

Gift Acceptance Policy

I. PURPOSE OF POLICY

The purpose of the Gift Acceptance Policy is to guide the efforts of the Lincoln Community Foundation, its donors, and their professional advisor(s) in processing gifts to achieve donors' charitable goals. This document summarizes the policies and guidelines for accepting various types of assets and the types of gift mechanisms that can be used. The Foundation seeks to ensure that any asset it accepts does not place the Foundation or donor at risk.

This policy will be made available to donors, prospective donors, advisors and members of the public upon request.

The Foundation follows the Council on Foundations' *National Standards for U.S. Community Foundations* and *Model Standards of Practice for the Charitable Gift Planner*, as adopted by the National Association of Charitable Gift Planners.

II. GIFT ACCEPTANCE

A. Gift Factors

The following factors will be considered in determining whether gifts should be accepted by the Foundation:

1. meets IRS qualifications as a charitable gift;
2. documentation and understanding of any donor restrictions or conditions;
3. economic practicality of administering the gift;
4. marketability of the gift;
5. liability risks (financial, legal, nonprofit status);
6. whether subject to unrelated business income tax (UBIT).

III. TYPES OF GIFTS

A. Restrictions and Authority to Accept Gifts

In conformance with applicable statutes and regulations governing community foundations, a donor may not impose any material restriction or condition on a gift that prevents the Foundation from employing the transferred assets or the income derived in furtherance of its exempt purposes. Except as hereafter specified, the President or any of the Foundation's Vice Presidents may accept any gift for and on behalf of the Foundation.

B. Asset Types

The Foundation may accept the following gifts using the criteria noted within each gift type. If the donor requires a gift receipt from the Foundation, the donor shall provide his/her name and address. Other documentation may be necessary for some asset types. Gifts of closely held stock,

real estate, and other not readily marketable, long-term capital gain property are subject to specific fees and policies. *Please see Exhibit B.*

1. **Cash, cash equivalents or checks.** Cash is acceptable in any form. Checks or money orders shall be made payable to the “Lincoln Community Foundation” and shall be delivered to the Foundation’s administrative office. Information as to the purpose for which the contribution is to be used shall also be provided. Cash, checks and money orders may be accepted for and on behalf of the Foundation by any employee of the Foundation.
2. **Pledges.** Written pledges for future gifts shall be accepted pursuant to an agreement approved by the President or any Vice President of the Foundation. When appropriate the donor may be invoiced according to a pre-determined schedule.
3. **Publicly Traded Securities.** Publicly traded stocks and bonds may be electronically transferred, re-registered in the name of the Foundation or conveyed through use of a stock power form. The Foundation will also accept shares in mutual funds. Marketable securities may be accepted by the President or any Vice President or any other employee authorized by one of such officers.

As a general rule all marketable securities shall be sold upon receipt. Donors shall be advised of this practice and may not request the Foundation to engage in market timing. In some cases, applicable securities laws may restrict marketable securities; in such instance, the President, General Counsel, and the Vice President for Finance shall make the final determination on the acceptance of the restricted securities.

4. **Closely Held Securities.** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs, LLCs, Limited Partnerships, Family Limited Partnerships, Charitable Limited Partnerships or other ownership forms, may be accepted subject to the approval of the President, General Counsel, and the Vice President for Finance. Prior to acceptance each gift shall be reviewed to determine that:
 - a. there are no restrictions on the securities that may prevent the Foundation from ultimately converting such assets to cash;
 - b. the security is marketable; and
 - c. the security will not generate any undesirable tax consequences for the Foundation. If accepting and/or holding a gift of closely held securities will generate unrelated business taxable income, the donor shall agree in writing that the taxes on the unrelated business income and the Foundation’s associated administrative expenses shall be paid from the fund holding the contributed securities. Further, the donor shall agree to an additional contribution to the fund to pay such taxes and administrative expenses to the extent there is insufficient cash in the fund to cover these costs.

If potential problems arise on initial review of the security, additional review from an outside professional may be sought before making a final decision on acceptance of the gift. The final acceptance decision shall be made by the President, General Counsel, and the Vice President for Finance after seeking such additional review and advice as they request.

5. **Virtual Currency.** Gifts of Bitcoin and other virtual currencies may be accepted. Donors shall be encouraged to consult with their tax advisor to determine the tax characterization of the holding. To guard against price volatility, the Foundation shall convert all gifts of virtual currency to cash as soon as possible via a third-party processing vendor. The President, General Counsel, and the Vice President for Finance shall make the final decision on acceptance.
6. **Real Property.** It shall be the general policy of the Foundation to liquidate all real estate gifts as soon as possible. Before accepting a gift of real estate, all pertinent requirements on the Land Donation Checklist must be met, and the President, General Counsel and the Vice President for Finance must approve acceptance of the gift. *Please see Exhibit A.* In the event that property is retained as an investment or until sold, the following procedures may apply:
 - a. **Farm Leases:** All farm properties will be moved to cash rent at the earliest opportunity, due to tax implications.
 - b. **Rental Property other than Farms:** The staff may seek the advice of local real estate companies in arriving at an equitable rent. The Vice President for Finance is authorized to determine the rental rate, to conclude the rental agreement and to seek services to administer the property.
7. **Insurance Policies.** Donors may transfer ownership of paid-up policies or premium-due policies to the Foundation. In either case, the Foundation shall be the owner and permanent beneficiary of the policy and shall retain the policy in its office.

Contributions for premium-due policies shall be made directly to the Foundation at least ten days prior to the premium date. **It is the Foundation's practice to hold life insurance policies until maturity, but the Foundation, as the owner of the policy, reserves the right to redeem the policy before maturity and to determine how best to use the cash value. This right usually may be exercised only upon default of contributions toward premium payments.**

The Foundation shall not enter into charitable reverse split-dollar agreements.

8. **Retirement Assets.** "Account" type retirement plans, in which a balance accumulates as principal, may be gifted to the 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 making charitable gifts.)

- a. Methods for gifting retirement assets include:
 1. naming the Foundation as 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 charitable remainder trust with the assets upon the death of the asset owner, naming the Foundation as the remainder beneficiary and non-charitable heirs as income beneficiaries.
9. **Other Assets.** The Foundation may accept other assets, such as personal property, royalties, and interests in a business. These gifts will be evaluated on a case-by-case basis, using the gift factors noted in Section II.
10. **Planned and Testamentary Gifts.** The Foundation's planned and testamentary giving program encompasses all forms of gifts wherein benefits do not fully accrue to the Foundation until some future time, such as the death of the donor or other beneficiaries or the expiration of a predetermined period of time.

While there are many types of planned and testamentary gifts where the Foundation may be the beneficiary or remainderman, the most common are:

- a. **Charitable Remainder Trusts.** The Foundation may accept designation as remainder beneficiary of a charitable remainder trust. The Foundation will not accept appointment as trustee of a charitable remainder trust.
- b. **Charitable Lead Trusts.** The Foundation may accept a designation as income beneficiary of a charitable lead trust. The Foundation will not accept appointment as trustee of a charitable lead trust.
- c. **Gift Annuities.** The Foundation may accept gifts to create gift annuities. See Life Income Gifts Policy.
- d. **Retirement Plan Beneficiary Designations.** The Foundation may accept gifts from retirement plans and encourages donors to name it as a beneficiary of an IRA, 401(k), 403(b) or other retirement plans.
- e. **Life Insurance Beneficiary Designations.** The Foundation may accept gifts generated by beneficiary or contingent beneficiary designations of life insurance policies.
- f. **Bequests.** The Foundation may accept testamentary gifts. Donors are encouraged to share testamentary plans with the Foundation, and the Foundation may engage legal counsel for evaluation when questions arise regarding a plan. The Foundation is not obligated to accept all testamentary gifts, and such gifts may be disclaimed if the Foundation considers the gift unacceptable.

IV. FUND DEVELOPMENT PRACTICES

A. Donor Relations

The Foundation Board of Directors has adopted the following six general principles as guidelines for all relations between donors and prospective donors and its staff and volunteer leadership.

1. **Disclosure.** Full disclosure shall be made of donor options and the range of possible results from a proposed gift plan.
2. **Donor advisors.** Donors shall be urged in writing to review all proposed gift plans with their own professional advisor(s).
3. **Freedom from pressure.** Foundation representatives shall refrain from any and all forms of pressure and shall be sensitive to the mental, emotional, and financial capacities of prospective donors.
4. **Incentive compensation.** No representative of the Foundation shall receive any commission, bonus or other form of incentive compensation related to performance in the area of gift planning and solicitation.
5. **Finders' fees.** Lincoln Community Foundation shall pay no finders' fees to intermediaries proposing charitable gifts from anonymous donors nor make any payments otherwise characterized that do not represent fair compensation for services rendered to the Foundation.
6. **Confidentiality.** All information on past donors, prospective donors and gifts received shall be held in confidence unless permission is received for releasing or publishing such information.

B. Funds

The Foundation offers several different types of funds, including:

1. **Unrestricted Grant Funds (a/k/a Lincoln Forever Funds.)** These endowed funds support the needs and opportunities in Lincoln and Lancaster County, Nebraska, as detailed in the Foundation's Grantmaking Policy and Procedures.
2. **Lincoln Community Foundation operating endowments.** The Lincoln Community Foundation Fund supports the Foundation's annual operating budget. The Lincoln Community Foundation Building and Garden Maintenance Fund provides for the maintenance and improvement of the Foundation's building and garden.
3. **Field of Interest Funds.** These funds may be endowed or expendable and benefit a particular cause or area of interest in Lincoln or Lancaster County, Nebraska. The Fund Agreement may specify a committee or individual to make recommendations for distributions.

4. **Fiscal Sponsorship Funds (a/k/a expendable field of interest advised funds).** These funds are expendable and benefit an organization, group, cause or area of interest in Lincoln or Lancaster County, Nebraska. The Fund Agreement may specify a committee or individual to make recommendations for distributions.
5. **Designated Funds.** These funds are generally endowed and provide support for one or more specific organizations.
6. **Agency Funds.** These funds can be endowed or expendable and are created by a qualified 501(c)(3) organization that designates itself as the only organization permitted to receive distributions. An agency may create multiple funds to account for different projects or purposes, and all such funds created by the same agency shall be aggregated for fee purposes.
7. **Scholarship Funds.** These endowed funds provide financial assistance to students at nonprofit institutions pursuant to eligibility criteria established by the donor. A donor or his or her designee may serve on the scholarship selection committee. An expendable scholarship fund may be established as a companion to an endowed scholarship fund established by the same donor or donors.
8. **Donor Advised Funds.** Donor advised funds may be endowed or expendable. Donors may recommend grants to qualified charitable organizations.

Each of the above types of funds shall be created via a fund agreement between one or more donors and the Foundation. The fund agreement shall be approved and signed by the President or one of the Vice Presidents of the Foundation. Templates for each type of fund agreement shall be prepared or reviewed by the General Counsel or Vice President for Community Outreach. All fund agreements shall include the “power of variance” provision. All named endowed funds shall reach a minimum of \$10,000 before grants may be made. All endowed agency funds shall reach a minimum of \$10,000. See “Incubation Period for New Endowments Policy.”

Rev. 5/12/2021
Rev. 11/13/2019
Rev. 5/16/2018
Rev. 11/9/2016
Rev. 8/17/2016
Rev. 5/11/2016
Rev. 5/20/2015
Rev. 8/15/2012
Rev. 11/20/08
Rev. 11/20/03
5/21/98

EXHIBIT A

LAND DONATION CHECKLIST

BEFORE ACCEPTING GIFT (clear title, NO debt, NO environment issues, & ready market):

- _____ Receive written communication from donor, if living, or agent as to their intent to make the gift. They also need to provide the legacy description of the property at this time.
- _____ Written agreement/understanding with donor, if living, that donor will pay for related expense if gift is not accepted.
- _____ Appraisal done by and paid by donor, if living (appraisal copy to LCF).
- _____ Physically observe the real estate (when possible).
- _____ LCF staff consult with real estate agent(s) to determine the potential value and marketability.
- _____ Order title search on the property. Determine the transferability and potential problem areas from such a search. Verify there is NO debt or that the debt is minimal and the property is readily marketable.
- _____ Order Phase I environmental site assessment (Commercial property only). Such assessment should, at a minimum, include inquiry into the following areas:
 - 50-year title history
 - Aerial photographs and Sanborn Fire Insurance maps
 - Existence of Federal, State, and local statutory environmental clean-up liens
 - Review of government records of sites where there have been releases likely to cause contamination at the site
 - Visual inspection of the site and immediately adjacent sites, including investigation into chemical use, storage, treatment and disposal practices
 - On-site interview
 - Asbestos
 - Radon
 - Lead-based paint
 - Underground and above ground storage tanks. They may wish to contact the fire marshall to determine the location of all such fuel oil tanks.

It is important to ask the vendor conducting the Phase I research and testing to provide a certificate of insurance verifying a minimum of \$1 million of insurance and indemnification coverage.

ACCEPTING GIFT:

- _____ Acceptance of gift by President, General Counsel, and Vice President for Finance
- _____ Approve leases (if any)

AFTER ACCEPTING GIFT & BEFORE SELLING THE GIFT:

Prepare and execute the following documents:

- _____ Fund Agreement, to be reviewed by our attorney, if applicable (if a restricted donation either by purpose or time)
- _____ Subsequent expense reimbursement and fee agreement (if not covered in pre-acceptance agreement)
- _____ Deed execution
- _____ Title insurance policy
- _____ Obtain liability coverage for the site until sold
- _____ Record deed
- _____ Receipt gift (Form 8283 if over \$5,000)

PREPARING TO SELL THE GIFT:

- _____ Selling price range established by President, General Counsel, and Vice President for Finance
- _____ Contract with real estate agent to sell property

AFTER SELLING THE GIFT:

- _____ Place sale proceeds into the established fund, if applicable (net of expenses, commissions and fees)
- _____ File Form 8282 with the IRS (if sold within two years of gift date & if original gift was over \$5,000)
- _____ Cancel liability coverage

EXHIBIT B

GIFTS OF CLOSELY HELD STOCK, REAL ESTATE, AND OTHER NOT READILY MARKETABLE LONG-TERM CAPITAL GAIN PROPERTY TO THE LINCOLN COMMUNITY FOUNDATION *or* THE LINCOLN COMMUNITY FOUNDATION DONOR-DIRECTED DEPOSITORY, INC.

The Board of Directors of the Lincoln Community Foundation, Inc. (Foundation) and the Lincoln Community Foundation Donor-Directed Depository, Inc. (DDD), have established the following policies regarding gifts of closely held stock, real estate and/or other not readily marketable assets:

1. Charitable Tax Deduction

A donor receives a charitable deduction based on the value of the gift on the date of the gift transfer, per IRS rules. A qualified appraisal complying with IRS regulations is required when the value of the asset(s) exceeds \$5,000, except for certain publicly traded securities.

2. Sale of Securities or Real Estate

As a general rule, gifts of securities, virtual currency or real estate are sold as soon as possible (in the case of securities, usually on the same day as the gift). The donor's "cash" account is then credited with the proceeds from the sale, after commissions and expenses, if any. If the sale of closely held stocks, real estate or other not readily marketable assets is completed within two years of the date of the gift, the Foundation or the DDD will report to the IRS the actual sale proceeds of the asset(s) (Form 8282).

For gifts of closely held stock, real estate or other not readily marketable assets, the donor will need to disclose any transfer restrictions and any other encumbrances that will limit or restrict the Foundation's or DDD's ability to sell the gift. The gift will not be considered accepted until the Foundation or DDD approves the transfer restriction and encumbrances.

In the case of gifts of land, stock of closely held corporations, or other assets that are not readily marketable at the time of the gift, there may be delays, perhaps even years, before the assets can be sold. The value of the land, closely held stock, or other not readily marketable asset as of the gift date, plus or minus any "gains or losses," fees, and expenses that are incurred during the time between gift transfer and subsequent sale by the Foundation or the DDD will be reflected in the value of the donor's "asset" fund or account.

In negotiating the sale of the closely held stocks, a fair market value (price per share) will be established at the time of the sale. No warranty is given by the Foundation or the DDD that the valuation will be acceptable to the IRS.

All paid dividends or other income will belong to the Foundation or the DDD, but will be credited to the donor's fund or account, net of fees.

The Foundation and DDD reserve the right to set aside a portion of the gift proceeds to cover expenses.

As closely held stock, real estate, or other not readily marketable assets are sold, proceeds net of expenses, will be added to the donor's "cash account" and the donor will be able to make charitable distributions to eligible organizations. For Donor Directed Depository accounts, a waiting period of 60 days from the transfer of proceeds into the donor's account is required.

Early withdrawal is allowed, however, the donor must follow the Depository's early withdrawal policy.

3. **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 foundations¹. 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 percent² of the voting stock³ 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 interest 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. Funds that currently hold such assets will have a much longer period to divest under the same complicated transition relief given to private foundations in 1969⁴.

The Foundation will identify and monitor any new gift to a donor advised fund of any interest qualifying as an "excess business holding" under the Internal Revenue Code and applicable regulations. The Foundation will exercise its best effort to dispose of the contributed interest at the best possible price within five years of the date of the gift, and will, in any event, dispose of any excess business holding prior to the five-year time limit unless an extension to the holding period is available under applicable law. The Foundation will notify potential donors of such interests of this requirement prior to the contribution of such interest. This policy shall also apply to Lincoln Community Foundation Donor-Directed Depository, Inc. (DDD) accounts.

Definitions:

- 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

¹ 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.

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

³ 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.

⁴ 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.

- 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.
- Donors and persons appointed or designated by donors as “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. Members 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 36-percent-controlled entities as defined in section 4958(f)(3).

This policy was established based on current laws and regulations and is subject to change by the Board of Directors of the Lincoln Community Foundation and the Lincoln Community Foundation Donor-Directed Depository.

Rev. 11/13/2019
Rev. 5/16/2018
Rev. 8/17/2016
Rev. 5/20/2015
Rev. 11/16/11
Rev. 6/30/11
Rev. 11/21/02
Rev. 11/16/00
Rev. 11/18/99
5/21/98