

## Gift Acceptance Policies

*As Amended on December 4, 2012*

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### **Gift Acceptance Policies**

**Protection of Donors' Interests:** Greater Milwaukee Foundation (the Foundation) Board, staff, contracted consultants and volunteers will always consider the interests of donors as the first priority in planned gifts. A donor shall not be encouraged to make a gift that is inappropriate, in light of the donor's personal or financial situation or the donor's known philanthropic interests.

**Confidentiality of Information:** Information learned by any representative of the Foundation about a donor or the donor's assets or philanthropic intentions shall be held in strict confidence by the Board, staff, contracted consultants and volunteers. Donors will be encouraged to notify the Foundation of their planned gifts and all such information shall be kept confidential unless permission is obtained from the donor.

**Legal Counsel:** The Foundation's staff will encourage each prospective donor to have the terms of all proposed agreements reviewed by the donor's own legal and financial advisors. The donor should also be advised that it is the donor's responsibility to obtain any necessary appraisals, file appropriate tax returns and defend against any challenges to claims for tax benefits. All agreements, contracts and other legal documents relating to the development program shall be reviewed by the Foundation's legal counsel prior to execution or use, with the exception of standard form documents described below unless the President/CEO, Vice President/Chief Financial Officer and Vice President of Philanthropic Services determine that the modifications to the standard form documents raise no legal or policy concerns.

**Standard Form Documents:** For administrative ease and convenience, the Foundation will develop standard forms of fund agreements and other documents relating to the Foundation's development program as deemed appropriate. All such standard forms shall be reviewed by legal counsel and approved by the Development Committee. The Foundation will provide standard forms to a prospective donor and the donor's advisors upon request and encourage their use whenever practicable. In the case of supporting organizations, the organization's articles and bylaws will be reviewed by members of the Gift Acceptance Committee prior to submission of application to the IRS.

**Sale of Assets:** Gifts will be sold as soon as practical and the net proceeds reinvested in a manner consistent with the Foundation's investment policies.

**Selection of Investment Manager:** Donors may recommend, but not direct, which of the authorized investment managers used by the Foundation should invest the assets (or the net proceeds, after sale) contributed by the donor.

**Minimum Fund Amount:** The minimum amount to establish a named, unitized fund at the Foundation must be approved by the Foundation's Board. A \$10,000 minimum is required to create an unrestricted fund, a fund designated for a single beneficiary or a broad field of interest fund such as a fund to benefit children or the elderly. The minimum for agency endowment funds is \$100,000. The minimum for all other funds is \$25,000. Funds may be built up to the requisite minimum through the Acorn Fund option. No grants will be distributed from a fund until it has reached the required minimum. With Acorn Funds, the minimum contribution size for building the fund is \$100 per month or \$1,200 per year.

For supporting organizations, the minimum establishing contribution is \$1 million. To qualify as a supporting organization, a majority of the board members of the supporting organization must be selected by the Foundation's Board. The board of the supporting organization may select an investment manager other than one authorized to serve in this capacity for the Foundation.

**Minimum Gift Size for Pooled Income Fund and Charitable Gift Annuities:** The minimum gift size is \$5,000 for gifts to either of the two pooled income funds sponsored by the Foundation and \$20,000 for charitable gift annuities guaranteed by the Foundation. Upon the death of the life income beneficiaries and the transfer of the remaining principal to the Foundation, the minimum fund size policies noted above will apply. If the remainder interest is not of adequate size, it will be treated as an Acorn Fund until it reaches the required minimum size to establish a named fund.

**Excess Distributions:** Distributions in excess of those authorized by the Foundation's distribution policy are permitted as long as a fund maintains a minimum balance in accordance with the minimum fund amount approved by the Board and the gift agreement provides for such distributions. Otherwise, the Foundation's approved distribution policy shall apply. In the case of agency endowment funds, excess distributions will only be considered if the gift agreement specifies that the agency's board may recommend additional distribution. The gift agreement should also specify the percentage of board members required to approve such a recommendation.

**Governing Documents:** All funds shall be accepted subject to the variance power and other provisions set forth in the Foundation's governing documents (Declaration of

Trust in the case of the Greater Milwaukee Foundation Trust and Articles of Incorporation and Bylaws in the case of the Greater Milwaukee Foundation, Inc.).

**Duration of Advice:** Donor advised funds provide an opportunity for the original donor establishing such a fund to decide who will serve as advisor(s) to the fund. Donors may name any living individuals to serve as initial advisor(s). For funds with less than \$200,000 in gifts, the original donor may name one succeeding generation of family members as defined by him/her to serve as advisors. If a fund is established upon the donor's death, then the donor may name up to two generations of family members to serve as successor advisors. For funds with more than \$200,000 in permanent gifts, donors may name any living individual(s) as initial advisor(s) and thereafter there is no limit on the duration of family involvement as defined by the donor. If multiple advisors (two or more) are named, the fund agreement, or in a separate memorandum of understanding signed by the donor if living or by the advisors to the fund if not, shall specify a mechanism for conveying the group decisions to the Foundation. **Note:** If the fund is established at a donor's death, the donor may have initial advisors of their choice (including non-family members) as long as those initial donors are living at the time the gift agreement is written and thereafter any next generation successor advisors must be donor's family members.

**Geographic Focus:** While donors are encouraged to establish funds which primarily benefit the inhabitants of Milwaukee, Waukesha, Ozaukee and Washington counties, up to 100% of the grant dollars distributed from a designated, field of interest or donor advised fund may be distributed to nonprofit organizations outside of this four-county area. In addition, a fund may be established to benefit a community in Wisconsin where there is currently no community foundation. In such instances, the gift instrument may provide for the distribution of some or all of the fund's assets to a new community foundation if it is established to serve the same geographic area.

**Gift Expenses:** All expenses associated with making a gift (such as the cost of an appraisal, legal and accounting expenses, the cost of a phase one environmental report, and the like) shall be paid for by the donor. Expenses incurred by the Foundation in accepting a gift, such as legal expenses, shall be charged against the fund when established.

**Administrative Fees:** The Board approved administrative fee schedule will apply to all funds except in those instances where the Gift Acceptance Committee approves a different fee.

**Donor Control:** No fund will be accepted, after review by the Foundation's legal counsel, if there is good reason to question whether the restrictions desired by the donor will jeopardize the classification of the fund as a component fund of the Foundation rather than as a separate private foundation. Among other things, a fund's treatment as a component of the Foundation may be jeopardized if, pursuant to the gift

agreement or otherwise, the Foundation is required (i) to assume leases, mortgages or other obligations or liabilities, (ii) to retain any asset transferred to it, (iii) to grant first refusal rights in connection with the disposition of any transferred asset, (iv) to maintain relationships with particular investment advisors, banks, brokerage firms, investment counselors, etc., or (v) to take or withhold any action inconsistent with the Foundation's charitable purposes or which would prevent the Foundation from exercising ultimate control over any transferred asset.

**Unrestricted Contributions not for a Named Fund:** Any contributions made for general administrative costs of the Foundation or otherwise unspecified contributions equal to or less than \$25,000 with no strings attached shall be added to the Greater Milwaukee Foundation Community Engagement Fund (formerly the Leadership Fund) to help build this permanent fund to defray the Foundation's operating expenses to support the Foundation's mission activity. Gifts over \$25,000 but equal to or less than \$50,000 that meet these same criteria shall be brought to the Gift Acceptance Committee to determine the best use of the contribution. Gifts of these same criteria over \$50,000 shall be brought to the full Board of Directors to determine the best use of the contribution.

**Pass-through Funds:** The Foundation will accept pass-through funds on a case-by-case basis.

**Gifts through Fund Raising:** The Foundation will not accept new funds that engage in raising money through fund-raising events unless an exception is approved by the Gift Acceptance Committee.

**Excess Business Holding Rules:** The Foundation will not accept gifts of shares or other interests in a business which would constitute excess business holdings under applicable tax laws relating to donor advised funds. This policy will apply to all gifts made to donor advised funds.

### **Gift Acceptance Procedures**

**Authority for Negotiation:** The President/CEO, Vice President/Chief Financial Officer, Vice President of Philanthropic Services, and Director of Gift Planning are authorized to negotiate planned gift agreements with prospective donors. The President may also delegate authority to other development staff with the approval of the Board Chair.

**Authority for Approval:** The President/CEO (and in her absence the Vice President/Chief Financial Officer and Vice President of Philanthropic Services) is authorized to accept all gifts or bequests on behalf of the Foundation unless one or more of the following circumstances apply:

- (1) The property that is the subject of the gift or bequest is not cash, marketable securities, or other readily marketable assets. The Gift Acceptance Committee will review all gifts of real estate, closely held securities, tangible personal property or other gifts of assets which are not readily marketable or which would require unusual insurance, custodial, preservation or other carrying costs;
- (2) The gift or bequest includes a restriction or suggestion regarding the Foundation's use of funds that would raise legal, ethical, policy or practical concerns for the Foundation;
- (3) The gift or bequest is greater than \$25,000 but equal to or less than \$50,000 and is a contribution made for general administrative costs of the Foundation or an otherwise unspecified contribution not for a named fund with no strings attached and is being recommended by staff to be added to the Greater Milwaukee Foundation Community Engagement Fund; or
- (4) In the judgment of the President, there are other risks or concerns that should be reviewed by the Gifts Acceptance Committee.

The Gift Acceptance Committee should be composed of the following: Chair of the Board of Directors, Vice Chair of the Board of Directors, Chair of the Investment Committee, and Chair of the Development Committee. In addition, the following staff members shall be on the Committee: President/CEO, Vice President/Chief Financial Officer, Vice President of Philanthropic Services and Director of Gift Planning. Any prospective gifts or bequests falling within items (1) through (4) above shall be referred to the Gifts Acceptance Committee, which may consider the issues involved through meeting(s), telephone discussion(s) or other means. The Foundation's legal counsel shall be consulted and asked to make recommendations when necessary.

In every case, efforts will be made to reach and inform all eight board members and staff members listed above. If at least three of the board members and three of the staff members listed above are reached, the gift or bequest referred for their review shall be accepted or declined and reported to the full Board of Directors at its next regular meeting. If all members of the Gifts Acceptance Committee who are reached are not unanimous in their belief that a gift or bequest should or should not be accepted, the issues shall be referred to the full Board for consideration at its next regular meeting.

The Chair of the Board (or in his or her absence, the Vice Chair) may, in an emergency or for other good reason, modify the procedure set forth in this policy for a particular gift or bequest, but shall do so only after reasonable consultation with the other members of the Gift Acceptance Committee who are available and shall report the modification to the full Board at its next regular meeting.

Attachments:

- A. Policy and procedure for accepting and holding gifts of closely held business interests
- B. Guidelines for gifts of real property

Prior Policy Amendments:

March 28, 2001  
September 20, 2001  
September 19, 2002  
August 7, 2003  
September 11, 2003  
June 23, 2005  
April 8, 2008  
April 9, 2009  
June 15, 2010  
September 15, 2010  
December 4, 2012 (Updated logo and staff title changes only)  
September 4, 2014 (Updated staff title change only)

**POLICY AND PROCEDURE FOR ACCEPTING AND HOLDING  
GIFTS OF CLOSELY HELD BUSINESS INTERESTS**

**GENERAL GUIDELINES**

Gifts of interests in partnerships, limited liability companies, patents or copyrights, stock in closely held corporations and other closely held or illiquid business interests will be evaluated on a case-by-case basis and will be subject to approval by the Gift Acceptance Committee. Gifts of general partnership interests or other interests which may subject the Foundation to liabilities or require capital contributions will ordinarily not be accepted.

Sometimes donors will be interested in giving closely held stock or other business interests to the Foundation even if the business is not likely to be sold. Typically, the donor contributes shares of stock/interests to a component fund in the Foundation and the stock/interest is later sold for cash by the Foundation. In such instances, the Foundation will not guarantee or pre-arrange such sale or make any other agreement that might imply or cause a material restriction to be imposed upon the contribution.

As a general rule, gifts of securities are sold as soon as possible, usually on the same day as the gift. The fund that the donor established is then credited with the proceeds from the sale, after commissions and expenses, if any. In the case of gifts of stock or business interests of closely held corporations that are not readily marketable at the time of the gift, it should reasonably appear that the stock or business interest will be sold or converted into income-producing property within a specific time frame, not to exceed three to five years. Treasury Regulations require that the Foundation assure that its funds produce a reasonable rate of return. This can be particularly important for property held in designated funds, because while this requirement is applied based on the aggregate performance of most funds, it is made on a fund-by-fund basis for designated funds. (Treas. Reg. Section 1.170A-9(e)(11)(v)(F) and 1.170A-9(e)(13)(x).)

Since gifts of S Corporation shares and interests in partnerships, limited liability companies or other “pass-through” entities may subject the Foundation to tax on unrelated business income, such gifts will ordinarily not be accepted in the absence of a tax distribution agreement or other appropriate arrangement to fully fund any tax liability resulting from the Foundation’s ownership of the gifted interest.

## **RESPONSIBILITIES OF THE DONOR**

The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes, including the preparation of Form 8283 ("Noncash Charitable Contributions") (Treas. Reg 1.170A-13(a).)

It is the donor's responsibility to prepare the appropriate instruments that are necessary to transfer the stock or business interest to the Foundation. All proposed transfer instruments must be reviewed by the Foundation's legal counsel prior to acceptance by the Foundation.

There should be adequate assurance that the affected fund will have adequate cash to pay administrative fees and other direct costs, either from the investment itself or from further contributions from the donor. All paid dividends will be used to offset all or a portion of the fee or expenses charged to the account.

The Foundation's legal counsel shall review any shareholder, buy-sell, or other agreements that impose any restrictions or limitations upon the sale or transfer of the stock or business interest.

## **PROCEDURE FOR ACCEPTING CLOSELY HELD STOCK AND BUSINESS INTERESTS**

After the requirements of this Policy and Procedure have been satisfied, the Gift Acceptance Committee will have the authority to accept or refuse a gift of closely held stock or other business interests.

The Gift Acceptance Committee may refuse any offered gift of closely held stock or other business interests that is judged not to be in the best interests of the Foundation.

The Gift Acceptance Committee will evaluate gifts that are covered by this policy to determine whether they should be made to Greater Milwaukee Foundation Holdings, Inc., a supporting organization established to hold unusual gifts, based upon the potential risks and liabilities which may be associated with the gift.

The Foundation will generally assess an administrative fee of 2-5% of the proceeds of the gift, depending on the complexity of the liquidation and the risks associated with the gift. Once established, the fund will also be subject to the Foundation's normal administrative fee schedule.

Prior to or upon transfer of the stock or business interest to the Foundation, the donor and the Foundation will sign an agreement (approved by legal counsel) stating the



terms of the gift, which shall specify that there are no restrictions on the Foundation's right to use or convey the property.

In negotiating the sale of closely held stocks or other business interests, a fair market value (price per share) will be established at the time of sale. No warranty is given by the Foundation that the valuation will be acceptable to the IRS. In some cases, the Foundation may obtain an independent appraisal of the value of the stock or business interest prior to agreeing to a proposed sale of the stock or business interest.

In addition, the donor will be advised that if the property listed on IRS Form 8283 is sold, liquidated, or otherwise disposed of within two years of receipt, the Foundation is required to file a separate report within 125 days with the IRS on IRS Form 8282 ("Donee Information Return") and disclose facts about the disposition. (Treas. Reg. 1.6050L-1.)

### **LIMITATIONS**

Except in extraordinary circumstances, the Foundation will not pay for legal assistance, appraisals or other services on behalf of the donor. The Foundation will charge the eventual fund its costs associated with accepting the business interest (for example, but not limited to, unrelated business income and attorney fees), upon assurance from the donor that there will be enough in the fund to pay these costs. Otherwise, the donor must agree to contribute additional cash to the fund to pay such costs.

The Foundation will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.

In many cases, upon the subsequent sale of closely held stock, there will be a stock purchase agreement setting forth the proposed terms and conditions of sale. The Foundation cannot join in or participate in the issuance of warranties and representations and in indemnification agreements.

**GUIDELINES FOR  
GIFTS OF REAL PROPERTY**

1. Before accepting a gift of real property, the Foundation's Gift Acceptance Committee will review the proposed gift and make a preliminary determination of its suitability and marketability. The Foundation will not ordinarily accept gifts of real property unless they are readily marketable in a relatively short time frame.
2. It will be donor's responsibility to obtain and pay for any appraisals required to substantiate any income tax deduction taken for a gift of real property to the Foundation. It shall also be the donor's responsibility to prepare and file Form 8283 and any other tax form required in connection with the gift. The Foundation will acknowledge receipt of the gift in the appropriate position on Form 8283 and will also, as required by applicable tax regulations, file Form 8282 if it disposes of the real estate within two years after the gift. The Foundation will ordinarily value real property gifts in its records based upon the appraisal obtained by the donor for tax purposes, but in some cases the Foundation may require a second appraisal. In most cases, however, a single appraisal, paid for by the donor, will be adequate.
3. The Foundation will not ordinarily accept real estate that is subject to a mortgage or other encumbrance. It will also not ordinarily accept real estate which is subject to any lease or assume any management contract or other obligation of the donor in connection with the property.
4. The Foundation will need to determine that there are no zoning or other restrictions, easements, liens or encumbrances which may affect the marketability of the property. The Foundation will also need to be assured that there is no liability exposure because of building code violations, toxic or hazardous waste, environmental contamination, or dangerous or unsafe conditions on the property. In order to evaluate such matters, the Foundation will ordinarily require a physical inspection and title report concerning the property, as well as a "phase I" environmental audit. The Gift Acceptance Committee may recommend further environmental review or property inspections by qualified experts prior to final acceptance of any real estate gift.

Gifts of real property will generally be accepted into Greater Milwaukee Foundation Holdings, Inc., a supporting organization established to hold unusual gifts. Such gifts will be liquidated in the supporting organization and proceeds will be used to establish a Greater Milwaukee Foundation permanent fund.

5. Before accepting any real property gift, the Foundation and the donor must agree in writing on an arrangement for paying expenses associated with the property, such as broker's fees (if any), taxes and assessments, appraisal fees, transfer fees,

environmental evaluations, insurance coverage, title reports, and inspection and maintenance costs. Generally, the Foundation will not make advances for the payment of such expenses.

6. Any expenses associated with holding, maintaining and selling property accepted by the Foundation not paid by the donor will be paid from the proceeds realized from sale of the property, and the donor's fund in the Foundation will be credited with the net proceeds after deducting such expenses. In addition, the Foundation will assess an administrative fee of up to 5% to cover the costs of staff time involved in holding and selling the property. After the property is liquidated and a permanent fund is established, the Foundation's regular administrative fee schedule will apply.
7. Tangible personal property associated with real property will be considered separately and may be the subject of one or more separate gift proposals, if appropriate.