



## **GIFT AND FUND ACCEPTANCE POLICIES**

### **Stating the Purpose of Gifts to the Foundation**

The purpose of a gift to the Golden Belt Community Foundation (“GBCF” or “the Foundation”) will be defined in a written fund agreement or deferred gift instrument signed by the donor, or his or her appointed representative and if appropriate, an officer of the Foundation.

It is the policy of the Foundation to develop a signed fund agreement prior to receiving a current outright gift, or in the case of a planned gift in which the donor is living, as soon as possible as the Foundation becomes aware of its existence.

The purpose of a gift must fall within the broad charitable purposes of the Foundation. Each proposed fund or gift would be considered on a case-by-case basis. The Foundation reserves the right to accept or decline any proposed fund or gift to the Foundation.

Standard fund agreements, which have been approved by legal counsel and Foundation directors and officers, may be used. Fund agreements will be prepared and reviewed by Foundation staff. They may also be submitted to the Foundation’s Investment committee, and if deemed necessary, legal counsel, for review.

If no direction for the use of a gift is given by the donor, then the Board may, in its absolute and sole discretion, use and apply the gift for such purposes as it may deem proper and consistent with the objectives of the Foundation.

In most cases, additional gifts may be made to existing funds of the Foundation without a new fund agreement restating the original purpose of the gift.

### **Donor Disclosures**

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 Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. They will also be provided with a written fund agreement and encouraged to read the fund agreement and attached documents, if any, thoroughly prior to signing.

In particular, donors should be made aware of

- The irrevocability of a gift
- The Foundation's variance power
- The Foundation's spending policy and definition of endowment funds
- In the case of donor-advised funds, applicable policies and limitations
- Prohibitions on donor restrictions
- Items subject to variability: market value, investment return, and income yield
- Applicable administrative and investment management fees

### **Gift and Fund Acceptance Committee**

In general, the staff of the Golden Belt Community Foundation will be authorized by the board to accept new gifts and funds subject to the policies outlined herein. To assist staff in the evaluation of complex gifts and funds, the Executive Committee shall serve as the Gift and Fund Acceptance Committee, which will have the responsibility to consider and accept gifts and funds. The following may be considered when determining whether or not the Executive Committee should be involved in the acceptance of a gift:

- the value of the asset
- the likelihood that the asset can be liquidated
- projected income from the gift if the foundation holds it as an investment (e.g., rental income stream)
- charitable nature of the gift (e.g., historic building)
- risks to the community foundation (e.g., environmental hazards, potential liability)
- carrying costs (e.g., insurance, property taxes)
- possible unrelated business income tax consequences

The committee will be charged to ensure that gifts received are consistent with these policies and that they are in the best interests of the Foundation. Committee members will reach agreement by consensus, and may elect to include advisory members who have expertise in specific types of gifts. Committee members may also review proposed funds or supporting organizations that may fall outside the ordinary scope of staff expertise.

In the case of significant disagreement or hesitancy on the part of this committee, the committee may wish to present the proposed gift or fund in a confidential way to the GBCF board of directors for further consideration. Review by legal counsel may be recommended for:

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

### **Gifts Not Requiring Prior Review**

Gifts received in the following forms can be accepted by Foundation staff and will not require prior review and approval by the Executive Committee:

- Cash or cash equivalents and checks  
The Foundation accepts cash, checks or money orders made payable to the Foundation or any of its funds.
- Marketable securities  
The Foundation will add the proceeds (sale price per share multiplied by number of shares minus brokerage fees) of a marketable securities contribution to a fund of the Foundation. In the event the Foundation receives actual stock certificates, the donor and the Foundation should properly endorse these. It is the general policy of the Foundation to sell marketable securities immediately upon receiving them. The Foundation will govern the disposition of securities and will make all decisions regarding the sale or retention of securities.
- Gifts of personal property for the Foundation's offices or programs
- Gifts of grain  
Upon being notified of a gift of grain by a donor or elevator/co-op that a gift of grain has been placed in the Foundation's account, the Foundation will execute an Order to Sell and will fax this document directly to the elevator/co-op. It is the general policy of the Foundation to sell the grain immediately upon receiving it.

Gifts that may require review or approval by the Committee include:

- Tangible personal property  
Tangible personal property may be accepted as a gift. If the value exceeds \$5,000 a donor is required to have a qualified appraisal performed and submitted on IRS form 8283. If the Foundation sells the property within two years, IRS Form 8282 must be filed by the Foundation, informing the donor and IRS of the sale price of the item(s).
- Real property
  - If a donor wishes to contribute real property or an interest in real property to the Foundation whether as an outright gift or through a deferred giving arrangement, the Foundation staff and Executive Committee shall consider all facts and circumstances whether to recommend accepting the gift. Donors should always be advised to confer with their own counsel to review the terms of the gift.
  - Policies regarding the acceptance of real property, including life estate gifts follow this document.
- Closely held and S corporation stock  
Donors wishing to make gifts of stock in a closely held corporation or S corporation must have it valued by a reputable independent accounting or appraisal company prior to making a contribution. If the stock is immediately marketable it will be sold. Otherwise the stock will be held by the Foundation until it may be redeemed or sold for cash.

The acceptability of a gift of closely held or S corporation stock will depend on the ultimate financial liability of the Foundation and the amount of management attention required.

- Partnership interests  
The Foundation does not accept gifts of general partnership interests due to potential unlimited liability. The acceptability of a gift of a limited partnership interest will depend on the ultimate financial liability of the Foundation and the amount of management attention required. A qualified appraiser best determines the value of this property. Consideration will be given to whether generated partnership income is unrelated business income subject to income tax.
- Gifts whose structures fall outside the ordinary purposes, bylaws and procedures of the Foundation

### **Gifts Declined**

The Foundation reserves the right to refuse any gift that it believes is not in the best interest of the Foundation. If a gift is not accepted, Foundation staff will contact the prospective donor immediately.

### **Acknowledgment**

Staff, in accordance with federal regulations will acknowledge accepted gifts. Gifts will be acknowledged within 30 days, or as soon as possible in instances where extenuating circumstances are present. A values statement will be part of the acknowledgement for gifts of cash or publicly traded securities. Gifts of property, artwork or privately held securities will receive an acknowledgement that does not include a values statement.

### **Restrictions**

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

### **Investment of Gifts**

The Board of Directors and the Investment Committee of the Foundation reserve the right to make any or all investment decisions regarding gifts received.

In making a gift to the Foundation, donors give up all right title and interest to the assets contributed. According to current policy, donors may request to use a separate investment advisor to manage their fund, so long as the Foundation approves and has a current investment advisor agreement with the advisor. The Foundation reserves the right to refuse the request or discontinue the services of any outside investment advisor.

### **Planned Gifts**

The Foundation's planned giving program encompasses all types of gifts whose benefits do not fully accrue to the Foundation until some future time (such as the death of the donor or other income

beneficiaries or the expiration of a predetermined period of time) or whose benefits to the Foundation are then followed by the interests of non-charitable beneficiaries. The types of planned giving opportunities offered by the Foundation are listed below.

### **Gifts by Will or Living Trust**

The Foundation may receive bequests from people who direct through a will or a trust that certain money or property be transferred to the Foundation. The Foundation encourages such donors to contact the Foundation during their lifetime to discuss their charitable intent. Donors are encouraged to consult a professional advisor for assistance.

### **Gifts of Life Insurance**

A donor may make a gift of life insurance to the Foundation in several ways. The donor may choose to give a life insurance policy irrevocably designating the Foundation as owner and beneficiary and further pledging to make annual gifts to the Foundation in the amount of the annual premium. Premiums would then be paid by the Foundation. The Foundation can also be designated as a percentage beneficiary of a life insurance policy owned by the donor. In addition, the Foundation also accepts tax-deductible gifts of insurance policy dividends.

Gifts of life insurance policies may be accepted without special approval if the premiums for the insurance policy are fully paid up and when the Foundation intends to cancel the policy immediately for its cash surrender value.

### **Charitable Remainder Trust**

Under a charitable remainder unitrust the donor irrevocably transfers money, securities or other property to a trustee selected by the donor. The trustee pays the donor or one or more income beneficiaries designated by the donor a fixed percentage of the net fair market value of the trust's assets, as determined each year. The payments are made for the life or lives of the income beneficiaries or for a fixed period not to exceed 20 years. Upon termination of the income beneficiary interest, the assets of the unitrust will be transferred to the Foundation.

A charitable remainder annuity trust is similar to the unitrust except that the income beneficiary receives a fixed dollar amount annually from the trust.

The Foundation does not at this time serve as a trustee for charitable trusts.

### **Charitable Lead Trust**

Under a charitable lead trust the Foundation receives an income interest in the trust assets for a period of years or the lives of one or more individuals. At the end of this time the assets are distributed to non-charitable beneficiaries designated by the donor.

At the present time the Foundation does not issue charitable gift annuities. It reserves the right, however, to review or change this policy at a future date.

# ADDENDUM

## **Treatment of Excess Business Holdings**

Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rules now apply to donor advised funds as if they were private foundations<sup>1</sup>. That is, the holdings of a donor advised fund in a business enterprise, **together with the holdings of persons who are disqualified persons with respect to that fund**, may not exceed any of the following:

- Twenty percent<sup>2</sup> of the voting stock<sup>3</sup> of an incorporated business
- Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity

Ownership of unincorporated businesses that are not substantially related to the fund's purposes is also prohibited.

Donor advised funds receiving gifts of interests in a business enterprise after the date of the PPA's enactment (August 17, 2006) will have five years 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<sup>4</sup>.

## **What is a business enterprise?**

A "business enterprise" is the active conduct of a trade or business, including any activity which is regularly carried on for the production of income from the sale of goods or the performance of services. Specifically excluded from the definition are:

- Holdings that take the form of bonds or other debt instruments unless they are a disguised form of equity
- Income from dividends, interest, royalties and from the sale of capital assets
- Income from leases unless the income would be taxed as unrelated business income
- "Functionally-related" businesses and program-related investments
- Businesses that derive at least 95 percent of their income from passive sources (dividends, interest, rent, royalties, capital gains). This will have the effect of excluding gifts of interests in most family limited partnerships, and other types of holding company arrangements.

## **What is a disqualified person?**

Donors and persons appointed or designated by donors are disqualified persons if they have—or reasonably expect to have—advisory privileges with respect to the donor-advised fund by virtue of their status as donors. Member of donors' and advisors' families are also disqualified, but the section does not define "family" and does not cross-reference either section 4958 or 4946 for the definition. Finally, the term includes 35-percent-controlled entities as defined in section 4958(f)(3).

## **Assets categorized under the PPA as "excess business holdings"**

GBCF will identify and monitor any new gift to a donor advised fund of any interest qualifying as an "excess business holding" under the PPA. GBCF will exercise its best effort to dispose of the

contributed interest immediately, in accordance with the current Gift and Acceptance policy, or at the best possible price within five years of the date of the gift, as required under the PPA. In any event, GBCF will dispose of any excess business holding prior to the five year time limit, except in the event that the Treasury Department grants an additional five year holding period. GBCF will notify potential donors of such interests of this requirement prior to the contribution of such interest.

<sup>1</sup>The language is clear that it is only the donor advised fund—not the sponsoring charity—that is to be treated as a private foundation. Accordingly, it appears that this section does not apply to assets held by the sponsoring charity’s investment pools, or assets held by funds that are not donor advised.

<sup>2</sup>Thirty-five percent if it can be shown that persons who are not disqualified persons have effective control of the business.

<sup>3</sup>Additionally, the donor advised fund will be barred from holding non-voting stock of an incorporated business unless the disqualified persons collectively own less than 20 percent of the voting stock. Under the *de minimis* rule, the donor advised fund could continue to hold an interest that did not exceed two percent of the voting stock and two percent of the value. Additional rules apply to cover situations such as mergers, redemptions, and acquisitions.

<sup>4</sup>Excess holdings acquired by purchase must be disposed of immediately. If purchases by disqualified persons cause the donor advised fund to have excess holdings, the donor advised fund will have 90 days to dispose of the excess.

# ACCEPTANCE OF GIFTS OF PROPERTY OR REAL ESTATE

Gifts of real estate, including all forms of interests in real property, may be accepted on behalf of the Foundation in accordance with these policies, with exceptions allowed as stated below.

## Authority to Accept Gifts of Real Estate

The President & Executive Director is authorized to accept gifts of real estate that are permitted by these policies.

## Conditions for Acceptance

In general, it is the policy of the Foundation to accept gifts of real estate or other illiquid assets only if they are to be sold with the proceeds used for the general purposes of the Foundation, or as provided by the donor. The Foundation reviews each proposed gift on an individual basis, and may accept or reject any proposed gift. A gift of real estate or other illiquid asset may also be accepted under the following conditions on a case by case basis: if it is to be used by the Foundation in connection with established or specifically approved programs or activities; or if it is to be held for the production of income.

## Prohibited Transactions

The Foundation will not accept property that would jeopardize its tax-exempt status, or expose it to expenses for which no source of funds has been identified.

## Conditions Affecting Acceptance

- If the property is to be used by the Foundation, it shall be in good physical condition. If it is not in compliance with applicable building, health, environmental and safety codes, or requires repairs or improvements, a source of funds for the costs of bringing the property into compliance must be identified prior to acceptance.
- The proposed use must be lawful and consistent with the previously approved strategic plans of the Foundation involving the use or acquisition of real property.
- If the property is to be held for the production of income, a *pro forma* positive cash flow analysis must compare favorably to the amount of income that would be obtained if the property were sold and the proceeds invested as a part of the general endowment pool.
- If the property is to be sold, it should be marketable within a reasonably short period of time. Acceptance of offers to purchase property from the Foundation requires the signature of the President & Executive Director or the Executive Director's corporate legal delegate and the approval of the Executive Committee.

## **Procedure for Tangible Personal Property or Other Illiquid Assets.**



Tangible personal property (artwork, coin collections, jewelry, etc.) may be accepted as a gift. The property must be saleable and the donor must agree that the property can be sold unless the Foundation agrees to use the property for a specific use related to its tax-exempt status.

- The Foundation will accept an outright gift of tangible personal property in any amount to augment an existing fund. Gifts to establish a component fund must meet the minimum funding requirement within 5 years or the gift will be added to the Golden Belt Community Improvement Fund.
- Qualified appraisals are required for personal property gifts exceeding a value of \$5,000. The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations. (The donor will be responsible for filing the appraisal and the appraiser's credentials with their income tax return to receive a charitable deduction.)
- The Investment committee must be sure that the property is either of direct value to the Foundation for its mission, or is marketable and of sufficient value to justify the potential expenditure of resources involved in the sale.

### **Procedure for Real Estate**

Prior to formal acceptance, Foundation staff shall obtain the following at the expense of the donor:

- Preliminary title insurance commitment covering the subject property (the title insurance commitment shall reflect that title is vested in the donor in the form represented, and is subject to no claims, liabilities, or major defects of title);
- A suitable property valuation.
- A list of improvements to the property;
- A current list of leases, if any;
- A list of encumbrances, liens, and current expenses, if any;
- A physical inspection of the property by an employee, agent of, or consultant to the Foundation, and/or a regulatory agency representative.

Conditional acceptance may be made subject to satisfactory completion of each of the foregoing.

### **Hazardous Waste Considerations**

Prior to formal acceptance, a "Stage One" environmental study (as defined by the Foundation) may be made by an individual or firm competent to advise the Foundation whether further investigation is needed. In addition, the Foundation may require that the donor provide an adequate indemnity and hold harmless in language acceptable to the Foundation.

### **Grant Deed**

Upon acceptance of the gift of real estate, the Foundation is responsible for ensuring that the grant deed is properly conveyed to the Foundation. This includes having the donor sign the deed and recording it with the appropriate county. The Executive Director or the Executive Director's legal delegate has responsibility for the proper safeguarding of all deeds.

### **Internal Revenue Service Form 8283**

The Internal Revenue Service requires that Form 8283 be completed so that it can be filed with the donor's tax return. Upon acceptance, the executive director will be responsible for completing the "Donee Acknowledgment Section" of IRS Form 8283, mailing the original form to the donor and a copy to the Executive Director.

### **Internal Revenue Service Form 8282**

The Internal Revenue Service requires that Form 8282 be completed and filed (with respect to any real estate for which a Form 8283 has been filed) when that property is disposed of by the donee institution within two years of the date of gift. Upon disposition, the Foundation will be responsible for filing Form 8282 in a timely manner.

### **Maintenance, Upkeep, Insurance, etc.**

Prior to acceptance of any gift of real estate, a source of funds must be identified for maintenance, upkeep, insurance, etc. of the donated property. It is advisable to ask the donor for funds to meet these costs if it is anticipated that the Foundation will hold the property for longer than six months prior to sale.

### **Life Estates**

#### **Simple Life Estate Agreements**

In the case of property donated to the Foundation subject to a life estate, the life tenant shall enter into an agreement in writing providing that the life tenant shall pay all the costs of maintenance and upkeep of the property including but not limited to repairs, improvements, taxes, insurance, etc.

*Life Estate with Lump Sum or Series of Payments:* These opportunities will be evaluated on a case-by-case basis. If the life tenant is also to receive a lump sum payment or a series of payments, a financial analysis will be done to determine the return on investment to the Foundation. The analysis will include the life tenant's life expectancy, projected appreciation rate of the property, and estimates of future interest rates. Donor-authorized "impounds" from the lump sum will be necessary to cover maintenance, upkeep, insurance, property taxes, etc.

#### **Cost Recovery**

Funds to cover costs such as appraisals, hazardous substance assessments, taxes, insurance, maintenance, and unanticipated expenses may be advanced from other funds of the Foundation and recovered at the time disposition of the property is made. The cost of recovery shall include interest on Foundation funds, normally equal to earnings of funds operating as endowment. Donors shall be advised of this policy.

#### **Documentation of Acceptance of Property**

It is the responsibility of the Executive Director to secure acceptance from any of those parties authorized to accept property (see above) and assure documentation of acceptance. Documentation may be in the form of a memo to the file or more formally by letter.

*Approved by the Board of Directors April 18, 2013  
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