

ADAMS COUNTY COMMUNITY FOUNDATION

GIFT ACCEPTANCE POLICY

The Fund Development program of the Adams County Community Foundation (Community Foundation) includes the solicitation and acceptance of outright gifts with income dedicated immediately to the charitable needs of the community, planned gifts with split interest of income and principal reserved to charitable or non-charitable beneficiaries and testamentary gifts created by bequest for all purposes consonant with the objectives of the Community Foundation.

AUTHORIZATION

It is the policy of Community Foundation Board of Directors (hereinafter Board) to encourage donors to make outright, planned and testamentary gifts. Planned and testamentary gift types include bequests, charitable gift annuities, charitable remainder trusts, charitable lead trusts, retained life estates, gifts of life insurance or retirement assets, and such other gift arrangements as the Board may from time to time approve. It is the Board's directive that staff shall aggressively seek such gifts, and that adequate staff and resources for a fully effective program are maintained. All programs, solicitation plans, and activities shall be subject to the oversight of the Board.

PURPOSE OF GIFTS

The purposes of all gifts to the Community Foundation must relate to the mission of the Community Foundation. The purpose of the gift and the procedures for its administration shall, when feasible, be defined in a letter or agreement signed by the donor.

ROLES AND RESPONSIBILITIES OF THE GIFT ACCEPTANCE COMMITTEE

The Community Foundation's Board of Directors Executive Committee shall have the responsibility to review proposed gift transactions specified in this policy. The Executive Committee shall also adopt standard forms for agreements with donors, and annually approve Gift Acceptance guidelines for planned gifts, consistent with established policies and guidelines. The Executive Committee may consider and make exceptions to the Gift Acceptance Policies.

POLICIES

The policy of the Community Foundation is to inform, serve, guide or otherwise assist donors who wish to support the Community Foundation's activities, but never under any circumstances to pressure or unduly persuade.

All information concerning donors and prospective donors shall be held in strict confidence by the Community Foundation, subject to legally authorized and enforceable requests for information by government agencies and courts. All other requests for or releases of information concerning a donor or prospective donor will be honored or allowed only if permission is obtained from the donor prior to the release of such information.

Persons acting on behalf of the Community Foundation shall encourage the donor to discuss the proposed gift with the legal and/or tax advisors of the donor's choice, at the donor's expense. This is

to ensure that the donor receives a full, accurate and independent explanation of all aspects of the proposed charitable gift. Persons acting on behalf of the Community Foundation shall advise the donor that it is the donor's responsibility to obtain any necessary appraisals, file appropriate personal tax returns, and defend against any challenges to claims for tax benefits.

The President of the Community Foundation and consultants retained by the Community Foundation for this purpose are authorized to negotiate planned gift agreements with prospective donors, following program guidelines approved by the Board.

All planned giving agreements requiring execution by the Community Foundation shall first be reviewed and approved as to form by the Community Foundation's acting legal counsel. However, each agreement need not be reviewed provided it is based on a prototype agreement that has been reviewed and approved.

The Community Foundation will accept charitable gift annuities but only under conditions described below. The Community Foundation may employ agents and advisors to facilitate the investment of annuity assets.

The Community Foundation may serve as trustee of irrevocable charitable remainder trusts and charitable lead trusts or as co-trustee with a trust institution when it is irrevocably named as the sole charitable beneficiary. However, it may serve in select circumstances when it is not the sole beneficiary if, in the judgment of the Executive Committee, the interests of the Community Foundation will be best served. The Community Foundation may employ one or more financial managers for the administration and investment of trust assets. Expenses related to investments and administrative services shall be charged to the respective funds.

The Community Foundation will not serve as trustee or co-trustee of any revocable trusts or of other trusts that are not qualified charitable remainder trusts or charitable lead trusts.

PROCEDURES FOR REVIEW OF GIFTS

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

- The charitable intent and ultimate community benefit
- The nature of any restrictions
- The permanency of the gift; or in the case of a non-permanent fund, the amount of time the fund will remain with the Community Foundation
- Projected costs of managing the gift asset
- Fee revenues to the Community Foundation for administering the gift.

Acceptance by staff of gifts consistent with the purposes, bylaws and procedures of the Community Foundation shall not require review by the Executive Committee if the gifts are in any of the following forms:

- Marketable securities
- Cash

- Checks
- Gifts of usable furniture and equipment for the offices or programs of the Community Foundation
- Gifts of precious metals, where the value is easily established
- Charitable remainder trusts, charitable lead trust, or charitable gift annuities, if funded with cash or publicly traded securities.

Gifts requiring review and approval of the Executive Committee include the following:

- Gifts of real estate. The donor will be required to provide an independent appraisal and an environmental review as well as a description of the property. The Executive Committee will review these documents as well as consider any liabilities, restrictions or other conditions related to the gift. These policies also will apply to any other asset that has real estate holdings as an element of its values, e.g., certain limited partnerships or other business entities.
- Interests in business entities, i.e., closely-held securities, partnership and limited liability company interests, where, in the opinion of staff, there may be concerns about the following: valuation, long-term disposition, income production, business partnership interest, charitable intent, requirements or limitations, tax deductibility or other questions which indicate that a review of the Executive Committee is necessary.
- Charitable remainder trusts, charitable lead trusts or charitable gift annuities, if funded with assets other than cash or publicly traded securities.
- Retained life tenancy in a residence, ranch or farm.
- Arrangements where the donor receives fees for services to the Community Foundation
- Other property that may be unusual or fall outside the type of gifts usually handled by the Community Foundation, including tangible personal property unrelated to the Community Foundation's charitable purpose.
- Gifts to establish funds for a purpose that may fall outside the mission, bylaws, and procedures of the Community Foundation.

Gifts requiring committee review will be handled promptly. The Community Foundation staff will deliver to the Chair of Executive Committee all information necessary to make a decision. If a gift is not accepted, the donor will be notified in writing by staff immediately. All gift reviews will be handled with confidentiality.

Note: Gifts requiring immediate action, e.g., gifts on December 31, or pending sale of property, may be exempted from full Executive Committee review if, in the judgment of the President, in consultation with designated members of the Executive Committee and legal counsel, if necessary, that gift may be accepted without significant reservations or in any way jeopardizing ACCF's tax-exempt status.

FUNDS

The Community Foundation establishes component funds and support foundations in response to community needs and donors' charitable concerns. The Board has responsibility for acceptance, management and disposition of component funds. Options for fund structures at the Community Foundation include the following:

- **Funds for Adams County / Unrestricted Funds**

Unrestricted funds are available to be distributed by the Community Foundation for any of the charitable purposes encompassed by the Community Foundation's mission. The Distribution Committee determines how undesignated funds are used. **The minimum for a Fund for Adams County or restricted fund is \$25,000.**

- **Field of Interest Funds**

Field of interest funds are restricted in their use by the donor's preference for a limited charitable purpose, without designation of recipient organizations or program through which such charitable purposes may be served. The Distribution Committee determines which organizations and programs receive grants for field of interest funds and the amount and timing of such grants. **The minimum for a Field of Interest Fund is \$25,000.**

Examples of field of interest funds include but are not limited to:

- Children, youth and families
- Arts and culture
- Education
- Community and neighborhood development
- Social justice
- Health and medicine
- Animals
- Environment

- **Advised Funds**

Donors establish advised funds for unrestricted charitable purposes. The donor, or persons(s) identified by the donor, maintains the ability to offer recommendations to the Community Foundation regarding the recipients and amounts of grants from the fund. **The minimum for a Donor Advised Fund is \$25,000.**

- **Scholarship Funds**

Scholarship funds are dedicated to providing grants for educational purposes to assist individuals within an identified class, such as residents of a particular region, students attending a specific university or undertaking a selected course of study. **The minimum for a Scholarship Fund is \$25,000.**

- **Designated Funds and Agency Endowments**

Designated funds are earmarked for one or more charitable organizations or programs, and all grants made from such funds must be made to or for the use of the designated recipient organization(s). If the recipient organization(s) ceases to exist or changes its status or mission as a charitable organization, the Community Foundation's Board of Directors may exercise its variance authority, selecting an alternate use for the fund compatible with its original charitable purpose. **The minimum for a Designated Fund or Agency Endowment is \$25,000.**

- **Support Foundations**

Donors establish support foundations at the Community Foundation as independently incorporated tax-exempt nonprofit organizations with separate governance. A support foundation is a grant making organization that avoids private foundation status by being operated, supervised, controlled by, or in connection with the Community Foundation. This requirement can be met in part if the Board of the Community Foundation appoints a majority of the board of directors of the support foundation. **The minimum for a Support Foundation is \$5 million.**

- **Affiliate Community Foundations**

Affiliate community foundations are established for the support of a variety of charitable purposes and organizations within a specific community or region. A local advisory board is appointed within each affiliate community, which has grant making and asset acquisition responsibility for that area. Affiliate community foundations enable smaller communities to enjoy many of the benefits of a community foundation while taking advantage of the Community Foundation's services, staff and expertise and avoiding the cost and administrative burdens of a separate community foundation. Affiliate community foundations must abide by the Community Foundation's gift acceptance policies.

GIFTS

Asset Types

The Community Foundation will accept gifts in the form of the following assets, subject to the conditions described below. In order to provide written substantiation for gifts over \$250, the donor's name and address must be provided.

Cash

Gifts of cash should be paid to the Community Foundation accompanied by a written document (fund agreement, letter or other written instruction) signed by the donor indicating to which fund the contribution should be credited.

Checks

Checks must be made payable to "Adams County Community Foundation". The specific fund for which the check is intended should be noted in the bottom left corner of the check, or in attached correspondence.

Pledges

Written pledges to make gifts may be made applicable to any fund at the Community Foundation. A schedule of pledges payable should be included in the fund agreement, letter or other written instruction from the donor.

Marketable Securities

Publicly traded stocks and bonds may be electronically transferred, re-registered in the name of the Community Foundation, or conveyed through use of a stock power form. The Community Foundation also will accept interests in mutual funds. Generally, these securities

are sold upon receipt. Stock controlled under Securities and Exchange Commission Rule 144 will be held until the restriction on sale expires and then will be sold. Gifts of bonds that require a holding period may be accepted and cashed when the holding period has expired.

Securities which shall not be accepted include those which are assessable or which in any way may create a liability; those which, by their nature, may not be assigned (such as series E savings bonds); those which have no apparent value.

Interests in Business Entities

The Community Foundation will not accept gifts of interests in Business Entities.

EXCESS BUSINESS HOLDINGS

The Pension Protection Act of 2006 amended section 4943 of the Internal Revenue Code to limit ownership of closely-held business interests in a donor advised fund. 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 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.

Real Property

Generally, gifts of real property in Adams or adjoining counties in Pennsylvania should result in a net contribution to the Community Foundation of at least \$50,000. Gifts of real property outside these counties in Pennsylvania or other states contiguous thereto should result in a

net contribution of at least \$250,000. Executive Committee may consider exceptions to the property values established herein.

Unencumbered real property will be accepted at fair market value as established by at least one qualified appraisal, provided by the donor. Evidence of clear title to the property must be provided by the donor to the Executive Committee; property with multiple owners will be accepted only if all owners of the property agree in writing to the gift.

Real property that is encumbered will be accepted only in exceptional circumstances. Prior to acceptance of a gift of real property, The Community Foundation and the donor must agree, in writing, on arrangements for paying expenses associated with the property, including taxes and assessments, insurance coverage, and maintenance costs.

In order to avoid potential liability for environmental cleanup and toxic and hazardous materials issues related to real estate, the Community Foundation shall require inspection through an environmental audit of all proposed gifts of real estate and assets related to real property.

In addition to the considerations listed above, commercial properties and businesses will be examined in relationship to the potential for exposure of the Community Foundation to unrelated business taxable income.

A completed IRS Form 8283 (Non-cash Charitable Contributions) must accompany gifts of real property.

Tangible Personal Property

Gifts of such assets as boats, airplanes, automobiles, artwork, furniture, equipment, jewelry, gems and metals valued in excess of \$5,000 must be accompanied by a qualified appraisal (8283). Unless the property is to be used in connection with the Community Foundation's tax-exempt purpose, it will be sold at the highest possible price as soon as possible after conveyance (8282).

No commitment will be made to keep gifts of personal property. The Community Foundation discourages gifts of personal property which cannot readily be sold or which require unusual expenses prior to sale. If a lengthy selling period is anticipated, the Community Foundation will ask the donor to cover such expenses with a cash gift.

Royalties, Distribution Rights

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.

A completed IRS Form 8283 (Non-cash Charitable Contributions) must accompany gifts of royalties or distribution rights.

Insurance Policies and Proceeds

Donors may transfer ownership of a paid-up policy to the Community Foundation and take a tax deduction for the interpolated terminal reserve (typically cash surrender value). Donors may transfer ownership of premium-due policies to the Community Foundation and make income tax deductible contributions in the amount of the premiums. In either case, the Community Foundation shall be the owner and permanent beneficiary of the policy and retain the policy in its offices. Upon redemption, the value of the policy may establish a new fund, or contribute to any existing fund at the Community Foundation.

Contributions for premium-due policies must be made by direct payment to the Community Foundation at least ten (10) days prior to the premium date. The Community Foundation cannot assume delinquent premium payments. If a policy is canceled, the cash value will be added to the Unrestricted Fund in the donor's name for charitable and education needs in Adams County communities.

Paid up policies of any value may be accepted by the Community Foundation. Premium-due policies must have a minimum face value of \$20,000; a one-time administrative fee will be assessed.

Donation of policies or annuities written for a year-end tax purpose must have a certifiable date from the insurance company to be a qualified donation for that tax year.

The Community Foundation does not enter into charitable reverse split dollar agreements.

Retirement assets

Account type retirement plans, in which a balance accumulates as principal, may be gifted to Adams County Community Foundation. These include Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans. (Annuity plans, such as defined benefit plans, in which retirement benefits are paid out as income and principal does not accumulate, generally cannot be used for charitable gifts.)

Methods for gifting retirement assets include:

- Naming Adams County Community Foundation as successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse;
- Creating a testamentary charitable remainder trust upon the death of the asset owner, naming Adams County Community Foundation as remainder beneficiary and non-charitable heirs as income beneficiaries.
- Outright gifts if permitted by the Internal Revenue Code or its Regulations

PLANNED AND TESTAMENTARY GIFTS

Adams County Community Foundation's planned and testamentary giving program encompasses all forms of gifts whose benefits do not fully accrue to the Community 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 Community Foundation are then followed by the interest of non-charitable beneficiaries.

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

Bequests

Bequests may be from a will or trust and may be specific or contingent in nature.

Representatives of the Community Foundation are authorized to solicit direct testamentary charitable contributions through wills or trust, as well as testamentary contributions to establish gift annuities and charitable remainder and lead trusts. Advice offered by representatives of the Community Foundation must be accompanied by a written recommendation that the prospect consult his/her own attorney and/or tax counsel.

A bequest through will or trust to Adams County Community Foundation should include the following:

- The name of the Adams County Community Foundation, a Pennsylvania nonprofit corporation located at 25 South Fourth Street, Gettysburg, PA 17325.
- The name of the fund to which the bequest is made (this may be a new or existing fund). In the case of a new fund, the Community Foundation will, upon notification that the bequest has been included in a will or trust, prepare a separate fund agreement defining the purpose for which the fund has been created.

Charitable Remainder Trusts

There are two types of Charitable Remainder Trusts: Unitrusts and Annuity Trusts

Descriptions

- **A Unitrust** provides for payment to the donor and/or beneficiary of an amount equal to a set percentage of fair market value of the assets of the trust, valued annually. The percentage is determined at the time the trust is created, is stated in the trust and is permanent. The payout must equal no less than 5% of the fair market value of the assets placed in the trust when it is created, and may be made quarterly, semiannually or annually. If the annual income and/or realized capital gains do not equal the committed Unitrust percentage, principal is used to supplement the short fall. If there is any excess income or appreciation in excess of the stipulated payment, it is added to the principal. Additional contributions may be made to Unitrusts.

The present value of the remainder interest must be equal to or greater than 10% of the original contribution to the trust.

A variation of the basic Unitrust, known as the Net Income with Make-Up Unitrust, may be used if the donor and the Community Foundation agree on its use. When the trust is created, it includes a provision which defines the Unitrust's payments to be the lesser of the specified payout rate or the actual annual income generated from the investments in the Unitrust. In subsequent years, any income generated from the Unitrust in excess of the specified payout percentage is used to make up any deficit from previous years and is paid to the income beneficiary/donor prior to being added to the Unitrust corpus. The Unitrust also can be structured to be a Net Income Unitrust. In this case, the payout is made from income only and principal is not accessed for income payout.

Another variation of the Unitrust is known as the Flip Unitrust. A Flip Unitrust starts as a Net Income Unitrust or a Net Income with Make-Up Unitrust. Upon the occurrence of certain specified events (e.g., a specified date, sale of real property, etc.), a Flip Unitrust "flips" to function as a basic Unitrust. A flip provision typically may be attractive to donors who intend to fund their Unitrust with assets that are not producing income, such as undeveloped real property.

- **Annuity Trusts**

An Annuity Trust offers the donor and/or beneficiary an annual payout that is fixed irrevocably at the time of the gift and stated in the trust agreement. The payout must equal at least 5% of the fair market value of the assets placed in the trust when it is created. Income in excess of the annual payment is added to principal. If the income in any year is less than the annual payment, the difference is derived from realized capital gain or principal. Additions may not be made to Annuity Trusts.

Policy

Representatives of Adams County Community Foundation are authorized to solicit gifts in the form of Charitable Remainder Trusts (including basic Unitrust, Annuity Trust, Net Income Unitrust, Net Income with Make-Up Unitrust and Flip Unitrust) with annual payout rates ranging from 5% to 9% of fair market value of trust assets; payout rates of more than 9% must be reviewed for approval by the Executive Committee.

Donors who elect to self-trustee must be informed of the administrative and tax-reporting responsibilities entailed by their trusteeship. Adams County Community Foundation representatives may provide information on vendors providing administrative and tax reporting services

Adams County Community Foundation prefers to serve as trustee only when:

- The income beneficiary is age 55 or older;
- The assets initiating the trust are valued at a minimum of \$300,000
- Adams County Community Foundation is named as irrevocable remainder beneficiary, for endowment purposes, for a minimum of 50% of the remaining assets.

Sample trust agreements provided by the Community Foundation to the donor shall be accompanied by a letter indicating that the sample does not constitute legal advice and strongly advising that the donor seek legal counsel prior to completing the trust.

Adams County Community Foundation's Board of Directors shall ratify any agreements that name Adams County Community Foundation as trustee.

Charitable Lead Trusts

Description

Income earned from the assets within the Charitable Lead Trust is donated for a period of years, or for the remaining life of the donor or beneficiary. The remainder interest is either retained by the donor or given to a non-charitable beneficiary.

A contribution of the income generated from the assets within the trust must be in the form of either an annuity or unitrust interest.

Policy

Representatives of Adams County Community Foundation are authorized to solicit gifts for Charitable Lead Trusts. The donor may select any annuity or fixed payout percentage.

Sample trust agreements provided by the Community Foundation to the donor shall be accompanied by a letter indicating that the sample is not a completed legal document and strongly advising that the donor seek legal counsel prior to completing the trust.

Any agreements that name Adams County Community Foundation as trustee shall be ratified by the Executive Committee of the Community Foundation Board of Directors.

Exceptions to the above must be approved by the Executive Committee of the Community Foundation prior to execution of the agreement.

Pooled Income Fund

Adams County Community Foundation will not offer a Pooled Income Fund.

Charitable Gift Annuities

Description

A Charitable Gift Annuity provides a fixed dollar return for life to the donor and/or other beneficiaries, in exchange for a contribution to Adams County Community Foundation. The

amount of payment is dependent upon the age of the donor and the size of the gift. The date that income payments to the beneficiary begin may be deferred. The annuity contract is a general obligation of Adams County Community Foundation.

Policy

Representatives of Adams County Community Foundation are authorized to solicit gifts for Charitable Gift Annuity agreements. The gift annuity remainder must benefit Adams County Community Foundation, committing a minimum of 50% of the assets to the Community Foundation's unrestricted program or operating endowments or to the donor's choice of an endowed field of interest fund.

The Uniform Annuity Rates as published by the American Council on Gift Annuities will not be exceeded without approval by the Executive Committee

Disclosure to the donor must follow state and federal regulations.

The minimum gift for an annuity agreement is \$20,000

Agreements may provide for income payments to no more than two successive life beneficiaries.

With the exception of a Deferred Payment Gift Annuity, the minimum age of income beneficiaries shall be 65 years. Deferred Payment Gift Annuities should begin annuity payments after age 65.

Adopted by the Board of Directors November 15, 2007

Revised by the Board of Directors: September 24, 2018