



## GIFT ACCEPTANCE POLICY

*Revised policy adopted by Board of Trustees 4/26/04*

### INTRODUCTION

**Purpose:** This gift policy is intended to guide the staff at Western Colorado Community Foundation (WCCF) when discussing current and deferred gifts with individual donors, their advisors, and organizations. Ideally, a donor will communicate with WCCF, as a gift is being planned, to formalize and document the donor's charitable intent. It is intended to establish processes to accept these types of gifts and administer them at WCCF. WCCF reserves the right to not accept a gift for any reason.

WCCF promotes charitable giving, builds and manages charitable endowment funds, and provide grants and resources to benefit the residents and communities of western Colorado.

**Status:** Western Colorado Community Foundation is a tax-exempt organization as defined in Section 501(c)(3) of the Internal Revenue Code of 1986. The federal tax identification number for WCCF is 84-1354894. (See Appendix A).

**Approved:** These policies were last approved April 26, 2004. These policies will be reviewed annually by the WCCF Planned Giving Committee and periodically by the WCCF Board.

**Amendments:** Any proposed amendments will be presented to the WCCF Board of Trustees for approval. A written description of the proposed change(s) will be provided to the Board at least one week prior to the meeting at which the vote will take place.

**Authorization:** Authorization to negotiate planned gift agreements is granted to the President and Executive Director of WCCF, appropriate members of its staff, and members of its Executive Committee (Board Chairman, Vice-Chairman, Secretary and Treasurer). All planned gifts shall be negotiated in accordance with the Gift Acceptance Guidelines and Policies, and shall be consistent with the charitable intent of WCCF. WCCF shall seek the advice of legal counsel as appropriate. Variance from established Guidelines and Policies requires Board approval.

**Gift Processing:** WCCF recognizes that accurately processing a planned gift in a timely manner is important to both the donor and to WCCF. Therefore, coordination between development, accounting, general counsel and related functions is important. Also, should anyone (such as a trustee) need to know about the gift, he or she will be notified promptly so that a letter of thanks can be sent to the donor.

**Legal Fees:** WCCF shall not pay fees related to drafting of legal documents for the benefit of a donor.

## **DONATED ASSETS**

### **Gifts of Cash**

1. All gifts by check shall be accepted by WCCF regardless of amount.
2. Checks shall be made payable to Western Colorado Community Foundation or to a particular program or project at WCCF. This can include gifts intended to benefit other non-profit organizations that provide services to communities in western Colorado. In no event shall a check be made payable to an individual who represents WCCF.

### Pledges

Pledges may be payable in single or multiple installments and must have a value of at least \$1,000. Generally, the pledge may not exceed five years in duration. All donors must complete a pledge form or confirm the pledge in writing.

### **Gifts of Publicly Traded Securities**

1. Readily marketable securities, such as those traded on a stock exchange, can be accepted by WCCF.
2. Gift securities shall be sold immediately by WCCF, unless circumstances otherwise dictate.
3. For WCCF gift crediting and accounting purposes, the value of the securities is the average of the high and low on the date of the gift, which is the date on which the security is actually transferred to WCCF ownership.

### **Gifts of Closely Held Securities**

1. Non-publicly traded securities may be accepted after consultation with the Executive Committee, investment managers and/or General Counsel.
2. Prior to acceptance, WCCF shall explore methods or plans of liquidation for the securities through redemption or sale. A representative of WCCF shall contact the closely held corporation to determine:
  - An estimate of fair market value
  - Any restrictions on transfer
3. No commitment for repurchase of closely held securities shall be made prior to completion of the gift of the securities.

4. No restriction on the sale of closely held securities shall be made as a condition for the gift.
5. The donor is responsible for obtaining a qualified, independent appraisal to determine the value of the gift for tax purposes.

### **Gifts of Real Estate**

1. Gifts of real estate must be reviewed by the Executive Committee of WCCF before acceptance. Special consideration will be given to any past or present environmental issues.
2. The donor is responsible for obtaining an appraisal of the property. The cost of the appraisal is borne by the donor.
3. Prior to presentation to the Executive Committee, a staff member or designated representative of WCCF must conduct a visual inspection of the property. If the property is located in a geographically isolated area, a local real estate broker can substitute for a member of the staff in conducting the visual inspection. Special consideration should be given to any potential past or present environmental issues.
4. Due to the expenses associated with gifts of real estate, only gifts valued in excess of \$50,000 will be accepted.
5. Prior to presentation to the Executive Committee, the donor must provide copies of the following documents:
  - Real estate deed, including full legal description of property
  - Preliminary title report
  - Most recent property tax bill
  - Insurance policies in force
  - Substantiation of zoning status, as appropriate
  - Mortgages or other encumbrances
6. Depending on the value and desirability of the gift, the donor's connection with WCCF, and the donor's past gift record, the donor may be asked to pay for all or a portion of the following:
  - Maintenance costs
  - Real estate taxes
  - Insurance premiums
  - Real estate broker's commission and other costs of sale
  - Appraisal costs
7. For WCCF's gift crediting and accounting purposes, the value of the gift is the appraised value of the real estate. (Note: WCCF can choose to exclude from the value of the gift

any costs for maintenance, insurance, real estate taxes, broker's commission, and other expenses of sale that it incurs.)

### **Gifts of Oil, Gas or Other Mineral Interests**

Western Colorado Community Foundation may accept oil, gas, mineral and other similar interests when appropriate. Prior to acceptance of such gifts, the asset will be reviewed and approved by the Executive Committee and, if necessary, by the Foundation's legal counsel.

Criteria used to evaluate acceptance may include:

- Value of asset;
- Royalties or other income;
- Liabilities or expenses, or other considerations that make receipt of the gift inappropriate; and
- Marketability.

A working interest will rarely be accepted. A working interest may only be accepted when there is a plan in place to minimize potential liability and tax consequences.

It is the Western Colorado Community Foundation's policy to liquidate such interests as soon as practical unless the income generated from holding the interests is deemed sufficient to justify holding them. Assets of limited current value but with significant potential future value may also be accepted and held, after a thorough review process.

A plan to address management of the asset, coverage for related expenses, and distributing income for charitable purposes in Western Colorado will be established at the time of the gift. Such assets will be held in one or more LLC's, or another appropriate vehicle, in order to protect the Western Colorado Community Foundation from potential liabilities.

The Foundation may require that the donor cover some or all of the expenses incurred by the Foundation to perform due diligence activities, establish the value of the anticipated income from the asset, or form an LLC or other vehicle to hold the asset.

### **Gifts of Life Insurance**

1. Gifts of life insurance can be made in the following ways:
  - Irrevocably assign a paid-up policy
  - Irrevocably assign a policy in which premiums are still due
  - Establish a new life insurance policy for which WCCF will be the owner and beneficiary
  - Name WCCF as a beneficiary of a policy in which a donor retains ownership
2. WCCF will accept outright gifts of life insurance policies as gifts only when WCCF is named as the owner and beneficiary of 100% of the policy.

3. WCCF will retain all power in accordance with ownership, including the rights to surrender a policy and select payment options.
4. WCCF will not accept life insurance gifts that include any prearranged obligation to maintain the policy by paying premiums from Foundation assets. However, WCCF may elect to do so.
5. If the policy is a paid-up policy, the value of the gift for WCCF's gift crediting and accounting purposes is the policy's replacement cost.
6. If the policy is partially paid up, the value of the gift for WCCF's gift crediting and accounting purposes is the policy's cash surrender value. (Note: For IRS purposes, the donor's charitable income tax deduction is equal to the interpolated terminal reserve, which is an amount slightly in excess of the cash surrender value.)
7. WCCF will not enter into any charitable split-dollar, charitable reverse split-dollar, or partial interest agreements.

### **Gift of Tangible Personal Property**

1. Gifts of tangible personal property to WCCF should have a use related to WCCF's tax-exempt purpose, or be readily saleable to secure cash for the support of that purpose.
2. Gifts of jewelry, artwork, collections, equipment, and software may be accepted after approval by the Executive Committee.
3. Such gifts of tangible personal property may be used by or sold for the benefit of WCCF.
4. No property that requires special display facilities or security measures shall be accepted by WCCF without consultation with the Executive Committee.
5. Depending upon the anticipated value of the gift, the donor may obtain a qualified independent appraisal prior to WCCF's acceptance.
6. WCCF adheres to all IRS requirements related to disposing gifts of tangible personal property and filing appropriate forms.

### **PLANNED GIFTS**

WCCF currently offers the following planned gift options:

1. Bequests
2. Beneficiary Designations
3. Charitable gift annuities
4. Deferred charitable gift annuities

5. Charitable remainder trusts
6. Charitable lead trusts
7. Retained life estates

### **Bequests**

1. Assets transferred through bequests that have immediate value to WCCF or can be liquidated shall be encouraged by the development staff. Gifts that appear to require more cost than benefit shall be discouraged or rejected.
2. Donors who have indicated that they have made a bequest to WCCF may, depending upon the individual situation, be asked to disclose, in writing or by copy of the will or living trust provision, the relevant clause that benefits WCCF as evidence of their gift. However, this request shall be made judiciously and is not a condition for any gift. Such information will be used for internal financial purposes and is not binding to the donor.
3. WCCF will not act as an executor (personal representative) for a donor's estate.

### **Beneficiary Designations**

1. Assets transferred through beneficiary designations that have immediate value to WCCF or can be liquidated shall be encouraged by the development staff.
2. Donors who have indicated that they have named WCCF as a beneficiary may, depending upon the individual situation, be asked to disclose, in writing or by copy of the designation form, the relevant clause that benefits WCCF as evidence of their gift. However, this request shall be made judiciously and is not a condition for any gift. Such information will be used for internal financial purposes and is not binding to the donor.

### **Charitable Gift Annuities**

1. A charitable gift annuity is a legal contract between WCCF and the donor. In exchange for a gift of cash, securities or other property, WCCF agrees to pay a lifetime annuity to one or two income beneficiaries. The annuity payment is a fixed sum based on the size of the gift and the age(s) of the income beneficiary.
2. Gift annuities are governed by state law, as determined by the donor's residence. WCCF may elect to issue gift annuities outside of Colorado pending a review of the governing state's regulations, and the disclosure requirements under the Philanthropy Protection Act of 1995.
3. WCCF will provide written notice to prospective annuitants that rates offered for gift annuities are less than may be available through commercial insurance companies. This notice will be provided during negotiations and as part of the annuity contract.
4. In general, no income beneficiary shall be younger than 60 years old at the time the annuity is to begin. Gift annuities allow for a maximum of two income beneficiaries.

5. The minimum gift accepted to establish a charitable gift annuity is \$10,000.
6. The rates payable on charitable gift annuities shall those established by the American Council on Gift Annuities.
7. Any applicable administrative fees (e.g. gift annuities managed by WCCF to benefit another non-profit institution) shall be paid from the income earned on the charitable gift annuity.
8. Gift annuity funds and payments will be managed in accordance with WCCF's Investment Policy, to ensure all obligations to donors are met.

### **Deferred Charitable Gift Annuities**

1. A deferred gift annuity is a legal contract between WCCF and the donor. In exchange for a gift of cash, securities or other property, WCCF agrees to pay a lifetime annuity to one or two income beneficiaries. The annuity payment is a fixed sum based on the size of the gift, the age(s) of the income beneficiary, and the date annuity payments begin.
2. Deferred gift annuities are governed by state law, as determined by the donor's residence. WCCF may elect to issue deferred gift annuities outside of Colorado pending a review of the governing state's regulations, and the disclosure requirements under the Philanthropy Protection Act of 1995.
3. WCCF will provide written notice to prospective annuitants that rates offered for deferred gift annuities are less than may be available through commercial insurance companies. This notice will be provided during negotiations and as part of the annuity contract.
4. In general, no income beneficiary shall be younger than 50 years old, except in cases involving college gift annuities. The period of deferral between the gift date and the time at which payment begin shall not exceed 10 years. Deferred gift annuities allow for a maximum of two income beneficiaries.
5. The minimum gift accepted to establish a deferred gift annuity is \$10,000.
6. The rates payable on deferred gift annuities shall those established by the American Council on Gift Annuities.
7. Any applicable administrative fees (e.g. deferred gift annuities managed by WCCF to benefit another non-profit institution) shall be paid from the income earned on the deferred gift annuity.

### **Charitable Remainder Trusts**

1. A charitable remainder trust (CRT) is a separately administered trust created by a donor. The trust will make income payments to the donor and/or other named beneficiaries for

life or a term of years (20-year maximum). Upon termination of the trust, all assets are distributed to the named charitable remainder beneficiaries.

2. WCCF will not serve as trustee for a CRT.
3. A CRT may be established by a donor in consultation with WCCF, or independently by the donor with his or her advisors. WCCF will actively solicit CRTs in which it is named as a beneficiary, and which are deemed to further the charitable mission of WCCF.
4. Investment of a CRT shall be determined by the fiduciary hired to manage the trust. No representations shall be made by a WCCF employee or person acting on behalf of WCCF as to the management or investment of such CRT.
5. The donor is responsible for securing independent counsel to provide legal guidance and preparation of trust documents.
7. In some situations, the payout rate of a CRT may be negotiated by the donor and WCCF. By law the payout rate cannot be lower than 5 percent, and the remainder interest must equal or exceed 10 percent. The payout rate shall reflect the number of beneficiaries, their ages, and the size of the trust.

### **Charitable Lead Trusts**

1. A charitable lead trust (CLT) is a separately administered trust created by a donor. The trust will make income or “lead” interest payments to WCCF for a period measured by a fixed term of years, the lives of one or more individuals, or a combination of the two. After this time, the trust assets are paid to either the donor or to one or more named beneficiaries.
2. WCCF will not serve as trustee for a CLT.
3. A CLT may be established by a donor in consultation with WCCF, or independently by the donor with his or her advisors. WCCF will actively solicit CLTs in which it is named as an income beneficiary, and which are deemed to further the charitable mission of WCCF.
4. Investment of a CLT shall be determined by the fiduciary hired to manage the trust. No representations shall be made by a WCCF employee or person acting on behalf of WCCF as to the management or investment of such CLT.
5. The donor is responsible for securing independent counsel to provide legal guidance and preparation of trust documents.
6. In some situations, the payout rate of a CLT may be negotiated by the donor and WCCF. The income level to WCCF should be decided based upon the donor's wishes to help WCCF, the amount of assets a donor wishes to transfer to heirs (or in the case of a

grantor trust, back to the donor), and transfer taxes (including potential generation skipping transfer taxes).

### **Retained Life Estates**

1. A Retained Life Estate allows a person to donate a personal residence, farm, or other real estate to WCCF, while retaining the right for the donor and/or another person to live on that property for either a term of years or the balance of the donor's and/or other person's lifetime(s).
2. WCCF actively solicits retained life estates in which it will have a remainder interest, and which are deemed to further the charitable mission of WCCF. Gift Acceptance Policies related to Gifts of Real Estate should be reviewed prior to the acceptance of a Retained Live Estate.
3. The donor should identify professional counsel to provide legal guidance and to draft and administer the agreement. The donor is also responsible for obtaining a qualified, independent appraisal.
4. During the retained use period, the donor will be responsible for all expenses related to property maintenance, real estate tax, insurance and utilities, unless otherwise negotiated by WCCF. Assumption of these expenses by WCCF requires Board approval.
5. If state law requires participation by the remainderman in any capital improvements on property subject to a life estate agreement, no such expenditures will be made without Board approval.

Documents/Board Policies/Gift Acceptance policy 4.04