



# COMMUNITY FOUNDATION OF NORTHERN COLORADO

## Gift Acceptance Policy

Ratified February 20,  
2024

### **Purpose**

The purpose of this gift acceptance policy is to advance the Foundation's mission of connecting donor interests to community needs and opportunities utilizing community knowledge and leadership. By providing guidelines for negotiating and accepting various types of gifts for different types of funds, this policy is designed to serve the best interests of the Foundation, donors who support the Foundation's programs through charitable gifts, and a healthy and caring community. This policy is established to ensure that each gift to the Foundation is structured to provide maximum benefits to the community, the donor, the Foundation, and the beneficiaries of the Foundation's charitable programs and activities.

The Foundation is committed to the highest ethical standards of philanthropy and development. In all transactions between potential donors and the Foundation, the Foundation will aspire to provide accurate information and full disclosure of the benefits and liabilities that could influence a donor's decision, including with respect to the Foundation's fees, the irrevocability of a gift, prohibitions on donor restrictions, items that are subject to variability (such as market value, investment return, and income yield), the Foundation's responsibility to provide periodic financial statements with regard to donor funds, and investment policies and other information needed by donors to make an informed choice about using the Foundation as a vehicle of charitable gifts. In addition, all donors will be strongly encouraged to discuss their gifts with their own financial and tax advisors before signing any gift agreement. The role of the Foundation's staff is to inform, guide, and assist the donor in fulfilling his or her philanthropic goals without pressure or undue influence.

The Foundation recognizes the paramount role of donors and their gifts to the Foundation in executing its charitable mission. In carrying out the Foundation's development program, staff will recognize and acknowledge donors in appropriate ways, both publicly and privately, subject to the Foundation's Policy on Confidentiality. Donors reserve the freedom to determine the degree and type of recognition that they prefer, and the Foundation respects the confidentiality of donors who do not wish to be publicly recognized.

### **Scope**

This policy addresses both current and deferred gifts, with an emphasis on specific types of deferred gifts and gifts of non-cash property. The goal is to encourage financial support for the Foundation without encumbering it with gifts that either generate more cost than benefit or that may be restricted in a manner that is not in keeping with the Foundation's charitable purposes or applicable laws governing charitable gifts. This policy also describes the types of funds that the Foundation maintains.

*Notwithstanding anything in this policy to the contrary, the Foundation reserves the right to waive any requirements herein with respect to acceptance of specific gifts. Any complex gift that requires a variance from this policy shall be approved by the Executive Committee of the Board of Trustees.*

## **Funds**

The Foundation offers several different types of funds. These include:

Donor Advised Funds. Donors recommend grants to charitable organizations.

Designated Funds. These funds support a charitable organization designated by the fund's donor or donors. Distributions generally are determined by applying the Foundation's spending policy to the assets held in the fund.

Agency Endowments. These funds are created by charitable organizations that designate themselves as the fund's beneficiary. Distributions generally are determined by applying the Foundation's spending policy to the assets held in the fund.

Scholarship Funds. These funds provide financial assistance to students at schools, colleges, and universities. Scholarship funds can also support vocational training and paying for special courses. Donors recommend eligibility criteria and may serve on selection committees.

Field of Interest Funds. These funds support a charitable purpose designated by the fund's donor or donors. Distributions are determined by the Foundation consistent with the fund's purposes. Where appropriate, the Foundation may create an advisory committee to make recommendations for distributions.

Unrestricted Funds. Gifts to these funds help the Foundation help our community. The Foundation makes distributions to support work of charitable organizations throughout the area we serve.

Disaster Relief and Emergency Hardship Funds. Contributions to these funds help people in time of need and help our community recover when disasters strike. The Foundation makes distributions from these funds to support effective organizations that provide assistance to individuals and community organizations.

## **Variance Power**

Sometimes a fund just doesn't work anymore. Scientists discover a cure for polio. A charitable organization goes out of existence. The Foundation can address these situations through its variance power. This power gives the Foundation's board the ability to make changes to a fund when its purpose is no longer necessary, can no longer be fulfilled, or has become inconsistent with the charitable needs of the community. This power to update funds helps protect donors by avoiding the need for complex and costly legal proceedings.

## **Authority to Accept Gifts**

Any of the Foundation's employees designated by the Foundation's President/CEO may accept, for and on the Foundation's behalf, any of the following:

- Cash
- Checks
- Marketable securities
- Digital assets
- Life insurance and annuity policies

All other gifts, including those listed below, will require review and approval by the Executive Committee. Executive Committee approval may be recorded by electronic vote, as necessary.

- Artwork, coin collections, jewelry, etc.
- Gifts of intellectual property, mineral reserves, precious metals
- Real property
- Partnership interests
- Closely held and S corporation stock
- Limited liability company interests
- Accounts receivable (e.g., gifts of loans, notes, mortgages)

Emergency Gifts. Notwithstanding the Executive Committee's authority above, gifts requiring immediate action (such as gifts in late December) may be exempted from full Committee review if, in the President/CEO's judgment, in consultation with the Chair of the Board of Trustees, that gift may be accepted without in any way jeopardizing the Foundation's exempt status.

#### **Authority to Negotiate and Sign Gift Agreements**

Authorization to negotiate planned gift agreements is granted to the President/CEO and appropriate members of the staff. As stipulated in this policy, certain gifts require the Executive Committee's review and approval. Unless otherwise stated, the Foundation's President/CEO will have the authority to handle inquiries, negotiate with donors, assemble documentation, retain expert and technical consultants, and execute agreements on the Foundation's behalf.

#### **Purpose of Gifts**

The purpose of each gift to the Foundation must fall within the Foundation's broad charitable purposes. The Foundation cannot accept any gift that will be directly or indirectly subject to any material restriction or condition by the donor that prevents the Foundation from freely and effectively employing the gift assets or the income from such assets to further its charitable purposes. In addition, the Foundation reserves the right to reject any gift that might place the other assets of the Foundation at risk or that is not readily convertible into assets that fall within the Foundation's investment guidelines. The Foundation may also decline a gift if it is not able to administer the terms of the gift in accordance with the donor's wishes.

#### **Investment of Gifts**

The Foundation reserves the right to make any or all investment decisions regarding gifts to it in accordance with its Finance Policy, as amended from time to time. In making a gift to the Foundation, the donor gives up all rights, title and interest to the assets contributed. In particular, the donor relinquishes the right to choose investments and investment managers, brokers, or to veto investment choices for the contributed assets.

However, when the size of a fund warrants separate investment consideration, and when otherwise permitted by law, the Foundation may consider requests from donors for separate investment of fund assets, or use a particular investment manager, broker or agent in accordance with the Foundation's Finance Policy and may consult with donors on investment options for such fund.

#### **Costs of Accepting and Administering Gifts**

Generally, costs associated with the acceptance of a gift, such as the donor's attorneys' fees, accounting fees, and appraisal and escrow fees, are borne by the donor. The direct costs of administering gifts are generally paid out of the assets of the individual funds. Custodial,

investment, and administrative fees are paid from the respective funds in accordance with the Foundation's fee schedules. The Foundation reserves the right to assess a set-up fee.

### **Fundraising by Donors**

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

### **Excess Business Holdings**

The Pension Protection Act of 2006 amended section 4943 of the Internal Revenue Code limits 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 Foundation's policy is to divest itself of such holdings within five years from the date the 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.

### **Types of Gift Assets**

Generally, gifted assets will be either 1) "liquid" assets such as cash or marketable securities, or 2) "illiquid" assets defined as everything that is not cash or marketable securities. With respect to non-cash assets, it is the Foundation's general policy to liquidate all gifts promptly. On occasion, the Foundation may decide that it will not liquidate certain gifts immediately. A decision to hold a gifted illiquid asset longer than 12 months will be made with consultation of the Finance Committee and approval from the Executive Committee. Retained, illiquid assets will be reported to both Committees at least annually for periodic assessment. Factors the Foundation will consider include:

- Market conditions – a gift may be retained for a reasonable period of time if the likely sales price would be substantially less than the asset's real value. Similarly, a large block of stock might be sold over a period of time in order not to artificially depress the price.
- Use by the Foundation – the Foundation may elect to keep gifts that it will employ directly in furtherance of its exempt purposes. For example, the Foundation might keep real property that it will use as its offices.
- Desirability as an investment – on rare occasions, the Foundation may be given property that it wishes to retain as an investment. Considerations in this decision include the projected return and how the asset fits into the Foundation's investment portfolio.

## **LIQUID ASSETS**

### **Cash**

The Foundation accepts gifts of cash

- In currency of the United States.
- By checks made payable to the Foundation or the component fund; or
- By credit cards or wire transfer to the Foundation's account(s).

### **Publicly Traded Securities**

The Foundation accepts gifts of marketable, publicly traded stocks and bonds. Generally, publicly traded stocks and bonds contributed to the Foundation will be redeemed or sold as soon as practicable. All proceeds from such redemption or sale less commissions and expenses are then credited to the component fund to which the stocks or bonds were originally contributed. The Foundation may accept gifts of publicly traded stocks and bonds in any amount to any existing fund. However, gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement.

No appraisal is required so long as the stock or bond is not subject to any restrictions, including those imposed by contract or the Securities Exchange Commission. Where appraisal is not required, the value of the gift is determined by calculating the mean of the high and low prices of the securities on the date of the gift.

### **Closely Held Stock and S Corporation Stock**

Subject to the President/CEO's approval, the Foundation may accept gifts of closely held or S corporation stock in any amount to any existing fund. Gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement. The Foundation may accept gifts of stock in closely held or S corporation that generate unrelated business income only if certain agreements are reached with the donor and/or the corporation. These include an agreement by the donor that the taxes on the unrelated business income and the Foundation's associated administrative expenses (e.g., accounting and tax return preparation) will be charged against the fund holding the contributed stock. Further, the donor should agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expenses to the extent there is insufficient cash in the subject fund balance to cover such taxes and expenses.

Appraisal. Each gift of closely held or S corporation stock giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

Distributions. Distributions from a component fund that consists entirely of closely held or S corporation stock are limited to the income generated by the securities less fees assessed by the Foundation and any unrelated business tax imposed thereon.

Liquidation. The Foundation will generally seek to redeem or sell closely held or S corporation stock contributed as soon as possible and generally will not accept gifts that cannot be liquidated within three years.

## Procedures for Accepting Gifts of Closely Held or S Corporation Stock.

- The Foundation will review corporate governing documents to determine the rights and obligations associated with the stock and whether the Foundation should undertake such obligations considering such rights.
- The Foundation will review the corporation's most recent tax returns and the donor's most recent K-1 to determine the nature of the income associated with the stock (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to the Foundation's form or be approved by the Foundation's counsel.
- As a condition for the Foundation's acceptance of the gift, a written agreement between the donor and the Foundation should be in place that provides for the payment of administrative expenses and unrelated business income taxes generated by the stock to the extent there is insufficient cash in the fund to which the stock has been donated to cover such expenses and taxes. The agreement should also require the donor to indemnify the Foundation against all liabilities incurred by the donor on account of the stock up to the date of the gift.
- The donor shall provide the Foundation with all documents which outline, discuss, or relate to the duties and liabilities which shareholders have, including Shareholder Agreements.

### **Digital Assets**

The Foundation may accept gifts of digital assets such as cryptocurrency and non-fungible tokens on a case-by-case basis. As a general rule, in order to safeguard such assets, to minimize market volatility and maximize gift proceeds, the Foundation will convert these to US dollars upon receipt. Donors may be required to transfer coins to a wallet compatible with the asset processor. As with other non-cash donations, it is the donor's responsibility to obtain an independent appraisal and consult with their own tax advisor regarding the tax treatment of such gifts. In addition, all costs associated with the sale of donated digital assets are applied to the balance of the donor's fund. Third-party providers and charitable intermediaries can be used at the discretion of the President/CEO as needed to facilitate gifts of any type.

### **ILLIQUID ASSETS**

#### **Real Estate**

This policy applies to all gifts of real property, including outright gifts of residential and commercial property and farmland; bargain-sale transactions; and gifts of remainder interests in which the donor retains a life estate. The Foundation does not accept gifts of time shares.

Subject to the Executive Committee and President/CEO's approval, the Foundation may accept gifts of real property to any fund. Gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement. In deciding whether to accept real property gifts the Foundation will:

- Determine whether the real estate gift is an acceptable minimum value.
- Confirm that the donor has legal capacity and is entitled to convey the property through copies of deed, title report, etc., provided by donor.
- Determine whether, if property is encumbered by debt, the debt is of a level that will not unduly burden the Foundation or adversely affect the marketability of the property.

- Perform a market and financial analysis prior to acceptance of the gift to determine whether the gift is a financially sound acquisition.
- Weigh its ability to manage commercial property for the time necessary to sell the property. For example, income producing property may subject the Foundation to unrelated business income tax and/or other types of expenses, including but not limited to, upkeep of land, maintenance of buildings and management of property.
- Evaluate whether any restrictions on the gift desired by donor will jeopardize the classification of such gift as charitable.

Appraisal. Each gift of real property giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

Distributions. Distributions from a component fund that consists entirely of real property are limited to the net income generated by the property less fees assessed by the Foundation and any unrelated business tax imposed thereon.

Liquidation. The Foundation will generally seek to sell real property as soon as possible and generally will not accept gifts that cannot be liquidated within three years.

#### Procedures for Accepting Gifts of Real Property.

- Donors will provide the information and documents requested at the earliest possible time prior to the acceptance of the gift. The Foundation may request additional information or documents when necessary to its evaluation of the proposed gift.
- Whenever possible, a member of the Foundation staff or authorized representative will visit the property to determine its nature and type and to identify any potential problems not evident from information supplied by the donor that might hinder the foundation's sale of the property.

Environmental Assessment. If the property type warrants, Donors will provide at least a Phase I Environmental Report with disclosure of any environmental problems or statement that none exists.

#### Real Property Donation Checklist

- Exact legal name of donor and federal identification number.
- Description of property (copy of deed).
- Description of any buildings or other structures located on the land.
- Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey.
- Information regarding existing zoning status.
- Information on all ingress/egress for the property.
- Description of prior use of the property.
- Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
- Disclosure of any contemplated or anticipated condemnations, rights-of-way or other actions by municipalities that may affect the subject property.
- Phase I environmental report on the property, including environmental report on any structures located on the real estate.

- Evidence of title, such as title examination and report, title insurance commitment, or schedule describing any liens, encumbrances, or title matters affecting the property.
- Copy of appraisal showing the fair market value of the property current within sixty days.
- Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property.
- Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, and similar items.

### **General Partnership Interests**

The Foundation generally does not accept gifts of general partnership interests due to the unlimited liability of general partners.

### **Limited Partnership Interests**

Subject to the President/CEO and Executive Committee's approval, the Foundation may accept gifts of limited partnership interests in any amount to any existing fund. Gifts to establish a new component fund at the Foundation must meet the applicable minimum funding requirement. The Foundation reserves the right to carefully screen all proposed gifts of limited partnership interests to ensure that they place no undue risk upon the Foundation.

The Foundation generally does not accept gifts of interests in partnerships that carry on active business. Interests in passive, investment-type limited partnerships such as those holding real estate, stocks, and bonds, are preferred.

The Foundation may accept gifts of limited partnership interests that generate unrelated business income only if certain agreements are reached with the donor. These include an agreement by the donor that the taxes on the unrelated business income and the Foundation's associated administrative expenses (e.g., accounting and tax return preparation) will be charged against the fund holding the partnership interest. Further, the donor would have to agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expenses to the extent there is insufficient cash in the subject fund balance to cover such taxes and expenses.

Appraisal. Each gift of limited partnership interest must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

Distributions. Distributions from a component fund that consists entirely of limited partnership interests are limited to the income distributed to the Foundation by the partnership less fees assessed by the Foundation and any unrelated business income taxes imposed thereon.

Liquidation. The Foundation will generally seek to redeem or sell limited partnership interests contributed to it within three years.

### Procedures for Accepting Limited Partnership Interests.

- The Foundation will review the partnership governing documents to determine the rights and obligations associated with the limited partnership interest and whether the Foundation should undertake such obligations considering such rights. If required, the



donor should be asked to obtain the other partners' consent to the gift as a condition to the Foundation's accepting the gift.

- The Foundation will review the donor's most recent K-1 and the partnership's tax returns to determine the nature of the income associated with the limited partnership interest (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to the Foundation's form or be approved by the Foundation's counsel.
- As a condition for the Foundation's acceptance of the gift, a written agreement between the donor and the Foundation income should be in place that provides for the payment of administrative expenses and unrelated business taxes generated by the interest to the extent there is insufficient cash in the fund to which the interest has been donated to cover such expenses and taxes. The agreement should also require the donor to indemnify the Foundation against all liabilities incurred by the donor on account of the limited partnership interest up to the date of the gift.

### **Limited Liability Company Interests**

The same considerations given to gifts of limited partnership interests apply to gifts of interests in limited liability companies.

### **Tangible Personal Property**

The Foundation accepts gifts of personal tangible property (e.g., artwork, coin collections, jewelry) only if: (i) the Foundation determines that the property will be used in furtherance of the Foundation's exempt purposes or (ii) the Foundation will be able to sell the property. If the property is to be sold, the Foundation will accept the gift only if it has sufficient value to justify the expenditure or resources required for such sale. The Foundation may accept gifts of personal tangible property in any amount to any existing fund. Gifts of tangible personal property to establish a new component fund at the Foundation must meet the applicable minimum funding requirement.

Appraisal. Each gift of personal tangible property for which the donor expects a charitable deduction exceeding \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining and paying for such appraisal.

#### Procedures for Accepting Personal Tangible Property.

- The Foundation will review all prior appraisals and authentication documents, if any, relating to the property.
- If the property is to be sold, the Foundation will ascertain the market for such property and estimate the costs to be incurred in connection with the sale as well as the costs of holding the property prior to sale.
- All costs incurred by the Foundation in connection with the holding and sale of the property shall be charged against the sale proceeds, with the balance being credited to the fund to which the property has been contributed.

### **Gift Processing Fees and Additional Considerations for Acceptance of Illiquid Assets**

The acceptance of illiquid gifts can require a significant amount of staff time related to conducting the due diligence process and the actual sale/disposition of the asset. In general, the

Foundation will follow the following fee schedule, though it retains the right to adjust or waive fees and associated costs on a case-by-case basis based on the complexity of the gift.

- 2% of net proceeds or \$7,500, whichever amount is less
- Reimbursement for all direct costs incurred

In connection with the acceptance of many types of illiquid assets, the Foundation may incur direct costs such as unrelated business income tax, fees or commissions associated with the sale or liquidation of assets, asset management and holding costs, consultant fees, legal fees, or other expenses outside the normal scope of the Foundation's administrative costs.

Accordingly, the Foundation may require a pledge or other written agreement between the donor and the Foundation that provides for the payment of all or a portion of any such costs or expenses, including unrelated business income taxes, to the extent there is insufficient cash in the donor's fund to which the asset(s) have been donated to cover such costs.

## **DEFERRED GIFTS & PLANNED GIVING**

Deferred gifts are those whose benefit does not fully accrue to the Foundation until some future time, or whose benefits are split with non-charitable beneficiaries. Foundation representatives are authorized to solicit direct charitable gifts through wills, as well as contributions to establish gift annuities or charitable trusts. The Foundation will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts. The Foundation currently offers the following planned gift options:

- Bequests
- Retirement plans or IRA accounts
- Charitable remainder trusts
- Charitable lead trusts
- Charitable gift annuities
- Retained life estates
- Life insurance

### **Bequests**

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

### **Retirement Plans or IRA Accounts**

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

## **Charitable Remainder Trusts (CRT)**

This trust makes payments to one or more beneficiaries for their lifetimes, or for a fixed term, or a combination of both. Assets are put into a trust, beneficiaries are paid, and when the trust term ends, the remainder in the trust passes to the Foundation for its charitable purposes. The donor names a Trustee to manage the trust and determines whether the payout will be fixed (a charitable remainder annuity trust (CRAT)) or variable (a charitable remainder unitrust (CRUT)). Trusts can be set up during the donor's lifetime or by will. The Foundation encourages donors to consult their own legal counsel and tax advisors to create a charitable remainder trust. At the donor's request, the Foundation will confer with his/her advisors to assist in establishing the trust from which it will ultimately benefit. In some circumstances, the Foundation may serve as Trustee of the trust.

## **Charitable Lead Trusts (CLT)**

This trust first makes distributions to the Foundation for a specified period, with the remainder reverting to the donor or another beneficiary at the end of the period. It may be set up during one's lifetime or in a will. The Foundation will work closely with the donor and/or his advisor to create the trust. In some circumstances, the Foundation may serve as Trustee of the trust.

## **Charitable Gift Annuity**

This planned gift is based on a gift of cash or securities in exchange for lifetime income, either immediate or deferred to the donor. It is a contract between the donor and the Foundation and is backed by our total assets. The gift is in part a charitable gift and in part the purchase of an annuity.

## **Life Estate**

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

## **Life Insurance**

The Foundation may accept gifts of life insurance policies so long as: (a) the policy is not encumbered (i.e., there is no outstanding loan against the policy); and (b) the Foundation is made the policy's owner and primary beneficiary. When premium payments can no longer be made because there is insufficient value in the policy to keep it in force, or because the Foundation chooses to discontinue premium payments, the policy will be surrendered. The Foundation may accept gifts of life insurance policy in any amount to any existing fund. Gifts of life insurance policy to establish a new component fund at the Foundation must meet the applicable minimum funding requirement.

Appraisal. Each gift of life insurance policy giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law.