

# Gift Acceptance Policy

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The Asset Development program of the Wabash Valley Community Foundation Inc. (hereinafter Foundation) encompasses 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 Foundation.

The Foundation endorses and subscribes to “A Donor Bill of Rights”, Appendix A.

## **I. AUTHORIZATION**

It is the policy of Wabash Valley Community Foundation Inc. Board of Directors (hereinafter Board) to encourage donors to make outright, planned and testamentary gifts. Planned and testamentary gift types include bequests, charitable remainder trusts, charitable lead trusts, charitable gift annuities, retained life estates, gifts of life insurance or retirement assets, interest in business entities such as partnerships or closely-held stock, 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.

## **I. PURPOSE OF GIFTS**

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

## **II. ROLES AND RESPONSIBILITIES OF THE EXECUTIVE COMMITTEE**

The Foundation’s President serves as the Chair of the Executive Committee. The Executive Committee is made up of the officers, the affiliate/county service committee chairmen or their designee, and the Executive Director (in an ex-officio non-voting capacity). The primary responsibilities of the Executive Committee shall be to review proposed gift transactions specified below. The Committee shall also adopt standard forms for agreements with donors consistent with established policies and guidelines.

### **III. POLICIES**

The policy of the Foundation is to inform, serve, guide or otherwise assist donors who wish to support the 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 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 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 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.

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

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

1. The Foundation may elect to 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.
2. The 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.
3. The Foundation may elect to serve as the trustee of a testamentary trust subject to the approval of the Executive Committee.

### **IV. PROCEDURES FOR REVIEW OF GIFTS**

In reviewing gifts to the 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 Foundation
- Projected costs of managing the gift asset
- Fee revenues to the Foundation for administering the gift

Acceptance by staff of gifts consistent with the purposes, bylaws and procedures of the 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 Foundation
- Gifts of precious metals, where the value is easily established
- Charitable remainder trusts, charitable lead trusts, or charitable gift annuities, if funded with cash or publicly traded securities

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

- Gifts of real estate. The donor will be required to provide an independent appraisal and an environmental review (in most cases a Phase I) as well as a description of the property. The 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 value, 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, charitable intent, requirements or limitations, tax deductibility or other questions which indicate that a review of the Asset Development Committee is necessary.
- Accounts receivable (e.g. gifts of loans, notes, mortgages)
- Gifts of intellectual property, mineral reserves, precious metals where the value is not easily ascertained
- Artwork, coin collections, jewelry, etc.
- Life insurance policies
- Retained life tenancy in a residence, ranch or farm.
- Arrangements where the donor receives fees for services to the Foundation.

- Other property that may be unusual or fall outside the type of gifts usually handled by the Foundation, including tangible personal property unrelated to the Foundation's charitable purpose.
- Gifts to establish funds for a purpose that may fall outside the mission, bylaws and procedures of the Foundation.

Gifts requiring committee review will be handled promptly. Foundation staff will deliver to the chair of the 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 Asset Development Committee review if, in the judgment of the President, in consultation with designated members of the Asset Development Committee, that gift may be accepted without significant reservations or in any way jeopardizing the Foundation's tax-exempt status.*

Variance from these policies may be required in certain limited situations with special circumstances to achieve the charitable goals established by the Foundation. Such variance requires the concurrence of the Asset Development Committee, Finance Committee Chair, the President and the Executive Director.

## **VI. FUNDS**

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

The Board from time to time sets a minimum gift amount required to establish a named fund at the Foundation. Currently, the minimum amount required to create an endowed fund is \$5,000.00. A donor who establishes a non-endowed fund is asked to maintain a \$5,000.00 balance in the fund. There is an exception to the \$5,000.00 minimum amount called an Acorn Fund which is described herein. The minimum guideline may be waived by the Board or Executive Director in circumstances where waiver is deemed appropriate, such as when it is anticipated that the donor or other individuals will make subsequent gifts to the fund. In that case, a lower amount may be accepted initially, and the fund will be allowed to build up over time. However, no grants will be made from any endowed fund until it has reached the required minimum amount, unless such requirement has been waived in writing by the Board.

**A. Unrestricted (or Discretionary) Funds**

Unrestricted funds are available to the Foundation for any of the charitable purposes encompassed by the Foundation's mission and within geographic area. The Distribution Committee and/or affiliate board recommends how unrestricted funds are used.

**B. Field of Interest Funds**

Field of interest funds are restricted in their use by the donor's preference for a limited charitable purpose or particular geographic areas, without designation of recipient organizations or program through which such charitable purposes may be served. The Distribution Committee and/or affiliate board determines which organizations and programs receive grants from field of interest funds and the amount and timing of such grants. Examples of field of interest funds include but are not limited to:

- Health and Human services
- Education
- Arts and Culture
- Religion
- Community Development

**C. Advised Funds**

Donors establish advised funds for unrestricted charitable purposes. The donor, or person(s) identified by the donor, maintains the ability to offer recommendations to the Foundation regarding the recipients and amounts of grants from the fund. Advised funds typically treat donations as permanent endowments and do not permit grants to be made from the donated corpus. In some cases, however, donors may choose to establish an advised fund that permits the invasion of corpus for grant-making purposes.

**D. 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.

**E. 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 Foundation's Board of Directors may exercise its variance authority, selecting an alternate use for the fund compatible with its original charitable purpose.

#### **F. Special Project Funds**

Special Project Funds are not endowments, but allow the Foundation to receive contributions to benefit various community projects.

#### **G. Acorn Funds**

The purpose of an ACORN Fund is to establish a method for donors to reach the Fund minimum of Five Thousand Dollars (\$5,000.00) over a period of time for any of the aforesaid fund types.

It is understood and agreed that no distribution of earnings shall be made from this ACORN Fund until the Fund value equals or exceeds Five Thousand Dollars (\$5,000.00). The Board of Directors has approved the use of ACORN Funds for donors who pledge to make regular contribution payments towards the establishment of an endowment for a period not to exceed five (5) years.

Until the Fund minimum has been reached, the Board of Directors reserves the right to close the Fund if regular contribution payments are not made to the Fund in a timely manner or the period of five (5) years expires without the minimum donation of Five Thousand Dollars (\$5,000.00) having been met.

If the Fund is closed, the Board of Directors, may, at its option, invoke its variance powers to disburse the assets of this ACORN Fund to a Fund which has a charitable purpose which most closely resembles the original intended purpose of this ACORN Fund.

#### **VII. Supporting Organizations**

Donors establish supporting organizations at the Foundation as independently incorporated tax-exempt nonprofit organizations with separate governance. A supporting organization is a grantmaking organization that avoids private foundation status by being operated, supervised, controlled by, or in connection with the Foundation. This requirement can be met in part if the Board of the Foundation appoints a majority of the board of directors of the supporting organization.

#### **VIII. 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 grantmaking and asset acquisition responsibility for that area. Affiliate community foundations enable

surrounding counties to enjoy many of the benefits of a community foundation while taking advantage of the overseeing foundation's services, staff and expertise and avoiding the costs and administrative burdens of a separate community foundation. Affiliate community foundations must abide by the Foundation's policies and its gift acceptance policies.

## **IX. GIFTS**

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

### **Cash**

Gifts of cash should be paid to the 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 "Wabash Valley Community Foundation, Inc." The specific fund to 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 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 Foundation, or conveyed through use of a stock power form. The 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 (i.e., closely held securities, partnership interests, interests in limited liability companies)**

Donors may make gifts of interests in business entities (i.e., closely-held non-marketable securities, partnership interests, interests in limited liability companies). These will usually be accepted if the Foundation assumes no liability in receiving them. In evaluating a gift proposal of such assets, the Executive Committee may consider the probability of conversion to a liquid asset within a reasonable period of time, projected income that will be available for distribution and administrative fees, and the nature of the business from which the asset is derived.

Notwithstanding any other provisions hereof, the Community Foundation shall not accept any gift of an interest in a business enterprise for a donor advised fund that would subject the Community Foundation to tax under section 4943 of the Internal Revenue Code, concerning "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 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.

Any proposed gift that would result in the donor advised fund holding:

- a 20% or greater interest in a business or in an entity, or
  - any interest in an entity in which any interest is owned by a donor or advisor to the donor advised fund, by a family member or by an entity in which any of the foregoing persons has an interest,
- shall be referred to the Community Foundation's Executive Committee for an opinion on the possible application of Code section 4943.

A completed IRS Form 8283 ("Non-cash Charitable Contributions") and/or a letter from the attorney drafting the partnership agreement or articles of organization must accompany gifts of limited partnership interests or interests in limited liability companies, providing the following information:

- independent appraisal of value of the subject entity and statement of the percentage of the entity to be gifted to the Foundation;
- assurance that the Foundation will be held harmless in the event the entity becomes bankrupt or is otherwise unable to satisfy its obligations;
- assurance that the Foundation will be held harmless in the event either the entity or the Foundation is sued.

The Foundation does not accept gifts of general partnership interests due to potential unlimited liability.

### **Illiquid Assets**

The Foundation's general policy is to liquidate all gifts promptly. On occasion, the Executive Committee may decide that it will not liquidate certain gifts immediately. Factors the Committee 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.

If a fund's illiquid assets do not generate a sufficient return to permit grantmaking that is consistent with the assets' value, the Foundation will seek an additional gift of cash or marketable securities to allow the fund to begin making distributions.

When an interest in a business entity cannot be promptly liquidated, and the documented present value of the interest is \$5,000 or more, that interest may be credited to a new, named component fund at the Foundation. The fund may be treated as an advised, designated, scholarship, field of interest, or unrestricted fund as requested by the donor. Grants may be made only from income generated by the business interest or from other liquid assets in the component fund, provided the fund's documented present value remains at least \$5,000.

In cases where an interest gifted to the Foundation is promptly liquidated, but its value is less than \$5,000, the gift generally shall be directed to the Foundation's discretionary funds or to one of the Foundation's field of interest funds. The donor generally shall not have the option to direct such a gift to an advised fund, unless it is to one of the Foundation's advised funds. Further details related to gifts of limited partnership and limited liability company interests are included in Appendix C.

### **Real property**

Generally, gifts of real property in Indiana or Illinois should result in a contribution to the Foundation of at least \$20,000. Gifts of real property outside of Indiana or Illinois should result in a contribution of at least \$100,000.

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 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 Foundation requires 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 Foundation to unrelated business taxable income.

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

Further details related to gifts of real property are included in Appendix D.

### **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. Unless the property is to be used in connection with the Foundation’s tax-exempt purpose, it will be sold at the highest possible price as soon as possible after conveyance. No commitment will be made to keep gifts of personal property. The 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 Foundation may ask the donor to cover such expenses with a cash gift.

A completed IRS Form 8283 (“Non-cash Charitable Contributions”) must accompany gifts of tangible personal property.

### **Royalties, distribution rights**

The 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 Foundation and take a tax deduction for the interpolated terminal reserve (typically cash surrender value). Paid-up policies of any value may be accepted by the Foundation. Donors may transfer ownership of premium-due policies to the Foundation and make income tax deductible contributions in the amount of the premiums. In either case, the 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 Foundation.

Donors must make contributions for premium-due policies by direct payment to the Foundation at least ten days prior to the premium date. The 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 the charitable and educational needs of Vigo, Sullivan or Clay County communities, depending upon the donor's county of residence.

Premium-due policies must have a minimum face value of \$20,000.

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 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 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 charitable gifts).

Methods for gifting retirement assets include:

- 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;
- creating a testamentary charitable remainder trust upon the death of the asset owner, naming the Foundation as remainder beneficiary and noncharitable heirs as income beneficiaries.

### **Planned and Testamentary Gifts**

The Foundation's planned and testamentary giving program encompasses all forms of gifts whose benefits do not fully accrue to the Foundation until some future time (such as the death of the donor or other income beneficiaries or the expiration of a predetermined period of time), or whose benefits to the Foundation are then followed by the interests of noncharitable beneficiaries.

Donors using planned and testamentary gift techniques may establish any of the fund types listed above. Will, trust, or other documents should specify the 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 Foundation are authorized to solicit direct testamentary charitable contributions through wills or trusts, as well as testamentary contributions to establish gift annuities and charitable remainder and lead trusts. Advice offered by representatives of the 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 the Foundation should include the following:

- the name of the Wabash Valley Community Foundation, Inc., a nonprofit corporation located at 2901 Ohio Boulevard, Ste. 153, Terre Haute, IN 47803;
- 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 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**

#### **A. Description: Unitrusts**

The basic form of 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. 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 basic 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 specific 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.

#### B. Description: Annuity Trusts

Donor and/or beneficiary annually receives a 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.

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

#### C. Policy

Representatives of the Foundation are authorized to solicit gifts in the form of Charitable Remainder Trusts (including basic Unitrusts, Annuity Trusts, Net Income Unitrusts, Net Income with Make-Up Unitrusts and Flip Unitrusts) 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. (Net Income Unitrusts do not require this approval).

### **Charitable Lead Trusts**

#### A. 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.

#### B. Policy

Representatives of the Foundation are authorized to solicit gifts for Charitable Lead Trusts. The donor may select any annuity or fixed pay out percentage.

## **Charitable Gift Annuities**

### **A. Description**

The Foundation and the donor enter into a contract providing a fixed dollar return for life to the donor and/or other beneficiaries, in exchange for a contribution to the 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 the Foundation.

### **B. Policy**

1. Representatives of the Foundation are authorized to solicit gift annuity agreements. The gift annuity remainder must benefit the Foundation, committing a minimum of 50% of the assets to the Foundation's unrestricted program or operating endowments or to the donor's choice of field of interest fund.
2. The Uniform Annuity Rates as published by the American Council on Gift Annuities will not be exceeded without Executive Committee approval.
3. Disclosure to the donor must follow state and federal regulations.
4. The minimum gift for an annuity agreement is \$10,000.
5. Agreements may provide for income payments to no more than two successive life beneficiaries.
  
6. With the exception of a Deferred Payment Gift Annuity, the minimum age of income beneficiaries shall be 55 years. Deferred Payment Gift Annuities should begin annuity payments after age 55.

## **X. AUTHORITY TO NEGOTIATE AND SIGN GIFT AGREEMENTS**

Subject to the Executive Committee's review and approval authority, the Foundation's President, 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.

## **XI. INVESTMENT OF GIFTS**

The Foundation reserves the right to make any or all investment decisions regarding gifts to it in accordance with its Investment 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.

## **XII. COST 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 guidelines and fee schedules. The Foundation reserves the right to assess a set-up fee.

## **XIII. 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 policy on fundraising by donors. All such fundraising activities are also subject the Foundation's supervision.

Modifications Approved by Board of Directors on July 29, 2015

Effective October 1, 2015

**APPENDIX A**

**A DONOR BILL OF RIGHTS**

PHILANTHROPY is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the nonprofit organizations and causes that they are asked to support, we declare that all donors have these rights.

<p style="text-align: center;"><b>I.</b></p> <p>To be informed of the organization’s mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.</p> <p style="text-align: center;"><b>II.</b></p> <p>To be informed of the identity of those serving on the organization’s governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.</p> <p style="text-align: center;"><b>III.</b></p> <p>To have access to the organization’s most recent financial statements.</p> <p style="text-align: center;"><b>IV.</b></p> <p>To be assured their gifts will be used for the purposes for which they were given.</p> <p style="text-align: center;"><b>V.</b></p> <p>To receive appropriate acknowledgment and recognition.</p>	<p style="text-align: center;"><b>VI.</b></p> <p>To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.</p> <p style="text-align: center;"><b>VII.</b></p> <p>To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.</p> <p style="text-align: center;"><b>VIII.</b></p> <p>To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.</p> <p style="text-align: center;"><b>IX.</b></p> <p>To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.</p> <p style="text-align: center;"><b>X.</b></p> <p>To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.</p>
<p style="text-align: center;"><b>DEVELOPED BY</b></p> <p style="text-align: center;">AMERICAN ASSOCIATION OF FUND RAISING COUNSEL (AAFRC)</p> <p style="text-align: center;">ASSOCIATION FOR HEALTHCARE PHILANTHROPY (AHP)</p> <p style="text-align: center;">COUNCIL FOR ADVANCEMENT AND SUPPORT OF</p>	<p style="text-align: center;"><b>ENDORSED BY</b></p> <p style="text-align: center;">INDEPENDENT SECTOR</p> <p style="text-align: center;">NATIONAL CATHOLIC DEVELOPMENT CONFERENCE (NCDC)</p> <p style="text-align: center;">NATIONAL COMMITTEE ON PLANNED GIVING (NCPG)</p>

**Appendix B**

**Mission Statement**

**Vision:**

The Wabash Valley Community Foundation will strive to be the primary steward of endowed funds and a leader that encourages broad-based charitable activity in the Wabash Valley.

**Mission:**

Engage People, Build Resources and Strengthen Community.

**APPENDIX C**

**LIMITED PARTNERSHIP (LP) AND  
LIMITED LIABILITY COMPANY (LLC)  
GIFT ACCEPTANCE POLICIES**

Gifts of Limited Partnership or Limited Liability Company interests may be accepted by the Foundation. The following steps should be followed to facilitate a smooth gifting and asset management process:

- 1) The Foundation's Executive Director must discuss with the donor or donor's representative the charitable intent of the donation, the assets that do or will fund the partnership, the percentage payment of the income to the Foundation from the LP or LLC and other terms of the entity.
- 2) The Foundation must have adequate opportunity to review the partnership or operating agreement, which includes review by the Foundation's legal counsel. Gifts of LP or LLC interests offered to the Foundation may be accepted or declined based on the response to this review.
- 3) If the donor is a general partner or managing member of the LP or LLC respectively, and therefore retains control over the investments of the LP or LLC, a gift of such assets may not be complete for IRS purposes. Such gifts will be reviewed on a case-by-case basis and may be accepted or declined based on the result of this review.
- 4) Generally, if the documented present value of an LP or LLC interest is \$20,000 or more, that LP or LLC interest may be credited to a new, named component fund at the Foundation. The fund may be treated as an advised, designated, scholarship, field of interest, or unrestricted fund as requested by the donor. Grants may be made only from income generated by the LP or LLC interest or from other liquid assets in the component fund, provided the fund's documented present value remains at least \$20,000.

- 5) Generally, if the documented present value of an LP or LLC interest is less than \$20,000, that LP or LLC interest will be treated as an unrestricted contribution to the Foundation, and income from the LP or LLC interest will be treated as unrestricted income to the Foundation. In the alternative, the donor may direct the contribution to an existing, named component fund at the Foundation or combine the LP or LLC interest with other assets sufficient to bring the total present value of the contribution to at least \$20,000.
  
- 6) The Foundation's administrative fees will be as follows:
  - Named component funds are charged an administrative fee on the Foundation's standard published fee schedule, which generally is 1% of asset value of the fund
  - If the LP or LLC interests do not produce sufficient income to pay the fees, the Foundation reserves the right to invoice for annual fees.
  
- 7) The Foundation must receive an annual tax filing or valuation for the LP or LLC interests (usually in the form of Schedule K-1). This provides the basis for the Foundation to book the asset, as required in FASB standards.
  
- 8) Donors of LP or LLC interests must be fully informed by their advisors of the tax implications of the gift of LP or LLC interests, including the non-income tax deductibility of the annual income payments to the Foundation as an owner of the LP or LLC interests.
  
- 9) The Foundation shall not accept any gift of interest in a business enterprise for a donor advised fund that would subject the Foundation to tax under section 4943 of the Internal Revenue Code, concerning "excess business holdings." Any gift that would result in the donor advised fund holding:
  - a 20% or greater interest in a business or in an entity, or
  - any interest in an entity in which any interest is owned by a donor or advisor to the donor advised fund, by a family member or by an entity in which any of the foregoing person has an interest,shall be referred to the Community Foundation's counsel for an opinion on the possible application of Code section 4943.

## Appendix D

### **Real Estate Gifts Policy**

#### **GENERAL.**

Gifts of real estate (hereinafter referred to as “real estate” or “property”) to the Wabash valley Community Foundation (“Foundation”) may be made in various ways: outright; into a charitable remainder trust (the Foundation as Trustee); with a retained life estate (the Foundation receives a remainder interest); by a bargain sale; a gift annuity; as an installment bargain sale; etc. A retained life estate with a gift annuity for the remainder interest may be considered under exceptional circumstances and where adequate funding sources other than endowment or the operating budget are available. Approval by the Board and legal counsel for the Foundation are necessary prior to the acceptance of any gifts of real estate. Prior to acceptance, relevant information about the gift, and the duties of the Foundation with respect to the gift, shall be ascertained.

#### I. INFORMATION TO OBTAIN PRIOR TO ACCEPTING GIFTS

#### **A. The donor, donor’s attorney, realtor, and/or CPA shall provide the following information to the Foundation before real estate is accepted.**

1. Basic Information. The basic information shall include, but is not limited to, the following:
  - a. The address;
  - b. The assessor’s parcel numbers;
  - c. A copy of the current year’s tax bill;
  - d. A statement concerning any delinquent taxes;
  - e. The lot size or acreage;
  - f. A description of any improvements (such as the nature, age and prior uses)
  - g. A description of any outstanding liens;
  - h. The mineral status;
  - i. Easements;
  - j. Any restrictions;
  - k. Whether there is legal access to the property; and
  - l. Any other information which is relevant; such as existing leases or land contracts.

2. Preliminary Title Report. The Donor shall provide the Foundation a preliminary title report on the real estate, including copies of all documents shown as exceptions to title on the report. Upon the transfer of real estate, the Foundation shall receive a policy of title insurance on an American Land Title Association Form. To aid investigation of environmental matters, the title insurer shall identify owners in the chain of title during the preceding fifty (50) years.
3. Market Value. The Donor shall provide the Foundation with a current appraisal, or, if none is available, a value opinion letter from a local Realtor approved by the Foundation (the Foundation may in its discretion secure its own appraisal of the real estate).
4. Current Market Conditions. The Donor or Donor's realtor shall provide a comparative market analysis of parcels in the same area as the real estate. It is important to gather as much information as possible about the property. Issues that affect marketability include among other things: Whether the property been on the market recently? If so, what activity did it see? Is the Donor's expectation of value in line with the with the Foundation's analysis of the actual market value? What is the real estate worth to a buyer? How many properties of this type are on the market currently? Do the improvements need repairs? Is the real estate up to local code? Is the site buildable? How long will it take to sell the real estate?
5. Disclosure – Environmental Problems. The Donor shall make a written statement of known and/or potential environmental problems sating among other things, the nature and scope of any such problem. For example, the Foundation shall ask the donor to disclose if he or she knows of any existing or potential problem regarding:
  - a. Hazardous water;
  - b. Excessive noise;
  - c. Polluted air;
  - d. Polluted water, streams or ground water;
  - e. Wetlands;
  - f. Endangered species;
  - g. The presence of asbestos; and
  - h. Any other known problem, potential problem or notice of violations.

If the real estate is the site of hazardous substances or underground storage tanks, or is listed on any list of environmental disclosure document such as that required under the Indiana Responsible Property Transfer Law. Real Estate subject to disclosure shall be carefully inspected by a qualified environmental consultant at Donor's cost and expense.

6. Survey. In some cases, the Foundation should request a survey before accepting a property. The Donor should be asked to contribute an amount sufficient for the survey if one does not exist. For example, and not by way of limitation, the Foundation may desire a survey under the following conditions:
  - a. where survey markers are not visible; and,
  - b. where there are known boundary disputes.

**B. COSTS.** If essential information is not provided by the Donor, the Donor should be requested to contribute an amount sufficient to pay for obtaining it. However, if the donor is not willing to advance these costs, the Foundation should determine whether it is advantageous for the Foundation to do so.

#### **CRITERIA TO USE TO DETERMINE WHETHER TO ACCEPT THE GIFT.**

The Foundation shall consider the following criteria in determining whether to accept offered real estate.

- A. ANALYSIS OF SALE AND HOLDING.** The Foundation shall evaluate a present or future sale as well as the holding costs. This analysis shall include, but need not be limited to, the following:
  - a. The present market value;
  - b. The future market value (potential for appreciation);

- c. Any encumbrances;
- d. The net cost for sale; and
- e. The holding cost (ongoing maintenance and repair cost; debt service; taxes, etc.)

**B. HAZARDOUS WASTE OR OTHER ENVIRONMENTAL PROBLEMS.**

The Foundation shall undertake such investigation of environmental issues relating to the real estate as it deems necessary or appropriate to enable it to determine whether any problems exist, including without limitation an investigation of any problems identified by the Donor's statement under Section (I)(A)(5) above. In addition, the Foundation may, in its discretion, engage a qualified engineering or other environmental assessment firm to undertake an environmental review and deliver a report to the Foundation. Specifically, the Foundation shall investigate the potential dangers of current and past hazardous conditions on or near the real estate. The following is a list of some of the prior uses that should be investigated by a thorough environmental study before real estate is accepted: underground fuel storage (such as service stations and vehicle fleet servicing), chemical and manufacturing plants; printing facilities, photo developing; dumps, dentist offices and cleaners. This list is by no means comprehensive. Real estate adjoining properties with a past or present industrial use may have been contaminated by that use and may necessitate further examination.

- It is the Foundation's policy to require a Phase One assessment and report unless the Board in its discretion decides not to require such an assessment and report.
- No property containing environmental defects shall be accepted prior to remediation of the defects to assure that the Foundation neither assumes nor incurs no liability for such defects.

**C. ON-SITE INSPECTION.** An on-site inspection of the real estate shall be undertaken by the Foundation officers, staff or its designated representative before it is accepted. If none of the foregoing can make an inspection, a broker, licensed contractor, qualified environmental assessment firm or other appropriate person shall make the on-site inspection. The appointed persons shall look for any problems regarding, but not limited to, the following:

1. Environmental conditions [see sub paragraph 1(A)(5)];
2. Boundaries;
3. If the property is improved, the structural and soil conditions; and
4. Evidence of occupancy or encroachment.

**D. UNUSUAL CIRCUMSTANCES.** No real estate shall be accepted which has excessive environmental or structural problems, or where the holding cost may approach or exceed sale proceeds.

1. There may be situations where the Foundation finds that ownership may be undesirable, yet the gift may be substantial if converted to cash. (By example: a substantial property with a potential environmental problem-the Foundation should not be in chain of title). The Foundation shall attempt to work with the Donor in developing creative solutions to issues which may be raised by the condition of the real estate, including, without limitation, seeking advice from attorneys, tax advisors and other counsel.
2. While giving all the preceding items full consideration, in some "special circumstances" consideration must be given to determine whether rejection of real estate will have other long-term negative effects on the Foundation (i.e. affect future gifts).

**CRITERIA TO USE IN DETERMINING WHETHER TO HOLD OR SELL A DONATED PROPERTY.**

**A. THE GENERAL RULE.** The Foundation shall sell donated real estate as soon as it is practical to do so. However, notwithstanding the foregoing, real may be held if the Foundation determines that it will be beneficial to do so.

**B. OTHER CRITERIA.** The Foundation shall consider such criteria as it deems necessary or appropriate in determining whether or not to hold or sell real property, the criteria may include, but shall not be limited to, some or all of the following:

1. Whether or not the Foundation assumes mortgage payments;
2. Whether or not the property is income producing;
3. Whether or not the carrying costs are reasonable;
4. Whether or not the property has a potential for exceptional appreciation in the short term (less than three (3) years);
5. Whether or not the property has potential for exceptional appreciation in the long term (greater than three (3) years);
6. Whether or not it will be beneficial for the Foundation to manage a property which is located out of its general area of activity;
7. Whether or not there are any present or potential managerial problems;
8. The real estate taxes;
9. The utilities;
10. The maintenance and repair costs; and,
11. The insurance expense.

**C. LIFE ESTATES.** This policy will generally apply in determining whether or not to accept real estate subject to reservation of a life estate, which determination shall always be at the sole discretion of the Foundation. The determination of whether to hold or sell will depend upon the terms of the life estate agreement, which shall include among other things a consideration of and agreement to protect and preserve the Real Estate from environmental defects, as well as indemnifying and holding the Foundation harmless from environmental defects and liabilities.

#### **CRITERIA TO USE IN DISPOSING OF DONATED PROPERTY**

**A. CASH.** Generally, all real estate shall be sold for cash.

**B. CARRYING PAPER.** The Foundation may consider taking a promissory note, secured by a mortgage, if it is advantageous to do so. The Foundation shall consider, among other things, the following criteria in making this determination:

1. The amount of the note;
2. The security;
3. The time period;
4. The interest rate;
5. The amount of other income (if the property is income producing);
6. The effect which carrying paper may have on the selling price received by the Foundation;
7. The effect which carrying paper may have on the value of the real estate, the length of time required to sell the property, or other related issues; and,
8. The credit worthiness of the purchaser.

**C. HAZARD INSURANCE.** The Foundation shall obtain hazard and public liability insurance in an amount sufficient to protect itself and the real estate until the real estate is sold.

#### **METHOD OF DISPOSING OF DONATED PROPERTY**

**A. BROKER CONSIDERATION.** The Foundation shall undertake an inquiry to determine the manner most advantageous to the Foundation for the disposition of donated real estate. The Foundation may, but shall not be required to, engage a broker in connection with the sale.

- B. MARKETING PROGRAM.** If the Foundation determines that listing the real estate with a broker is in its best interest, then all potential listing brokers selected by the Foundation shall be required to provide a comprehensive marketing program. The Foundation shall consider such factors as it deems appropriate in selecting a broker which may include the marketing program, the commission rate and the reputation of the broker.
  
- C. TRANSFER DOCUMENTS.** Whenever possible, the conveyance should be made “as is” and by quit claim or special warranty deed. The Foundation shall, where possible, receive an express release from liability for environmental matters.

Modifications approved by Board July 29, 2015

Effective October 1, 2015