

# Gift Acceptance Policy



The Gift Acceptance Policy is designed to establish a standard policy for the solicitation and acceptance of outright gifts, planned gifts and testamentary gifts created by bequest.

## I. AUTHORIZATION

It is the policy of the Governing Board (the "Board") of the Greater Houston Community Foundation ("GHCF") to encourage donors to make outright, planned and testamentary gifts. Planned and testamentary gift types include bequests, charitable remainder trusts, charitable lead trusts, 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. The purposes of all gifts to GHCF must relate to the mission of GHCF. It is the responsibility of the staff of GHCF (the "Staff") to carry out this policy adopted by the Board.

It is the responsibility of GHCF to ensure that all gifts are received in a manner consistent with the approved Gift Acceptance Policy.

## II. GIFT ACCEPTANCE POLICY & RESTRICTIONS

It is the policy of GHCF to inform, serve, guide and otherwise assist donors who wish to support GHCF's activities, but never under any circumstances to pressure or unduly persuade donors. All information concerning donors and prospective donors shall be held in strict confidence by the Staff and Board, 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.

- All prospective donors will be informed that in making a gift to GHCF, it is irrevocable and they give up all right, title, and interest to the assets contributed; that the Board has variance power; and that the fund created by the gift may contain no material restriction that would prevent the fund created by the gift from being considered as a component fund of GHCF under the Internal Revenue Code and regulations thereto. **All prospective donors will be required to complete the GHCF Non-Cash Gift Acknowledgement Form prior to contributing any gift other than cash or marketable securities.** A copy of this form can be found in the *Appendix*.
- The Staff 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.
- The Staff shall advise the donor that it is the donor's responsibility to obtain any necessary appraisals that would be required for a gift of a nonmarketable asset to GHCF.
- GHCF will not serve as a trustee for charitable remainder or charitable lead trusts. This prohibition does not apply to supporting organizations in trust form.
- Any financial firm retained by GHCF for the purpose of encouraging gifts that may require a trustee will consult with the potential donor to identify a trustee that is knowledgeable in the management, investment, and administration of the gift under consideration. The choice of a trustee remains with the donor.
- GHCF will not accept gifts that are directly or indirectly restricted by a donor through a material restriction or condition that prevents GHCF from freely and effectively employing the transferred assets, or the income derived there from, in furtherance of GHCF's exempt mission.
- GHCF will not accept gifts that jeopardize its tax-exempt status and reserves the right to decline any gift that it believes is not in the best interest of the GHCF.
- It is GHCF's intention to properly acknowledge all completed gifts within three business days.
- In general, all unrestricted marketable security gifts are sold on the day of receipt.
- If any nonmarketable gifted interest does not produce sufficient income to GHCF to cover the amounts of all related fees and taxes, GHCF reserves the right to invoice the donor for such fees and taxes.
- Grant making with noncash assets will not be permitted from any GHCF fund until noncash assets gifted to that fund are liquidated. The amount in each fund which is available for grant making will be indicated as the "available to spend" balance.

### III. PROCEDURES FOR REVIEW OF GIFTS

- A. In reviewing gifts to GHCF, the Staff will consider the following criteria:
- The charitable intent and ultimate community benefit
  - The nature of any restrictions that may accompany the gift
  - Projected costs of managing the gift asset
  - Fee revenues to GHCF for administering the gift
  - Any possible reputational risk to GHCF which may be associated with the gift
- B. Any gift may be further reviewed and considered in light of the criteria listed in III.A. by the GiftAcceptance Task Force ("Task Force"), composed of the following:
- President and CEO
  - Chair of the Governing Board
  - Immediate Past Chair of the Governing Board
  - Chair Elect of the Governing Board (if that position is filled)
  - Chair of the Finance & Administration Committee
  - Chair of the Audit & Risk Committee

Prior to the formal acceptance of certain gifts, the President and CEO shall submit to the Task Force a report summarizing such gift in sufficient detail to allow the Task Force to advise whether or not the acceptance of such gift is in the best interests of GHCF. Criteria in determining "best interests" shall include all relevant risks to GHCF including, but not limited to, reputational risks, financial risks, and legal risks.

Any proposed gift which meets any of the following criteria shall be submitted in such fashion to the Task Force for action by the Task Force by the end of ten business days:

- The donor or another party involved in the proposed transaction has reputational issues of which the President and CEO or another member of GHCF management is aware, including reporting in the public press.
- The gift involves unusual assets, financial risk to GHCF, and/or legal issues that fall outside the normal day-to-day business of GHCF.
- Any other gift the President and CEO believes should be communicated to the Task Force for any reason.

The President and CEO shall determine the appropriate level of disclosure to the Task Force, including the protection of anonymity of the donor where appropriate; the Task Force can demand additional disclosure and can withhold approval of the transaction if the Task Force determines that such disclosure is inadequate for the Task Force to make an informed recommendation regarding the proposed gift.

In addition, two times each calendar year, once during the second calendar quarter and once during the fourth calendar quarter, the President and CEO shall submit to the Audit & Risk Committee ("Audit") a report summarizing all such gifts described above that occur during the previous respective quarter, plus any gifts in excess of \$5 million (anonymized to protect donor confidentiality) and any additional gifts the President and CEO determines should be reported to Audit. The Task Force will determine which gifts, if any, should be reported to the Governing Board.

- C. Donors may choose to make a contribution to a GHCF fund with a variety of assets, including the following:
- Brokerage held marketable securities (with or without restrictions)
  - Donor held publicly traded stocks and bonds. Special attention may be required for gift transactions with unique tax considerations (e.g., restrictions on excess business holdings, restricted or controlled stock and capital gains treatment of discounted bonds upon maturity).
  - Restricted stock
  - Thinly traded stock

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- Mutual fund shares
- Cash (coins included)
- Checks
- Certificates of deposit
- Real estate
- Tangible personal property (boats, airplanes, automobiles, artwork, furniture, equipment, jewelry, gems and metals valued in excess of \$5,000 must be accompanied by a qualified appraisal)
- Royalties and distribution rights
- Oil, gas, and mineral interests
- Insurance policies and proceeds
- Retirement assets
- Remainder interests in property
- Interests in business entities (i.e., closely held securities, partnership interests, and interests in limited liability companies)
- Charitable remainder trusts or charitable lead trusts, if funded with cash or publicly traded securities

With the exception of certificates of deposit, GHCF's policy is to sell marketable assets upon receipt unless otherwise authorized by the President and CEO.

The following outlines the acceptance policy for certain of the above-mentioned assets:

- Brokerage held marketable securities  
Ownership of marketable securities (stocks or bonds) that are held in "street" name are easily transferable. The donor should send a Letter of Authorization (LOA) to his or her financial advisor (with a copy to GHCF) that includes the following information:
  1. Name and number of shares of the securities to be transferred
  2. Name of the GHCF fund to be credited
  3. GHCF's custodian's name, DTC number and GHCF's account number
  4. GHCF's address and telephone number

The donor is provided with the highest trading price and the lowest trading price on the date the securities are delivered into GHCF's account (Treas. Reg. §1.170A-1(b)). A reliable pricing source is used to obtain the trading prices. Some thinly traded stocks may not trade every day. Should stock be received that does not trade on the date of delivery, the trading prices are reported for the next day on which it does trade.

The securities may sell on the day of receipt or the next stock market trading day, and proceeds of the sale, less any transactional fees, will be credited to the fund designated by the donor. GHCF may delay the sale if the donor has not provided advanced notice of the transfer to GHCF or if an immediate sale would negatively affect the market.

In the event that the timing of the receipt of a gift is critical (e.g., year-end), GHCF may, at its discretion, take constructive receipt, in writing, before the actual transfer is effected. The President and CEO must agree to the transaction before the critical date arrives.

- Donor held publicly traded stocks and bonds  
Stock certificates or bonds that are mailed should be sent via registered mail (unendorsed). A signed Irrevocable Stock or Bond Power should be sent under separate cover. Hand delivered securities should also be unendorsed and accompanied by a signed Irrevocable Stock or Bond Power. GHCF will provide the donor with an acknowledgement of receipt of the securities. The securities and the Irrevocable Stock or Bond Power will be delivered to GHCF's custodian. The trading prices reported to the donor will be for the date of mail receipt or hand delivery of these securities to GHCF.

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- Restricted stock  
Since these restrictions can take many forms, each gift of restricted stock will be handled on a case-by-case basis. In general, the gift date is the date that the securities are registered, received and/or transferred into GHCF's name or account. However, the amount of the gift credited to the donor's fund balance is the amount of the proceeds from the sale of the stock less any transactional fees. A gift of restricted stock with a "legend" that cannot be removed for a specified period of time may be sold at a discount that in turn lowers the value of the gift. Therefore, when stock carrying this type of restriction is received by GHCF, an appraisal (or some other accepted form of valuation) must accompany the gifted stock for charitable gift and valuation purposes. In the case of this type of restricted stock, the valuation of the donor's fund balance will be based on the appraised value of the stock.
- Mutual fund shares  
Donors wishing to donate mutual funds should authorize the fund manager to transfer the shares to a GHCF account. If GHCF does not have an account with the fund manager, certain members of the Staff, as authorized by the Board, are permitted to open an account at the fund management company. Upon delivery to GHCF's account, the shares will be sold and the fund manager will be requested to send GHCF a check for the proceeds. The value of the gift equals the net cash proceeds from the sale.
- Certificates of deposit  
The same procedures as those for brokerage held marketable securities apply to the transfer of certificates of deposit to GHCF. The value assigned to the gift is the face value of the certificate of deposit. After accepting a certificate of deposit as a gift, GHCF will consult with the issuer as to whether or not the certificate of deposit may be redeemed for cash with no penalty. If there is a penalty, the certificate of deposit will be held to maturity. Those with no penalty will be redeemed and the cash credited to the fund established by the donor.
- Real estate  
The Staff will visually inspect and evaluate potential gifts of real property. Depending on the location of the property, this requirement may be waived or conducted by an outside agent of GHCF. A current (dated within 60 days) appraisal that complies with IRS regulations and a Phase 1 Environmental Site Assessment (as a minimum requirement) on the property will be required by GHCF before acceptance of the property, with costs for both to be incurred by the donor. If the real estate is not to be liquidated, a charitable intent of the real estate gift must be established by the donor. The donor will provide evidence of title, a title commitment, copies of all listed exceptions to the title, evidence of any debt against the property and a current survey. If there is a building on the property, a report reflecting compliance of all applicable building, parking, paving, and health and safety codes must be provided by the donor. Also, the donor will provide a report that states the building does meet code specifications on the structure, HVAC systems, and roof. The donor will provide insurance (both general liability and fire and casualty policies) on the property. The donor will provide all lease agreements applicable to the property. Real property that is encumbered by a trust deed loan or mortgage will be accepted only in exceptional circumstances. Prior to acceptance of a gift of real property, GHCF 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.  
  
When GHCF receives real estate, it will generally require the donor to execute a general warranty deed and may require the donor to obtain title insurance. When GHCF conveys real estate to a buyer, it will generally execute a special warranty deed limiting its warranties as to title. When GHCF sells real estate, it will require a qualified appraisal for the transaction and such appraisal costs will be borne by the donor and deducted from the sale proceeds.
- 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. Automobiles valued at less than \$5,000 will not be accepted. Unless the property is to be used in connection with GHCF's tax-

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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. GHCF discourages gifts of personal property which cannot readily be sold or which require unusual expenses prior to sale or if prohibited by the IRS. If a lengthy selling period is anticipated, GHCF may ask the donor to cover such expenses with a cash gift. A completed IRS Form 8283 ("Noncash Charitable Contributions") must accompany gifts of tangible personal property.

- Royalties and distribution rights  
GHCF 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 ("Noncash Charitable Contributions") must accompany gifts of royalties or distribution rights.
- Oil, gas and mineral interests  
GHCF may accept oil, gas or mineral property/royalty interests. Prior to acceptance of an oil, gas or mineral interest, the gift shall be approved by the Staff and, if necessary, by GHCF's legal counsel. Criteria for acceptance of the property shall include:
  1. The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
  2. A working interest is rarely accepted and only with the approval of the Board. A working interest may only be accepted where there is a plan to minimize potential liability and tax consequences.
  3. The property should undergo an environmental review to ensure that GHCF has no current or potential exposure to environmental liability.
- Insurance policies and proceeds  
Donors may transfer ownership of a paid-up policy to GHCF and take a tax deduction for the interpolated terminal reserve (typically cash surrender value). Donors may transfer ownership of premium-due policies to GHCF and make income tax deductible contributions in the amount of the premiums. In either case, GHCF 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 GHCF. Contributions for premium-due policies must be made by direct payment to GHCF at least ten days prior to the premium date. GHCF will not assume delinquent premium payments. If, at any future time, the donor elects not to continue making contributions required to cover the premium payments, the policy will be surrendered and the cash value will be added to the fund designated by the donor at the time of contribution. Paid-up policies of any value may be accepted by GHCF. Premium-due policies must have a minimum cash value of \$10,000. A one-time administrative fee may be assessed. Donation of policies or annuities written for a year-end tax purpose must have a certifiable date from the insurance company to be a qualified donation for that tax year. GHCF does not enter into charitable reverse split dollar agreements, nor will it endorse any specific insurance product, company, or agent. Donors may also wish to consider cashing existing life insurance policies or selling the policy to a viatical company and contributing the proceeds to a fund at GHCF. The donor may also consider converting the policy to a paid-up premium policy before gifting it to GHCF to eliminate the need for ongoing premium payments
- Retirement assets  
"Account" type retirement plans, in which a balance accumulates as principal, may be gifted to GHCF. 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:
  1. Naming GHCF as successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse;
  2. Creating a testamentary charitable remainder trust with the assets upon the death of the asset owner, naming GHCF as remainder beneficiary and noncharitable heirs as income beneficiaries

A donor's gift of retirement account assets during one's lifetime may lead to unfavorable tax outcomes. Under current law, an exception exists permitting lifetime distributions of up to \$100,000 per year to most public charities from the IRA of an individual who has reached age 70½. While distributions to Donor Advised Funds do not qualify for this exception, many gifts to GHCF for the benefit of a fund (e.g., Designated Funds, Scholarship Funds, etc.) will qualify. Donors should check with a tax advisor before making such a designation.

- Remainder interests in property  
GHCF will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions above regarding gifts of real property. The donor or other occupants may continue to occupy the real property for the duration of the stated life or lives. Upon termination of the life income interest(s), GHCF may use the property or reduce it to cash. Where GHCF receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary, according to the terms of a written agreement between the donor(s) and GHCF executed at the time of the gift.
- Interests in business entities (i.e., closely held securities, partnership interests, and interests in limited liability companies)  
Donors may make gifts of interests in business entities (i.e., closely held marketable securities, partnership interests, interests in limited liability companies, S Corp or C Corp stock). These can be accepted if GHCF assumes no liability in receiving them.

Gifts requiring review and/or use of legal counsel may include the following:

1. Interests in business entities (i.e., closely held securities, S Corp and C Corp stock, 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, capital call requirements, business partners, charitable intent, requirements or limitations, the possibility of GHCF receiving unrelated business taxable income, tax deductibility or other questions which indicate that a review is necessary
2. Closely held stock transfers that are subject to restrictions or buy-sell agreements, or publicly-traded securities subject to sale restrictions
3. Gifts involving contracts, such as bargain sales or other documents requiring GHCF to assume an obligation. A charitable bargain sale is a transfer of property to GHCF where the donor receives a price that is less than the fair market value of the property transferred. The transaction is part charitable gift and part taxable sale. Bargain sale transactions other than charitable gift annuities may be accepted by GHCF only with the prior written approval of GHCF's Task Force.
4. Transactions with potential conflict of interest that may invoke IRS sanctions
5. Retained life tenancy in a residence, ranch or farm
6. Arrangements where the donor receives fees for services to GHCF
7. Other property that may be unusual or fall outside the type of gifts usually handled by GHCF, including tangible personal property unrelated to GHCF's charitable purpose
8. Gifts to establish funds for a purpose that may fall outside the mission, bylaws and procedures of GHCF
9. Life insurance policies for which future premium payments are required
10. Other instances in which use of counsel is deemed appropriate by GHCF

Since interests in some of the above gift instruments are not liquid, the donor may be required to make a gift of cash or marketable securities to cover administrative fees, professional fees and any other out-of-pocket costs incurred by GHCF in the transfer of ownership of these types of gifts. An example of an "out-of-pocket" cost is a review of an appraisal by a valuation/CPA firm chosen by GHCF. The donor shall provide GHCF with a completed IRS Form 8283 ("Noncash Charitable Contributions") for many of these types of gifts. The donor will provide assurance that GHCF will be held harmless in the event the entity becomes bankrupt or is otherwise unable to satisfy its obligations and assurance that GHCF will be held harmless in the event the entity is sued. Any legal bills incurred to defend itself in any action relative to the gift will be paid by the donor.

A percentage interest in some of these type entities is, generally, gifted to GHCF through an assignment agreement that has been reviewed and approved by GHCF's General Counsel. The value of the assignment is determined by an independent appraisal of the assets. The donor pays the cost of the appraisal. GHCF will engage an independent evaluation/CPA firm to review the methodologies, assumptions and conclusions of the appraisal and these costs are charged against the fund's balance. Depending on the law firm involved in the transaction, a confirmation agreement of the assignment may be, but is not always, executed following completion of the review of the appraisal.

With gifts requiring immediate action (e.g., gifts on December 31, or pending sale of property) and in the judgment of the President and CEO in consultation with GHCF's General Counsel, that gift may be accepted as long as the gift in no way jeopardizes GHCF's tax exempt status.

## IV. PROCEDURES FOR REVIEW OF GIFTS OF BUSINESS INTERESTS

Additionally, GHCF will consider the following criteria when evaluating a business interest gift and require that the GHCF Business Interests Inquiry Form (a copy of which can be found in the *Appendix*) be completed in advance:

- A. Market Value and Marketability. GHCF will review a current appraisal of the fair market value of the asset, its potential income stream, capital gain and any other relevant financial information (including but not limited to annual financial statements).
- B. Qualified Appraisal. Current IRS rules may require that a qualified appraisal of the business interests be made not more than sixty (60) days before the contribution of the business interests and not later than the due date of the tax return on which a deduction for the contribution is claimed. This appraisal must be prepared in order for the donor to claim a charitable tax deduction, with the costs of the appraisal incurred by the donor. If the asset is disposed of within three (3) years of the date of its contribution, IRS rules require GHCF to file an informational return.
- C. Governance of Business. GHCF will consider information relating to the management of the business entity and the duties, background, experience, stability and other attributes of the entity's managers.
- D. Debt. In addition to normal business concerns regarding debt load, GHCF also must consider the effect of debt to determine if GHCF may be required to pay unrelated business income tax ("UBIT").
- E. Existing and Contingent Liabilities/Contracts. GHCF will review information about the nature of the business for the proposed gift so that the Foundation may consider whether there are any potential tax or other liabilities that it may incur.
- F. Unrelated Business Income Tax. Certain assets, including mortgaged real estate and interests in S Corporations, LPs, and LLCs may subject GHCF to UBIT. GHCF may incur additional costs for accounting and tax services to determine the amount of any UBIT and to report it to the IRS. The donor's fund or Supporting Organization will be responsible for paying any UBIT in addition to any expenses related to legal, tax or accounting services, or any related administrative expenses incurred by GHCF.
- G. Rights and Obligations of Shareholders or Partners. GHCF will review its rights and obligations as a partial owner of the business entity. GHCF will not accept a gift of business interests if the governing documents can be amended to adversely affect the interests of GHCF without its consent. In addition, a gift of business interests will be considered on a case-by-case basis if additional capital calls may be required of GHCF.
- H. Anticipated Liquidation of Business Interests. In order for GHCF to accept a gift of a business interests, there must be a mechanism for converting the business interests into liquid assets via redemption,

liquidation or otherwise within a reasonable time of the gift of the ownership interest to GHCF. The sale, redemption, or liquidation of such interests shall not be executed or authorized unless an exception is expressly authorized by the President & CEO.

- I. Material Restrictions. A gift of business interests may not be subject to a “material restriction” as defined by IRS rules. Such restrictions guard against (i) selling the contributed business interest, (ii) granting oneself a right of first refusal to purchase the contributed business interest or assume rights affecting the property, (iii) contractual obligations, pledges or other liabilities, and (iv) establishing irrevocable relationships for the maintenance, investment or management of the business interests transferred to GHCF.

## V. ADDITIONAL CRITERIA FOR REVIEW OF REAL ESTATE GIFTS

Additionally, GHCF will consider the following criteria when evaluating a real estate gift and require that the GHCF Real Estate Property Inquiry Form (a copy of which can be found in the *Appendix*) to be completed in advance.

- A. Marketability. GHCF will pay particular attention to the property’s potential marketability.
- B. Qualified Appraisal. Current IRS rules may require that a qualified appraisal of the property be prepared not more than sixty (60) days before the contribution of the property and not later than the due date of the tax return on which a deduction for the contribution is claimed. This appraisal must be filed in order for the donor to claim a charitable tax deduction, with the costs of the appraisal incurred by the donor. If the asset is disposed of within three (3) years of the date of its contribution, IRS rules require GHCF to file an informational return.
- C. Environmental Health. A Phase I or comparable environmental analysis may be requested. In general, the donor must bear the cost of an environmental audit to protect GHCF from potential liability for environmental conditions.
- D. Property Under Contract. To reduce the risk of being taxed on capital gain from property contributed to GHCF, donors should refrain from subjecting the property to a contract for sale. Any contract for sale should occur once the property has been transferred to GHCF.
- E. Debt. GHCF will not ordinarily accept real property that is encumbered by mortgage indebtedness unless satisfactory arrangements can be made with regard to ongoing mortgage payments and any UBIT GHCF may incur.
- F. Costs to the Foundation. GHCF will require written assurances regarding the payment of expenses relating to the property or will require a simultaneous liquid gift to the fund to cover any such expenses (e.g., finder’s fees, taxes and assessments, appraisal fees, environmental evaluations, insurance coverage, HOA fees, maintenance costs).
- G. Existing and Contingent Liabilities/Contracts. The Foundation will review information about the nature of the property for the proposed gift so that GHCF may consider whether there are any potential tax or other liabilities that it may incur.
- H. Material Restrictions. A gift of real property may not be subject to a “material restriction” as defined by IRS rules. Such restrictions guard against (i) selling the contributed property, (ii) granting oneself a right of first refusal to purchase the contributed property or assume rights affecting the property, (iii) contractual obligations, pledges or other liabilities, and (iv) establishing irrevocable relationships for the maintenance or management of the property transferred to GHCF.

## VI. PLANNED AND TESTAMENTARY GIFTS

### A. Planned Giving Program

GHCF's planned and testamentary giving program encompasses all forms of gifts whose benefits do not fully accrue to GHCF 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 GHCF are then followed by the interests of noncharitable beneficiaries.

Donors using planned and testamentary gift techniques may establish any of GHCF's fund types. Wills, trusts, or other documents should specify GHCF 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.

### B. Bequests

Bequests may be from a will or trust and may be specific or contingent in nature. Representatives of GHCF are authorized to solicit direct testamentary charitable contributions through wills or trusts, as well as testamentary contributions to establish charitable remainder and lead trusts. Advice offered by representatives of GHCF must be accompanied by a recommendation that the prospective donor consult his/her own attorney and/or tax counsel.

A bequest through will or trust to GHCF should include the following:

- The name of Greater Houston Community Foundation, a Texas nonprofit corporation, exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, with principal offices in Houston, Texas.
- 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, GHCF 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.

### C. Charitable Remainder Trusts

#### 1. Description: Unitrusts

The Standard 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 rate must equal no less than 5% of the fair market value of the assets placed in the trust when it is created, as specified in the IRS Code. 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. In accordance with IRS Code, 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 also be used. When the trust is created, it includes a provision which defines the unitrust's payments to be the lesser of the specified pay out 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 can also be structured to be a Net Income Unitrust. In this case, the payout is made from income only, principal is not accessed for income payout, and payment deficiencies may not be made up in subsequent years.

Another variation 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 Standard 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.

## 2. Description: Annuity Trusts

The donor and/or beneficiary receives annually a payout that is fixed irrevocably at the time of the gift and stated in the trust agreement. In accordance with IRS Code, 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 IRS also requires that the present value of the remainder interest must be equal to or greater than 10% of the original contribution to the trust.

## 3. Policy

- a) The Staff is authorized to solicit gifts in the form of Charitable Remainder Trusts. The Staff will consult with the donor, the donor’s legal, tax and financial advisors, as appropriate, and with the individual or institution identified to serve as trustee of the trust to determine the appropriate rate of payment and other trust terms for each donor’s particular circumstances.
- b) Donors who elect to self-trustee must be informed of the administrative and tax reporting responsibilities entailed by their trusteeship. The Staff may provide information on vendors providing administrative and tax reporting services.
- c) The Staff will discuss with the donor in advance of the execution of the trust documents the fund or funds to which the remainder interest will be directed upon termination of the trust. It is preferred that a separate written agreement regarding the use of the remainder interest be executed prior to or in conjunction with the execution of the trust agreement.
- d) Any sample trust agreements provided by GHCF to the donor shall be accompanied by a letter indicating that the sample does not constitute legal advice and strongly advising that the donor seek legal counsel prior to completing the trust.

## D. Charitable Lead Trusts

### 1. 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.

### 2. Policy

- a) The Staff is authorized to solicit gifts for charitable lead trusts. The donor may select any annuity or unitrust payout percentage.
- c) The Staff will discuss with the donor in advance of the execution of the trust documents the fund or funds to which the charitable income interest will be directed upon establishment of the trust. It is preferred that a separate written agreement regarding the use of the remainder interest be executed prior to or in conjunction with the execution of the trust agreement.

## Appendix

- Non-Cash Gift Acknowledgment
- GHCF Business Interests Inquiry
- GHCF Real Estate Property Inquiry Form

# Non-Cash Charitable Gift Donor Acknowledgement



Thank you for your interest in making a non-cash charitable gift to Greater Houston Community Foundation. For any contribution of an asset other than cash or marketable securities, we ask potential donors to read and sign this Acknowledgment Form in advance of completing the gift.

I, \_\_\_\_\_, hereby acknowledge the following terms and conditions associated with making a non-cash charitable contribution to Greater Houston Community Foundation:

- All potential non-cash charitable contributions to Greater Houston Community Foundation are subject to approval by the Gift Acceptance Committee. The approval process varies depending on the complexity of the gift, and the process may take several weeks to complete.
- Donors who wish to contribute real estate shall obtain all necessary environmental assessments, title searches and other applicable due diligence at the expense of the donor. Greater Houston Community Foundation shall only consider gifts of real estate located in the United States and unencumbered by debt. Donors must also complete the GHCF Real Estate Property Inquiry Form.
- Donors who wish to contribute gifts of closely held business interests shall provide to the Greater Houston Community Foundation staff all relevant and necessary corporate documents needed for the Gift Acceptance Committee's review. Such documents may include Articles of Incorporation, Corporate Bylaws, Partnership Agreements, Shareholder Agreements, Operating Agreements, etc. Donors must also complete the GHCF Business Interests Inquiry Form.
- Donors who contribute non-cash gifts are responsible for obtaining a valuation for the contribution. Greater Houston Community Foundation shall provide a gift receipt that lists only the asset that was donated and the date of contribution; the gift receipt shall not include any estimated value of the gift.
- A donor who makes a non-cash charitable gift greater than \$5,000 to Greater Houston Community Foundation may need to file IRS Form 8283 in order to claim any applicable charitable deduction from federal income taxes. Greater Houston Community Foundation will countersign a donor's Form 8283 only after the Form is first signed by a qualified appraiser. Donors should consult an accountant or tax advisor for more information and guidance.
- A processing fee shall be applied to every non-cash charitable gift made to Greater Houston Community Foundation. The fee shall be deducted from the proceeds following the sale of the contributed asset, and shall be calculated as follows:
  - The fee shall be three percent of the appraised value of the asset, with a minimum fee of \$10,000.
- Greater Houston Community Foundation, in general, shall sell any contributed non-cash asset at the first reasonable opportunity. Greater Houston Community Foundation shall be reimbursed for any tax liability or carrying costs associated with holding any contributed non-cash asset out of the proceeds from the sale of the contributed asset.

# Non-Cash Charitable Gift Donor Acknowledgement



- Expenses and fees associated with the holding of contributed property prior to its sale will be netted from the sale proceeds before the assets are transferred into a fund established by the donor unless the donor contributes cash or marketable securities in an amount equal to the estimated amount of expenses. In addition, for some gifts, particularly gifts of real estate, some portion of proceeds may be retained as a reserve for expenses incurred or anticipated, but not yet billed, related to the gift.

In cases where a non-cash asset is not accompanied by an existing fund with sufficient liquid assets to cover carrying costs, GHCF reserves the right to require a cash donation.

- If a non-cash asset is not sold more than three years after the contribution date, a subsequent valuation may be required. The expense of any subsequent valuation(s) may be netted from the sale of the proceeds or charged to a donor advised fund established by the donor.
- If a donor establishes a donor advised fund with Greater Houston Community Foundation and uses a non-cash asset to fund the donor advised fund, the donor may not recommend grants from the donor advised fund until the non-cash asset is sold or until other liquid assets are contributed to the donor advised fund.

By signing below, I acknowledge that I have read and accept the above terms and conditions.

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Donor's Signature

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Date

# Real Estate Property Inquiry Form



Please complete this Real Property Inquiry Form in conjunction with your proposed gift of real property to Greater Houston Community Foundation ("GHCF").

Following review of the asset information below, if the gift is accepted, a GHCF Fund Agreement must be completed.

GHCF requires a minimum value of \$500,000 for any gift of real estate that can reasonably be liquidated within one year in order to be accepted. An initial fee applies to all accepted gifts. For gifts that cannot be liquidated within that time frame, additional holding costs and fees will apply.

Owner Name(s): \_\_\_\_\_

Address of Owner: \_\_\_\_\_ City: \_\_\_\_\_ State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## Section 1 - PROPERTY INFORMATION

Type of Property:

Agricultural

Commercial

Land to be Developed

Residential

Timber

Manufacturing

Undeveloped Land

Other: \_\_\_\_\_

Property Location: \_\_\_\_\_

Current uses of property: \_\_\_\_\_

Prior uses of property: \_\_\_\_\_

Land Area (acres or sq. ft.): \_\_\_\_\_

Building area (sq. ft.): \_\_\_\_\_

Replacement cost of building: \_\_\_\_\_

Current property insurance coverage: \_\_\_\_\_

Date of acquisition/form of acquisition: \_\_\_\_\_

Current cost basis (includes improvements) \_\_\_\_\_

Assessed value for real estate taxes: \_\_\_\_\_

Land/Building value: \_\_\_\_\_ If appraised, most recent appraisal date: \_\_\_\_\_

If appraised Appraiser & Address: \_\_\_\_\_

Occupancy status after transfer of title to charity: (Please check one)

Unimproved (no buildings)

Unoccupied (building, but no occupant)

Occupied (building with occupants)

Is there a current binding obligation to sell this asset? Yes No

If yes, describe: \_\_\_\_\_

# Real Estate Property Inquiry Form



Is the Property subject to a mortgage or otherwise encumbered? Yes No  
If yes, describe: \_\_\_\_\_

Principal balance of mortgage, if any: \_\_\_\_\_

Is there a deadline for completing this gift? Yes No If yes, list date: \_\_\_\_\_

Are there any potential buyers of the gifted asset? Yes No

If yes, describe: \_\_\_\_\_

Is there a current binding obligation to sell this asset? Yes No

If yes, describe: \_\_\_\_\_

Is the Property currently listed for sale? Yes No

If the Property is currently listed for sale (or if you have a recommendation for an agent), please provide the name and contact information of the listing agent or your recommended sales agent:

Name of Agent: \_\_\_\_\_ Company: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

## Section 2 - PROPERTY ALLOWANCES/RESTRICTIONS

Check any of the following apply. If so, explain in the notes section.

Zoning variances or special permits

Zoning violations

Restrictions/ Covenants/ Easements/  
HOA/Condominium Declarations

Survey

Historic Status

Other: \_\_\_\_\_

## Section 3 - CONDITION OF BUILDING

Check if there are existing conditions or potential problems with any of the following. If so, explain in notes section.

### BUILDING STRUCTURE

Foundations/slab

General structural

Basement water/dampness/sump pump

Termites/ants/pests

Roof

Swimming pool

Other: \_\_\_\_\_

### BUILDING SYSTEMS

Plumbing

Sewage: type

Heating

Air conditioning

Electrical

Other fixtures

Water supply

Hot water

Other: \_\_\_\_\_

# Real Estate Property Inquiry Form



## Section 4 - RENTAL/CONDOMINIUM/COOPERATIVE

Check if any of the following apply. If so, explain in the notes section.

- |                                      |                          |
|--------------------------------------|--------------------------|
| Lease                                | Rental arrears           |
| Security deposit                     | Common area fees arrears |
| Building or sanitary code violations | Financial statements     |

## Section 5 - ENVIRONMENTAL

### A. HISTORY OF PROPERTY

Are you aware of any environmentally sensitive situations on the Property (including but not limited to asbestos, formaldehyde, radon gas, methane gas, lead base paint)?      Yes      No

If yes, please describe:

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Has the Property been used for industrial, commercial, agricultural, manufacturing, waste disposal or any other non-residential purposes?      Yes      No

If yes, please describe:

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**In order to protect GHCF from potential liability for environmental conditions, a Phase 1 or comparable environmental analysis may be requested unless one has already been obtained within a reasonable time of the gift of Property. The donor must bear the cost of any such environmental analysis.**

Has an environmental analysis been conducted on the property?      Yes      No

If so, please provide date and provide a copy of the report: \_\_\_\_\_

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### B. CONDITION OF PROPERTY

Check if any of the following apply. If so, explain in the notes section.

- Stressed or denuded vegetation or unusual barren areas
- Discoloration, oil sheens, or foul/unusual odors
- Dump site
- Tire/battery/chemical storage or disposal
- Storage drums
- Above or underground storage tanks; vent/filler pipes
- Evidence of oil or other chemicals in soil
- Other (please describe): \_\_\_\_\_

# Real Estate Property Inquiry Form



## C. ADJACENT PROPERTIES

Check if any of the following apply. If so, explain in the notes section.

Evidence of PCBs (electrical transformers, capacitors)

Used for industrial purposes

Evidence of toxic air emissions

Evidence of flood plains, wetlands or drainage

Evidence of endangered plants or wildlife

To the best of your knowledge, do any of the conditions or situations described in (A) or (B) of this Section 5 apply to properties adjacent to the Property?                      Yes      No

If yes, please set out those conditions in the Notes section below\*\*

## Section 6 - PROPERTY EXPENSE BUDGET

To hold this property as a Foundation asset, the following income and expenses are anticipated:

A. Income	Period (Annual, Monthly or N/A)
1. Rent:	_____
2. Other:	_____
<b>B. Expenses</b>	
1. Real estate taxes:	_____
Date taxes are due:	_____
2. Utilities	
Gas:	_____
Oil:	_____
Electric/Water/Sewer/Other:	_____
<b>C. Services</b>	
1. Caretaker/ Property manager/landscaping:	_____
2. Heating/cooling service contract/snow removal:	_____
3. Pool service:	_____
4. Common area charge (condominium):	_____
5. Security	_____
6. Other	_____
<b>D. Maintenance/Repairs</b>	_____
<b>E. Insurance*:</b>	_____

\* Cost of insurance should be verified with insurance agent and should take into account any change in cost which may occur as a result of change of ownership or status of Property (e.g., from occupied to unoccupied).

F. Homeowners Association Dues: \_\_\_\_\_

TOTAL EXPENSES: \_\_\_\_\_

NET INCOME (Loss) if applicable: \_\_\_\_\_

# Real Estate Property Inquiry Form



## Section 7 - OTHER INFORMATION AND DOCUMENTATION

Please provide us with copies of the following documents related to the Property, if applicable:

- Deed
- Appraisal (within 60 days of expected gift date)
- Any environmental analysis already completed
- A preliminary title insurance report
- A summary of current insurance coverage for the property survey
- Plat/map
- Most recent property tax bill
- Each promissory note, deed of trust, mortgage or other liens on the property
- Photo of Property
- Restricted Covenants/special uses/easements/permits (if any)
- Homeowners' Association bylaws, covenants or restrictions
- Each lease or other contract affecting the property
- Property is income producing, the profit and loss statements for the two most recent years, if available
- Any special conditions (i.e. historic appearance commission regulations, etc.)
- Any warranties related to the Property
- A completed Fund Agreement
- Any completed gift fund agreement identified in the Fund Agreement.

## Section 8 - REPRESENTATIONS

By initialing each item and by signing below, the donors represent and warrants that with respect to the Property to the best knowledge of the donor:

\_\_\_\_\_ The property and all operations thereon comply with applicable environmental laws, regulations and court or administrative orders;

\_\_\_\_\_ There are no pending or threatened private or governmental claims or judicial or administrative actions relating to environmental impairment or regulatory requirements;

\_\_\_\_\_ All necessary permits, licenses and government approvals have been obtained for use of the property;

\_\_\_\_\_ There are no areas of the property where hazardous or toxic material or substances have either been disposed of, discharged or found;

\_\_\_\_\_ There are no hazardous or toxic materials or substances on the property or in improvements constructed the property, and

\_\_\_\_\_ The donor has legal title to the property with powers to sell or assign.

# Real Estate Property Inquiry Form



## Section 9 – USE OF LEGAL COUNSEL

**Use of Legal Counsel:** GHCF shall seek the advice of legal counsel in matters relating to the acceptance of gifts where appropriate. In addition, the GHCF recommends that donors retain separate counsel to represent their interests with respect to the gift of Property. Review by counsel is recommended for GHCF for:

- Review of deeds that are subject to restrictions or buy-sell agreements.
- Review of all gifts involving contracts, such as bargain sales or other documents requiring GHCF to assume an obligation.
- Review of all transactions with potential conflict of interest that may invoke IRS sanctions (including any transaction to which a Board Member of GHCF is a party).
- Such other instances in which use of counsel is deemed appropriate by the Chief Advancement Officer.

\*\* Are you aware of any other information concerning any part of the Property which might affect the value of the Property or the decision of GHCF to accept the Property? If so, indicate below.

Additional Notes:

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I (we) hereby confirm that the information set forth in this document is true and accurate to the best of my (our) knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date