



LONG BEACH COMMUNITY FOUNDATION

GIFT ACCEPTANCE POLICY

To ensure compliance with the Internal Revenue Code of 1986, as amended (the “Code”) and applicable Treasury Regulations and provide guidance to donors and their advisors, the Long Beach Community Foundation (“Foundation”) has adopted these guidelines for establishing funds and accepting gifts from donors.

The President/CEO and any other person or persons designated by the Foundation’s Board of Directors from time to time, are authorized to accept gifts to the Foundation and to approve and execute, on behalf of the Foundation, all agreements with donors in furtherance of the Foundation’s charitable purposes as set forth in the Foundation’s Articles of Incorporation and Bylaws.

Guidelines for Fund Creation

A fund may be established as an Unrestricted, Field of Interest, Scholarship (Restricted, Discretionary or Committee Advised), Donor Advised, Restricted, Agency Endowment, Community Benefit, Social Impact, Special Project or Fiscal Sponsorship Fund. Funds may be established during a donor’s lifetime, by an outright donation to the Foundation or by the use of a planned gift instrument such as a charitable trust or annuity. Further, funds may be established by bequest through a donor’s will or living trust.

1. **Unrestricted Funds:** These are unrestricted funds from which the Foundation has complete discretion in grantmaking. Gifts of \$2,500 or more may be placed in individually named funds. Gifts under \$2,500 shall be placed in a general unrestricted fund. Unless otherwise specified by the donor, the Foundation treats unrestricted funds as permanent funds subject to a spending policy adopted by the Foundation’s Board of Directors.
2. **Field of Interest Funds:** The donor specifies an interest area that can be either broadly or narrowly defined. The Foundation has discretion to make grants within the donor’s interest area. The minimum gift to establish a field of interest fund is \$2,500. Unless otherwise specified by the donor, the Foundation treats field of interest funds as permanent funds subject to a spending policy adopted by the Foundation’s Board of Directors.
3. **Donor Advised Funds:** The donor reserves the right to make periodic grant recommendations to the Foundation. The Foundation may accept or reject the recommendations of the donor in its sole and absolute discretion. The minimum gift to establish a donor advised fund is \$2,500. During the lifetime of the donor, advisors to these funds may suggest grants made from principal as well as income. Donor advisors may name their children, or others, as successor advisors. Unless otherwise specified, successor advisors may recommend grants only from the fund’s net income (an amount defined by the Foundation’s spending policy for permanent funds). Once all successor advisors named by the donor, if any, are deceased, the fund becomes an unrestricted fund, field of interest fund or other fund depending on the specifications of the donor.

4. **Restricted Funds:** The donor specifies one or more nonprofit organizations that will be supported by the fund. The minimum gift to establish a restricted fund is \$2,500. Unless otherwise specified, the Foundation treats restricted funds as permanent funds subject to a spending policy adopted by the Foundation's Board of Directors.
5. **Agency Endowment Funds.** Nonprofit organizations that are classified as public charities by the IRS can create agency endowment funds that are restricted for their benefit. The minimum gift to establish an agency endowment fund is \$2,500. As with donor advised funds, nonprofit public charities establishing an agency endowment fund may suggest grants from the fund from principal as well as income.
6. **Scholarship Funds:** Donors may create scholarship funds to support student education at qualified educational institutions. The minimum gift to establish a scholarship fund is \$50,000. Such funds must have defined eligibility criteria for selection and may be treated as "restricted scholarship funds" or "donor advised scholarship funds."
 - a. **Discretionary and Restricted Scholarship Funds.** Donors designate particular schools, school districts, colleges or universities, or general scholarship purposes to benefit from a restricted scholarship fund. Unless otherwise specified, the Foundation treats restricted funds as permanent funds subject to a spending policy adopted by the Foundation's Board of Directors.
 - b. **Committee Advised Scholarship Funds.** For donor advised scholarship funds, an advisory committee is established to screen applicants and award scholarships. This committee may consist of school personnel and may include donors, advisors and related persons as long as no conflict of interest arises with respect to a particular applicant. Donors, advisors, and related persons together must always represent less than the majority on the committee. Advised scholarship funds may be established as permanent funds subject to the spending policy adopted by the Foundation's Board of Directors or as nonpermanent funds that allow for grants to be made principal as well as income.
7. **Fiscal Sponsorship Funds.** The Foundation may from time to time agree to create fiscal sponsorship funds to administer a charitable program or activity on behalf of a donor, community group or government entity. The minimum anticipated gift to establish a fiscal sponsorship fund is \$20,000. The Foundation will assess the charitable purposes and administrative requirements of each proposed fund on a case-by-case basis, in particular whether the project is a good fit with the Foundation's mission and resources. As such funds often involve distributions to non-charitable vendors (such as consultants), the Foundation will take special care to assure the charitable purpose of all distributions.
8. **Special Project Funds.** The Foundation may from time to time create funds to administer special projects, such as Foundation grantmaking initiatives or collaborations with other grantmaking foundations. In general, the minimum anticipated amount to establish a special project fund is \$20,000.
9. **Non-Component Funds.** The Foundation may administer funds on behalf of nonprofit organizations or government entities that are not considered

component funds of the Foundation. In general, the minimum amount to establish a non-component fund is \$20,000. The Foundation will create each proposed non-component fund on a case-by-case basis and only administer such funds as follows:

- a. In a manner which will not jeopardize the Foundation's standing as a nonprofit public benefit corporation or create unrelated business taxable income; and
- b. Upon the review and advice of the Foundation's legal counsel.

10. **Foundation-Created Entities.** The Foundation may from time to time create supporting organizations and limited liability companies that are to be used for the administration of a gifted asset or special project of the Foundation. The Foundation's legal counsel will create all such entities.

Guidelines Regarding Assets Used to Make Gifts

1. **Gifts of Cash:** The Foundation will accept cash gifts subject to the minimum limitations set forth above.
2. **Gifts of Publicly Traded Securities:** The Foundation will accept gifts of publicly traded securities and assets deriving their value from such securities. The valuation of publicly traded securities and bonds contributed by donors will be obtained from the usual public trading records. Bond specialists will value bonds that are not routinely reported in financial journals. Gifts of puts, calls, options or warrants in such securities will be valued by an appraisal company, accounting firm or by the method of valuation consistent with the appropriate industry standard (the cost of such appraisal is the donor's responsibility).
3. **Other Business Interests.** The Foundation will accept gifts of stock, options, warrants and other interests in closely held "C" corporations, "S" corporations, limited partnership interests and limited liability company (LLC) units, as well as notes, trust deeds and similar assets. All such gifts will be evaluated on a case-by-case basis. All such gifts must be valued by an appraisal company, accounting firm or by the method of valuation consistent with the appropriate industry standard (the cost of such appraisal is the donor's responsibility).
 - a. **Gifts with Adverse Consequences for the Foundation.** The Foundation will not accept a business interest that will subject the Foundation to a liability, including cash calls on limited partnerships or LLCs or other liabilities that could have adverse consequences for the Foundation, unless favorable advice of counsel is secured.
 - b. **Sale of a Business Interest.** In the case of a business interest to be sold, the Foundation will generally not join in or participate in the issuance of warranties, representations, indemnification agreements, or covenants not to compete unless favorable advice of counsel is secured.
 - c. **General Partnership Interests.** General partnership interests will not be accepted by the Foundation because they can result in significant legal and tax liability.
 - d. **Cost of Gift.** The Foundation will charge the resulting fund its costs associated with accepting the business interest (e.g. unrelated business income taxes and attorney fees). The Foundation may request that the donor contribute additional cash or other liquid assets to the fund to pay such costs.

4. **Excess Business Holdings in Donor Advised Funds.** Notwithstanding any other provision hereof, the Foundation shall not accept (or hold) any gift of an interest in a business enterprise for a Donor Advised Fund (“DAF”) that would subject the Foundation to tax under section 4943 of the Internal Revenue Code, concerning “excess business holdings.” Ownership of unincorporated businesses that are not substantially related to the DAF’s purpose is prohibited. Therefore, any proposed gift that would result in the DAF holding:
- a. a 20% or greater interest in the voting stock of an incorporated business,
 - b. a 20% or greater interest in the profits of an unincorporated business, partnership or joint venture,
 - c. a 20% or greater beneficial interest of a trust or similar entity,
 - d. any interest in an entity in which any interest is owned by a donor or advisor to the DAF, by a family member of any such person, or by an entity in which any of the foregoing persons has an interest, or
 - e. any other interest that may cause concern over possible excess business holdings

shall be referred to the Foundation’s counsel for an opinion on the possible application of Code section 4943.

5. **Life Insurance:** The Foundation may be designated as a primary or successor beneficiary of a life insurance policy owned by the donor. Insurance policies with a minimum face value of \$25,000 where the Foundation is irrevocably named as owner and beneficiary and holds the original policy may be gifted. As a condition to accepting a gift of a life insurance policy on which premiums remain due, the Foundation may require the donor to pledge to contribute to the Foundation, at least 10 days prior to each premium due date, an amount sufficient to pay the premium. Premiums may be paid from accrued dividends or accumulated cash value if sufficient and so stipulated by the donor. If the Foundation is notified that a policy is to be terminated for non-payment of premium, the Foundation may elect to continue to pay such premiums from its unrestricted assets, use the accrued cash value of the policy to pay the premium or use the accumulated cash value to create a fund. If the accrued cash value is less than \$25,000, the cash value may be added to an unrestricted fund at the Foundation.

Specific Insurance-Related Gifts Excluded. The Foundation will not accept gifts of insurance related to what are commonly referred to as a “charitable reverse split dollar” or “charitable limited partnership” plan without first obtaining a letter ruling from the Internal Revenue Service as to their legality.

6. **Illiquid Assets (including Real Estate and Tangible Personal Property).** The Foundation will accept gifts of illiquid assets such as real estate, tangible personal property and intangible personal property. Illiquid gifts will be reviewed and considered by the President/CEO and presented to the Executive Committee for approval and acceptance. The Executive Committee may choose to refer larger gifts, such as real estate, to the Board of Directors for acceptance. Any illiquid gift that retains the possibility of a liability to the Foundation may be accepted into a supporting organization. Gifts to the Foundation that are not liquid may require additional documentation prior to acceptance by the Foundation. This may include appraisal, site visit,

professional inspection or assessment, environmental review and other types of due diligence review associated with the proposed asset to be gifted.

- a. **Costs.** The costs of securing a valuation appraisal will generally be born by the donor. Other transfer costs including attorney fees and title insurance may be born by the donor or charged to the fund being established at the Foundation.
- b. **Real Estate.** Gifts of real estate may be made outright, on a testamentary basis, on a current basis subject to a retained life estate, or to a charitable remainder trust or charitable lead trust. Such gifts require extra review. The Foundation reserves the right to refuse any gift of real estate. Without a compelling reason to make a further evaluation, the Foundation will not accept a real estate gift valued at less than \$100,000.
 - 1) Due Diligence Review. Acceptance of real property may be preceded by a review that includes but is not limited to:
 - a) A valuation appraisal.
 - b) Physical inspection. In addition to a site visit by a Foundation representative, the Foundation may also commission a report by a professional property inspector.
 - c) Environmental review (a Phase I or Phase II review). In general, the Foundation will request that the donor provide a Phase I environmental assessment on gifts of commercial and industrial property.
 - d) Cash Flow Statement and tenant leases (for rental property).
 - e) Title examination and/or opinion of title by a qualified attorney or title company.
 - 2) Cost Benefit Analysis. The property must have significant value in relation to the costs of holding and selling the property and any liability or exposure in connection with ownership of the property. The Foundation will evaluate the cost of holding and/or improving the property against the cost of liquidating the property immediately.
 - 3) Marketability. The property must be marketable within a reasonable time period.
 - 4) Suitability. The use or image of the property must be consistent with the Foundation's mission.
 - 5) Foreign Property. In general, the Foundation is not inclined to accept property located outside the state of California and will not accept any property located outside the United States.
 - 6) Title and Title Insurance. The Foundation will secure title insurance and a title insurance binder on gifts of real property.
 - 7) Insurance. All gifts of real property will be reported to the Foundation's insurance carrier for inclusion in its corporate insurance policies.
- c. **Gifts of Real Property with Retained Life Estate.** The Foundation will evaluate these gifts on a case-by-case basis, using the applicable policies and procedures regarding gifts of real estate described above. In addition, the donor and the Foundation will enter into an agreement regarding the donor or life tenant's responsibilities for taxes, utilities, upkeep, maintenance, and limitations on the donor or life tenant's rights to make changes to the

- property, or allow liens to be placed on the property, without approval of the Foundation.
- d. **Tangible Personal Property.** The donor is responsible for obtaining a qualified appraisal acceptable to the Foundation. The Foundation does not generally accept gifts of automobiles, boats, etc., but will evaluate proposed gifts of all personal property on a case-by-case basis with specific consideration of tax implications such as related use and the cost of administering, storing, insuring or otherwise managing such gifts.
 - e. **Intangible Personal Property and Intellectual Property.** The Foundation may accept gifts of patents, trademarks, copyrights and royalty streams or distribution rights on published works (such as books or films) where there is clear evidence of marketability or assurance of an income stream. Gifts of oil and gas interests involve special considerations and will be evaluated on a case-by-case basis. The donor must obtain an acceptable appraisal to value intangible personal property or intellectual property contributed to the Foundation.

Property Subject to a Debt or Encumbrance

The Foundation may accept gifts of assets such as real estate, business interests or insurance policies that are subject to a debt or encumbrance. Given the potentially adverse tax consequences to the Foundation and donor of contributions of encumbered property (the Foundation may be taxed on unrelated business taxable income and the donor may be subject to capital gains tax), donors will be encouraged to refinance debt on the subject property to enable the gifted property to be free and clear.

1. **Real Estate.** Real estate contributed to the Foundation shall generally be free and clear of any debt or lien. The Foundation may accept gifts of real estate that are encumbered with mortgage debt or other encumbrance up to twenty-five percent (25%) of its appraised value. Such gifts will be evaluated on a case-by-case basis.
2. **Business Interests.** Gifts of shares in corporations, limited liability companies and limited partnerships with underlying debt (debt at the company or partnership level that will not be assumed by the Foundation) will be evaluated on a case-by-case basis.
3. **Insurance Policies.** Gifts of insurance policies may have premiums financed by a third-party lender, in whole or in part, and will be evaluated on a case-by-case basis.

Guidelines for Planned Gifts

1. **Bequests.** Bequests received by the Foundation will be applied for the charitable purposes requested by the donor, if any are specified. Donors and their advisors are encouraged to advise the Foundation of their intention to make such bequests to ensure the donor's intent can be carried out through the Foundation's grantmaking activities and organizational capacity.
2. **Charitable Gift Annuities.** As a part of its ongoing development efforts and planned giving program, the Foundation will arrange Charitable Gift Annuities issued by a licensed and insured provider to interested donors. If no such

provider is available, or at the donor's recommendation, a pooled income fund provided by a licensed and insured provider, may be substituted.

- a. **Types of Annuity Contracts.** Outright Charitable Gift Annuities will be limited to those donors who are 65 years of age or older and Deferred Charitable Gift Annuities to those of at least 45 years of age. For joint life annuities (a couple), both persons must meet the criteria listed above.
- b. **Minimum Gift Allowed.** The minimum to establish a Charitable Gift Annuity is \$25,000. The minimum to establish a Deferred Charitable Gift Annuity is \$25,000.
- c. **Reserve Account.** All Charitable Gift Annuities and Deferred Charitable Gift Annuities under contract will be administered by an external corporate trustee and invested in segregated "reserve" and "excess" accounts as required by the California Department of Insurance.
- d. **Recommended Rates.** The Foundation will follow the recommended rates of the American Council on Gift Annuities (the "rate schedule"). The Foundation will inform the California Department of Insurance of any changes in its rate schedule, as required from time to time. Exceptions to the rate schedule shall be reviewed and approved by Foundation staff authorized to enter into gift agreements.
- e. **Investment Disclosure.** As required by the Philanthropy Protection Act of 1997, the Foundation will disclose to annuitants the investment of annuity assets upon the creation of each annuity.
- f. **Assets Accepted.** Donors may make gifts of liquid assets such as publicly traded securities and cash in exchange for a Charitable Gift Annuity or Deferred Charitable Gift Annuity. The Foundation will consider the receipt of illiquid assets in exchange for a Charitable Gift Annuity or Deferred Charitable Gift Annuity on a case-by-case basis. Such exceptions shall be reviewed and approved by the Foundation staff authorized to enter into gift agreements.

Retained Life Estate and Charitable Gift Annuity. The Foundation will generally not issue a gift annuity in exchange for an interest in real property (such as a remainder interest in a Life Estate in exchange for a Charitable Gift Annuity). Exceptions shall be reviewed and approved by the Foundation staff authorized to enter into gift agreements.

- g. **Use of Remainder.** At the death of each annuitant (or the surviving annuitant), the remainder of each annuity shall be distributed as follows:
 - 1) Annuity Distribution Options
 - a) *Permanent Fund.* One hundred percent (100%) of the remainder of the annuity will be transferred to a fund (unrestricted, field of interest, scholarship, donor advised, restricted, etc.) that is subject to the spending policy for permanent funds adopted by the Foundation's Board of Directors, or
 - b) *Unrestricted Fund and Outright Distribution.* If the remainder is to be distributed, then ten percent (10%) of the remainder will be transferred to the general unrestricted funds of the Foundation.
 - 2) Annuities for Other Nonprofit Organizations. The Foundation will use the services of a licensed and insured provider to facilitate Charitable

Gift Annuity contracts for other local nonprofit organizations. Such contracts would provide for:

- a) At least ten percent (10%) of the residual benefit to go to the Foundation on a contract that provides for an outright distributions of the residual benefit, or
- b) One hundred percent (100%) of the residual benefit to be used to establish a permanent fund at the Foundation for the benefit of the participating nonprofit organization.

3. **Charitable Remainder Trusts:** The Foundation may be named as a remainder beneficiary of Charitable Remainder Unitrusts and Annuity Trusts. The Foundation may serve as trustee of any such trusts, subject to review on a case-by-case basis.

- a. **Minimum Gift Allowed.** The minimum amount of gift to a Charitable Remainder Trust for which the Foundation will serve as trustee is \$150,000.
- b. **Use of Remainder Interest.** The remainder from a Charitable Remainder Trust supporting the Foundation may be added to or used to create a fund of the Foundation. If the Foundation serves as trustee of such a trust, a minimum of fifty percent (50%) of the remainder of the trust must be designated to support a fund administered by the Foundation. Exceptions shall be reviewed and approved by Foundation staff authorized to enter into gift agreements

Purpose of Remainder Interest. The remainder of a Charitable Remainder Trust may be used to create any type of fund offered by the Foundation. In all cases, donors are encouraged to advise the Foundation of their intention to make the Foundation a beneficiary of such trusts, to ensure that the donor's intent can be carried out through the Foundation's grantmaking and organizational capacity.

- c. **Non-Charitable Trusts Excluded.** The Foundation will not serve as trustee of donors' living trusts, special needs trusts or other non-charitable trusts.
- d. **Gifts of Illiquid Assets.** In situations in which the Foundation will serve as trustee, gifts of real estate or other illiquid assets will be considered only in relation to the funding of a Net Income Charitable Remainder Unitrust (NICRUT) or a Net Income with Makeup Provision Charitable Remainder Unitrust (NIMCRUT) or a FLIP Charitable Remainder Unitrust (FLIP CRUT).
 - 1) Charitable Remainder Annuity Trust. In general, the Foundation will not serve as trustee of a Charitable Remainder Annuity Trust funded with illiquid assets. The Foundation may agree to serve as trustee of such a trust if the donor funds the trust with sufficient liquid assets to make the annuity payments from the trust over a prudent period of time, to be determined by the Foundation.
 - 2) S Corporation Stock. The Foundation shall not accept gifts of S corporation stock to fund a Charitable Remainder Trust. Under current law, a CRT is not an eligible shareholder of S corporation stock and a corporation's Subchapter S status is automatically terminated if its stock is transferred to a CRT.

- 3) Partnership Interests and Limited Liability Company Shares. Gifts of partnership interests and limited liability company interests will generally not be accepted by the Foundation to fund a Charitable Remainder Trust. Under current law, the trust would be subject to unrelated business income, which is detrimental to the tax-exempt status of the trust and may subject it and/or the donor to federal income tax.
- e. **Right to Decline Trusteeship**. The Foundation reserves the right to decline to serve as trustee on any trust whose payouts are too high to create an appropriate charitable remainder benefit.
4. **Charitable Lead Trusts**. The Foundation will evaluate gifts by donors to a Charitable Lead Annuity Trust or Unitrust on a case-by-case basis. The Foundation may serve as the trustee of a Charitable Lead Trust. The minimum amounts applicable to Charitable Remainder Trusts shall also apply to charitable lead trusts trusted by the Foundation.
5. **Bargain Sales**. The Foundation will evaluate these gifts on a case-by-case basis. “Bargain sales” are partial gifts and sales of real estate, securities, or other forms of illiquid property to the Foundation by the donor. An acceptable qualified appraisal is required. The price paid for the property by the Foundation should not, as a guideline, exceed 60% of the appraised fair market value of the property.
6. **Retirement Plans**. The Foundation will accept account type retirement plans, in which a balance accumulates as principal, such as IRAs, 401(k), 403(b), and defined contribution plans. Methods for gifting retirement plan assets include:
 - a. **Outright Gift**. Naming the Foundation as primary, successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse; and
 - b. **Charitable Remainder Trust**. Creating a testamentary Charitable Remainder Trust upon the death of the asset owner, naming the Foundation as remainder beneficiary and non-charitable heirs as income beneficiaries.

Legacy Society Membership

The Foundation may create a Legacy Society to honor donors who have remembered the Foundation by making gifts through their estate plans. In general, eligibility for membership in the Legacy Society is met by donors who have:

1. established bequests through their wills or living trusts,
2. outlined their charitable interests with the Foundation instruments, *Memorandum of Philanthropic Intent (MOPI)* or *Statement of Philanthropic Intent (SOPI)*.
3. designated the Foundation as the remainder beneficiary of a charitable remainder trust, retained life estate in real property or charitable gift annuity, or
4. designated the Foundation as the beneficiary of a lead interest in a charitable lead trust.

Applicability of Guideline

This set of guidelines is intended to cover the more common types of gifts to the Foundation. It is understood that special gifts or circumstances may require a case-by-case review and provisions not covered by this document. The Foundation reserves the right to refuse any gift it believes is not in the best interests of the Foundation.

1. **Exceptions.** Unless otherwise noted above, gifts to the Foundation that entail exceptions to these guidelines shall be reviewed and approved by Foundation staff authorized to enter into gift agreements on behalf of the Foundation.
2. **Amendments.** The Foundation's Board of Directors or such Committee of the Board of Directors that is designated to review and approve such activities of the Foundation may amend these guidelines from time to time.