deferred gifts subject to the approval of the Gift Acceptance Committee or the Board of Trustees. Gifts of real estate will be evaluated according to the Roscommon County Community Foundation's Procedures for Evaluating Gifts of Real Estate.

Roscommon County Community Foundation's general policy regarding gifts of real estate:

- a) The property must have significant value in relation to the costs of holding and selling
- b) The property and any liability or exposure in connection with ownership of the property.
- c) The property must be marketable within a six-month or other reasonable time period.

- d) As a rule, the Community Foundation liquidates such assets as soon as practical and reinvests the proceeds in the invested portfolio.
- e) The Community Foundation will evaluate the cost of holding and/or improving the property against the cost of liquidating the property immediately.
- f) The Community Foundation will not accept debt encumbered property, unless special circumstances so warrant.
- g) The use or image of the property must be consistent with Community Foundation's mission.
- h) The Community Foundation will not accept property located outside the U.S., unless special circumstances so warrant.
- i) Gifts of real estate may be made on a testamentary basis, subject to a retained life estate or to fund a charitable remainder trust, provided that such gifts comply with this policy.
- j) The Community Foundation reserves the right to refuse any gift of real estate.
- k) The Community Foundation will charge the eventual Fund its costs associated with accepting real estate (e.g. attorney fees).

See ***“Procedures for Evaluating Gifts of Real Estate”***

See ***“Gifts of Real Estate Disclosure Statement for Donors”***

See ***“Roscommon County Community Foundation Real Estate Acquisition Checklist”***

**Tangible Personal Property:**

The donor is responsible for obtaining and paying for a qualified appraisal. The Community Foundation will evaluate proposed gifts of personal property on a case by case basis with specific consideration of tax implications such as related use, etc.

**Intangible Personal Property:**

The Community Foundation may accept gifts of royalties or distribution rights on published works (such as books or films) where there is clear evidence of marketability or assurance of an income stream. A qualified appraisal is required.

**Accounts Receivable:**

The Community Foundation will consider gifts of loans, notes, and mortgages, subject to review and approval of the Gift Acceptance Committee.

**Planned gifts:**

- a) Bequest
- b) Retirement Plan Assets
- c) Life Insurance
- d) Charitable Remainder Trusts
- e) Charitable Gift Annuities
- f) Pooled Income Fund
- g) Charitable Lead Trusts
- h) Gifts of Property with Retained Life Estate
- i) Bargain Sales

See **Appendix B- *“Guidelines for Acceptance of Planned Gifts”***

# APPENDIX B

## Guidelines for Acceptance of Planned Gifts

- A. Bequest:** Bequests may be made by will or by revocable trust. The Community Foundation may accept a bequest of real estate on a testamentary basis, provided that the guidelines described in Appendix A are met. The Community Foundation requires a copy of all documents naming the Roscommon County Community Foundation as a beneficiary for files.
- B. Retirement Plan Assets:** The Community Foundation may accept account type retirement plans, in which a balance accumulates as principal, such as IRAs, 401(k), 403(b), and defined contribution plans. However, Roscommon County Community Foundation cannot accept annuity plans, such as defined benefit plans, in which retirement benefits are paid out as income and principal does not accumulate. Methods for gifting retirement plan assets include: (1) naming Roscommon County Community Foundation as primary, successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse; and (2) creating a testamentary CRT upon the death of the asset owner, naming Roscommon County Community Foundation as remainder beneficiary and non-charitable heirs as income beneficiaries (please see guidelines regarding CRTs). The Community Foundation requires a copy of all documents naming the Foundation as a beneficiary for files.
- C. Life Insurance:** Roscommon County Community Foundation can be designated as a primary or successor beneficiary of a life insurance policy owned by the donor. In addition, the Community Foundation may accept outright gifts of life insurance policies on which premiums remain due, subject to review and acceptance by the Gift Acceptance Committee.  
*See Appendix A for more details.*

- D. Charitable Remainder Trusts:**  
***Charitable Remainder Unitrust*** – A charitable remainder unitrust is a gift vehicle that irrevocably transfers the remainder interest on assets to the Community Foundation upon the death of the donor or the named beneficiaries, or at the end of a specified term or years. The donor has the option to name him or herself and /or others as income recipients. Payments can be made concurrently or consecutively. This form of trust may be created for the lifetime of the beneficiaries or for a maximum term of 20 years.

A straight unitrust must pay a fixed percentage of the net fair market value of its assets, valued annually to the designated beneficiaries. An income only unitrust will distribute the actual amount of income earned or the established percentage payout rate, whichever is less. An income only unitrust with make up provision uses excess income from the trust to pay the beneficiaries income lost during the years when earnings are insufficient.

The donor receives a tax deduction for the charitable remainder interest in the year the trust is established. There is no capital gains tax due on appreciated securities contributed to the unitrust.

***Charitable Remainder Annuity Trust*** – Similar to the Charitable Remainder Unitrust, a Charitable Remainder Annuity Trust is an income vehicle which irrevocably transfers remainder interest to the Foundation upon the death of the income beneficiaries.

The annuity trust pays a fixed dollar amount annually to the income beneficiaries. The amount is specified in the trust document as either a dollar amount or a percentage of the initial fair market value of the assets used to fund the trust. This amount must be at least 5% of the initial value. Once the annual amount is set it may not vary over the life of the trust. The amount payable to the beneficiaries has no relation to the income earned in the trust.

The donor's charitable deduction is based on the value of the remainder interest at the time the trust is created. There are limitations to the deduction if the annuity trust is funded with long-term securities. The remainder interest is calculated according to Treasury tables.

***Limitations and Trustees*** - The minimum gift amount to establish a trust is \$100,000. Additions to charitable remainder unitrusts must be at least \$10,000. No additions to charitable annuity trusts may be made after the initial contributions to establish the trust.

- Gifts of real estate will be considered only in relation to funding a net income unitrust or a net income with makeup unitrust or a FLIP unitrust, unless special circumstances warrant consideration for purposes of another type of charitable remainder trust.
- Gifts of partnership interests, limited liability company interests, or S corporation stock will generally not be acceptable assets to fund a charitable remainder trust, because of the likelihood that the trust would be subject to unrelated business income.
- Roscommon County Community Foundation must be named as irrevocable beneficiary.
- The remainder interest establishes a charitable fund which will be an endowed Fund.

Generally, the Roscommon County Community Foundation does not serve as trustee. As a non-trustee, Community Foundation prefers to receive a copy of the trust agreement if it or a component fund is named as a beneficiary of the trust. If the beneficiary designation is irrevocable, the Community Foundation will also want to receive periodic accounting statements, as well as the initial determination of the donor's advisor of the charitable deduction value of the gift. This should include birthdates of all permissible income recipients.

Upon a donor's request, the Gift Acceptance Committee will review a request to serve as trustee of charitable remainder trust on a case-by case basis provided that the conditions described above have been met.

The following guidelines also apply:

Fees: All trusts pay the prevailing investment management fee. Annual trustee fee is 1.00% of the trust's fair market value. If donor designates one half or more of the trust remainder to an Undesignated Fund or Field of Interest Fund the trustee fee is reduced to 0.50%.

The Roscommon County Community Foundation reserves the right to decline to serve as trustee on any trust whose payout is too high to create an appropriate charitable remainder. The Community Foundation will use the following guidelines for negotiating the terms of a CRT for which the Roscommon County Community Foundation will serve as trustee:

- 5% if life income beneficiary is younger than 60 years of age
- 6% if life income beneficiary is between 60-70 years of age
- 7% if life income beneficiary is between 70-80 years of age
- 8% if life income beneficiary is over 80 years of age

**E. Charitable Gift Annuities:** A Charitable Gift Annuity is an irrevocable, binding contract between the donor and the Roscommon County Community Foundation. It is not a trust. The donor transfers cash or securities to the Community Foundation, and the annuitant(s) will then be guaranteed a fixed dollar income return each year for lifetime or the lifetimes of other designated income beneficiaries. The rate of return is stipulated in the annuity contract, and will not vary from the rates published from time to time by the American Council on Gift Annuities. If an exception to the published rate is desired, it must be approved by the Gift Acceptance Committee. The older the annuitant(s) are at the time of the agreement, the higher the rate of return. The donor is entitled to a charitable gift deduction for income tax purposes in an amount determined by IRS formulas and the same deduction limitations and carry over privileges prevail as for other charitable gifts. Computations at the time of the transfer also determine what portion of the income paid out shall be treated, for income tax purposes, as earnings of the annuity investment and what portion shall be treated as a tax free return of the investment principal over the life expectancy of the annuitants. The entire payment is treated as ordinary income following the expiration of the actuarial life expectancy of the annuitant(s). These predetermined schedules apply to the tax treatment of the annuity throughout its life. The taxability of the annuity payments is not affected by the investment performance of the annuity fund itself.

This is the only form of planned giving under which the charitable institution is committed to continue financial returns to the beneficiaries from its own assets, if necessary, in the event that income to the Charitable Gift Annuity reserve fund should be insufficient and the Fund itself ultimately becomes exhausted.

**Guidelines relating to Gift Annuities are as follows:**

If appreciated property is offered by the donor, the Community Foundation must inform the donor, before the agreement is signed, what portion of the capital gain will be included in each periodic payment made during the life expectancies of the income beneficiaries.

The initial minimum gift for an annuity agreement shall be \$5,000, and the youngest annuitant must be at least age 55 when payments begin. Additional gift annuities shall be for a minimum of \$5,000. Gift annuity agreements will be limited to two beneficiaries. The Gift Acceptance Committee shall determine on a case-by-case basis whether to reinsure any gift annuity valued at more than \$500,000.

At the death of the last annuitant, the remaining funds will be removed from the invested funds and shall create an endowment Fund for purposes as designated by the donor. Unless the donor has stated differently, at the maturity of a gift annuity that will go into an endowed designated beneficiary Fund, the nonprofit organization(s) benefiting from the Fund may elect to receive up to 50% of the remaining assets outright. If the Fund has been set up to benefit more than one designated beneficiary, each organization may exercise its election only to the extent of 50% of its share of the remaining assets. If such an election is made, an equal amount will be distributed outright to an unrestricted Fund at Roscommon County Community Foundation established to receive such residuum distributions, and any remaining assets shall constitute an endowed designated beneficiary Fund for the nonprofit organization's benefit.



The annual fee for administration of gift annuities shall be 1.0%. Annuity agreements shall be written in conformity with the insurance code and regulations as required by the State of Michigan and the states where annuitants reside.

**Variations on gift annuities may include the following:**

***Deferred gift annuity*** - Annuity payments do not begin immediately upon receipt of the gift, but begin at a predetermined date. Annuity payout percentages are determined as of the date of the first payout.

***College gift annuity*** - Mandatory or discretionary distributions of income or annuities to a student during specific years or under specific conditions. This annuity is usually for a term of years.

***Flexible deferred gift annuity*** - Annuity payments are deferred until the donor elects to begin receiving payments. The amount of payments is determined in the year in which the decision is made. The later they begin, the higher the percentage of payout. A gift annuity may be funded by real estate or by a life estate in real estate, subject to the approval of the Gift Acceptance Committee and guidelines outlined in Appendix A.

***Testamentary gift annuity*** - A will or living trust may provide for establishment of one or more gift annuities to become effective at the death of the donor. Such annuities are managed in accordance with terms set forth during the donor's lifetime and provide for payment of an annuity to one or more persons for life, with the remainder interest passing to the Community Foundation upon the death of the last annuitant. The value of the remainder interest qualifies as a charitable deduction for estate tax purposes, but does not entitle the donor to any lifetime income tax deduction.

- F. Pooled Income Fund:** A pooled income Fund is a specific kind of trust that allows irrevocable gifts from separate donors to be co-mingled for investment purposes. In return each named income beneficiary receives a proportionate share of the net income earned by the fund for the year. Upon termination of the income interest at the death of the beneficiary, a portion of the Fund representing the value of the units assigned to that beneficiary will be distributed to an endowed component Fund of the Roscommon County Community Foundation.

Donors to the pooled income Fund receive a deduction for the present value of the charitable remainder as determined according to Treasury tables. In general, donors will avoid all capital gain taxes on transfers of appreciated assets.

Pooled income Funds accept cash or securities, but are expressly prohibited from accepting or investing in tax-exempt securities. Distributions to the beneficiary are taxed as ordinary income. A minimum gift of \$5,000 is required. The Community Foundation will evaluate these gifts on a case-by-case basis.

- G. Charitable Lead Trusts:** A charitable lead trust is an arrangement that provides the income generated on assets contributed to the trust to be paid to the Community Foundation for a designated period of years. After the time period has elapsed, the assets pass to a non-charitable beneficiary designated by the donor in the original trust.

The donor does not receive a deduction for the value of assets used to create the lead trust since the assets will eventually pass to the non-charitable beneficiaries. The donor does remove these assets from their taxable estate by transferring to the charitable lead trust.

The donor's deduction is calculated based on the value of the "lead" or charitable interest according to Treasury tables.

The Community Foundation will evaluate these gifts on a case-by-case basis. A component fund at the Roscommon County Community Foundation may be the recipient of the lead annuity interest paid out by a charitable lead trust.

- H. Gifts of Property with Retained Life Estate:** A retained life estate is an irrevocable donation of real estate that allows the donor to retain the right to use the property for life, or a specified term of years. The donor can designate himself or herself and/or the lifetime of another resident beneficiary.

The donor receives an immediate deduction based on the appraised fair market value of the real estate, less the calculated value of the retained life use.

The Community Foundation will evaluate these gifts on a case-by-case basis. A memorandum of understanding will be required outlining the respective responsibilities of the donor and the Community Foundation relating to expenses, real estate taxes, maintenance, repairs, and other items. All real estate gifts are subject to due diligence and subject to approval of the Gift Acceptance Committee in accordance with the guidelines outlined in Appendix A.

- I. Bargain Sales:** The Community Foundation will evaluate these gifts on a case-by-case basis, making certain that the donor and his or her advisor(s) are fully aware of the tax treatment of bargain sales.

**Right to Refuse Gifts: The Roscommon County Community Foundation reserves the right to refuse any gift that it believes is not in the best interests of the Foundation.**



# APPENDIX C

## Policies and Guidelines for Promoting Funds of the Community Foundation

Whether you are interested in establishing a fund with the Roscommon County Community Foundation or have already done so, we value your confidence and strive to provide you with the best possible service. Knowing that you share our commitment to honoring and protecting valued relationships with donors, these policies and guidelines have been developed to encourage a successful outcome for you, our donors and the Community Foundation and to ensure that the Roscommon County Community Foundation meets all federal, state and local legal requirements.

Occasionally groups want to increase the visibility of a particular Fund at the Roscommon County Community Foundation by undertaking some form of marketing, promotion or fundraising to benefit the Fund. This might take the form of, but is not limited to, brochures, posters, information sessions, and/or a request of money through an appeal letter to friends and associates, or events such as golf tournaments, auctions or dinners. The Community Foundation is staffed to raise endowments through acquisition of major and planned gifts. While we are committed to providing technical assistance to grow Fund assets, the Community Foundation is *not* equipped to operate or assist in public fundraising *events* such as, but not limited to, golf tournaments, auctions or dinners, to raise money for Funds at the Roscommon County Community Foundation.

### Public Fundraising by Individuals and Non-Exempt Organizations for Funds of the Community Foundation

The Community Foundation appreciates your interest and motivation in raising money for a Fund. **You may not be aware that the government regulations concerning the oversight of charitable solicitations on behalf of a component Fund of the Roscommon County Community Foundation when conducted by a non-exempt individual or organization is entirely the responsibility of the Community Foundation.** At this time, we are unable to assist event organizers with any kind of **public fundraising event** that relies upon the use of the Roscommon County Community Foundation's tax exempt status in order to offer contributors a charitable tax deduction for their participation.

*(Important note: An individual or non-exempt organization may not make a solicitation (inquiry or request) to a private, corporate or family foundation on behalf of a component fund of the Roscommon County Community Foundation.)*

### Alternatives for Promoting a Fund

There are ways, other than public fundraising events, that you may consider to promote a Fund at the Community Foundation. To help you understand what is permissible and to clarify the role of the Foundation, we provide the following information:

#### Direct, tax-deductible gifts to the Fund

- **You may promote a Fund through various forms of “passive” marketing in the name of a Fund through, for example, brochures, posters, information sessions, or a solicitation of money through an appeal letter to friends and associates.**

In response to those marketing efforts, a donor may make a direct contribution to the Fund and send it directly to the Community Foundation. Gifts of cash, checks, credit cards and appreciated assets can be accepted directly by the Community Foundation. Upon your request, the Community Foundation mails (or emails) a gift report to you or your organization on an annual basis, so that you may thank the donors for their gift. It is important to follow the Foundation's procedures for accepting gifts in various forms. The complete ***Gift Acceptance Policy*** is available upon request. Since most gifts are made in the form of a check please refer to the procedures provided in ***Gifts in the Form of Checks to Funds at the Community Foundation*** included at the end of this document.

The Community Foundation must approve, in advance of printing or production, all written or spoken materials (including letterhead, brochures, website content and radio and television announcements) related to marketing or solicitations to promote a Fund. All such materials must meet the following requirements:

- All materials must clearly state that the Fund is “a component fund of the “Roscommon County Community Foundation”
- The Community Foundation must approve the use and placement of its logo.
- Please contact the Community Foundation office to learn how to obtain approval, at least four weeks in advance of your publication deadline.

#### **Independent fundraising by an Exempt Organization**

- **You may make a gift to the Fund from the proceeds of an event or solicitation that is sponsored by a 501(c)(3) organization.**

Organizations with their own federal tax-exempt status may sponsor a fundraising event or solicitation promoting their organization and deposit the net proceeds into a Fund that has been established for the organization's benefit at the Community Foundation. The organization issues its own acknowledgement letters, and the donors receive a charitable tax deduction for their gifts because the sponsoring organization has its own charitable tax-exempt status. If publicly stating the proceeds will be deposited into a Fund at the Community Foundation, all printed and spoken material must clearly state that the Fund is “a component fund of the Roscommon County Community Foundation.”

#### **Independent fundraising by an individual or Non-Exempt Organization**

- **You may make a gift to the Fund from the proceeds of an event/solicitation for which donors were not offered a charitable tax deduction.**

Fundraising may be conducted by an individual, a group of people, or an organization without the endorsement or involvement of the Community Foundation. Generally, the person or group that plans and executes the fundraiser (for example: dinners; golf tournaments; walk-a-thons; auctions; sales of products or services; requests for money from individuals or organizations through mailings, advertisements, or oral solicitations) makes one lump sum donation (net of expenses) to the Fund. Unless the event is sponsored by another tax-exempt nonprofit organization which accepts and acknowledges the contributions, the donor may **not** take a charitable tax deduction for the contribution.

*(Important note: An individual or non-exempt organization may not make a solicitation (inquiry or request) to a private, corporate or family foundation on behalf of a component Fund of The Roscommon County Community Foundation.)*

## **GUIDELINES APPLICABLE TO NON-TAX-DEDUCTIBLE FUNDRAISING** by an individual or non-exempt organization

1. An individual or group that plans and executes a fundraising event may state that the net proceeds will benefit the general purpose of the Fund. If publicly stating the net proceeds will be deposited into a Fund at the Community Foundation, all printed and spoken material must clearly state that the Fund is “a component fund of the Roscommon County Community Foundation.”
2. The individual or group may not use the Foundation’s tax exempt number in connection with the event. Contributions made as a result of an event/solicitation will *not* qualify as a tax deductible charitable gift to the Community Foundation.
3. Event organizers are responsible for obtaining and paying for any necessary insurance, permits, licenses, approvals, etc. that may be required by local or state government. Events or activities that include raffles or other games of chance are regulated by state and local governments and must be specifically reviewed and authorized by the appropriate branch of government. Please note that, as a general rule, there is no charitable deduction for items purchased at auction or for raffle tickets. For more information please contact the Michigan Attorney General’s Office.
4. Fundraising events often require certificates of insurance or signed contracts. When the events are sponsored independently of the Community Foundation, the name of the Roscommon County Community Foundation or the Fund must not appear on any contract or agreement. (Note: Volunteers *may not* sign contracts obligating The Community Foundation.)
5. Individual participants in the event (ticket purchasers, sponsors, golf players, etc.) make their payments to the organizing individual or group, not to The Community Foundation. The organizers may record the contributors’ names and addresses and may provide a courtesy acknowledgement. The acknowledgement letter *must not* include any language stating that the letter serves as an official receipt for IRS purposes or include any reference to tax deductibility or to the contribution being made to The Community Foundation or to the Fund.
6. The planning group pays expenses and sends the net proceeds of the fundraiser to the Community Foundation for addition to the Fund. The Foundation records the gift as coming from unnamed third-party donors.

### **Note on Tax Deductibility**

Contributions to a fundraiser are only tax deductible when they are received and acknowledged directly by a qualified nonprofit organization. Depending on the event, tax deductibility may or may not be a motivating reason for donors to participate. We have often found that donors who participate in fundraising events are not doing so to receive a tax deduction. Donors often believe in the purpose of the fundraiser and will make a contribution regardless of the tax benefits to themselves.

### **Gifts in the Form of a Check to Funds at the Community Foundation**

Provided here is important information related to the Roscommon County Community Foundation’s procedures for accepting and processing gifts - specifically in the form of checks - from donors to funds at the Community Foundation.

To ensure donor intent, stewardship of resources and compliance with federal, state and local legal requirements, the following factors are addressed in the policy and procedures:

- It is important for the Foundation to honor the intent of each donor. In situations where we receive a check in our office that is made payable to another organization, it may be difficult or impossible for us to clearly understand the donor’s intent.
- In accordance with IRS guidelines for substantiating any tax deductible contribution, the

contributions must be received and acknowledged directly by a qualified non-profit organization.

It is important to understand these procedures and follow the ***Community Foundation's Policies and Guidelines for Promoting Funds*** before embarking on any marketing, promotional or fundraising activities on behalf of a Fund.

# APPENDIX D

## Types of Funds

The Foundation offers a continuum of Funds designed to be responsive to donor needs. A standard Letter of Transmittal or Fund Agreement is required to establish an individually named Fund with the Foundation. The minimum fund balance for each Fund type is as follows:

Undesignated/General Fund:	\$5,000 minimum
Field-of-Interest Fund:	\$5,000 minimum
Geographic Affiliate Fund:	\$5,000 minimum
Donor Advised Fund:	\$10,000 minimum
Designated Fund:	\$5,000 minimum
Non-Profit Organization Fund:	\$20,000 minimum
Scholarship Fund:	\$10,000 minimum
Special Project/Community Initiative Fund:	\$20,000 minimum (non endowed)

**Undesignated or General Funds:** Unrestricted or General Funds are those from which the Foundation has complete discretion in grant making. A gift to create an individually named Undesignated or General Fund must be at least \$5,000. Unless otherwise specified, the Foundation treats all Unrestricted or General Funds as endowments. All *undesignated gifts* are placed in Roscommon County General Fund. Unless otherwise specified, the Foundation treats all undesignated gifts as endowment.

**Field of Interest Funds:** The donor specifies an interest area, which can be either broadly or narrowly defined. The Community Foundation has discretion to make grants within the donor's interest area. All gifts to create a Field of Interest Fund must be at least \$5,000. Funds can be endowed, or principal may also be available for grants – as specified in the Fund Agreement. Unless otherwise specified, the Community Foundation treats all field of interest fund gifts as endowment.

**Geographic Affiliate Funds:** A geographic affiliate fund is an endowed Field of Interest Fund, benefiting a designated geographic area or interest within Roscommon County. An Advisory Committee of Foundation Trustees, from within the geographic area, are appointed on behalf of the fund and advise grant making. All gifts to create a Geographic Affiliate Fund must be at least \$5,000.

**Donor Advised Funds:** The donor retains an advisory capacity in recommending grants from the Fund which is individually named and identified with reference to the donor, donors or donor family members. Donors may be individuals, families, businesses or charitable organizations. Advised Funds are administered as component Funds of the Foundation. As such the assets of Donor Advised Funds are owned and controlled by the Roscommon County Community Foundation. All gifts to create a Donor Advised Fund must be at least \$10,000. Grants made from advised funds may only be distributed to other charitable entities that meet the qualifications set forth by sections 501(c)(3) and 170(b)(1)(A) of the Internal Revenue Service Code. A grant from an advised fund cannot be used to satisfy an irrevocable personal or corporate pledge or obligation of the donor, or to provide a benefit to the donor such as paying for tickets, membership dues, etc. In addition:

- Generally, when an advised fund is established, the fund may, upon the donor's request, be advised by persons representing up to two generations -- the donor's and one additional generation.

- The Foundation’s spending policy will determine the amount available for distribution annually.
- The donor (and the successor advisors) will be encouraged to take advantage of the knowledge and expertise of the Foundation’s grant making staff.

**Designated Funds and Non-Profit Organization (NPO) Funds:** The donor specifies one or more nonprofit organizations that will be supported by the Fund. Gifts to establish Designated Funds must be at least \$5,000. Gifts to establish NPO Funds must be at least \$20,000. Funds can be endowed, or principal may be available for grants as specified in the Fund Agreement. The Foundation reserves the right to use its variance power should the benefited beneficiary organizations cease to exist or substantially change mission.

**Scholarship Funds:** Donors may create Scholarship Funds to support student education at qualified educational institutions. All gifts to create endowed Scholarship Funds must be at least \$10,000. Gifts to create non-endowed scholarship funds do not require a minimum. Scholarship funds must have defined eligibility criteria for selection. A selection committee must be established to screen applicants and award scholarships. This committee may consist of school personnel and may include the donor, as long as no conflict of interest arises with respect to a particular applicant.

**Special Project Fund or Community Initiatives:** These Funds are non-endowed that address special projects or programs which are undertaken by the Foundation with approval of the Board of Trustees to address an unmet charitable need in the community. Gifts to establish a Special Project or Community Initiative Funds must be at least \$20,000.

**Special Fund requests:** The Foundation will consider special requests for accepting funds below the fund minimum subject to review of the Gift Acceptance Committee and approval of the Chairman. This is generally the case with fiscal sponsorship funds, memorial funds or funds established in conjunction with a bequest. Fees are flexible based on the administrative complexity of each fund on a case-by case basis.

**See Appendix E – “Roscommon County Community Foundation Service Fees”**

# APPENDIX E

## Roscommon County Community Foundation Administrative Fees

Unrestricted Named Funds - \$ 5,000 minimum Fund balance  
Administrative Fee = 1.5% annually

Field of Interest Funds - \$5,000 minimum Fund balance  
Administrative Fee = 1.5% annually

Geographic Affiliate Funds - \$5,000 minimum Fund balance  
Administrative Fee = 1.5% annually

“Freshman Year Only” Scholarship Funds - \$10,000 minimum Fund balance  
Administrative Fee = 1.5% annually

“Multi-Year” Scholarship Funds - \$10,000 minimum Fund balance  
Administrative Fee = 2.5% annually

Designated Funds - \$5,000 minimum Fund balance  
Administrative Fee = 1.5% annually

Donor Advised Funds - \$10,000 minimum Fund balance  
Administrative Fee = 1.5% annually

Non-Profit Organization - \$20,000, minimum Fund balance  
Administrative Fee = 1.5% annually

Special Project /Community Initiative Funds - \$20,000 minimum Fund balance  
Administrative Fee = 2.5% annually

### **Special Project Fund requests:**

Special Project Fund requests, non-endowed Funds of any type, which vary from the guidelines of Appendix D, must be reviewed by the Executive Director and/or Board of Trustees. The Executive Director and/or Board of Trustees will assess the appropriateness of the Fund in alignment with Community Foundation’s mission and vision. Once the Fund has been recommended for acceptance the Board will assess the complexity of the administrative work required to service each fund on a case-by case basis and recommend an appropriate fee in the range of 2.0% - 2.5%.

### **Administrative Fee Assessment:**

Endowed Funds: Administrative fees are calculated and assessed quarterly based on the Funds market value for the ending year to date balance. In the first year a Fund is established fees are pro-rated on a quarterly basis.

Non-Endowed Funds: Administrative fees are calculated and assessed quarterly based on the last day of the previous quarter, with a minimum fee per quarter of \$50.00.

Additional fees may be assessed for Funds requesting assistance with public fundraising or special endowment building efforts.



# Procedures for Review of Business Interest Gifts

## Information for Gift Acceptance Committee

In order to consider business interests, Foundation staff may request information regarding the asset to be contributed. The Foundation's staff may request the following information from the donor or professional advisor:

- Description of the asset
- Intended use of the gift
- Appraisal of the asset's fair market value
- Any special arrangements regarding sale (e.g., price considerations, investment management, potential interested purchasers)
- Articles of Incorporation, bylaws or shareholder agreements
- A written explanation of the line of business and prospects for profitability
- Information about the potential market for the business interest
- Estimated period for disposition of the interest
- Prior-year tax returns to identify historical accounting income and cash flows
- Projected timing of distributions from the business entity
- Donor's adjusted tax basis for the gift property
- Estimated cash flow to the Foundation

## Criteria for Review

The Foundation generally will consider the value of the gift and ease of administration. In addition, the Foundation will consider:

**Market Value and Marketability.** The Foundation will review a reasonably current appraisal of the fair market value of the asset, its potential income stream, capital gain and any other relevant financial information. IRS rules may require that a qualified appraisal of the property be made not more than 60 days before the contribution of the property and not later than the due date of the tax return on which a deduction for the contribution is claimed. This appraisal must be filed in order for the donor to claim a charitable tax deduction. If the asset is disposed of within two years of the date of its contribution, IRS rules require the Foundation to file an information return.

**Corporate or Partnership Governance.** The Foundation will consider information relating to the management of the business entity and the duties, background, experience, stability and other attributes of the entity's managers.

**Debt.** In addition to normal business concerns regarding debt load, the Foundation also must consider the effect of debt to determine if the Foundation may be required to pay Unrelated Business Income Tax (UBIT).



**Existing and Contingent Liabilities/Contracts.** The Foundation will review information about the nature of the business for the proposed gift so that the Foundation may consider whether there are any potential tax or other liabilities that it may incur.

**Unrelated Business Income Tax.** Certain assets, including mortgaged real estate and interests in S Corporations, limited partnerships, and limited liability companies can subject the Foundation to Unrelated Business Income Tax (UBIT). The Foundation may incur additional costs for accounting services to determine the amount of any UBIT and to report it to the IRS. The gift fund donor or Supporting Organization will be responsible for paying any UBIT and any administrative expenses associated with legal or accounting issues.

**Rights and Obligations of Shareholders or Partners.** The Foundation will review its rights and obligations as a partial owner of the business entity.

**Material Restrictions.** A gift of a business interest may not be subject to a “material restriction” as defined by IRS rules. Such restrictions guard against:

- Selling the contributed assets
- Granting oneself a right of first refusal to purchase the contributed property or assume leases affecting the property
- Contractual obligations, pledges or other liabilities
- Establishing irrevocable relationships for the maintenance or management of assets transferred to the Foundation

# PROCEDURES FOR EVALUATING GIFTS OF REAL ESTATE

## LEVEL I:

### Initial Questions for the Donor:

1. What type of gift is contemplated?
  - Outright gift to the Community Foundation?
  - Gift of undivided interest to the Community Foundation?
  - Gift to charitable remainder trust?
  - Gift to pooled income fund?
  - Charitable gift annuity?
  - Gift to charitable lead trust?
  - Other?
2. Is the property located in the United States?
3. What is the use of the property? (Is use or image consistent with the Community Foundation's mission?)
4. Is the property marketable within six months? Has the property been listed for sale previously? If so, for how long was it listed, with whom, and at what price?
5. Is the net value of the property (after costs of sale, holding, improving if necessary) at least \$100,000?
6. What is the estimated net cost of holding the property for six months?
7. Is the donor willing to cover the costs of investigation and evaluation of the property, including an appraisal, Phase One Environmental Report, title insurance, survey (for nonresidential property)?
8. Will the donor's spouse, if any, join in the gift?
9. If the donor is not an individual, has the proposed gift received the requisite approval of the donor's governing body?
10. Is the property subject to any mortgages, liens, or other encumbrances? If so, does the donor intend to pay off or secure the release of the mortgages, liens or encumbrances prior to the gift?

### Disclosure/Information Statement provided to Donor: (The following items will be included among other more marketing-oriented informational points.)

1. As a general rule, the Foundation anticipates that the Donor will cover the costs of making a gift of real estate including, but not limited to, a qualified appraisal and a Phase One Environmental Report.
2. Generally, costs relating to acceptance and liquidation of a real estate gift not covered by the Donor will be paid from the Fund or Charitable Remainder Trust.
3. As a general rule, the Foundation requires a minimum period of 90 days to evaluate a potential gift of real estate.
4. At the time of the gift, the Donor may be asked to make certain representations about the property relating to title, use, contractual agreements, wells, or other matters.
5. All accepted gifts must have received review and approval from the Board of Trustees and Level III.

## **LEVEL II:**

If staff is comfortable with the Donor's answers to LEVEL I questions, the following information is to be provided by Donor:

1. Location of property.
2. Type of property (residential, commercial, improved, unimproved).
3. Current zoning of the property.
4. Please indicate any impending zoning changes, if known.
5. Current owners of record.
6. Donor's length of ownership of the property.
7. Type of ownership of property (joint tenant, tenant in common, general partnership, limited partnership, community property).
8. Please indicate if ownership includes mineral rights, water rights, etc.
9. Is the property subject to any restrictive easements or covenants?
10. Has the property been the subject of any regulatory designations (i.e. Wetland, green acres, flood hazard area, etc.)? If so, please indicate.
11. Any threatened or pending litigation regarding the property.
12. Any levied or pending special assessments?
13. Is subdivision required in order to convey the property?
14. An estimated value for property. If a recent appraisal is available, please provide.
15. The annual property taxes and the status of the current year's taxes.
16. Please provide a copy of the most recent property tax bill, if available.
17. Any fees associated with the property (homeowners association, condo fees, sewer/water or other operating costs).
18. If there are any mortgages, please provide information on debt service and principal outstanding.
19. If the property is income producing, please provide a current operating statement.
20. If a Phase One environmental report has been received, please provide.
21. Please provide information within your knowledge regarding any contamination on or within a one-mile radius of the property.
22. Please provide information on any matter known to you that might affect the value and marketability of the property.
23. Please provide an estimate of how long it would take to sell the property.

## **LEVEL III:**

1. Preliminary evaluation by real estate consultant. If recommended, then:
2. Preliminary evaluation by Gift Acceptance Committee. If preliminary approval given, the donor will execute a letter of intent to make the gift, subject to the approval of the gift by the Gift Acceptance Committee; then:
3. Additional documentation to be obtained and reviewed by real estate and legal consultants as appropriate.

- Appraisal
- Title opinion or copy of existing title insurance policy
- Copy of the deed by which the donor acquired the property
- Copy of the most recent property tax bill
- Association agreement (if any)
- Conditions, covenants, restrictions (if any)
- Lease or rental agreements (if any)
- Notes and mortgages, including current mortgage statement (if any)
- Operating statement (if property is income producing)
- Copies of any insurance policies relating to the property
- Inspection reports
- Phase One environmental report prepared by vendor approved by the Foundation
- Survey (if property is nonresidential)
- Title insurance commitment
- Abstract of title, if available, or owner's duplicate certificate of title
- Bankruptcy, judgment and tax lien searches
- If donor is not an individual, appropriate documentation of authority to convey property (e.g., certificate of secretary or partner)
- If property is rental property:
  - tenant estoppel letters, subordination, nondisturbance and attornment agreements
  - Seller's storage tank affidavit
  - Review of code compliance
  - Review of Americans with Disabilities Act compliance
  - Individual sewage treatment system disclosure agreement
  - Review of any personal property or fixtures to be included in gift

Once LEVELS I, II, and III are completed and upon the recommendation of the consultant, where appropriate, the Gift Acceptance Committee will review and make a final recommendation on acceptance of the gift of real estate to the Board of Trustees.

The Gift Acceptance Committee will be comprised of the Vice Chairman, the Executive Director and two members of the Community Foundation's Board of Trustees, at least one of whom is a member of the Finance committee.

# GIFTS OF REAL ESTATE

## Donor Disclosure Statement

1. As a general rule, the Community Foundation anticipates that the Donor will cover the costs of making a gift of real estate including, but not limited to, a qualified appraisal and a Phase One Environmental Report.
2. Generally, costs relating to acceptance and liquidation of a real estate gift not covered by the Donor will be paid from the Fund or Charitable Remainder Trust.
3. As a general rule, the Community Foundation requires a minimum period of 90 days to evaluate a potential gift of real estate.
4. At the time of the gift, the Donor may be asked to make certain representations about the property relating to title, use, contractual agreements, wells, or other matters.
5. All accepted gifts must have received Level III review and approval.

### LEVEL I:

#### Initial Questions for the Donor:

1. What type of gift is contemplated?
  - Outright gift to Community Foundation?
  - Gift of undivided interest to Community Foundation?
  - Gift to charitable remainder trust?
  - Gift to pooled income fund?
  - Charitable gift annuity?
  - Gift to charitable lead trust?
  - Other?
2. Is the property located in the United States?
3. What is the use of the property? (Is use or image consistent with Community Foundation's mission?)
4. Is the property marketable within six months? Has the property been listed for sale previously? If so, for how long was it listed, with whom, and at what price?
5. Is the net value of the property (after costs of sale, holding, improving if necessary) at least \$100,000?
6. What is the estimated net cost of holding the property for six months?
7. Is the donor willing to cover the costs of investigation and evaluation of the property, including an appraisal, Phase One Environmental Report, title insurance, survey (for nonresidential property)?
8. Will the donor's spouse, if any, join in the gift?
9. If the donor is not an individual, has the proposed gift received the requisite approval of the donor's governing body?
10. Is the property subject to any mortgages, liens, or other encumbrances? If so, does the donor intend to pay off or secure the release of the mortgages, liens or encumbrances prior to the gift?

### LEVEL II:

If staff is comfortable with the Donor's answers to LEVEL I questions, the following information is to be provided by Donor:

1. Location of property.

2. Type of property (residential, commercial, improved, unimproved).
3. Current zoning of the property.
4. Please indicate any impending zoning changes, if known.
5. Current owners of record.
6. Donor's length of ownership of the property.
7. Type of ownership of property (joint tenant, tenant in common, general partnership, limited partnership, community property).
8. Please indicate if ownership includes mineral rights, water rights, etc.
9. Is the property subject to any restrictive easements or covenants?
10. Has the property been the subject of any regulatory designations (i.e. Wetland, green acres, flood hazard area, etc.)? If so, please indicate.
11. Any threatened or pending litigation regarding the property.
12. Any levied or pending special assessments?
13. Is subdivision required in order to convey the property?
14. An estimated value for property. If a recent appraisal is available, please provide.
15. The annual property taxes and the status of the current year's taxes.
16. Please provide a copy of the most recent property tax bill, if available.
17. Any fees associated with the property (homeowners association, condo fees, sewer/water or other operating costs).
18. If there are any mortgages, please provide information on debt service and principal outstanding.
19. If the property is income producing, please provide a current operating statement.
20. If a Phase One environmental report has been received, please provide.
21. Please provide information within your knowledge regarding any contamination on or within a one-mile radius of the property.
22. Please provide information on any matter known to you that might affect the value and marketability of the property.
23. Please provide an estimate of how long it would take to sell the property.

# ROSCOMMON COUNTY COMMUNITY FOUNDATION

## Real Estate Acquisition Checklist

Description of property:

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### CONSIDERATIONS BEFORE ACCEPTANCE OF GIFT:

- Request that the donor pay all costs associated with acceptance of property including title insurance policy, survey, environmental, and legal costs
- Review gift acceptance policies

### EVIDENCE OF CLEAR TITLE

- Obtain title insurance commitment before acquiring title
- Items to deliver to title company if available:
  - Recent prior title policy
  - Abstract
  - Condominium project
    - Master deed
    - Letter from association verifying status of assessments
  - Obtain title insurance policy after taking title

### EVIDENCE OF BOUNDARIES

- Assess need for survey
  - Obtain recent survey and review
  - Obtain mortgage report and review
  - Determine if any improvements subsequent to survey
  - Determine if surrounding properties are improved
- Obtain a survey
  - Residential properties - stake survey
  - Commercial properties - ALTA survey

### EVIDENCE OF CONDITION OF PROPERTY

- Environmental
  - Obtain Phase I Environmental Site Assessment
- Have Phase I reviewed by attorney
- Obtain Phase II sampling if any "recognized environmental conditions" were identified in Phase I
- Have Phase II reviewed by attorney
- Obtain Baseline Environmental Assessment if property meets definition as a "facility" - must be performed within 45 days of transfer
- Have BEA reviewed by MDEQ - fee is \$750
- Obtain donor disclosure statement

- Obtain building inspection
- Check with local government for code/ordinance violations
- Obtain well/septic inspection

#### RENTAL PROPERTIES

- Confirm zoning compliance with local government including use, setbacks, parking, square footage, and city registration
- Obtain copies of leases
  - Verify Lessor right to assign
  - Verify no pending real estate commissions
  - Verify existence and amount of security deposits
- Obtain copies of service contracts and management contracts
- Obtain estoppel certificate
  - Verify no lessor defaults
  - Verify no oral agreements
- Obtain copy of approved site plan

#### TRANSFER OF TITLE

- Obtain warranty deed transferring title to ROSCOMMON COUNTY COMMUNITY FOUNDATION - usually prepared by donor's attorney
- Record deed with county clerks office
- Obtain assignment of lease
- File Property Transfer Affidavit - since property is transferred for less than \$100 there is no tax on transfer
- File Real Estate Transfer Tax Valuation Affidavit
- Upon presentation by the donor, sign Form 8283 for donors' tax return

#### SALE OF PROPERTY

- Listing of property with broker – suggest no more than 10% commission and 6 months in length with a three month protected period following listing term expiration
- Prepare and file Form 8282 if property sold within 2 years of gift

#### LIABILITY AND CASUALTY INSURANCE

Obtain liability and casualty insurance. In instances where partial ownership is conveyed the primary owners are required to name ROSCOMMON COUNTY COMMUNITY FOUNDATION as an additional named insured with evidence of such being remitted to the Foundation.

#### APPROVAL

The Board of Trustees of the Foundation should be apprised of the pending gift and subsequently approve the acceptance of the gift with minutes of the meeting either in person or by written/verbal communication being prepared and signed by the Gift Acceptance Committee.

**Adopted by the Board of Trustees**

**Date: October 26, 2017**