



## BCF GIFT ACCEPTANCE POLICY

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### **PURPOSE OF GIFT ACCEPTANCE POLICY**

Benton Community Foundation (BCF) solicits and accepts gifts to advance its broad charitable purposes. These gift acceptance policies define the considerations and processes through which the BCF assesses the desirability of accepting a potential gift and determines whether to accept a gift as offered. In addition, these policies specify how particular types of gifts may be made. These policies are intended to be a resource to BCF officers, board members, committee members and staff, as well as prospective donors and their advisors.

BCF reserves the right to refuse any gift that it believes is not in the best interests of the foundation. In conformity with Treasury Department regulations governing community foundations, gifts to BCF may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents BCF from freely and effectively employing the transferred assets, or the income derived from the assets, in furtherance of its exempt purposes. In addition, BCF officers, board members, committee members and staff must be able to ensure that gifts accepted by BCF do not place other assets of BCF at risk, and that gifts can be easily converted into assets that fall within BCF's investment guidelines. BCF must also be sure that it can administer the terms of the gift in accordance with the donor's wishes. Finally, BCF does not restrict your gifting to Benton County, however our roots and focus remain in Benton County. To this end, we have included certain requirements in this policy ensuring that at least three percent (3%) of the total annual gifts from your fund will benefit Benton County. These requirements are described in the "Types of Funds" section of this policy beginning on Page 7.

In general, BCF will sell non-cash gifts and reinvest the proceeds as soon as practicable after receipt of the gift. Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees, as well as, other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor. The direct costs of liquidating outright and planned gifts of BCF will be borne by the fund that is the beneficiary of the gift, except for those special circumstances as determined by the Finance Committee. Administrative fees will be paid from the respective funds in accordance with BCF's Fee Policy.

### **AUTHORITY TO ACCEPT GIFTS**

Except as otherwise noted herein, the Chief Executive Officer of BCF shall have the authority to accept gifts on behalf of BCF. When appropriate, the Chief Executive Officer shall consult with the Finance Committee on matters of gift acceptance and shall make regular reports to the Board of Directors concerning accepted gifts. The Chief Executive Officer, on behalf of BCF, shall seek the advice of legal counsel when appropriate.

## **DISCLOSURE TO DONORS**

BCF staff will disclose to a prospective donor any known benefits and liabilities that could be expected to influence the donor's decision to make a gift to BCF. In particular, the donor should be advised that all gifts other than testamentary gifts are irrevocable, and items subject to variability such as market value, investment return, and amount of income payments will be discussed. Donors shall also be advised that, in accordance with IRS regulations and BCF corporate documents, the Board of Directors retains the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to any specified organization if, in the sole judgment of the Board of Directors (without the approval of any trustee, custodian or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

BCF will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to gifts to BCF and the resulting tax consequences. In all cases, BCF representatives shall emphasize that they do not represent the donor.

## **TYPES OF ASSETS**

1. **Cash.** Cash is acceptable in any form. Checks shall be made payable to Benton Community Foundation and mailed to PO Box 911, Corvallis, Oregon 97339 or delivered to the foundation office located at 660 NW Harrison Blvd, Corvallis, Oregon 97330.

2. **Publicly-Traded Securities.** BCF will accept securities that are traded on the New York and NASDAQ Exchanges, as well as other major U.S. and foreign exchanges, corporate bonds, government issues, and agency securities. In general, all marketable securities shall be sold as soon as possible after their receipt unless otherwise determined by the Finance Committee, after consultation with BCF's Investment Manager. The Chief Executive Officer of BCF must seek review by the Finance Committee and approval by the Board of any request by donor to hold, sell through a specific broker or trade on instruction of the donor.

Securities may be physically delivered to BCF in person or by mail or may be wired to a designated BCF brokerage account. If the donor mails securities, certificates should be sent unsigned and by registered mail. Signed stock/bond powers should be sent separately to BCF by registered mail. It is imperative that the signature on the stock/bond power exactly match the name on the certificate.

3. **Closely-Held Securities.** Interests in closely-held or non-publicly traded entities, including, without limitation, sole proprietorships, general and limited partnerships, corporations, real estate investment trusts (REITs), and limited liability companies, may be accepted only after prior review by the Finance Committee and approval by the Board after consultation with the Investment Manager and legal counsel, if appropriate. Such review shall consider the marketability of the interest, any restrictions on its sale, any potential liability associated with the holding of such interest, and any tax consequences for BCF related to the holding and/or disposing of such interest. In general, if accepted, such securities shall be sold as soon as possible following their receipt.

**4. Unregistered Securities.** BCF may accept restricted securities (also known as unregistered securities, investment-letter stock, control stock or private placement stock). Because of the complexity in transferring ownership and determining the fair market value of restricted stock, such gifts may be accepted only after review by the Finance Committee and approval by the Board, after consultation with the Investment Manager and legal counsel, if appropriate.

**5. Tangible Personal Property.** Gifts of tangible personal property, including but not limited to art, antiques, collections, manuscripts, books, vehicles, marine vessels, and computer hardware may be accepted only after review by the Finance Committee and approval by the Board. A gift of tangible personal property should be accepted only when a review indicates that the property is readily marketable. No personal property shall be accepted under conditions that obligate BCF to continue to own the property in perpetuity. In addition, no perishable property or property that would require special facilities or security to be properly safeguarded shall be accepted.

Tangible personal property given to BCF shall be sold as soon as possible following receipt. BCF's intention to sell the property shall be communicated to the donor when BCF receives notification of the donor's intent to make a gift of personal property.

**6. Real Estate.** Gifts of real estate, both improved and unimproved, may be accepted only after review by the Finance Committee and approval by the Board after consultation with legal counsel, if appropriate. Due to the expenses associated with gifts of real property, only gifts with a current fair market value in excess of \$50,000 will generally be considered. No gift of real estate may be accepted until all mortgages, deeds of trust, liens and/or other encumbrances have been discharged. It is BCF's general policy to dispose of all gifts of real estate as expeditiously as possible. This policy will be communicated to a donor when BCF receives notification of the donor's intent to make a gift of real estate.

Before accepting a gift of real estate, BCF shall obtain:

- a. A title insurance commitment showing marketable title in the donor, free and clear of unacceptable encumbrances, issued by a reputable title insurance company;
- b. An MAI appraisal by a qualified appraiser (not older than 60 days);
- c. A Phase I environmental audit by a qualified engineer indicating that ownership will not expose BCF to environmental liability;
- d. A market feasibility study for purposes of liquidation (when appropriate);
- e. An on-site evaluation by the Chief Executive Officer or his/her designee (or if the property is located in a geographically isolated area, a local real estate broker acceptable to the CEO.);
- f. A structural engineering report (when appropriate);
- g. A review of leases (for commercial property);
- h. Evidence of compliance with the Americans with Disabilities Act (when applicable);

- i. A disclosure statement from the donor reflecting any and all carrying costs, including but not limited to taxes, insurance, association dues, membership fees and transfer charges.

All costs related to the environmental impact study, title search, appraisal, marketability study and any other related study shall be borne by the donor.

**7. Life Insurance.** BCF will accept gifts of life insurance policies of which it is named the irrevocable owner and beneficiary. BCF may accept a "paid-up" policy (i.e., no additional premiums will be required, regardless of changing rates or dividends) or a new or existing policy for which the donor intends to continue to make payments so that the policy does not lapse. BCF will not accept a policy with any term insurance component.

BCF will make premium payments on a donated policy if the donor makes annual gifts at least equivalent to the amount of the premium. BCF may, but is under no obligation to continue to pay the premiums if the donor elects not to continue to make gifts to cover premium payments. In that instance, BCF may allow the policy to lapse, convert the policy to paid-up insurance or surrender the policy for its current cash value.

**8. Other Property.** Other property of any description (e.g., mortgages, notes, copyrights, royalties, etc.) may be accepted only with review by the Finance Committee and approval of the Board after appropriate due diligence has been performed. The difficulty inherent in establishing the acceptability of this class of assets places additional importance on a thorough review of such gift proposals. In particular, the Finance Committee shall review the marketability of the gift, the carrying costs associated with it and the potential exposure of BCF to tax and other liabilities. Depending on the value of the proposed gift, consideration should be given to encouraging the donor to dispose of the property and donate the proceeds to BCF.

**9. Gifts to Donor Advised Funds.** Notwithstanding any other provision hereof, BCF shall not accept any gift of an interest in a business enterprise for a donor advised fund that would subject BCF to tax under section 4943 of the Internal Revenue Code, concerning "excess business holding." Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rules now apply to donor advised funds as if they were private foundations. That is, the holdings of a donor advised fund in a business enterprise, together with the holdings of persons who are disqualified persons with respect to that fund, may not exceed any of the following: (i) a 20% or greater interest of voting stock of an incorporated business; (ii) 20% of the profits interest of a partnership, joint venture, or the beneficial interest of a trust or similar entity; or, (iv) 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.

For purposes of this section, a “business enterprise” is the active conduct of a trade or business, including any activity which is regularly carried on for the production of income from the sale of goods or the performance of services. Specifically excluded from the definition of “business enterprise” are each and all of the following: (i) holdings that take the form of bonds or other debt instruments unless they are a disguised form of equity; (ii) income from dividends, interest, royalties and from the sale of capital assets; (iii) income from leases unless the income would be taxed as unrelated business income; (iv) “functionally related” businesses and program related investments; and, (v) businesses that derive at least ninety-five percent (95)% of their income from passive sources (dividends, interest, rent, royalties, capital gains). “Disqualified persons” are donors and/or persons appointed or designated by donors if they have, or reasonably expect to have, advisory privileges with respect to the donor advised fund.

## **GIFT VEHICLES**

- 1. Outright Gifts.** BCF accepts current, outright gifts of property that are consistent with these policies.
- 2. Bequests.** A bequest to BCF is made in the donor's Will or Revocable Trust. The donor can direct that a specific dollar amount, specific assets, a percentage of the donor's estate or trust, or the remainder of the donor's estate or trust be distributed to BCF. While all bequests are contingent, in that the donor can change his/her Will or Revocable Trust prior to the donor's death, the donor can further condition a bequest to BCF upon the occurrence or non-occurrence of a particular event (e.g., survival of a named person, birth of a child, etc.). Accordingly, a bequest to BCF is not "complete" until the death of the donor and, where applicable, the satisfaction of the condition.

Donors may also establish by will a charitable remainder trust or charitable lead trust (see below).

Bequests may be made to BCF through the execution of a new Will or Revocable Trust or by a Codicil or Amendment, respectively, thereto.

- 3. Beneficiary Designations.** BCF may accept amounts it receives as a designated beneficiary (primary or contingent) of a life insurance policy, deferred annuity contract, IRA, defined benefit plan, 401(k) plan, profit-sharing plan or other qualified plan. If BCF is anything other than an outright beneficiary of such assets, the prior review of the Finance Committee and approval by the Board shall be required.

- 4. Charitable Gift Annuities.** BCF is not currently registered to issue charitable gift annuities in any jurisdiction.

- 5. Charitable Remainder Trusts.** A charitable remainder trust is established by an irrevocable gift to a trustee made during the donor's lifetime or upon the donor's death. The primary feature of a charitable remainder trust is that it provides for periodic payments of a fixed percentage (not less than 5%) of the value of the trust assets to the donor and/or another person specified by the donor, for life or a specified term of years (not to exceed 20), after which the trust assets pass to BCF. The most common forms of charitable remainder trusts are Charitable Remainder Annuity Trusts (CRATs) and Charitable Remainder

Unitrusts (CRUTs). The significant difference between a CRAT and a CRUT is that the annual payment from a CRAT is a fixed percentage of the initial value of the trust, while the payout from a CRUT is calculated by applying the fixed percentage to the value of trust, valued annually. Additional contributions may be made to a CRUT, but no additional contributions may be made to a CRAT.

BCF may accept a designation as remainder beneficiary of a charitable remainder trust, provided that the gift does not violate any other provision of this policy as it relates to the types of assets or restrictions that may be accepted. In general, BCF will not serve as the Trustee or as a co-Trustee of a charitable remainder trust. Exception may be made with the prior review by the Finance Committee and approval by the Board. Factors to be considered in determining whether BCF shall serve as the trustee of a charitable remainder trust shall include: the value of the initial contribution to the trust, the number of non-charitable beneficiaries, the ages of the non-charitable beneficiaries if the trust term is based on one or more lives, the present value of BCF's remainder interest, and whether the designation of BCF as the sole remainderman is irrevocable. In the event BCF agrees to serve as Trustee or co-Trustee of a charitable remainder trust, gifts of any asset other than cash or unrestricted publicly-traded securities, or a combination of both, will not be accepted as funding for such trust. Any agreement pursuant to which BCF consents to serve as Trustee or co-Trustee of a charitable remainder trust shall be reviewed and approved on behalf of BCF by its legal counsel.

**6. Charitable Lead Trusts.** A charitable lead trust is a trust from which the income or "lead" interest is paid to BCF for a set number of years (not to exceed 20), after which the remaining trust assets pass to one or more non-charitable beneficiaries designated by the donor. The amount paid to BCF may be either a fixed sum (an "annuity" interest) or a percentage of the trust assets valued each year (a "unitrust" interest). Moreover, charitable lead trusts may be established during the donor's lifetime or upon the donor's death pursuant to a Will or Revocable Trust. BCF may accept a designation as remainder beneficiary of a charitable remainder trust with the approval of the Chief Executive Officer, provided that the gift does not violate any other provision of this Gift Acceptance Policy as it relates to the types or purposes of gifts that may be accepted. ***BCF will not serve as the Trustee of a charitable lead trust.***

**7. Retained Life Estates.** BCF may accept a gift of a personal residence or farm where the donor (and/or another person) retains the right to use the property for a term of years or for the life or lives of the donor and/or another person. Upon the expiration of the retained interest, BCF may use or sell the property as it sees fit.

Such gifts are subject to the conditions and guidelines applicable to gifts of real estate. The gift is accomplished by the execution of a Deed to BCF, pursuant to which the retained interest is expressly reserved. In addition, the donor must enter into a Retained Life Estate Agreement (RLEA) which provides that the donor and/or the life tenant shall remain responsible for maintenance, taxes, utilities, insurance and other costs associated with the property, unless other arrangements, approved by BCF, are made for the payment of these expenses. The Deed and the RLEA shall be reviewed and approved by BCF's legal counsel.

**8. Bargain Sales.** BCF may enter into a bargain sale arrangement with respect to an unrestricted gift (i.e., not to a particular fund) only with prior review of the Finance Committee and approval of the Board.

Such arrangements are subject to the conditions and guidelines applicable to gifts of real estate.

## **MISCELLANEOUS PROVISIONS**

1. **Appraisals and Legal Fees.** It is the responsibility of the donor to secure and pay for an appraisal (when required) and independent legal counsel for all gifts made to BCF.
2. **Confidentiality.** BCF officers, board members, committee members and staff shall hold all information concerning (prospective) donors and their proposed gifts in the strictest confidence. A donor may grant permission to BCF to publicly announce any gift or feature of a gift to the public.
3. **Acknowledgement.** BCF shall follow Internal Revenue Service regulations with respect to the acknowledgement of gifts. For gifts of cash and cash equivalents, the value of the gift will be stated on the acknowledgement letter sent to donor. For non-cash contributions, a description of the goods or services contributed will be included, but the acknowledgement will not contain a value of the gift. For income tax purposes, Donors must (with certain exceptions) report non-cash donations valued over \$5,000 on IRS Form 8283.
4. **IRS Filings Upon Sale of Donated Property.** If BCF sells, exchanges or otherwise disposes of any property (other than unrestricted publicly-traded securities) with a claimed charitable deduction value in excess of \$5,000 within three years of the date BCF originally received the property, or such amount or within such time as may be hereinafter required by the Internal Revenue Service, BCF shall file IRS Form 8282, or its successor, and provide a copy to the donor.

## **TYPES OF FUNDS**

1. **Named Funds.** Many donors establish “named funds” during their lifetimes, and list their named fund as a beneficiary in their estate planning documents. A “named fund” is a fund that is named for the donors or in honor or memory of specific individual(s) as specified by the donor(s). Named funds are listed separately in BCF’s financial records and marketing materials. A minimum contribution of \$15,000 is required to establish a named fund, but donors may elect to contribute in annual installments over five years to build the fund. Named funds are charged an administrative fee pursuant to BCF’s Fee Policy. BCF has many types of named funds:

- a. **Designated Funds** allow the donor to name specific charities to which grants will be made. These funds are endowed to support a specific charitable entity or entities with annual grants from the income of the funds’ endowment. Donors are not required to name only Benton County Charities as beneficiaries of a designated fund; however, we require that at least 3% of the annual distributable income of the fund benefits Benton County. This can be achieved in three ways:
  1. The donor may elect to name a Benton County charity as one of the beneficiaries of the fund (to receive a minimum of 3% of the annual distributable income);
  2. If none of the donor’s intended charitable beneficiaries serve Benton County, the donor may simply direct that 3% of the annual distributable income from the fund will be

transferred to the pass-through Community Fund for use in BCF's competitive grant cycle for Benton County charities; or The donor may elect to name BCF as the recipient of 3% of the fund's annual distributable income to be used where needed most as determined by the Board of Directors.

- b. Community Funds (AKA Field of Interest Funds) support work in a chosen area of concern, such as education or the environment. These funds are endowed and address pressing community needs in the area of greatest priority to the donor. BCF's board of directors determine the grant recipients from the Community Funds based on applications submitted by charities serving Benton County during BCF's competitive grant cycle.
- c. Scholarship Funds support those who want to pursue education; including but not limited to high school graduates pursuing a college degree, young musicians seeking assistance with additional training or students who need vocational training to enter or return to the work force. A subset of our scholarship fund group is the ROTC Scholarships. These named scholarship funds support ROTC students in completing their programs and pursuing their commission in military service. The ROTC Scholarship funds are often named in honor or memory of those who have served in the military. Our scholarship funds are endowed funds. We require that at least 3% of all students eligible to apply for the scholarship be Benton County students or, alternatively, that use of the scholarship award be limited to post high school study at Linn-Benton Community College; Oregon State University; or any extension/affiliate of the aforementioned educational institutions. If neither of these conditions are satisfied, donor will be required upon establishment of the fund to dedicate 3% of the corpus of the fund to BCF's Sustainability Fund.
- d. BCF Sustainability Funds support the foundation itself to ensure that BCF continues to meet the changing needs of the community in perpetuity. These funds are used for operations, staff development, and to build our capacity, both in infrastructure (such as capital assets) and professional resources to timely meet the needs of our donors. Our Sustainability Funds are endowed funds.
- e. Donor Advised Funds enable donors to be actively involved in promoting their personal philanthropic vision. Donor advised funds are especially useful for donors who want to take a charitable deduction one year and spread charitable giving into the community over future years. Many donors choose to set up a donor advised fund rather than commit valuable grant dollars to the administration and taxation of a private foundation.

A donor advised fund allows the donor to recommend grants from the fund to any qualified charity or charities, whether or not said charity or charities serve Benton County. However, we require that at least 3% of the total annual grants made from each donor advised fund benefit Benton County. This can be achieved in three ways:

1. The donor may elect to recommend a grant to a Benton County charity (ensuring that the amount of the grant is at least 3% of the total grants made from the fund for the year);

2. If none of the donor's intended charitable beneficiaries serve Benton County, the donor may simply direct that 3% of the annual distributable income from the fund will be transferred to the pass-through Community Fund for use in BCF's competitive grant cycle for Benton County charities; or the donor may elect to name BCF as the recipient of 3% of the fund's annual distributable income to be used where needed most as determined by the Board of Directors.

Since the donor retains an advisory capacity in making grants from the fund, specific tax code provisions must be followed. IRS rules prohibit the following types of distributions from donor advised funds:

1. A donor advised fund grant cannot be used to satisfy all or a portion of any pledge or other financial obligation of the donor, advisors or any related parties. Advisors may recommend that a grant be paid out over multiple years, subject to BCF's grant approval and annual due diligence.
  2. Grants from a donor advised fund cannot result in the donor, advisors or any related parties receiving goods or services or any benefit that is more than incidental. Prohibited benefits include event tickets, memberships, meals, preferred parking, preferred seating, discounted merchandise or other preferential treatment from a donee organization.
  3. Donor advised funds may not make any grants to individuals, such as scholarships, emergency hardship grants or disaster relief grants. This includes payments directly to an individual or to an entity for the benefit of a specified individual (e.g., to a university for a scholarship for a particular student). If donors wish to grant scholarships, a different type of fund can be established.
  4. Donors, advisors or any related parties may not receive grants, loans, compensation or similar payments (including reimbursements for travel, lodging or other expenses) from a donor advised fund.
- f. Agency Funds. An Agency Fund is established by a local charity to serve as the endowment fund that supports its future operations. BCF holds and invests the endowment assets, providing responsible and professional fund management. Distributions from the fund are granted back to the agency to be used at the discretion of its governing board.
- g. Supporting Organization. A supporting organization supports the mission of BCF and offers the tax benefits and flexibility associated with BCF's public charity status while providing much of the autonomy of a private or family foundation. Supporting organizations at BCF are legally defined as "type I supporting organizations." Supporting organizations support the mission of BCF and operate much like private foundations, with professional grantmaking support, administration, and filing of reports all provided by BCF. Because the cost to set up a supporting organization is several thousand dollars for legal fees, BCF requires a minimum donation of \$1,000,000.00 to establish a supporting organization.

**2. Unrestricted Gifts.** Donors who do not wish to establish a named fund, may make an unrestricted gift to BCF of any amount. Unrestricted gifts afford BCF the greatest flexibility to support the frequently

changing needs in the community and to build the capacity of BCF to meet such needs. There is no administrative fee for unrestricted gifts to BCF.

**3. Pass-Through Gifts.** Donors may also make “pass-through” gifts of any amount. Such gifts are made to the foundation for payment to a specific charity or for a specific charitable purpose. Donors who wish to make a gift to a specific charity but desire to remain anonymous often elect to make a pass-through gift. BCF has a three percent administrative charge for pass-through gifts.

**AMENDMENTS TO GIFT ACCEPTANCE POLICY.**

This policy has been reviewed and adopted by the Board of Directors of BCF. This policy shall be subject to periodic review and may be amended by the Board of Directors from time to time.

*Policy approved at the January 31, 2014 Board Meeting.*

*Policy revised by Board in February 2015*

*Revised policy adopted by the Board on July 21, 2016*

*Review scheduled for 2018*