

# FOUNDATION FOR THE CAROLINAS

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## CHARITABLE GIVING GUIDE

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**FOUNDATION FOR  
THE CAROLINAS**

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*IMPORTANT INFORMATION REGARDING THIS GUIDE: This Charitable Giving Guide provides information about Foundation For The Carolinas (the “Foundation” or “FFTC”), as well as general information about the potential tax consequences of making charitable gifts to the Foundation. This Guide is intended to help readers better understand various options for charitable giving available through the Foundation; however, it is not intended to constitute tax or legal advice and should not be relied upon as such. You should discuss a potential charitable gift with your legal and/or tax advisor to determine the implications and consequences in light of your specific facts and circumstances.*

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# 1 Welcome to Foundation For The Carolinas

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Established as a community foundation, Foundation For The Carolinas (the “Foundation”) is a nonprofit corporation created by and for the people of the Carolinas. We are here to help individuals, families, nonprofits and corporations make a positive impact on their communities. The Foundation is structured to make giving easy, flexible and effective. In addition, because the Foundation is a public charity, contributions to the Foundation should qualify for the maximum deduction for income tax purposes.

This Charitable Giving Guide (this “Guide”) provides information about the Foundation, including general information about the potential tax benefits of charitable gifts to the Foundation. This Guide is intended to help readers better understand various options for charitable giving; however, it is not intended to constitute tax or legal advice and should not be relied upon as such. Potential donors should discuss the implications and consequences of a specific charitable gift with a legal and/or tax advisor.

Our expert staff is available to help individuals, families, nonprofits, and corporations, as well as their professional advisors, tailor a charitable giving plan that fits their interests and financial situations. To arrange a confidential consultation, please contact the Foundation at 704-973-4500 or toll-free at 1-800-973-7244.

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## 2 Our Team

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*The Foundation For The Carolinas' team creates and delivers client-driven, professional philanthropic services that help the Foundation's clients simplify and enhance their charitable giving, resulting in highly-effective charitable solutions for maximum community impact. We stay up-to-date on community initiatives and the changing world of philanthropy, keeping our clients well-informed. If desired, our team will work to connect clients with the organizations and initiatives focused on the issues they care about most.*

### **Centers for Giving**

The Foundation is distinguishable from other charitable institutions because of our ability to provide knowledge of the community and a highly-personal, customized and local approach to help people achieve their charitable goals. The Foundation is well-positioned to provide services and benefits specifically tailored to meet the needs of our clients through our three Centers for Giving: Center for Personal Philanthropy, Center for Corporate Philanthropy and Center for Nonprofit Sustainability.

#### *Center for Personal Philanthropy*

As our region continues to grow, so does the number of individuals and families who demonstrate a commitment to philanthropy and to the community that helped them succeed. Through our Center for Personal Philanthropy, we serve individuals, families, subsidiary foundations (see Chapter entitled *Subsidiary Foundations*) and private foundations.

There are a variety of options available to individuals and families, including opening a Gift Fund at the Foundation with a current or planned gift. In addition, individuals and families may wish to utilize the Foundation's custom services to support a subsidiary foundation or a private foundation. Our region contains a diverse mix of established and newly-created private foundations. From multi-generational, well-established organizations with rich traditions of giving, to new foundations led by successful entrepreneurs and non-family advisors, private foundations are greatly impacting our community. We are fully prepared to help leverage charitable gifts to provide long-term resources for our region's most pressing needs. By lessening the burden of administrative office work, we can help families focus on their charitable giving.

#### *Center for Nonprofit Sustainability*

Through our Center for Nonprofit Sustainability, the Foundation helps to improve the management capacity of nonprofit organizations by offering fund administration, back-office support, financial and investment services and by providing the professional, philanthropic resources nonprofit organizations need in order to build sustainability. There are a variety of options created to enhance the work of nonprofit organizations, including opening a Gift Fund or creating a subsidiary foundation. In addition, the Foundation is able to provide planned giving support to clients through our Center for Nonprofit Sustainability.

### Center for Corporate Philanthropy

The Foundation has created the Center for Corporate Philanthropy in response to the increasing number of corporations seeking assistance with their charitable giving. We provide a creative, cost-effective and tax-efficient way for businesses to invest in our community. By providing education on critical issues and by making connections with organizations of interest, we help companies meet their charitable goals. There are a variety of options available to corporations, including opening a Gift Fund and utilizing the Foundation's services to support a corporate foundation.

#### **Online Access to Gift Fund Information**

Donors may use our secure website ([www.fftc.org](http://www.fftc.org)) to view account information (including fund balances, contributions and distributions) and to make grant recommendations. Donors and advisors also may authorize an individual to view online account information without granting he/she the authority to make recommendations.

#### **Customized Services**

Our Centers offer donors tailored services required to accomplish their philanthropic objectives. Designed to support engaged grantmaking both on the *front end* for initiative or grantee selection, due diligence, and grantee evaluation, and on the *back end* for administrative support, our Centers' specialized services in the areas of gift, grant or expense processing bring an efficient and practical approach to charitable giving.

#### **Research and Approval Process**

If the proposed grantee organization is on the Foundation's Approved List of Organizations, the Foundation will make a grant distribution within five (5) business days of the request. If the proposed grantee organization is not on the Approved List of Organizations, the Foundation will conduct due diligence on such organization and will make reasonable efforts to make the distribution within ten (10) business days of the request. If the organization does not respond to the Foundation's information inquiries, the Foundation staff will contact the advisor to discuss additional options.

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## 3 Establishing a Gift Fund

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### Opening a Gift Fund

Donors may establish a Gift Fund by completing the appropriate Gift Fund Agreement and providing an initial minimum contribution. Representatives of business or nonprofit entities will be asked to sign a Certificate of Authority and Agreement to Indemnify. This document advises the Foundation on who is authorized to act on the entity's behalf. It also indemnifies the Foundation against actions taken or recommendations made by Advisors of the Gift Fund.

### Naming the Gift Fund

Donors may select a name for their Gift Fund and may wish to honor a family member or identify an organization. For Gift Funds to remain anonymous or to avoid classification under the Internal Revenue Code of 1986, as amended (the "Code"), as a "donor advised fund" (whether or not the Gift Fund is referred to by such a name at the Foundation), donors may decide to select a name that does not identify the family. Falling within the legal definition of a "donor advised fund" may mean that additional restrictions are placed on the Gift Fund. See the Chapter entitled *Gift Funds* for additional details on the relevance of a Gift Fund's being defined (or not defined) as a donor advised fund under the Code. If the selected name could be confused with names of existing funds, the Foundation may request an alternative.

### Types of Assets

A donor may contribute many types of assets to a Gift Fund at the Foundation. For a complete discussion of Gifts Accepted and criteria related thereto, please see the Chapter entitled *Assets Accepted to Gift Funds*.

### Eligible Donors

Individuals, families, corporations and other business entities, nonprofit organizations, trusts and estates are eligible to create Gift Funds at the Foundation.

### Minimum Amounts to Establish Gift Funds

Except as noted below, the minimum contributions required to establish new Gift Funds are as follows:

<b><i>Client Type</i></b>	<b><i>FFTC Center</i></b>	<b><i>Minimum Contribution</i></b>
<i>Individuals &amp; Families</i>	<i>Center for Personal Philanthropy</i>	<i>\$10,000</i>
<i>Nonprofit, Government and Faith-based Organizations</i>	<i>Center for Nonprofit Sustainability</i>	<i>\$10,000</i>
<i>Corporations and other Business Entities</i>	<i>Center for Corporate Philanthropy</i>	<i>\$25,000</i>

With respect to gifts of business interests to **Community Investments Foundation** (See page 8 for additional information), the minimum gift value required to establish a new Gift Fund is as follows:

<b><i>Philanthropic Plan / Distribution</i></b>	<b><i>Minimum Value of Gift*</i></b>
<i>FFTC operating endowment/ FFTC discretionary grant program</i>	<i>\$25,000</i>
<i>Endowed Gift Fund at FFTC</i>	<i>\$50,000</i>
<i>Non-endowed Gift Fund at FFTC</i>	<i>\$50,000</i>

*\*Based on appraised value*

With respect to gifts of real property to **Community Real Property Holdings, Inc.** (See page 10 for additional information), the minimum contribution required to establish a new Gift Fund is **\$100,000**. For more information, see the Chapter entitled *Assets Accepted to Gift Funds*.

Additional gifts of cash, marketable securities, mutual funds and similar highly liquid assets may be made to an established Gift Fund in any amount and at any time.

### **Gift Acknowledgements**

Cash contributions of \$250 or more and contributions with a non-tax-deductible portion will be acknowledged promptly in writing. For contributions of securities, the acknowledgement will include information regarding the deductible amount for income tax purposes. For contributions of private securities, business interests, real property and other assets valued at more than \$5,000, the acknowledgement will be sent or the Foundation will execute IRS Form 8283 only after the Foundation has received a copy of an independent, qualified appraisal complying the Treasury Regulations for the purpose of establishing the value of the gift for federal income tax purposes. Such appraisal must be made not more than 60 days before the date of the gift, and not later than the due date of the tax return on which the deduction will be claimed. Contributions made through the Foundation's website ([www.ffc.org](http://www.ffc.org)) will receive an acknowledgement via e-mail, unless goods or services valued at \$75 or more were received by the donor, in which case, the Foundation will send a written acknowledgement notifying the donor of his or her deductible amount.

### **Disposition Acknowledgment to IRS**

Pursuant to IRS regulations, if any gifted property listed on IRS Form 8283 is sold, liquidated, or otherwise disposed of within three (3) years of receipt, the Foundation is required to file a separate report with the IRS on IRS Form 8282 within 125 days of the date of disposition disclosing the facts about the disposition.

### **Grant Distributions Throughout the United States**

The Foundation makes grants to any qualified, public 501(c)(3) charity in any geographic region in the United States. In addition, the Foundation allows distributions to international organizations through qualified domestic 501(c)(3) affiliates. See the Chapter entitled *Gift Fund Grant Distributions* for further information. For the most current list of approved organizations, visit the

Foundation's website at [www.ffc.org](http://www.ffc.org) or contact the Finance and Donor Relations Department.

### **Gifts Are Irrevocable**

In order to meet requirements for tax deductibility, contributions to the Foundation are irrevocable and nonrefundable once they are accepted. Contributions are owned and held under the direction of the Foundation's Board of Directors.

### **Understanding Variance Power**

A distinctive feature of community foundations is the "variance power" reserved by the Foundation's Board of Directors and contained in the charter and bylaws of the Foundation. The variance power authorizes the Foundation's Board of Directors to modify any condition or restriction on the distribution of funds if in its sole judgment (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 area served by the Foundation or with the requirements of the Code. The Foundation is required to have this discretionary power as to all gifts to the Foundation in order to enable the donor to receive a tax deduction for his or her contribution and to meet the Foundation's accounting standards and practices. The Foundation, however, will carefully consider recommendations regarding preferences and distributions.

### **Providing Information to Professional Advisors**

The Foundation regularly works with legal, financial, tax and estate planning professional advisors to assist donors in the philanthropic process. To provide the best service possible to professional advisors, the Foundation asks for their contact information on Gift Fund Agreements.

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## 4 Assets Accepted To Gift Funds

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*Foundation staff will review proposed gifts prior to acceptance and will discuss with the donor(s) any unique fund issues believed necessary to comply with IRS regulations. The Foundation may request additional information prior to final acceptance. In order to receive a tax deduction for certain gifts, a donor may be required to obtain a qualified appraisal. Proposed gifts that are out of the ordinary may be submitted with the staff's recommendation to the Foundation's Executive Committee for review. For more information about qualified appraisals, please see the Chapter of this Guide entitled, Tax Considerations.*

The Foundation may accept gifts of the following types of assets:

### **Cash**

The Foundation will accept cash in the form of currency, checks and wires.

### **Publicly Traded Securities**

The Foundation will accept 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).

### **Mutual Funds**

The Foundation will accept readily marketable mutual fund shares.

### **Closely-Held Business Interests**

The Foundation may accept gifts of non-voting business interests described below if an acceptable means of converting the business interests into liquid assets via sale, redemption or other method of liquidation can be anticipated within a reasonable time. The acceptance of any such gift is subject to the Procedures for Review of Business Interests Gifts, as discussed below. In addition, IRS rules regarding income tax deductions for charitable gifts of these business interests require a qualified appraisal by an independent appraiser and such an appraisal provided by the donor will be required by the Foundation.

Closely-Held Stock. The Foundation may accept gifts of closely-held, non-voting stock but does not accept gifts of closely-held stock with voting rights. The Foundation may accept S Corporation stock on a case-by-case basis.

LLC and LP Interests. The Foundation will evaluate gifts of membership interests in limited liability companies (LLC) and gifts of limited partnership interests in limited partnerships (LP) on a case-by-case basis with particular attention paid to the line of business, investments, debt and financing structure, and potential liability. If the LLC or LP interest would create unrelated business income tax (UBIT), arrangements must be made to pay the UBIT from the donor's Gift Fund or other sources. The Foundation does not accept gifts of general partnership interests or gifts of membership interests with voting rights in an LLC.

Community Investments Foundation. Approved gifts of business interests are accepted by Community Investments Foundation, a Florida charitable trust ("CIF") which is a supporting organization of the Foundation. During the time that business interests are held in CIF, such interests will be held in a separate Designated Fund. Any taxes, fees or other expenses

related to the business interests held in the Designated Fund (such as unrelated business income tax) will be charged to the Designated Fund.\* In addition, if the Designated Fund does not have sufficient assets to pay such amounts, then an accompanying cash gift may be required from the Donor to cover such amounts. Such business interests will generally be held in the Designated Fund at CIF until such time as the interests can be sold, redeemed, or otherwise liquidated and converted to cash or other marketable investments that would not contain a high risk of subjecting the Foundation, CIF or any separate fund established thereunder to a loss of tax-exempt status, to the excess business holding rules, to excise taxes under the Code or to any other punitive consequence. Following the liquidation of the business interests, the net proceeds will be directed to a Gift Fund at the Foundation. CIF may require the Donor to transfer the business interests to a single member LLC prior to accepting the gift.

Excess Business Holdings. As described above, the Foundation may accept gifts of non-voting interests in LLCs, LPs or other closely-held businesses. Designated Funds (See page 23 for additional information) avoid the excess business holding rules and allow a donor, when meeting certain requirements, to make a gift of any size business interest without running afoul of these rules. Gifts of business interests are accepted into a Designated Fund because, with respect to Donor Advised Funds (as well as certain other Gift Funds that fall within the Code's definition of "donor advised fund"), the excess business holdings rules, which restrict such Gift Funds' holdings in a business enterprise, may require that some or all of such business interests be divested within a five-year period (or a ten-year period, under certain circumstances). A Donor Advised Fund's holdings in a business enterprise will generally be aggregated with those of its donors, donor advisors, their family members and 35% controlled entities to determine whether the applicable threshold (generally, a 20% ownership interest) has been exceeded. If the threshold has been exceeded and the excess business holdings are not divested within the applicable time period, significant excise taxes will be imposed by the IRS. Notwithstanding any of the discussion in this Guide of general acceptance of such gifts to the Foundation, the Foundation retains the right to revise the Designated Fund Agreement to ensure the Designated Fund does not fall within the definition of a Donor Advised Fund.

\* To the extent that Designated Funds with Community Investments Foundation (or Community Real Property Holdings, Inc., discussed below) do not have sufficient liquidity, gift and administrative fees will be accrued to the cash balance of the Designated Fund and repaid at liquidation or when cash generated from the asset is contributed to the fund (i.e. lease payments). If the assets are not liquidated within a five year period, the donor must agree to pay in cash newly accrued annual fees beginning in year 6 and beyond, until such time as the asset is liquidated. "Back fees" for years 1 through 5 will generally remain as a liability of the fund, and will be settled upon liquidation of the asset.

### **Real Property**

The Foundation may accept gifts of real property, including land, office buildings, residences, vacation homes, or apartments, or fractional interests in any such real property. The acceptance of any such gifts is subject to the Procedures for Review of Real Property Gifts, as discussed below. In addition, IRS rules regarding income tax deductions for charitable gifts require a qualified appraisal by a qualified appraiser and such an appraisal provided by the donor will be required by the Foundation

General Warranty Deed. When the Foundation receives real estate, it will generally require the donor to execute a general warranty deed and may require the donor to obtain title insurance.

Special Warranty Deed. When the Foundation conveys real estate to a buyer, it will generally execute a special warranty deed limiting its warranties as to title.

Mineral and Timber Rights. The Foundation may accept the contribution of mineral and timber rights after consideration of the management duties required for such property.

Community Real Property Holdings, Inc. Approved gifts of real property are accepted by Community Real Property Holdings, Inc., a Florida not-for-profit corporation (“CRPH”) which is a supporting organization of the Foundation. During the time that real property is held in CRPH, such real property will be held in a separate Designated Fund. All expenses related to the management and sale of the property while it is held in the Designated Fund, including insurance costs, repairs or improvements to the property, property management fees, real estate taxes, brokerage fees and closing costs will be charged to the Designated Fund.\* In addition, if the Designated Fund does not have sufficient assets to pay such amounts, then an accompanying cash gift may be required by the Donor to cover such amounts. In such cases, the amount of the accompanying cash gift will typically be determined based on a 1-3 year pro forma of estimated expenses for the property and may be waived if there are identified or future annual income streams (e.g., rent).

Such real property will generally be held in CRPH until such time as it can be sold and converted to cash or other marketable investments that would not contain a high risk of subjecting the Foundation, CRPH or any separate fund established thereunder to a loss of tax-exempt status, to excise taxes under the Code or to any other punitive consequences. Following the liquidation of real property, the net proceeds will be directed to a Gift Fund at the Foundation or an appropriate charitable organization as identified in the Designated Fund. **To limit its potential liability, prior to accepting a gift of real property, CRPH may require the real property to be contributed to a limited liability company.**

\* To the extent that Designated Funds with Community Real Property Holdings, Inc., (or Community Investments Foundation, discussed above) do not have sufficient liquidity, gift and administrative fees will be accrued to the cash balance of the Designated Fund and repaid at liquidation or when cash generated from the asset is contributed to the fund (i.e. lease payments). If the assets are not liquidated within a five year period, the donor must agree to pay in cash newly accrued annual fees beginning in year 6 and beyond, until such time as the asset is liquidated. “Back fees” for years 1 through 5 will generally remain as a liability of the fund, and will be settled upon liquidation of the asset.

### **Tangible Personal Property**

While the Foundation does not normally accept gifts of tangible personal property, we may consider accepting works of art, antiques, vehicles, jewelry or other items of tangible personal property. Donors should seek the advice of a tax advisor regarding tax deductions allowable for these contributions and the special appraisal requirements imposed by the IRS.

### **Life Insurance Policies**

Donors may make a gift of life insurance to the Foundation either by irrevocably designating the Foundation as the owner and beneficiary of the policy or by designating the Foundation as a beneficiary of all or a portion of its proceeds. Before the Foundation can accept a policy requiring ongoing payment of premiums, the donor must submit to the Foundation a written agreement outlining the payment plan. If the payment plan is not sufficient to cover the ongoing payment of premiums and the donor otherwise fails to pay the ongoing premiums the Foundation may: (i) continue to pay the premiums, (ii) convert the

policy to paid up insurance, (iii) surrender the policy for its current cash surrender value, or (iv) take any other reasonable steps that are necessary with respect to the policy. 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 Gift Fund. The donor may also consider converting the policy to a paid up premium policy before gifting it to the Foundation to eliminate the need for ongoing premium payments.

### **Retirement Plan Assets**

Retirement plan assets (e.g., those in qualified plans or IRAs) are ideal for charitable giving purposes at death because these assets are currently the most heavily taxed for income tax purposes. Donors may make a gift of retirement plan assets by irrevocably designating the Foundation as a beneficiary of the plan. Donors should generally be aware that a gift of retirement account assets during one's lifetime could create adverse tax consequences and should check with a tax advisor before making such a designation. However, from time to time, exceptions to this general rule may apply (e.g., In 2013, lifetime distributions of up to \$100,000 from the IRA of someone who has reached age 70½) and should be investigated if a lifetime transfer of such assets may be desired. The Foundation requests that donors provide copies of all beneficiary designations.

### **Other Assets**

The Foundation will consider gifts of other assets not named in this Guide such as a Bargain Sale defined below.

Bargain Sale. A charitable bargain sale is a transfer of property to the Foundation 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 the Foundation only with the prior written approval of the Foundation's Board of Directors. Since bargain sale transactions require the outlay of funds by the Foundation, these transactions will be approved only in very limited circumstances. One such circumstance involves property that the Foundation intends to keep for use in its programs that may be acquired on beneficial terms in a bargain sale transaction. In limited circumstance, the Foundation may consider bargain sale transactions to acquire property that would not be retained for use in the Foundation's programs, if it is determined in the approval process that the property can be sold for cash in a timely manner.

### **Minimum Gift Amount of Illiquid Assets**

As discussed in the section *Establishing a Gift Fund*, the Foundation may accept gifts of illiquid assets, including real property, business interests and personal property, provided that the value of such asset equals or exceeds \$25,000; however, in order for the asset to be contributed to a named Gift Fund, the value of the asset must equal or exceed \$50,000 in the case of gifts of business interests and \$100,000 in the case of gifts of real property. A gift of an illiquid asset of which the value exceeds \$10,000 but is less than \$25,000 will be placed into the Foundation's general operating fund. In addition, if the illiquid asset requires ongoing maintenance costs, the Foundation may require a simultaneous cash gift to cover the ongoing costs.

### **Procedures for Review of Business Interest Gifts**

In order to evaluate a proposed gift of business interests, the Foundation must receive copies of current financial statements of the business, the business's prior year's tax return (or comparable data), any buy-sell, shareholders, operating or partnership agreements or other governance documents to which the Foundation would be subject to

as an owner of the business. In addition, the Foundation has established the following review procedures:

Business Interests Inquiry Form. Donors must complete the Foundation's Business Interests Inquiry Form (available from the Philanthropic Advancement Team or at [www.ffc.org](http://www.ffc.org)), which requests information relating to the asset to be contributed, including information about organization, operation, value and taxation, as well as any conditions, restrictions, allowances, incomes and expenses relating to the business. Such information is intended to enable the Foundation to conduct due diligence prior to accepting the asset.

Criteria for Review. The Foundation generally will consider the value of the gift and ease of administration. In addition, the Foundation will consider:

*Market Value and Marketability.* The Foundation 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.

*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 the Foundation to file an informational return.

*Governance of Business.* The Foundation 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.

*Debt.* In addition to normal business concerns regarding debt load, the Foundation also must consider the effect of debt to determine if the Foundation may be required to pay unrelated business income tax ("UBIT").

*Existing and Contingent Liabilities/Contracts.* The Foundation 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.

## Procedures for Review of Business Interest Gifts Continued

*Unrelated Business Income Tax.* Certain assets, including mortgaged real estate and interests in S Corporations, LPs, and LLCs may subject the Foundation to UBIT. The Foundation may incur additional costs for accounting and tax services to determine the amount of any UBIT and to report it to the IRS. The Gift Fund donor 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 the Foundation.

*Rights and Obligations of Shareholders or Partners.* The Foundation will review its rights and obligations as a partial owner of the business entity. The Foundation will not accept a gift of business interests if (i) the governing documents can be amended to adversely affect the interests of the Foundation without its consent, (ii) additional capital calls may be required of the Foundation, and (iii) if the Foundation has any voting rights in the entity (other than the ability to consent to actions that may adversely affect its interest).

*Anticipated Liquidation of Business Interests.* In order for the Foundation 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 the Foundation.

*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 the Foundation.

## Procedures for Review of Real Property Gifts

In order to evaluate a proposed gift of real property, the Foundation has established the following procedures:

Real Property Inquiry Form. Donors must complete the Foundation's Real Property Inquiry Form (available from the Philanthropic Advancement Team or at [www.ffc.org](http://www.ffc.org)), which requests various information relating to the property, including information about income and expenses, as well as conditions and restrictions to which the property is subject.

Criteria for Review. The Foundation generally will consider the value of the gift and ease of administration. In addition, the Foundation will consider:

*Marketability.* The Foundation will pay particular attention to the property's potential marketability.

*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 the Foundation to file an informational return.

*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 the Foundation from potential liability for environmental conditions.

*Property Under Contract.* To avoid being taxed on capital gain from property contributed to the Foundation, 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 the Foundation.

*Debt.* The Foundation 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 the Foundation may incur.

*Costs to the Foundation.* The Foundation will require written assurances regarding the payment of expenses relating to the property or will require a simultaneous liquid gift to the Gift Fund to cover any such expenses (e.g., finder's fees, taxes and assessments, appraisal fees, environmental evaluations, insurance coverage, HOA fees, maintenance costs).

*Existing and Contingent Liabilities/Contracts.* The Foundation will review information about the nature of the property for the proposed gift so that the Foundation may consider whether there are any potential tax or other liabilities that it may incur.

## Procedures for Review of Real Property Gifts Continued

*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 the Foundation .

Real Property Management Policies. The Designated Fund that holds the real property will be charged for all expenses relating to the management and sale of the property including insurance costs, repairs or improvements to the property, property management fees, real estate taxes, brokerage fees and closing costs. In addition, when the Foundation is expected to have continuing responsibilities for the management of real estate, such as security arrangements, maintenance, and/or dealing with tenants or property managers, it may charge reasonable fees for such services as determined on a case-by-case basis at the time of the gift or as the need for service arises.

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## 5 Tax Considerations

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*This section is intended to provide general information about the tax considerations related to charitable giving. The specific tax implications of a gift will depend on facts and circumstance. This section is not intended to constitute tax or legal advice and should not be relied upon as such. You should consult with your legal and/or tax advisor to determine the implications and consequences of a specific charitable gift when considering establishing a Gift Fund at the Foundation.*

### **Cash**

In general, the deduction for individuals is for the amount of the contribution and is limited to 50% of the donor's adjusted gross income (AGI) in the year in which the contribution is made. The donor may carry forward and deduct any excess over the next five (5) years. Deductions may be subject to certain other limitations based on income.

### **Publicly Traded Securities**

Securities held for more than one year. The deduction is the mean of the high and low prices reported on the date of the contribution and is limited to 30% of AGI. The donor may carry forward and deduct any excess over the next five (5) years.

Mutual fund shares held for more than one year. The deduction is the closing price on the date of the contribution and is limited to 30% of AGI. The donor may carry forward and deduct any excess over the next five (5) years.

Securities or mutual fund shares held for one year or less. The deduction is the lesser of the asset's cost basis or fair market value and is limited to 50% of AGI. The donor may carry forward and deduct any excess over the next five (5) years.

### **Private Securities, Closely-Held Business Interests and Real Property**

The deduction for a gift of private securities, business interests or real property is the fair market value (as determined by a qualified appraisal) on the date of the contribution if the assets contributed have been held for more than one year. The deduction is the lesser of the cost basis or fair market value for assets held a year or less.

### **Tax Treatment of Gift Fund Investment Earnings and Distributions**

Income and capital gains are credited to the Gift Fund and not to the donor. Investment earnings will be reflected in the market value of the Gift Fund. See the Chapter titled *Investments* in this Guide for an explanation of investment pools. Donors receive a charitable deduction at the time of a contribution, but will not be entitled to take charitable deductions for ongoing investment earnings or grant distributions from the Gift Fund. Amounts distributed may include appreciation since the date of the gift.

### **Tax Treatment When Goods/Services Have Been Provided**

The tax deduction for any charitable gift is reduced by the fair market value of any goods or services received by the donor in connection with the contribution.

**Tax Treatment for Gifts to Subsidiary Foundations of the Foundation**

Contributions to a Supporting Organization of the Foundation (generally referred to herein as a "Subsidiary Foundation") are generally treated in the same way for tax purposes as those made to the Foundation. However, see Chapter 9 entitled *Investments* for important information on this topic.

**Qualified Appraisal**

A donor is required to substantiate a charitable deduction with a qualified appraisal for any contributed property (other than cash and marketable securities) for which the donor will claim a deduction of more than \$5,000. Such an appraisal must be made 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 as discussed in Chapter 2. If the property is disposed of within two (2) years of the date of its contribution, the Foundation is required to file an informational return with the IRS reporting the same.

## 6 Gift Funds

Donors may create a Non-endowed, Quasi-endowed, or Endowed Gift Fund according to their specific needs and charitable goals, or they may contribute to a previously established Gift Fund. All Gift Funds, except those for which anonymity is requested, are listed in the Foundation's Annual Report (fund name only for Non-endowed Funds and fund name and purposes only for Quasi-endowed or Endowed Funds).

### Non-endowed, Quasi-endowed, or Endowed Gift Funds

Characteristic	Non-endowed	Quasi-endowed	Endowed
<b>Annual Spendable Amount</b>	100% of principal is available for distribution	Like an Endowed Fund, 5.0% annual spendable amount is available for distribution, with the option of principal distributions	5.0% of average daily balance of Gift Fund for prior three calendar years is available for distribution
<b>Investment Options*</b>	Focuses on liquidity and short-term investment strategies	Focuses on full market cycle and long-term investment strategies	Focuses on full market cycle and long-term investment strategies
<b>Donor Advised Fund</b>	✓	N/A	✓
<b>Field of Interest Fund</b>	✓	✓	✓
<b>Designated Fund</b>	✓	✓	✓
<b>Agency Fund</b>	✓	✓	✓
<b>Scholarship Fund</b>	N/A	✓	✓
<b>Community Impact Fund</b>	N/A	N/A	✓

\* See Chapter 9 entitled *Investments* for more detailed descriptions of investment options.

### Non-endowed Gift Funds

Non-endowed Gift Funds allow the donor or organization maximum flexibility in structuring the Gift Fund because both the principal and spendable amounts are available for distribution. For individuals or corporations looking for a more efficient way to give, or nonprofit organizations seeking financial services from the Foundation, a Non-endowed Gift Fund is a popular, flexible way to achieve philanthropic goals.

### Quasi-endowed Gift Funds

Quasi-endowed Gift Funds are non-endowed funds that are treated like endowed funds for the purposes of investment and the spendable calculation. In a Quasi-endowed Gift Fund, all principal is available for distribution, but is not usually distributed. This type of fund allows the donor to receive services from the Foundation, benefit from the Foundation's investment strategies and spendable tracking and calculation options while having the flexibility of principal distributions from the fund. However, this type of Gift Fund is not suitable for multiple annual grant distributions. Donors can use it to receive the benefits of an endowed fund and the flexibility of a non-endowed fund. In general, quasi-endowed Gift Funds are not available for Donor Advised Funds.

### **Endowed Gift Funds**

Endowed Gift Funds are permanent funds in which the assets are managed according to the charitable purposes designated with a goal of preserving the principal and growing the spendable in perpetuity. Since one of the goals of Endowed Gift Funds is to preserve the principal, only the spendable amount is available for distribution.

With an Endowed Gift Fund, donors can make permanent provisions for their favorite charities or charitable interest areas and potentially grow the Gift Fund over time through a variety of investment options.

### **Spending Policy For Endowed and Quasi-endowed Gift Funds**

The Foundation's Board of Directors has determined that the annual spendable amount (the "Spendable Amount") to be distributed by Endowed Gift Funds and Quasi-endowed Funds is five percent (5.0%) of the Gift Fund's average daily balance for the prior three calendar years.

The Foundation's Board of Directors considers a variety of factors in determining the annual Spendable Amount, including:

- ◆ The long and short-term needs of the communities served by the Foundation
- ◆ Expected and reasonable total return on the investments of permanent Gift Funds
- ◆ The reasonable cost of investing and administering Gift Funds
- ◆ The effect of inflation
- ◆ Price level trends and general economic conditions

For Gift Funds established within the prior three calendar years, the Spendable Amount shall be determined based on the average daily balance of the Gift Fund for the prior calendar year(s) during which the Gift Fund was in existence.

### **Historic Dollar Value**

Historic dollar value ("HDV") means the value of the Gift Fund at the time of the original contribution(s) to the Gift Fund plus the dollar value of any subsequent contributions to the Gift Fund (not including any investment earnings or losses). If the balance of an Endowed Fund falls below its HDV, the determination of the Spendable Amount varies depending upon the remaining value of the Gift Fund. If the value of the Gift Fund equals or exceeds 66% of HDV, the Spendable Amount currently is 5.0% of the average daily value of the Gift Fund for the prior three calendar years (i.e. the same method previously described). If the value of the Gift Fund falls below 66% of HDV but equals or exceeds 50% of HDV, the Spendable Amount is limited to interest and dividends, provided, however that the Advisor to the Gift Fund may appeal to the Foundation's Board of Directors to request an annual spendable amount not to exceed 5.0% of the average daily value of the Gift Fund for the prior three calendar years. If the value of the Gift Fund falls below 50% of HDV, the Spendable Amount is limited to interest and dividends and the advisor to the Gift Fund may not appeal to the Foundation's Board of Directors.

### **Spending from Gift Funds Below HDV**

Under applicable law and the Foundation's spendable policy as outlined above, the Spendable Amount will be available for distribution (subject to the policies referenced above) even if the value of the Gift Fund falls below HDV. However, spending from a Gift Fund which has a value below HDV (e.g., in the case of a new Gift Fund or a down market cycle) may result in a longer time period to

rebuild the value of the Gift Fund. The Foundation allows Donors the choice to preserve principal rather than follow the Foundation's spendable policy.

### **Contributions to Enable Additional Distributions**

Donors may make contributions to the Gift Fund and indicate in writing that such contributions should be added directly to spendable. By doing so, additional distributions may be made beyond the Foundation's 5.0% annual Spendable Amount.

### **Variations on Spendable Amount**

Donors may desire to vary the Foundation's Board of Directors spendable income policy with respect to a Gift Fund and may elect to do so in a separate agreement with the Foundation. Donors should be aware that, historically, endowment funds which distribute annually more than 6% of assets are likely to experience a decline in the principal of the fund over time. Please contact the Philanthropic Advancement Team for further information about spending policies for Gift Funds.

### **Spendable Amount Policies of Subsidiary Foundations and their Gift Funds**

Because Subsidiary Foundations have separate Boards of Directors, the Board of each Subsidiary Foundation makes its own decisions about its Spendable Amount policies. While most Boards elect to follow the Foundation's current Spendable Amount policies, some choose to adopt different Spendable Amount policies for their Endowed or Quasi-endowed Gift Funds. Please contact the Finance and Donor Relations Team to determine the current spendable income policy for a particular Subsidiary Foundation.

### **Removal of Endowment Restrictions**

On December 3, 2008, the Foundation's Board of Directors adopted a policy on the removal of endowment restrictions. The key provisions of this policy are summarized below. Please contact the Philanthropic Advancement Team for a full copy of this policy.

The primary vehicle used by donors to create long term support is the Endowed Fund, which is intended to last in perpetuity. To demonstrate that commitment to perpetuity, donors sign fund agreements that outline the purpose of the Gift Fund and their specific intent to endow one or more charities or purposes. Because donors affirmatively choose Endowed Funds and because Endowed Funds are intended to last forever, it is only in the most extraordinary circumstances that they will be allowed to distribute from their principal.

FFTC sometimes receives requests to change the terms of an Endowed Fund. For the reasons noted above, changes to Endowed Funds are highly discouraged. This policy is intended to describe the types of requests that may arise. Although FFTC recognizes that no written policy can cover every situation, this policy provides a guide for responding to such requests.

#### ***Individual Donors***

**Living:** A living donor who is also the Advisor to a fund may request a change to the endowment restriction during the donor's lifetime; however, if the fund has received gifts from other donors, those donors shall also consent in writing to the release of the endowment restriction.

**Fund balances greater than \$10,000:** A request to change the endowment restriction of a fund with value of greater than \$10,000 generally shall not be allowed, except in extraordinary circumstances, such as impossibility of fulfillment of the purpose of the fund.

**Fund balances of \$10,000 or less:** FFTC will favorably consider a request for distribution of an Endowed fund with value of \$10,000 or less, provided that:

- The donor is requesting a distribution to one or more qualified charities, not an individual,
- The charity or charities have missions in keeping with the original intent of the fund, and
- The fund is not expected to receive a contribution from an estate gift or deferred gift at a later date.

**Deceased:** After the death of a donor to an Endowed fund, the endowment restriction cannot be lifted unless the donor expressly contemplated such a change and created written and signed documentation of that potential change.

### ***Institutional Donors***

Nonprofits from time to time establish endowed funds. FFTC counsels donor institutions on the purpose and perpetual effect of endowed funds, and through its counsel and documents it provides to donors full disclosure of the purpose and permanence of endowed funds (in particular the fund agreement, which requires an affirmative choice of the endowment restriction, clearly documents donor intent). Frequently, the purpose of the endowed fund is not only to provide a continuous benefit to the community, but also to accomplish such charitable purpose in perpetuity and prevent a succeeding Board of the same institution from diverting the assets for another purpose. Because of the prevalence of this motivation, and because FFTC has a contractual obligation to maintain the terms of its agreement, FFTC generally will not allow an institution to remove the endowment restriction from a fund.

**Fund balances greater than \$10,000:** If the balance of the fund is greater than \$10,000, then FFTC will not allow removal of the endowment restriction except in extraordinary circumstances, such as impossibility of performance. The endowment restriction may be lifted if and only if **all four of the following conditions** are met and demonstrated in written documentation:

1. The assets of the fund will be used to serve the originally designated purposes of the fund,
2. The Board of the donor institution has unanimously voted for such a change and demonstrates so by submitting the official minutes of the Board meeting to FFTC,
3. At least 80% of the Board members who created such endowment restriction, without regard to whether they currently serve as members of the Board at the time of request for the change, are then living and agree in writing to such a change, and
4. The extraordinary circumstances causing the request are demonstrated to the satisfaction of the Board of Directors of FFTC.

**Fund balances \$10,000 or less:** If the balance of a fund is \$10,000 or less, and the Board of the establishing institution provides written documentation that it has voted unanimously to request that FFTC remove the endowment restriction, then FFTC may consider removing the restriction, provided that the assets of the fund shall be used to serve the original stated purpose of the fund.

## **Transfers**

**To Other Community Foundations:** Because donors move from time to time, and because community foundations are generally cooperative and collegial, FFTC will entertain a request to move an endowed fund to another community foundation outside the geographic area FFTC serves.

**\$1 million or less:** FFTC will honor a request from a donor to move an endowed fund of \$1 million or less from FFTC to another community foundation, provided that such community foundation:

- Has qualified under the then current National Standards for Community Foundations (as promulgated by the Council on Foundations or any successor organization), and
- Agrees to abide by the terms of the existing agreement between FFTC and the donor.

**Greater than \$1 million:** Requests to move funds of greater than \$1 million to another community foundation shall be considered by the Board of Directors of FFTC which shall consider such factors as:

- Donor intent,
- Longevity of the relationship,
- The purpose of the fund, and
- Any other factors deemed relevant,

to determine whether or not such a transfer shall be approved.

**To Entities Managed by FFTC:** FFTC manages separate but affiliated entities, in the form of Subsidiary Foundations, that are associated with it and help it accomplish its charitable purposes. From time to time, donors have established endowed funds at FFTC to benefit organizations that also are benefitted by a Subsidiary Foundation of FFTC. Upon the written request from the Subsidiary Foundation's Board and the beneficiary charity, such a fund may be moved from FFTC to the Subsidiary Foundation; provided, however, that:

- The original donor, if living, consents to such request, or the original donor, if deceased, did not expressly forbid such a transfer,
- Such a transfer will not in any manner frustrate the intent of the donor; and
- The recipient organization must agree in writing that such fund must be returned to FFTC if the Subsidiary Foundation ever ceases to be a Subsidiary Foundation of FFTC.

## **Types of Gift Funds**

**Donor Advised Funds.** When a donor wishes to make a gift to the Foundation, receive an immediate income tax deduction and then remain actively involved in recommending uses for the Gift Fund, a Donor Advised Fund ("DAF") may be appropriate. Donor Advised Funds may appreciate through a range of professional investment management options. DAFs permit grants from annual earnings and principal to benefit the appropriate charities as determined by donor interests. DAF distributions from Endowed Donor

Advised Funds, like all permanent funds, may be made only to the extent of the annual Spendable Amount determined by the Foundation's Board of Directors (as previously described).

Notwithstanding the types of Gift Funds as described by the Foundation (i.e., Donor Advised, Designated, Field of Interest, Community Impact, and Scholarship), Congress has recently provided a definition of a "donor advised fund," which may include not only a Donor Advised Fund at the Foundation, but also one or more of the other types of Gift Funds (most likely a Designated or Field of Interest Fund, if at all).

The Code defines a "donor advised fund" as a fund or account (i) which is separately identified by reference to contributions of a donor or donors (including the naming of a fund for a donor or a member of a donor's family), (ii) which is owned and controlled by a sponsoring organization (e.g. the Foundation), and (iii) with respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

The consequences of being classified by the Code as a donor advised fund are (i) limitations on extended ownership of closely held business interests, (ii) restrictions on distributions from the Gift Fund to an individual, for any non-charitable purpose or for any charitable purpose (but perhaps to a non-charitable organization) where the Foundation does not exercise "expenditure responsibility," and (iii) the effective inability to engage in fundraising activities. The further consequences of violating any of these limitations and restrictions include substantial excise taxes imposed on the Foundation.

There are several, specific exclusions from this definition of a DAF including funds that make distributions only to one nonprofit organization (as might be the case in a Designated Fund) and certain scholarship funds (including those that are administered as required by the Foundation).

Under the above definition, the first and third prongs of the test are generally optional for Gift Funds at the Foundation (while the second prong is, by default, met), such that classification by the Code as a donor advised fund can typically be avoided by intentionally "failing" either the first or third prong.

**Designated Funds.** When donors know which charities they want to support, a Designated Fund offers the ability to create a Gift Fund to support one or more charitable organizations. For example, a donor may establish a Designated Fund for the benefit of XYZ Charity and name the executive director of the charity as the fund's Advisor. The executive director would have the customary advisory privileges associated with the Gift Fund (see the section titled *Gift Fund Advisors* for detailed information). If the benefited organization ceases to exist or changes its status as a charitable organization, in the absence of a succession plan, the Foundation's Board, as authorized by its bylaws, may select an alternative organization compatible with the donor's original purpose. In addition, the designated organization itself may recommend to the Foundation other potential recipients of the Spendable Amount from the Gift Fund.

As discussed herein, gifts of business interests or real property will be directed to Designated Funds in Community Investments Foundation or Community Real Property Holdings, Inc., respectively. The beneficiary of such Designated Funds will be a new or existing Gift Fund at FFTC.

Although not referred to as a "donor advised fund," a Designated Fund could fall within the Code's definition of a donor advised fund if certain choices are made as to the administration of the fund. Such classification may not be a concern, but a potential donor should consider the applicable restrictions in

light of his or her expectations for the future of the fund and discuss it with his or her tax advisor and/or a member of the Foundation staff.

**Agency Funds.** Nonprofit organizations often create Agency Gift Funds for support of programs or projects, operating expenses, capital campaigns or special projects. An Agency Gift Fund is essentially a Designated Gift Fund set up by a nonprofit organization which names such organization as the sole permissible charitable recipient.

**Field of Interest Funds.** These Gift Funds benefit organizations that fall within a specific charitable category rather than a particular charitable organization. Donors may describe the category field of interest broadly or narrowly. For example, the Gift Fund could benefit the environment and emphasize air quality. Additionally, it may benefit an entire geographic area such as Charlotte-Mecklenburg or a smaller community, such as the Town of Davidson. A distinguishing feature of a Field of Interest Fund is that the advisory privileges are given to FFTC at the time the Gift Fund is established.

Although not referred to by the Foundation as a “donor advised fund,” a Field of Interest Fund could fall within the Code’s definition of a donor advised fund if applicable choices are made as to the administration of the fund. Such classification may not be a concern, but a potential donor should consider the applicable restrictions in light of his/ her expectations for the future of the fund and consult his/her tax advisor.

**Community Impact Funds.** These funds give the Foundation discretion to meet changing or unforeseen charitable needs in the communities it serves through unrestricted gifts. Typically, the Foundation determines recipients through a competitive process. Donors can name these Gift Funds to honor or memorialize a loved one. As with Field of Interest Funds, the advisory privileges are given to FFTC at the time the Community Impact Fund is established

Due to the nature of Community Impact Funds and the exclusive discretion given to the Foundation as to the distributions and investments associated with these Gift Funds, a Community Impact Fund should not be classified as a donor advised fund under the Code. Accordingly, the restrictions otherwise applicable to a donor advised fund should not be a concern.

**Scholarship Funds.** Scholarship Funds provide grants for educational purposes for K-12, undergraduate and graduate levels. Donors may recommend an academic focus for their Scholarship Fund (e.g., nursing or the arts) and eligibility criteria (e.g., financial needs, academic merit, geographic residence, community service).

Scholarship Funds that are administered in the manner required at the Foundation are specifically excluded from the Code’s definition of a donor advised fund. Accordingly, the restrictions otherwise applicable to a donor advised fund should not be relevant.

The Foundation offers two types of Scholarship Funds:

- ◆ **Select Scholarships** (\$25,000 minimum for individuals and families; \$100,000 for corporations or other business entities). Donors identify an organization (accredited educational institution, vocational school or nonprofit organization) to facilitate the scholar selection process based on the donor’s recommended criteria (with Foundation oversight).

- ◆ **Comprehensive Scholarships** (\$500,000 minimum). The Foundation manages the entire scholarship selection process, following the donor's recommended criteria. This includes screening applicants, selecting recipients through Scholarship Committees and monitoring students' progress prior to the renewal process each year.

### Comparison of Select Scholarship Funds and Comprehensive Scholarship Funds

Services and Characteristics		Select Funds	Comprehensive Funds
Opening Minimums (by Center)	Center For Personal Philanthropy	\$25,000	\$500,000
	Center For Corporate Philanthropy	\$100,000	
	Center for Nonprofit Sustainability	\$25,000	
Annual Administrative Fees		1.5% asset-based tiered schedule; minimum annual fee of \$375	2% asset-based tiered schedule
Minimum Scholarship Award Amount		\$500	\$10,000 (aggregate annual scholarship awards)
Develops Scholarship Guidelines and Selection Criteria (in consultation with donor)		Yes	Yes
Makes Annual Awards in Perpetuity		Yes	Yes
Maintains Anonymity If Desired		Yes	Yes
Calculates and Distributes Annual Spendable Income		Yes	Yes
Acknowledges Gifts for Tax Preparation		Yes	Yes
Provides Quarterly Financial Statements		Yes	Yes
Establishes Relationships with Appropriate Secondary Schools and Colleges		Yes	Yes
Designs and Prints Application Materials		No	Yes
Provides Scholarship Publicity		No	Yes
Receives, Acknowledges and Evaluates Applications		No	Yes
Appoints and Provides Administrative Support to Selection Committee		No	Yes
Issues Payments		Yes	Yes
Monitors Student Enrollment and Progress		No	Yes
Responds to Scholarship Inquiries		Yes	Yes
Prepares Customized Historical Reports		Yes	Yes

**Scholarship Fund Policies.** Guidelines for each Scholarship Fund directly administered by the Foundation are developed in accordance with the purpose of the Scholarship Fund, as approved by the Board of Directors and in accordance with objective and nondiscriminatory rules and principles as required by the IRS. The Board may amend these guidelines as necessary, generally on the recommendation of individual Scholarship Committees. Standard content of the guidelines includes:

- ◆ Purpose of the Scholarship Fund
- ◆ Eligibility criteria (e.g., field of interest, minimum GPA, residency requirements, special eligibility requirements, etc.)
- ◆ Selection criteria (e.g., academic merit, financial need, community service)
- ◆ Application and selection procedure
- ◆ Responsibilities of the Scholarship Committee
- ◆ Amount of awards (if appropriate)
- ◆ Non-discriminatory clause

**Scholarship Form.** The Scholarship Fund Agreement includes the opportunity to outline the donor's intent regarding how the scholarship will be administered by the Foundation.

**Scholarship Committees.** Scholarship Committees are appointed to oversee the operation of Comprehensive Scholarship Funds directly administered by the Foundation. The Foundation appoints the members of individual Scholarship Committees as well as the chair of each Scholarship Committee.

Scholarship Committees include people with knowledge of the Scholarship Fund's objectives. Committee members may include donors, persons related to donors and persons recommended by donors, provided that i) all such persons are ultimately appointed to such a Scholarship Committee by the Foundation, ii) any such person's advisory privileges are performed exclusively in such person's capacity as a member of the Scholarship Committee and iii) all such persons do not collectively, directly or indirectly, control such Scholarship Committee. Duties of Scholarship Committees include:

- ◆ Developing and reviewing guidelines
- ◆ Reviewing applications
- ◆ Selecting and interviewing finalists
- ◆ Recommending recipients and amounts of scholarship awards to the Foundation's Distribution Committee, which makes the final decision on selection (unless the Distribution Committee is charged with making recommendations as well)

The Foundation staff provides support services to Scholarship Committees (e.g., notices of meetings, minutes and other correspondence) and handles the day-to-day administration of Scholarship Funds (e.g., ensuring guidelines are followed, keeping records, corresponding with students, paying awards to respective institutions).

**Application Policies.** The Scholarship Committee (with assistance from Foundation staff) will develop an application form and procedures for each Comprehensive Scholarship Fund. Applications generally include:

- ◆ Basic information about the applicant
- ◆ Certification of eligibility requirements (e.g., residency, parents' employment)
- ◆ High school and/or college transcript for at least the last two years
- ◆ Letters of recommendation
- ◆ Financial information about applicant (if appropriate)
- ◆ Written statement of goals and qualifications by applicant
- ◆ Information release statement
- ◆ Statement of completion and accuracy
- ◆ Signature of applicant and date of application

Applications must be completed and received by the stated deadline to be eligible for consideration.

**Selection Process.** The Scholarship Committee determines the amount of funds available for distribution. It reviews applications (screened by staff if the Scholarship Committee desires) and selects finalists who meet the guidelines. Personal interviews with the Scholarship Committee may be required of finalists. Each award requires a majority vote of the Scholarship Committee. The Scholarship Committee's recommendation is forwarded to the Foundation's Board of Directors for final approval (unless the selection is delegated directly to the Scholarship Committee).

**Student Notification.** The Foundation will notify students in writing of the amount and general terms of Scholarship awards. Students are required to sign and return a Scholarship Acceptance Form accepting the responsibilities of the Scholarship Fund.

**Student Responsibilities.** Students must fulfill their responsibilities in order to receive Scholarship Funds. The Foundation informs students of these responsibilities through award letters, Scholarship Acceptance Forms and other means. Students are expected to:

- ◆ Sign and return a Scholarship Acceptance form
- ◆ Send official copies of transcripts to the Foundation at the end of each grading period
- ◆ Notify the Foundation in writing of any changes in status within two weeks of the change
- ◆ Reply promptly to requests for information
- ◆ Notify the Foundation of campus address and telephone number (if applicable) or other contact information
- ◆ Notify the Foundation immediately if the student is no longer enrolled/attending school

**Payment of Scholarship Funds.** Scholarship awards are paid to the students' schools or a related auxiliary organization (e.g., bookstore). No payments are made to individuals. Students must meet the obligations to the Scholarship Fund before awards can be issued (e.g., return the Scholarship Acceptance Form, submit the most recent transcript, and fulfill any special conditions of award). The Foundation notifies students when payments have been made.

**Scholarship Renewal.** Scholarships are awarded for one year but are subject to renewal if the Scholarship Fund provides for it and if students continue to meet the Scholarship Fund's requirements for participation. Students must file an application for renewal each year and must demonstrate continued eligibility as stated in the guidelines, including fulfilling all responsibilities

to the fund (e.g., submitting grades, meeting special conditions of the award). Generally, preference in awarding Scholarship Funds is given to renewal applicants.

### **Gift Acceptance Policy Regarding Funds Created for Litigation Purposes**

The following is a summary of the policy adopted by the Foundation's Board of Directors in connection with funds created for litigation purpose.

As part of its overall community mission, the Foundation encourages donors to pool charitable gifts together in a manner that furthers a collective philanthropic purpose. Through the Foundation, groups of donors can choose a variety of instruments to create charitable plans that serve broad community needs. While some funds focus on broad public policy issues, charitable funds created to support the costs of litigation do not fulfill the Foundation's mission to serve donors and the community.

Most lawsuits are by their nature divisive. To facilitate charitable gifts that pay the expenses for one party in a litigation matter runs the risk of alienating segments of the community. The Foundation adopts the general policy that it will not create funds to pay expenses associated with litigation.

Special situations may arise where nonprofit organizations see litigation as part of their overall mission. Thus, the Foundation recognizes that distributions made to nonprofits for the purpose of litigation proceedings may be appropriate in some special situations with careful oversight by members of the Foundation's staff and its Board of Directors.

## 7 Gift Fund Advisors

Depending upon the type of Gift Fund selected, advisors to Gift Funds may be designated by the donor(s) and may then make recommendations to the Foundation about investments, annual Spendable Amount, distributions and succession options. Advisors to a Gift Fund must be listed in the applicable Gift Fund Agreement or updated using the Advisor Information Form, which is available from the Finance and Donor Relations Team or at [www.ffc.org](http://www.ffc.org).

### Number of Advisors

The Foundation anticipates that no more than two Advisors will be named for each Gift Fund (including a Gift Fund established by a nonprofit organization, group of individuals, or business entity), but will consider allowing more than two Advisors (or even a committee or board structure) in special cases.

### Advisors For Nonprofits and Business Entities

Nonprofit organizations and business entities may name individuals to serve as Advisors for their Gift Funds. Organizations creating Gift Funds must certify as to the authority of the Advisors named and agree to indemnify the Foundation by completing a **Certificate of Authority and Agreement to Indemnify**.

### Defining Advisory Privileges

Advisory privileges available for the each type of fund are as follows:

	Donor Advised Fund	Designated & Agency Funds*	Field of Interest Fund	Community Impact Fund	Scholarship Fund
Recommend grants	✓	✓	N/A	N/A	N/A
Recommend investments	✓	✓	N/A	N/A	N/A
Change or add Advisors and Successor Advisors**	✓	✓	N/A	N/A	N/A
Serve as Gift Fund contact for questions, statements and correspondence	✓	✓	N/A	N/A	N/A
Select succession plan (for Non-endowed or Quasi-endowed Gift Funds)	✓	✓	N/A	N/A	N/A
Foundation serves as Advisor	N/A	If desired	✓	✓	✓

\* Notwithstanding the opportunity to name advisors to this type of Gift Fund, it may be advisable or necessary for such a Gift Fund to avoid classification under the Code as a donor advised fund (which may apply whether or not such Gift Fund is described as a Donor Advised Fund at the Foundation). See Chapter 6 for a detailed discussion of this concern. **Advisors may not be named for a Designated Fund held by Community Investments Foundation or Community Real Property Holdings, Inc.**

\*\* For a discussion of the Foundation's policies regarding Successor Advisors, please see the Chapter entitled, Succession Plans.

### **Naming the Foundation as the Gift Fund Advisor**

In certain cases, the donor may desire to name the Foundation as the Gift Fund's Advisor. This option is used most often for Community Impact Funds, Field of Interest Funds, and donor established Designated Funds benefiting named nonprofit organizations.

### **Naming Family, Friends, or Professionals as Advisors**

Donors may name themselves, family members, friends, professional advisors or others as advisors of a Gift Fund. Caution should be exercised in naming certain Advisors if there is reason to believe that classification under the Code as a donor advised fund should be avoided.

### **All Gift Fund Advisors Have an Equal Privilege to Act**

Only named Advisors may make advisory recommendations for the Gift Fund. Each named Advisor acting alone will have full and equal privileges to make recommendations for the Gift Fund, unless otherwise specified in the Gift Fund Agreement. For example, if the donor and the donor's spouse are named Advisors to the Gift Fund each individual acting alone has the privilege of recommending investment preferences and distributions for the Gift Fund.

### **Changing or Adding Advisors**

The Advisor may request in writing that the Foundation add or change Advisors to the Gift Fund by submitting an Advisor Information Form. Upon an Advisor's death, he or she may add or change Advisors by a direction in his or her will.

### **Fund Correspondence**

The Foundation assumes that Advisor 1 (as named in the Gift Fund Agreement) will be the primary contact to receive statements and other information pertaining to the Gift Fund. Donors and/or Advisors should keep the Foundation informed of any address changes. In addition, information regarding a Gift Fund's spendable amount will only be sent to one Advisor.

### **Disposition of Inactive Non-Endowed Donor Advised Gift Funds**

The Foundation periodically reviews the grantmaking activity of its Donor Advised Funds in an effort to address inactive funds, which the Foundation defines as a Donor Advised Fund that has not made a grant in the last three years (unless a plan to grow the Donor Advised Fund without making grants for a period of time has been specified in the fund agreement or otherwise documented by the Foundation's staff). An accumulation or period of growth is generally reasonable if (a) an Advisor is trying to build up the Donor Advised Fund's assets to a higher level before initiating or continuing grant recommendations or for a specific purpose, such as a large capital gift to a 501(c)(3) public charity, and (b) the Advisor provides a future target date for grant recommendations.

If the Foundation determines that a Donor Advised Fund is inactive, then the Foundation's staff will generally contact the Advisor(s) to discuss the Advisor's desired level of involvement with and future plans pertaining to the fund. Following this discussion, Fund Advisor(s) will generally be given the option to: (1) recommend grants to 501(c)(3) public charities pursuant to the terms of the Donor Advised Fund; (2) provide written documentation regarding the desire to continue to grow the Donor Advised Fund without making grants, and providing a future target date for grant recommendations; or (3) recommend that the accumulated spendable amount (or for non-endowed funds, an amount which would have been spendable amount had the Donor Advised Fund been endowed) be transferred to a community endowment fund or another endowment fund for the benefit of the Foundation and/or the community.

In the event that the Advisor(s) cannot be reached or if the last Advisor is no longer willing or able to serve in such capacity and no Successor Advisor is named, the Foundation reserves the right to assume responsibility for grantmaking. The Foundation's staff will attempt to contact the Advisor(s) at least three times at the addresses on file with the Foundation for such persons and will allow at least thirty (30) days for a response. If contact cannot be made, the Foundation reserves the right to transfer the assets from a Donor Advised Fund to the Foundation's Operating Endowment Fund or community endowment funds, as the Foundation may determine in its sole discretion.

#### **Death or Incapacity of Advisors**

Upon the death or incapacity of an advisor, the remaining Advisor, if any, will retain advisory privileges.

#### **Successor Advisors of Donor Advised Funds**

As noted above, a discussion of the Foundation's policies regarding Successor Advisors can be found in the Chapter entitled, *Succession Plans*.

#### **Online Access to Gift Fund Information**

Advisors may use our secure online site to view account information (including fund balances, contributions and distributions), as well as to make grant recommendations. Donors and Advisors may authorize up to three individuals to view online account information without authority to make recommendations. Please discuss this option with our Finance and Donor Relations Team.

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## 8 Succession Plans

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### **Succession Plans for Certain Endowed Funds and All Non-endowed Funds**

*The Foundation allows Donors to create succession plans that meet their charitable objectives. We offer a variety of options for Endowed Donor Advised Funds, Endowed Field of Interest Funds and all Non-endowed Funds and Quasi-endowed Funds, including the ability to transfer advisory privileges to successor advisors and the ability to recommend how such Gift Funds should be distributed upon the death or incapacity of the last surviving advisor. The succession plan may be provided for in the Gift Fund Agreement or in a Change of Succession Plan Form available at [www.ffc.org](http://www.ffc.org) or from the Philanthropic Advancement Team.*

### **Successor Advisors**

The Donor may appoint up to two persons to serve as Successor Advisors for the Gift Fund upon the death or incapacity of the initial advisor. Any person may be appointed to serve as a Successor Advisor. A Successor Advisor, when serving, has the same advisory privileges as the initial Advisor. Except as described in the following paragraph, 20 years following the death or incapacity of the initial Advisor, all Successor Advisors shall cease to serve in such capacity and the Gift Fund must terminate, convert to an Endowed Gift Fund or convert to a Gift Fund other than a Donor Advised Fund (such as a Designated Fund or a Field of Interest Fund).

### **Extended Successor Advisors for Certain Gift Funds**

The 20 year limit described above shall not apply to a Gift Fund if: (1) after 20 years, all the Successor Advisors are lineal descendants of the initial Donor, or (2) the Gift Fund is Endowed.

### **Succession Plan for Distribution of Assets**

A donor may recommend that upon the death or incapacity of the Gift Fund's last surviving Advisor (including any Successor Advisor), or the expiration of the period during which such Advisor may exercise advisory privileges, any assets remaining in the Gift Fund shall be administered or distributed in one or more of the following ways:

1. **Direct Distributions to Public Charities.** An Advisor for a Non-endowed Quasi-endowed Gift Fund may recommend that assets of the Gift Fund be distributed to one or more public charities. If a named charitable organization is no longer in existence, the Foundation will identify one or more qualified, public charities that support similar purposes.
2. **Create an Endowed Designated Gift Fund.** An Advisor may recommend the creation of a new Endowed Designated Gift Fund for the benefit of one or more named charitable organizations with the distribution of \$10,000 or more.
3. **Support the Foundation.** An Advisor may recommend that assets from the Gift Fund be used to support the Foundation in one or more of the following ways:
  - a. **Through a distribution** to the Foundation's Operating Endowment Fund to support the operations of the Foundation; and/or

- b. **Through a distribution** to one or more of the Foundation's Community Impact Funds to be used for broad community purposes. The Advisor may indicate a preference for a particular focus or particular geographic area or may leave the selection of the grantmaking focus for determination by the Foundation using criteria described below.

### **Non-endowed Funds, Endowed Donor Advised Funds and Endowed Field of Interest Funds with No Succession Plan**

If a succession plan is not in place, the Gift Fund will terminate and the assets will be distributed as follows:

- ◆ For a Gift Fund with assets valued at less than \$25,000, such assets will be transferred to the Foundation's Operating Endowment Fund.
- ◆ For a Gift Fund with assets valued at between \$25,000 and \$200,000
  - 50% of such assets will be transferred to the Foundation's Operating Endowment Fund; and
  - 50% of such assets will be distributed for broad community purposes as determined by the Foundation using criteria described below.
- ◆ For a Gift Fund with assets valued at more than \$200,000, the assets of such fund will be transferred to an Endowed Fund bearing the donor's name and distributed as follows:
  - 50% of the spendable amount shall be used to support the operations of the Foundation, and
  - 50% of the spendable amount shall be distributed to one or more of the Foundation's Community Impact Funds to be used for broad community purposes as determined by the Foundation using criteria described below.

### **Criteria for Selection of Grantmaking Focus**

With respect to funds to be distributed for broad community purposes as determined by the Foundation, the Foundation staff will conduct a thorough review of the Gift Fund and make recommendations about the grantmaking focus to the Foundation's Board of Directors. In determining the focus of grants, the Foundation's Board of Directors will consider the following:

- ◆ The donor's charitable interests as indicated by grant distributions made from the Gift Fund in the past
- ◆ Any geographical considerations recommended by the donor
- ◆ Critical community needs
- ◆ Any relevant information about the donor's particular civic or charitable interests

The Foundation's Board of Directors will make the final determination with regard to the grantmaking focus for the fund and notify appropriate affiliate organizations, Subsidiary Foundations or other interested parties.

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## 9 Investments

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*The Foundation provides clients with access to diverse investment options, allowing for the opportunity to strengthen and grow their charitable assets. Clients can choose from a diversified portfolio of fixed income, large cap, small cap, international and alternative investment vehicles. Through expert investment management and economies of scale, participating funds have the opportunity for broad diversification and access to managers that would traditionally be unavailable or cost-prohibitive due to individual fund size. The investment managers are selected and monitored by the Foundation's Investment Committee.*

### **Foundation Investment Oversight**

The Foundation's Board of Directors provides oversight of the investments of its various funds through its Investment Committee, who works in concert with a third party Investment Consultant and internal staff to implement the investment policies it has adopted.

Investment Committee. All Gift Funds are invested with the guidance of the Foundation's Investment Committee which is appointed by the Foundation's Board of Directors. The Investment Committee is comprised of veteran investors and experienced business leaders knowledgeable in investment management. The Investment Committee determines asset allocation, selects professional managers and monitors performance with the goal of achieving maximum return while minimizing risk.

Investment Consultant. The Foundation retains an Investment Consultant (the "Investment Consultant") specializing in institutional funds management to help guide the Investment Committee. The Consultant provides regular reports on overall investment performance and assists the Investment Committee in the construction and maintenance of the portfolio.

Investment Policy Statement. The Investment Committee and the Investment Consultant adhere to a sound investment policy that focuses on the appropriate investments for each type of Gift Fund.

Investment Alliance Program. The Investment Committee and the Investment Consultant have adopted a policy to govern relationships where donors have recommended a specific manager outside of the Foundation's core investment pool. Investment Alliance managers must meet not only the criteria established in the Investment Policy Statement, but also the procedural requirements of the Investment Alliance Program.

### **General Investment Objectives**

The Foundation's investment objectives and guidelines are designed to enable Gift Funds to maintain or increase total principal purchasing power after inflation over the long term while providing sufficient liquidity to meet distribution requirements.

### **Diversification and Risk**

The primary means of creating effective portfolio diversification is the understanding and thoughtful allocation to differing risks within the portfolio. Managers are carefully selected within varying asset classes and are benchmarked against peers as well as appropriate market indices.

### **IRS Rulings on Investment Preference**

IRS rulings enable donors to recommend investment preferences but require the Foundation to retain final discretion regarding those recommendations for all Gift Funds and for Charitable Trusts when the Foundation acts as a Trustee.

### **Investment Options**

Upon establishing a Gift Fund at the Foundation, Gift Fund Advisors select an investment allocation which they can change up to twice a year. Options vary based on the type of Gift Fund and whether the Gift Fund is endowed, non-endowed or quasi-endowed. The Foundation maintains each fund's investment allocation through monthly rebalancing and provides quarterly investment performance along with fund statements. The Foundation is required to retain final discretion regarding investment decisions.

Investment options available for Gifts Funds at the Foundation vary depending upon the type, average balance, and anticipated duration of the Gift Fund.

**Benchmarks.** The Investment Committee, in conjunction with the Investment Consultant and FFTC staff, monitors the performance of each manager. This is accomplished by comparing managers' returns to the overall market, to a peer universe, and to an appropriate index.

### **Annual Spendable Policy (for Endowed and Quasi-endowed Gift Funds only)**

Pursuant to the Uniform Prudent Management of Institutional Funds Act ("UPMIFA"), the Foundation's Board of Directors adopts an annual Spendable Policy that is applicable to all endowed and quasi-endowed Gift Funds. This policy enables the Foundation to invest in a way that is not dependent solely upon generating interest and dividend income to support annual distributions from the Gift Fund.

For a discussion of the Foundation's current Spendable Policy, please see the Chapter entitled, *Gift Funds*.

### **Investment Alliance Program and Custom Allocation Options**

For Gift Funds with balances of at least \$250,000, Advisors may leverage the Investment Alliance Program whereby an outside investment firm may manage the Gift Fund's investment portfolio. Alliance Managers are approved by the Foundation's Investment Committee after a thorough review by the Foundation's finance staff and our Investment Consultant. In addition, the Alliance Manager must operate in accordance with the investment policy and procedural requirements approved by the Foundation's Board of Directors.

A minimum balance of \$250,000 must be maintained in the account to participate in the Investment Alliance Program. In addition, a one-time set-up fee of \$1,000 will be charged to all new Investment Alliance accounts meeting the minimum balance of \$250,000 but with assets less than \$1 million. This set-up fee is, however, waived for accounts greater than \$1 million. Please see the Foundation's *Investment Alliance and Business Policy Statement* for more information.

In addition, for Gift Funds with balances of at least \$1 million, Advisors may customize an allocation based on the Foundation's existing managers.

## **Subsidiary Foundations**

Some Subsidiary Foundation clients are offered custom investment strategies designed to meet their diverse investment needs. They may also choose any of the standard investment options offered by the Foundation. Please consult the Finance and Donor Relations Team for further information on investments for Subsidiary Foundations. For a full description of Subsidiary Foundations and the services the Foundation provides to them, please see the Chapter titled *Subsidiary Foundations*.

Subsidiary Foundations are separate legal entities with their own Boards of Directors. In general, their Board of Directors and/or Investment Committee will have oversight and fiduciary responsibility with regard to their investments.

## **Administration of Gift Funds**

**Reporting.** Statements showing the detailed activity of Gift Funds, including information on distributions, gifts and investments will be mailed quarterly. The Foundation will reconcile the Gift Fund or Subsidiary Foundation when it receives all custodian and Investment Alliance Manager reports.

**Fund Accounting Procedures.** IRS rules allow the Foundation to commingle assets of Gift Funds and Charitable Trusts for investment purposes and to credit each fund according to a comprehensive unitized fund accounting system. This system allows the Foundation to produce separate fund and Charitable Trust accounting information for each Gift Fund and Charitable Trust.

**Timing of Investments.** All contributions of cash or proceeds of sales of contributed assets are held in the Foundation's bank account until they are allocated according to donor investment preferences.

- ◆ **Cash.** The Gift Fund will be credited immediately with the value of the donor's cash contribution.
- ◆ **Publicly Traded Securities.** The Gift Fund will be credited with the net proceeds from the sale of publicly traded securities. Net proceeds are defined as gross proceeds less brokerage commissions and any other fees. The net proceeds will be credited to the Gift Fund when the securities are sold, which may be later than the date on which the donor made the contribution. Depending when the securities are sold, the value of the deduction for contributed securities will often differ from the actual sale price received by the Foundation.
- ◆ **Privately Held Securities, Business Interests, and Real Property.** The Foundation will work with the Donor to determine a plan for the sale or liquidation of these assets. The net proceeds of the sale (less any sales expenses and any prior expenses for taxes, service charges or improvements) will be credited to the Donor's Gift Fund when the assets are liquidated and then invested according to the recommendation in the Gift Fund Agreement or Investment Recommendation Form.

**Allocation of Investment Earnings.** Investment earnings for the Donor's Gift Fund or Subsidiary Foundation include interest, dividend income and realized and unrealized gains and losses (net of investment management fees charged by the investment managers). The market value of each Gift Fund will include the principal together with accumulated earnings of each investment pool in which the Gift Fund participates.

- ◆ **Dividend and Interest Income Received by Gift Funds.** Dividend and interest income will be credited to the Gift Fund and the Foundation will assess its customary investment service charges for Gift Funds.
  
- ◆ **Distributions to Gift Funds Holding Partnerships or Closely Held Stock.** The Gift Fund will be credited with proceeds received from distributions of illiquid assets (such as partnership interests or stock held in an S Corporation).

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## 10 Subsidiary Foundations (Supporting Organizations under IRC § 509(a))

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*Donors may find that creating a separate charitable foundation affiliated with the Foundation is an attractive alternative to establishing a Gift Fund or a private foundation. The Foundation offers a tailored menu of services to Subsidiary Foundations (Supporting Organizations under IRC § 509(a), herein referred to as “Subsidiary Foundations”) to help facilitate specific charitable fiduciary and grantmaking goals. The opening minimum for a Subsidiary Foundation is \$2 million. Donors should contact the Foundation before beginning the processes of opening a Subsidiary Foundation.*

### **Subsidiary Foundation Features**

Individuals, families, corporations, or nonprofit organizations may establish Subsidiary Foundations (referred to as “Supporting Organizations” in the Code and corresponding treasury regulations) of the Foundation as separately incorporated corporations or Trusts with separate governance and tax-exempt status. These grantmaking organizations avoid the burdens of private foundation or separate public charity tax status by reason of their affiliation with the Foundation.

A Subsidiary Foundation must:

- ◆ Have cash, securities, real estate or other assets with a valuation of at least \$2 million.
- ◆ Exist as a corporate or Charitable Trust entity separate from the Foundation.
- ◆ Be a Type I Supporting Organization (described below).
- ◆ Have its own Board of Directors or Trustees, make its own decisions and obtain its own 501(c)(3) tax-exempt status from the IRS.
- ◆ Arrange the make-up of its Board of Directors and its relationship with the Foundation so as to satisfy IRS requirements including the requirement that a Subsidiary Foundation be “operated, supervised or controlled by” a public charity. It may not be controlled by disqualified persons such as a major contributor, members of the major contributor’s family or a corporation, partnership, Charitable Trust or estate controlled by the major contributor.
- ◆ Choose investments, make grants and take other actions without approval of the Foundation’s Board of Directors.
- ◆ Select the Foundation, a public charity, as the supported organization to administer and invest its assets.

### **Types of Subsidiary Foundations**

Under the Code and applicable IRS rules and regulations, there are three types of Supporting Organizations (as noted above, referred to herein as “Subsidiary Foundations”). These organizations are distinguished by the nature of their Board’s relationship with the supported organization – in this case, the Foundation.

**Type I.** Pursuant to the Foundation’s policies, a Subsidiary Foundation must be a Type I Subsidiary Foundation whereby the Foundation’s Board of Directors appoints a majority of the Subsidiary Foundation’s Board of Directors. A Type I Subsidiary Foundation can most easily meet IRS standards because the community foundation is directly involved in the make-up of the Board of Directors.

The Foundation does not permit Type II or Type III Subsidiary Foundations; however, the descriptions below are included for informational purposes:

**Type II.** The Subsidiary Foundation's Board of Directors consists of the same persons who are on the supported organization's Board of Directors. This type is useful for foundations with purposes or leadership similar to that of the supported organization.

**Type III.** The supported organization's Board of Directors appoints at least one (but not a majority) of the members of the Subsidiary Foundation's Board of Directors. This type has historically been used by community organizations with broad donor bases, such as community groups or nonprofits, as contrasted with family philanthropic groups. However, federal legislation passed in 2006 has significantly limited the ability of a Type III Subsidiary Foundation to operate effectively or efficiently. See chart in Chapter 11 entitled *Private Foundations* for additional details on Subsidiary Foundations.

### **Subsidiary Foundation Mandatory Requirements**

Subsidiary Foundations must meet certain requirements on an annual basis, including:

- ◆ Filing IRS Form 990
- ◆ Filing necessary documents with government agencies
- ◆ Filing and paying any relevant taxes

Although not mandatory, obtaining an independent audit of financial statements is encouraged.

### **Subsidiary Foundation Services**

The Center for Personal Philanthropy, the Center for Nonprofit Sustainability, and the Center for Corporate Philanthropy offer custom level services to help Subsidiary Foundations plan, govern and operate grantmaking programs.

Our charitable **planning** experts can help:

- ◆ Explore and identify appropriate philanthropic vehicles
- ◆ Develop a giving plan tailored to specific interest areas and giving priorities
- ◆ Structure goals that help achieve the vision of the founder(s)

Our **financial** experts can help:

- ◆ Tailor investment options and reporting for one or more Gift Funds
- ◆ Consult regarding financial strategy, including investment returns and review

Our **governance** and **administrative** experts can help:

- ◆ Plan, facilitate and document committee or board meetings
- ◆ Manage grantmaking commitments and pledges
- ◆ Promote philanthropic initiatives to draw interest to specific causes
- ◆ Develop a plan for succession to the next generation or criteria for new leadership
- ◆ Orient new board members

Our **grantmaking** experts can help:

- ◆ Facilitate grantmaking requests and field grantmaking inquiries

- ◆ Prepare and present critical needs reports; solicit proposals; serve as a liaison between the Subsidiary Foundation and its grantees/prospects
- ◆ Research, evaluate and recommend potential grantees; monitor use of funds; review and report grantee effectiveness to committee or board
- ◆ Offer philanthropy workshops to engage others in the charitable mission of the organization
- ◆ Organize nonprofit site visits to promote participation

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## 11 Private Foundations

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*A private foundation is a charitable entity often established by an individual, family or corporation which is subject to complex tax and administrative regulations. A Donor who has established a private foundation may find that, over time, the foundation becomes administratively burdensome. The Donor may wish to liquidate the private foundation into a Gift Fund, over which the donor may retain advisory privileges. Alternatively, the Donor may wish to retain the structure of the private foundation but partner with the Foundation to receive grantmaking and other services. This section outlines the services that the Foundation may provide to private foundations.*

### **Services to Private Foundations**

The Foundation offers private foundations services designed to help them plan, govern and operate grantmaking programs. The fees associated with such services will depend on the services provided.

Our charitable **planning** experts can help:

- ◆ Explore and identify appropriate philanthropic vehicles
- ◆ Develop a plan tailored to specific interest areas and grantmaking priorities
- ◆ Structure goals that help achieve the vision of the founder(s)

Our **financial** experts can help:

- ◆ Tailor investment options and reporting
- ◆ Consult regarding financial strategy, including investment returns and review

Our **governance** and **administrative** experts can help:

- ◆ Plan, facilitate and document committee and board meetings
- ◆ Manage grantmaking commitments and pledges
- ◆ Promote philanthropic initiatives to draw interest to specific causes
- ◆ Develop a plan for succession to the next generation
- ◆ Develop criteria for new leadership
- ◆ Orient new board members

Our **grantmaking** experts can help:

- ◆ Facilitate grantmaking requests and field grantmaking inquiries
- ◆ Prepare and present critical needs reports
- ◆ Solicit proposals
- ◆ Serve as a liaison between the private foundation and its grantees/prospects
- ◆ Research, evaluate and recommend potential grantees
- ◆ Monitor use of funds by grantee organization
- ◆ Review and report grantee effectiveness to committee or board
- ◆ Offer philanthropy workshops to engage others in the private foundation's charitable mission
- ◆ Organize nonprofit site visits to promote participation

**Comparison of Donor Advised Fund, Subsidiary Foundation and Private Foundation:**

<b>Characteristics</b>	<b>Donor Advised Fund</b>	<b>Subsidiary Foundation</b>	<b>Private Foundation</b>
<b>Donor Involvement</b>	Donor directs grants and investments. Successor advisors (including family members) may be appointed in perpetuity. Fund bears name chosen by donor	Governing body may include donor and related persons, but cannot comprise majority of governing body. The governing body approves all grants and administration.	Governing body may consist of donor and related persons. The governing body approves all grants and administration.
<b>Tax Status</b>	Shares public charity status with FFTC	Public charity, must apply to IRS for tax-exempt status but connected to FFTC	Private charity, must apply to IRS for tax-exempt status.
<b>Income Tax Deduction for Gifts</b>			
<b>Cash</b>	50% of adjusted gross income (AGI)	50% of AGI	30% of AGI
<b>Appreciated Stock</b>	Full fair market value deductible up to 30% of AGI	Full fair market value deductible up to 30% of AGI	Full fair market value deductible up to 20% of AGI
<b>Real Estate and Closely Held Business Interests</b>	Full fair market value deductible up to 30% of AGI or cost basis deductible up to 50% of AGI	Full fair market value deductible up to 30% of AGI or cost basis deductible up to 50% of AGI	Cost basis deductible up to 20% of AGI
<b>Grantmaking</b>			
<b>Minimum Payout Requirements</b>	None	None for Type I or Type II (Type III may be similar to private foundation – generally equal to greater of 85% of its AGI or 3.5% of the FMV of its assets)	Annual payment of at least 5% of net investment assets, with penalty on undistributed amounts
<b>Privacy</b>	A fund's assets, gifts and grants are kept private. No public disclosure is required. Donors are generally recognized for grants, but can make grants anonymously	Subsidiary Foundations are required to file Form 990, which makes public the foundation's assets, grants, investment fees and board compensation	Private foundations are required to file Form 990-PF, which makes public the foundation's assets, grants, investment fees and board compensation
<b>Philanthropic Advice, Grantmaking &amp; Community Knowledge</b>	FFTC staff is available to help identify and assess grantees, provide input on community needs and ensure recipients are qualified 501(c)(3) organizations	FFTC staff is available to coordinate and support the Subsidiary Foundation's grantmaking and monitoring activities	Donor or foundation staff, if applicable, must coordinate and support its own grantmaking and monitoring activities
<b>Time Commitment</b>	Conveniently recommend grants online, while FFTC processes the payments. No board meetings required and no staff to manage	FFTC staff is available to assist with board meetings, grantmaking, record keeping, and IRS filings	Record keeping and IRS filings alone can take a significant amount of time each year. Public information can generate unsolicited charitable requests

**Comparison of Donor Advised Fund, Subsidiary Foundation and Private Foundation (con't):**

<b>Characteristics</b>	<b>Donor Advised Fund</b>	<b>Subsidiary Foundation</b>	<b>Private Foundation</b>
<b>Administrative Considerations</b>			
<b>Ease of Establishing</b>	Typically requires only one signed document	Create a corporation or trust, and file for and obtain IRS approval; requiring legal and accounting support	Create a corporation or trust, and file for and obtain IRS approval; requiring substantial legal and accounting support
<b>Timing to Create</b>	Immediate	Can take 6 months or longer for IRS approval	Can take 6 months or longer for IRS approval
<b>Start-up Costs</b>	None	Varies, but minimally several thousands of dollars for legal and accounting expenses and filing fees; often less than a private foundation when working with FFTC	Varies, but minimally several thousands of dollars for legal and accounting expenses and filing fees (similar to corporate start-up)
<b>Annual Costs</b>	FFTC funds are charged annual administrative fees, assessed monthly based on the fair market value of the assets in the fund. The minimum annual fee is \$250	FFTC assesses annual administrative fees, assessed monthly based on the fair market value of the assets in the Subsidiary Foundation	Can be costly, including administration, accounting and audit expenses
<b>Investments</b>	Access to FFTC's diverse and expertly managed investment options, or you can recommend an outside manager via the Investment Alliance Program (for funds > \$250,000)	Access to FFTC's diverse and expertly managed investment options, or an outside manager can be utilized via the Investment Alliance Program	Must establish, research and manage own investment vehicles
<b>Fiduciary Responsibility</b>	FFTC fulfills associated fiduciary responsibilities	FFTC works with Subsidiary Foundation Board to fulfill fiduciary responsibilities	Private foundation board has full fiduciary responsibility
<b>Operations and Record Keeping</b>	Provided by FFTC	Provided by FFTC	Must establish, acquire and manage on its own
<b>Liability and Risk</b>	Covered by FFTC's policies	Covered by FFTC's policies	Must be provided and purchased by private foundation
<b>Practical Minimum Size</b>	\$10,000	\$2 million and up	Depends on scope of grantmaking and other needs; \$5M and up for non-staffed foundation; in excess of \$10M for staffed foundation.
<b>Ownership of Closely Held Business Interests*</b>	Subject to excess business holdings rules	No restriction for Type I or Type II (Type III is subject to excess business holdings rules)	Subject to excess business holdings rules

**Comparison of Donor Advised Fund, Subsidiary Foundation and Private Foundation (con't):**

<b>Characteristics</b>	<b>Donor Advised Fund</b>	<b>Subsidiary Foundation</b>	<b>Private Foundation</b>
<b>Annual Requirements</b>			
<b>Annual Taxes</b>	None	None	Generally income tax exempt, but subject to excise tax of up to 2% of net investment income including capital gains
<b>Tax filings</b>	None required	FFTC files annual IRS Form 990 and may conduct a separate annual financial audit	Annual IRS Form 990-PF, including detailed financial statements, must be prepared and filed

*\* As discussed elsewhere in this Guide, approved gifts of closely held business interests are accepted by Community Investments Foundation which is a supporting organization of the Foundation. Following the liquidation of the closely held business interests, the net proceeds will be directed to a Gift Fund at the Foundation.*

**IMPORTANT DISCLAIMER:** *This chart is intended for informational purposes only. It is not intended to constitute tax or legal advice and should not be relied upon as such. Potential donors should discuss the implications and consequences of a specific charitable gift with a legal and/or tax advisor.*

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## 12 Planned Giving

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*A leader in gift planning since its inception in 1958, the Foundation remains committed to continuing its tradition of providing innovative planned giving solutions. By including philanthropy in their estate plans, donors and their heirs often benefit from lower income and estate taxes. The Foundation offers a number of planned giving options, allowing donors to support their charitable initiatives and create a legacy for future generations.*

### **Analysis**

Foundation staff members will assist in evaluating the following factors of a proposed planned gift:

- ◆ **Tax Effect.** Although the Foundation cannot provide tax advice, Foundation staff will assist donors and professional advisors in the analysis of tax effects, income beneficiaries (if any) and recipient charities, and will assist with determining the best vehicle to meet programmatic, tax, income and planning goals.
- ◆ **Accounting Treatment.** Foundation staff will analyze how accounting treatment may affect donors, income beneficiaries and recipient charities.
- ◆ **Gift Value.** Foundation staff will analyze the present and future value of a proposed planned gift.
- ◆ **Administrative Requirements.** Foundation staff will review administrative requirements imposed by the IRS and accounting rules, and will apply pragmatic considerations to ease the difficulty of administration.

In addition, the Foundation will help assess the best planned giving option to accomplish the programmatic goals of the donor and charitable beneficiaries. Foundation staff can work with attorneys, accountants, bankers, brokers, financial planners and other professional advisors to assure that planned gifts meet the expectations of donors.

## Gifts by Will

A will is a straight forward and effective way for a donor to support one or more charitable organizations. A bequest can be made to a Gift Fund or Charitable Trust at the Foundation. The Foundation provides sample language for consideration by the donor and his or her attorney at the Foundation's website, [www.fftc.org](http://www.fftc.org). Bequests to the Foundation may include:

- ◆ **Outright Bequests.** The donor provides in his or her will that a specific asset, such as cash, real estate, personal property or interest in a business, be transferred to the Foundation.
- ◆ **Residuary Bequests.** The donor provides in his or her will that all or a portion of his or her residuary estate be transferred to the Foundation.
- ◆ **Contingent Bequests.** The donor makes a bequest that will come to the Foundation only if a specific contingency occurs. For example, "I give \$10,000 to my niece, Judy, but if Judy predeceases me, I give that amount to Foundation For The Carolinas, 220 N. Tryon Street, Charlotte, NC 28202."
- ◆ **Bequests to Charitable Remainder Trusts.** The donor provides in his/her will for the creation of a Charitable Remainder Trust. Annual payments may be made to one or more named individuals for the lifetime of these individuals, or for a specified period of time no more than 20 years, after which the remainder will be distributed to a Gift Fund at the Foundation.
- ◆ **Bequests to Charitable Lead Trusts.** The donor provides in his/her will for the creation of a Charitable Lead Trust. Annual payments would be made to the Foundation for a specified period of time, after which the remainder will be made to the Gift at the Foundation.

## Retirement Plan Assets

Assets held in qualified retirement plans or individual retirement accounts (IRAs) can be gifted to charity. The Foundation can help donors analyze the tax effects of using retirement plan assets for charitable giving. Under current tax law, a gift of qualified plan assets to a charity during life is a taxable event for the donor (with limited exceptions), but a gift of qualified plan assets at death can reduce adverse tax consequences and provide a wonderful gift. The donor may name the Foundation (or a Gift Fund) as the designated beneficiary of retirement account assets upon either his/her death or the death of family beneficiaries. Beneficiary designation forms may be obtained from the retirement account manager. The Foundation recommends consultation with a professional advisor to complete such forms. The types of retirement plan assets accepted by the Foundation include:

- ◆ 401(k) Plans
- ◆ 403(b) Plans
- ◆ Traditional IRAs
- ◆ Roth IRAs
- ◆ Keogh Plans
- ◆ SEP Accounts

## Charitable Trusts

**Charitable Remainder Trusts (CRT).** The donor irrevocably transfers cash, securities or other property to the Foundation as Trustee. The Foundation manages the assets and makes payments to the donor or other named individuals for their lifetimes or for a period not to exceed 20 years. On the death of the beneficiary(ies), the assets of the Trust are distributed to the Foundation (or an endowed Gift Fund at the Foundation). The Foundation will only serve as Trustee of a Charitable Trust if one or more endowed Gift Funds at the Foundation is irrevocably designated as the charitable beneficiary of the trust. There are two types of Charitable Remainder Trusts:

**Charitable Remainder Annuity Trust.** The Trustee pays the named individual beneficiaries a fixed dollar amount annually from the Trust for the life or lives of the income beneficiaries or for a period not to exceed 20 years.

**Charitable Remainder Unitrust.** The Trustee pays the named individual beneficiaries a fixed percentage of the net fair market value of the Trust's assets, as determined each year, for the life or lives of the beneficiaries or a period not to exceed 20 years. There are several variations of Charitable Remainder Unitrusts:

**Net Income with Makeup Unitrust (NIMCRUT).** The Trustee pays the beneficiaries the lesser of the net income or a fixed percentage of the value of the Trust assets stated in the Trust Agreement. In years when the net income is less than the fixed percentage, the Trustee may pay the lesser amount. However, the Trust contains a makeup provision such that if the trust earns more than the stated provision in a later year, the Trust will pay as much income as is necessary to make up for the difference between the amount actually distributed and the amount that would have been distributed had the income been sufficient. NIMCRUTs may be useful when the contributed assets do not produce a high level of income and may be difficult to sell quickly or if the beneficiaries do not have an immediate need for income.

**Net Income Unitrust (NICRUT).** Similar to the NIMCRUT, except there is no makeup provision.

**Flip Unitrust or Flip Unitrust with Makeup.** A Flip Unitrust begins as a NIMCRUT but is later converted to a straight CRT upon the occurrence of the flip-triggering event, such as the sale of a certain asset, including real property, a business interest or other asset that is not readily marketable. After the sale, the CRT pays the non-charitable beneficiary a fixed percentage of the net fair market value of the Trust's assets as stated in the Trust. A Flip Unitrust may be attractive to a donor who desires to contribute assets that are not readily marketable.

**Charitable Lead Trusts (CLT).** The donor irrevocably transfers cash, securities or other property to the Foundation as Trustee. The Foundation manages the assets and payments are made to a Gift Fund for a period of years or for the lifetimes of one or more named individuals. At the end of the term, the remaining assets are distributed to designated non-charitable beneficiaries, such as a spouse or other family member.

## Administration of Charitable Trusts

The Foundation follows these procedures when serving as Trustee of Charitable Trusts:

**Foundation as Trustee.** As Trustee, the Foundation provides administrative management and investment of assets. As discussed above, the Foundation will only serve as Trustee of a Charitable Trust if one or more endowed Gift Funds at the Foundation is irrevocably designated as the charitable beneficiary of the trust.

**Minimum Funding.** Charitable remainder trusts must be funded with assets valued at \$100,000 or more. Charitable lead trusts must be funded with assets valued at \$1,000,000 or more.

**Individual Beneficiary Payments.** The Foundation makes payments to individual beneficiaries of Charitable Trusts in accordance with the terms of the Charitable Trust Agreement. Payments are generally made on a quarterly basis by direct deposit into the individual beneficiary's bank account. The Foundation will consider requests for payments at more frequent intervals on a case-by-case basis.

**Tax Return Preparation.** All or some portion of a payment made to an individual beneficiary of Charitable Trusts may be includable in such individual's income for income tax purposes. The Foundation coordinates preparation of income tax returns for each of the Charitable Trusts for which it is Trustee and furnishes individual beneficiaries with tax information forms. The Foundation charges the Trust for tax return preparation.

**Real Estate in Trusts.** The Foundation accepts management responsibility for real property held in Charitable Trusts for which it is Trustee. The Foundation's policies governing the management of real property are covered in the *Assets Accepted to Gift Funds* section of this Guide.

## Other Planned Gifts

**Bargain Sales.** A bargain sale is part sale, part gift. A donor receives cash for a portion of the value of an asset transferred to a charity, and the difference between the cash consideration received and the fair market value of the asset, as determined by a qualified appraisal, is deductible as a charitable gift.

**Life Insurance.** A donor may make a gift of life insurance to the Foundation either by irrevocably designating the Foundation as the owner and beneficiary of the policy or by designating the Foundation as a beneficiary of all or a portion of the proceeds of a policy. Change of ownership and beneficiary designation forms may be obtained from the insurance representative. Prior to accepting a policy requiring ongoing premium payments, the Foundation will require a written agreement from the policy holder detailing how premiums will be paid. The donor may also elect to cash out existing life insurance policies and donate the proceeds to his or her Gift Fund.

**Gift of Remainder in a Personal Residence.** A donor may contribute a personal residence to the Foundation and retain the right to occupy the property during his/her lifetime. The Foundation will receive the entire interest in the property upon the donor's death. The Foundation normally will not accept gifts of the remainder interest in personal residences when the property is

mortgaged; however, the Foundation staff may recommend an exception. Gifts of remainder interests in a personal residence are accepted through Community Real Property Holdings, Inc. See the Chapter 4 entitled *Assets Accepted to Gift Funds* for more information.

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## 13 Administrative Fees

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Annual administrative fees are assessed to each Gift Fund or Subsidiary Foundation to meet the Foundation's operating expenses. Administrative fees are based on published fee schedules which are generally tiered, asset-based fees. Schedules can be found at [www.ffc.org](http://www.ffc.org). Fee schedules vary based on Center, type of fund and services received. In addition, depending on the type of asset received or services rendered, a one-time gift acceptance or set-up fee may be assessed.

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## 14 Gift Fund Grant Distributions

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*Some Gift Funds permit the Advisor to recommend a distribution or grant from the Gift Fund to a qualified charitable organization. Advisor recommendations will be reviewed by the Foundation after they are submitted online via Access My Fund or a Grant Distribution Recommendation Form (available at [www.ffc.org](http://www.ffc.org) or by contacting the Finance and Donor Relations Team). If approved, the Foundation will mail a check to the recommended organization(s).*

### **Minimum Grant Distribution Amounts**

The Foundation's current minimum grant distribution is \$100.

### **Grants to Public Charities**

Distributions can be made only to charitable organizations that are tax-exempt under IRC § 501(c)(3) and which have been classified under IRC § 509 as not being a private Foundation. Distributions also may be made to governmental agencies and most religious organizations. Foundation policy prohibits the Foundation from making distributions to nonprofit organizations in satisfaction of a donor's legally enforceable pledges, non-operating private foundations, to certain fraternal and civic organizations (e.g., Chambers of Commerce, Rotary, Kiwanis, or Lions Clubs), or for dues, memberships, benefit tickets, goods bought at charitable auctions, fundraising dinners, tournaments or to secure ticket rights. Fund Advisors are prohibited from receiving tangible or incidental benefits as the result of the grant from the Gift Fund. Distributions may not be made for political purposes and may not be made in satisfaction of a loan, for compensation, expense reimbursements or payments or similar payments to donors, advisors, and related parties.

### **Grants to Charitable Organizations Throughout the United States**

The Foundation makes distributions to organizations throughout the United States if they meet the stated criteria and are approved by the Foundation's Board of Directors.

### **Grants to Charitable Organizations Outside of the United States**

The Foundation makes grants to domestic 501(c)(3) charities that fund and exercise expenditure responsibility over foreign charitable activities.

### **Grants to For-Profit Organizations**

On a limited basis and with approval of the Executive Team, the Foundation will consider grants to for-profit organizations which will be used for a charitable activity or purpose. If approved, the Foundation exercises expenditure responsibility when making such grants.

### **List of Approved Organizations and Research Procedures**

The Foundation maintains a list of organizations approved by the Foundation's Board of Directors as eligible to receive distributions from Gift Funds. The Foundation welcomes suggestions for additions to this list. If an Advisor wishes to recommend a grant to an organization not currently approved, he or she may submit a request. The Foundation staff will conduct certain due diligence to ensure that, among other things, the organization is recognized by the IRS as tax deductible. The Foundation's goal is to complete its research within five (5) business days. The Foundation will make reasonable efforts to distribute the recommended grant within ten (10)

business days of the request. The current List of Approved Organizations may be found at [www.fftc.org](http://www.fftc.org).

### **Grants from Invested Funds**

Due to market fluctuations, the balance of Gift Funds qualifying for investment preferences may change between the time the Advisor recommends a distribution, and the time it is approved and processed.

### **Number of Grant Distributions**

The Foundation allows an unlimited number of distributions from each Gift Fund.

### **Grant Check Processing**

Recommendations for distributions normally will be processed within five (5) business days if the recommended charitable organizations have been qualified by the Foundation as approved. Checks to charitable organizations are accompanied by a letter from the Foundation indicating the Gift Fund name as well as the Donor's name and address, unless anonymity has been requested.

### **Anonymity**

Donors may wish to remain anonymous with regard to some or all of Gift Fund distributions. The Foundation offers three degrees of anonymity:

- ◆ **Indicate total anonymity on the Gift Fund Agreement.** Distributions made from the Gift Fund, no matter what its name, will be anonymous.
- ◆ **Give the Gift Fund an anonymous name (e.g., ABC Fund).** Distributions will be made in the name of the Gift Fund without reference to the donor.
- ◆ **Designate a particular distribution as anonymous on the distribution recommendation form,** or contact the Finance and Donor Relations Team. The Foundation staff will show that specific distribution as anonymous when the distribution check is processed.

### **Taxable Expenditures and Expense Payments**

Federal legislation currently restricts the ability of certain Gift Funds (i.e., those defined in the Internal Revenue Code as "donor advised funds") to make distributions to any individual, for any non-charitable purpose or for a charitable purpose unless the Foundation exercises expenditure responsibility to ensure that the distribution is spent only for the purposes for which it was given. Such distributions are referred to as "taxable expenditures" and can subject the Foundation and fund managers to significant excise taxes. The Foundation typically pays expenses associated with assets held in a Gift Fund (e.g., insurance costs, repairs or improvements to property, taxes, closing costs, etc.) directly with a charge from the Foundation to the Gift Fund as a part of the service fee associated with the management of the Gift Fund's assets.

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## 15 Fiscal Sponsorship Policy and Procedures

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*Effective September 2008, the Foundation placed a moratorium on new Fiscal Sponsorship Funds. The Fiscal Sponsorship Policy and Procedures (the "Procedures") apply to existing Fiscal Sponsorship Funds at the Foundation. Please contact the Finance and Donor Relations Team at (704) 973-4500 for other resources that may be available to you.*

The Procedures are intended to ensure that the activities conducted on behalf of a Gift Fund comply with applicable law and the Foundation's operational policies. All donors and Advisors are required to follow the Procedures. Failure to follow the Procedures could result in one or more of the following: a delay in acknowledgement to donors; taxation on monies raised; jeopardizing the Foundation's tax-exempt status; and the IRS failing to recognize the tax deduction claimed by the donor.

A Fiscal Sponsorship Fund is one of many types of special programs at the Foundation. Fiscal Sponsorship Funds have been initiated by one or more individuals or entities (the "Fundraising Group") at the Foundation to accomplish one or more of the following goals: (i) to provide a mechanism for raising charitable contributions for a specific charitable purpose in lieu of working with an existing charitable organization or creating a separate nonprofit organization/ and (ii) to receive assistance with fundraising, pledge management, administrative support or accounting services. Such programs may reach a point in time at which the charitable purpose of the Gift Fund has been completed. Notwithstanding the fact that a Gift Fund may be described by the Foundation as a Fiscal Sponsorship Fund, it may meet the legal definition of a donor advised fund and, hence, be subject to certain restrictions.

A "donor advised fund" means a fund or account:

- ◆ which is separately identified by reference to contributions of a donor or donors (including the naming of a fund for a donor or a member of a donor's family),
- ◆ which is owned and controlled by a sponsoring organization, and
- ◆ with respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

The first and third prongs are optional for a Fiscal Sponsorship Fund (while the second prong is, by default, met), such that classification of such a Fiscal Sponsorship Fund as a donor advised fund can typically be avoided by intentionally "failing" either the first or third prong.

Two consequences of being classified as a donor advised fund that often are directly associated with Fiscal Sponsorship Funds are:

1. The effective inability to make payments from the Gift Fund for expenses relating to fundraising; and
2. The effective inability to engage in fundraising activities.

The remaining restrictions associated with classification as a donor advised fund, as well as the consequences of violating such restrictions, are discussed in greater detail in Chapter 6. These issues must be considered when establishing a Fiscal Sponsorship Fund at the Foundation and must be discussed with the Finance and Donor Relations Team prior to the establishment of such a Gift Fund.

### **Fiscal Sponsorship Funds Applying for Grants**

Sometimes Fiscal Sponsorship Funds desire to apply for a grant from other foundations or grantmaking entities (the “Grantmaker”). Fundraising Groups who desire to apply for a grant are subject to the following:

- The Fundraising Group is responsible for preparing the grant application.
- The Fundraising Group must provide to the Foundation for review at least two (2) weeks prior to the submission deadline the draft grant application.
- The Foundation will review the draft grant application and may provide comments or request changes.
- The final grant application must be signed by both the Fundraising Group and the Foundation.
- The activities of the funded project are the sole responsibility of the Fundraising Group; the Foundation is not responsible for executing the funded project but may from time to time support such execution, provided such support is negotiated prior to submission of the grant application.
- The Foundation will monitor the Fundraising Group’s progress toward meeting the intent of the grant. The Fundraising Group is responsible for submitting any required interim or final reports to the Grantmaker, although the Foundation will support the Fundraising Group’s reporting requirements by producing financial reports within two weeks from the time such reports are requested by the Fundraising Group.

### **Fiscal Sponsorship Funds Engaging in Fundraising Events**

Sometimes Fiscal Sponsorship Funds desire to engage in a fundraising event or other solicitation to raise money (an “Event”) for the benefit of the Gift Fund. This may be beneficial when the Fundraising Group is not a nonprofit organization but wants individual donors to receive a charitable deduction. Fundraising Groups who desire to engage in an Event are subject to the following:

**Approval and Planning.** Any Event requires the approval of the President of the Foundation. The Fundraising Group must be organized in advance of any Event and have a written plan that is communicated to, and approved by, the Foundation as described below. The Foundation must receive the following information in writing at least two months prior to an Event:

1. Written proposal describing each Event;
2. Work plan or timeline;
3. Copy of proposed promotional materials, including but not limited to, tickets, flyers, brochures or other marketing resources (the “Promotional Materials”) (must be provided two months prior to Event and prior to printing);

4. List and contact information of the members of the organizing committee for the Event;
5. Fundraising Activity Form (Exhibit 15-A). This includes a budget section which asks for a detailed breakdown of revenues and expenses associated with an Event. You may attach your own budget form if it includes the same information requested in budget section; and
6. Fundraising Activity Checklist (Exhibit 15-B). This must be completed and submitted to your Foundation Relationship Manager. The Checklist is designed to ensure that the Fundraising Group has taken all the necessary steps to ensure tax deductibility for your contributors.

Please retain a copy of all submitted materials for your records. Once the Foundation has reviewed the submitted materials, your Relationship Manager will notify you with approval of the Event. Keep accurate and detailed records of all income, expenses, contributions and event planning steps. After the Event, the Fundraising Group is required to provide to the Foundation the Fundraising Event Summary Sheet (Exhibit 15-C).

**Liability Insurance and Liability for Losses.** The Fundraising Group must contact the Foundation to assess the need to secure liability insurance. Proof of liability insurance coverage must be provided in writing to the Foundation at least two weeks prior to the Event. The policy must have minimum coverage of \$1 million and name the Foundation as insured. The Fundraising Group also must have Social Host Liability coverage of at least \$1 million if alcohol will be served at the Event. The Fundraising Group is responsible for all financial losses incurred by Events and any injuries to persons or property. The Foundation may require the Fundraising Group to purchase a letter of credit or to provide a written personal guarantee in addition to the insurance coverage required.

**Promotional Materials and Foundation Identity.** All Promotional Materials must clearly state that funds are being raised “on behalf of Fund Name, a component fund of Foundation For The Carolinas.” The Foundation must review and approve in advance all uses of its name, logo, and description in all Promotional Materials.

**Collection and Receipt of Contributions.** The Foundation will receive and deposit all contributions to the Gift Fund in a timely manner. To ensure prompt availability of funds, checks related to the Event must be made payable to “Foundation For The Carolinas” or “FFTC,” with the name of the Gift Fund in the memo. Any check made payable to an individual will be returned. All checks and cash receipts shall be deposited without reduction for any expenses. All proceeds must be delivered to the Foundation, together with an accounting of all funds received, within ten (10) business days of the Event, including the following information for each contribution:

- ◆ Donor’s complete name, address and phone number (may be included on check or payment)
- ◆ Date and amount of contribution
- ◆ Form of payment
- ◆ Fair market value of the goods or services received by the donor, if any

Although cash contributions are accepted, the Foundation is **not** able to provide a tax acknowledgement for cash donations and thus suggests encouraging your donors to make contributions by credit card or check to ensure they receive proper tax credit.

**Tax Requirements and Acknowledgements.** The IRS imposes strict requirements regarding documentation of charitable donations. Failure to comply with these requirements may result in the denial of a tax deduction for donors and may bring additional penalties from the IRS. In order for donors to receive a charitable deduction, the Fundraising Group should understand and follow the guidelines below throughout the course of the Event. While not an exhaustive list, these are some common scenarios encountered during Events. ***It is the responsibility of the Fundraising Group to disclose the following limitations and restrictions to potential donors on all Promotional Materials:***

- ◆ ***Quid Pro Quo Disclosures.*** A *quid pro quo contribution* is a payment made to a charity by a donor partly as a contribution and partly for goods or services (e.g., food, beverages, a round of golf) provided to the donor in exchange for the donation. If the donor will receive goods or services in exchange for a donation, the Fundraising Group is required to make certain disclosures (a quid pro quo disclosure) upon solicitation. The value of the goods and services received by the donor is **not** tax-deductible and the Fundraising Group must provide to the donor a good faith estimate of the fair market value of the benefit(s) received by the donor. The Foundation will assist the Fundraising Group in determining the fair market value, but reserves the right to determine such value. The Quid Pro Quo Disclosure can be accomplished through language on the Event ticket. The Foundation will assist the Fundraising Group in determining the appropriate language for the Event; however the Fundraising Group is responsible for ensuring that the required quid pro quo disclosures are made.
  - For example, if the Fundraising Group is sponsoring a dinner, the donor can deduct the excess of the ticket price above the fair market value of the meal. The Fundraising Group should include on the Event ticket the following:
    - Fund Name, a component fund of Foundation For The Carolinas, is raising money for \_\_\_\_\_. The ticket price of \$100 includes a dinner, valued at \$30, which results in a tax-deductible gift of \$70.
  - Even if the goods or services provided to the donor are donated to the Fundraising Group (for instance, a local restaurant donates the food for the dinner), a fair market value must be assessed and deducted from the contribution.
  - If the donor refuses any goods or services, the donor may receive a tax deduction for the full amount, provided that the donor states in advance and in writing that he or she is refusing all benefits.
- ◆ ***Non-deductible contributions.*** The following items are generally **not** tax-deductible and should be clearly marked as such:
  - Purchase of raffle tickets. The donor is purchasing a chance of winning a good or service valued above the price of their raffle ticket. Due to restrictions imposed on charitable organizations under North Carolina law, funds at the Foundation, including Fiscal Sponsorship Funds, are prohibited from engaging in raffles and other games of chance.

- Purchase of rummage or yard sale items.
- Purchase of auction items. Generally, the purchase of an auction item is not tax-deductible. However, if the donor pays for an auction item an amount in excess of the fair market value of such item, the payment is considered a quid pro quo contribution and the amount of the excess may be deducted. For such excess to be tax deductible, the fair market value of auction items must be calculated prior to the auction and provided to potential purchasers and the Foundation.

The Fundraising Group should consult their tax professional for deductibility of the following items:

- Gifts of services, e.g. a graphic designer designs the invitation for an event gratis
- Gift of use of property, e.g. free event space

**Contribution Acknowledgements.** Donors who contribute \$250 or more to a Gift Fund must obtain a written acknowledgment from the Foundation in order to claim a tax deduction for such contribution.

- ◆ **Payment of Expenses.** It is the responsibility of the Fundraising Group to maintain appropriate financial records throughout the Event. A Fundraising Event Summary Sheet (Exhibit 15-C) must be submitted to the Foundation within ten (10) business days of the conclusion of the Event. The Foundation will only pay expenses for which proper documentation, such as an invoice or original receipt, has been provided. All fundraising expenses will be paid within ten (10) business days after the Foundation receives proper documentation. All fundraising expenses will be paid from the Gift Fund for which the money is being raised.

The Fundraising Group should ask all vendors to bill the Foundation directly. Any invoices from third party vendors received by the Fundraising Group must also be submitted to the Foundation with the Fundraising Event Summary Sheet. **Fundraising Group members should not reimburse themselves before submitting the proceeds to the Foundation.** Fundraising Group members will only be reimbursed if they submit receipts or copies of receipts to the Foundation with the Fundraising Event Summary Sheet.

**State Solicitation of Contributions Acts.** Activities undertaken by nonprofit groups in order to raise funds may be subject to regulation under one or more state statutes. The primary purpose of state solicitations acts is to protect the general public and public charities from unlawful solicitation and to provide for the establishment of basic standards for the solicitation and use of charitable funds. To ensure compliance with these laws, Fundraising Groups may be required to post certain information at the Event.

#### **Pledge Management Policy and Procedures**

The Foundation may offer pledge management services to your Fiscal Sponsorship Fund including recording, billing and collecting pledges for various types of fundraising efforts:

- ◆ **Recording of pledges.** The Statement of Financial Accounting Standards No. 116 (SFAS 116) requires pledges to be recorded when written documentation is received from the donor, clearly indicating an unconditional promise to make a contribution to a Gift Fund.
- ◆ **Matching pledges.** Under accounting standards, matching pledges may be recorded only when the payment to be matched is made. A matching pledge will be recorded at the time payment is received from the donor with the appropriate documentation requesting the match.
- ◆ **Doubtful accounts.** Accounting standards require an organization to consider an allowance for doubtful accounts. Due to the various campaigns managed by the Foundation, a standard percentage allowance for doubtful accounts is not practicable. It is the Foundation's policy to write off pledges if payments are past due over one year. Subsequent collection of any pledges previously written off will be recorded as gifts in the applicable Gift Fund.

**Foundation Pledge Procedures.** The Foundation uses the following pledge procedures:


- ◆ Donors may determine which payment terms best suit their needs within the parameters established by the Foundation. Payments can be made semi-annually or annually, with pledge reminders being mailed at the beginning of the month in which the pledge payment is due.
- ◆ Pledge reminders will be mailed on a six-month cycle. For example, if a payment is due in June and payment is not received, a reminder will be sent the following December. If payment is not received within this time frame, the Foundation will write off the pledge in question and turn a listing over to the Advisor for further attempt at collection.


#### **Service Charges for Fiscal Sponsorships**


Service charges for Fiscal Sponsorships are established on a case-by-case basis by the Foundation.


## FFTC Fundraising Activity Checklist

Event Name: \_\_\_\_\_ Event Date: \_\_\_\_\_  
 Fund Name: \_\_\_\_\_ Fund #: \_\_\_\_\_

<b>Fundraiser Planning</b>		Date Completed
Complete and submit Fundraising Activity Form at least two months prior to the Event	<input type="checkbox"/>	
Create budget (part of Fundraising Activity Form) and submit at least two months prior to the Event	<input type="checkbox"/>	
Obtain approval of Event and budget from FFTC	<input type="checkbox"/>	
Secure liability insurance needs	<input type="checkbox"/>	
Contact FFTC regarding web presence for credit card donations, if applicable	<input type="checkbox"/>	
Confirm compliance with all federal and state laws and local ordinances	<input type="checkbox"/>	

<b>Promotional Materials</b>		Date Completed
Clearly state on all fundraising materials that funds are being raised to support the “_____ <b>Fund</b> , a component fund of FFTC”	<input type="checkbox"/>	
Disclose quid pro quo tax deduction guidelines to potential donors at the time of solicitation if goods or services will be provided to donors	<input type="checkbox"/>	
Send drafts for all Promotional Materials for event (i.e. tickets, brochures, etc.), in advance of printing, as well as any material using FFTC’s name or logo	<input type="checkbox"/>	
Send final copies of all promotional materials to FFTC	<input type="checkbox"/>	

<b>Expenses</b>		Date Completed
Determine fair market value of goods and services received by donors	<input type="checkbox"/>	
Determine how expenses will be paid	<input type="checkbox"/>	
Submit receipts for all fundraising event expenses incurred by fundraising group members to FFTC within 10 business days following the event	<input type="checkbox"/>	
Submit to FFTC any invoices from third party vendors that did not directly bill FFTC within 10 business days following the event	<input type="checkbox"/>	

<b>Contributions</b>		Date Completed
Have all contribution checks made payable to “Foundation For The Carolinas” or “FFTC” with the name of the fund in the memo	<input type="checkbox"/>	
Make donors aware that credit card donations are possible through FFTC’s website (if applicable)	<input type="checkbox"/>	
Make donors aware that contributions made in the form of cash will not receive tax acknowledgement by the FFTC (donor information cannot be substantiated)	<input type="checkbox"/>	
Deliver all proceeds to FFTC within 10 business days following the event	<input type="checkbox"/>	
Supply all donor information to FFTC for acknowledgements within 10 business days following the event	<input type="checkbox"/>	
If an auction was held, provide FFTC with fair market value of items auctioned off and the price the respective donor paid for each item at the time proceeds are deposited	<input type="checkbox"/>	

## FFTC Fundraising Activity Form

Please submit this form to your FFTC relationship manager at least **2 months prior** to each event.

Event Name: \_\_\_\_\_ Event Date: \_\_\_\_\_  
 Fund Name: \_\_\_\_\_ Fund #: \_\_\_\_\_  
 Event Location & Address: \_\_\_\_\_

Fundraising Group Contact Person: \_\_\_\_\_ Preferred Contact Information: \_\_\_\_\_

Description of Event: \_\_\_\_\_

How will the event be marketed? (Please attach promotional materials, i.e., brochures, tickets.) \_\_\_\_\_

Does the event location provide liability insurance? Yes  No   
 If not, have you secured liability insurance from an external vendor? Yes  No

Goods/Services donors will receive in return for contributions (i.e. t-shirt, dinner, alcohol), regardless of whether such goods or service were donated for the Event. Please feel free to attach another page if necessary, especially if there are different levels of sponsorship.

Ex. "T-shirt"	valued at	_____	\$10
_____	valued at	_____	
_____	valued at	_____	
_____	valued at	_____	
_____	valued at	_____	

**Total Fair Market Value of goods or services received by donor:** \_\_\_\_\_

### FUNDRAISING BUDGET (Attach additional pages, if necessary)

REVENUES	EXPENSES
Price of Ticket _____	_____
x Number of Attendees _____	_____
= Admission Income _____	_____
Other Sources of Revenue (e.g., auction, sales): _____	_____
_____	_____
_____	_____
_____	_____
<b>Total Estimated Revenue</b> _____	<b>Total Estimated Expenses</b> _____

**PROJECTED NET REVENUE** (Total Revenue - Total Expenses) \_\_\_\_\_

Event Coordinator Signature: \_\_\_\_\_  
 \_\_\_\_\_  
 (Name & Title) (Date)

Fund Advisor Signature: \_\_\_\_\_  
 \_\_\_\_\_  
 (Name & Title) (Date)

## FFTC Fundraising Event Summary Sheet

*Please complete and submit this form along with any remaining deposits or requests for expense reimbursements, no later than 10 business days following the Event to FFTC.*

Event Name: \_\_\_\_\_ Event Date: \_\_\_\_\_  
 Fund Name: \_\_\_\_\_ Fund #: \_\_\_\_\_

Fair Market Value of goods or services received by each donor at event (dinner, beverages, t-shirts):

Ex. T-shirt	valued at	\$10
_____	valued at	_____
_____	valued at	_____
_____	valued at	_____
_____	valued at	_____

**Total Fair Market Value of goods or services received by donor:** \_\_\_\_\_

### FINANCIAL SUMMARY

*(Attach additional pages, if necessary)*

<b>ACTUAL REVENUES RECEIVED</b>	<b>ACTUAL EXPENSES INCURRED</b> <i>(itemize all expenses)</i>
Admissions _____	_____
Sponsorships _____	_____
Contributions _____	_____
Other Sources of Revenue <i>(e.g. auction, sale):</i> _____	_____
_____	_____
_____	_____
_____	_____
<b>Total Revenue Received</b> _____	<b>Total Expenses Incurred</b> _____
<b>NET REVENUE</b> <i>(Total Revenue Received - Total Expenses Incurred)</i> _____	_____

**Please attach the following:**

1. Donor information (if not included with actual contribution) for acknowledgement by Foundation- name, address, phone #, date, amount of contribution, type of contribution, fair market value of items or services received by donor. If auction was held, list items, their value, contributor information and amount donor paid for each.
2. Receipt copies for all expenses paid by fundraising group members as well as any invoices from third party vendors.

Event Coordinator Signature: \_\_\_\_\_  
(Name & Title)
(Date)

Fund Advisor Signature: \_\_\_\_\_  
(Name & Title)
(Date)

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## 16 Ethics Policy

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The following outlines the ethics as adopted by the Foundation's Board of Directors.

### **PREAMBLE**

This Ethics Policy is adopted by the Board of Directors (collectively, the "Board" or the "Directors" and individually a "Director" or a "Member") of Foundation For The Carolinas ("FFTC"). The Board is committed to maintaining the highest legal and ethical standards in the conduct of the business of FFTC, and to protecting the integrity and reputation of FFTC, the Board and all the employees, donors, volunteers and programs of FFTC.

Under established principles of law and sound business ethics, the Directors and the employees of FFTC (the "Staff") are responsible for exercising their duties honestly, in good faith, and with a reasonable amount of diligence and care. Accordingly, the Directors and Staff have an obligation to keep the welfare of FFTC at all times paramount in order to ensure that they 1) do not compromise their independence of judgment, 2) preserve confidence and trust in the organization and the Board, and 3) protect and fulfill the mission of FFTC. Every Director and member of the Staff has a duty of loyalty to FFTC. Therefore, other activities and financial interests must be arranged so as not to interfere with the primacy of that commitment. This policy will assist Directors and Staff as they identify actual or potential Conflicts of Interest and provide the Board with a procedure to address any Conflicts of Interest.

### **I. ETHICAL PRINCIPLES**

- A. Personal and Professional Integrity.** The Board and Staff, as well as volunteers and advisors of FFTC, must conduct themselves in an honest and ethical manner, including the ethical handling of actual or apparent Conflicts of Interest, as set forth below.
- B. Financial Stewardship.** FFTC manages its funds responsibly and prudently. It oversees the funds entrusted to it consistent with donor intent and to support the public purpose of FFTC and the communities in which it operates. It ensures that all spending practices and policies are reasonable and appropriate and all financial reports are factually accurate and complete in all material respects. As a tax-exempt charity, FFTC uses and expends its funds in a manner that advances the charitable mission and objectives of FFTC and not the private interests of Directors or Staff.
- C. Fundraising and Donor Relations.** Solicitation of donors will be respectful of the needs and interests of the donor or potential donor. FFTC will assure that gifts will be used for the purposes for which they were given and respect the privacy of individual donors and funds.
- D. Grantmaking.** FFTC will have constructive relationships with grant seekers based on mutual respect and shared goals, and will seek to understand and respect the mission, organizational capacity and needs of grant seeking organizations.
- E. Inclusiveness and Diversity.** FFTC seeks to promote inclusiveness and diversity among its Staff, Board and community partners and hopes to benefit from the perspectives of many different individuals and organizations within the community.
- F. Public Accountability.** FFTC provides comprehensive and timely information to the public and is responsive to reasonable requests for information about its activities. Basic informational data about FFTC such as the IRS Form 990, audited financial statements and Annual Report are available to the public.
- G. Accuracy and Retention of Records.** FFTC will create and maintain records that satisfy operational and legal requirements including federal, state and local laws.
- H. Political Activities.** FFTC is regulated in its political activities by the Internal Revenue Code and its tax-exempt status is in part dependent upon how and whether it conducts political activities. Unless otherwise expressly authorized by the CEO, Board, Staff, volunteers, vendors and contractors must not use their relationship with FFTC to promote

or oppose candidates or parties or to create the appearance that FFTC endorses or opposes a candidate or party.

- I. **Endorsements and Use of FFTC's Name.** FFTC's name may not be used by any person to endorse or gain support for a cause without express authorization from FFTC.
- J. **Questions, Concerns or Reports of Violations.** Questions should be directed to one or more of the following, the Chair of the Board of Directors, the CEO or the EVP. If you believe a colleague is violating the obligations or expectations of this Section I, or otherwise acting in an illegal or unethical manner, it is your duty to report it. Doing so is not an act of disloyalty, but of loyalty to FFTC and the principles that it intends to uphold and the type of community that it hopes to foster in all areas of its service. A report also safeguards the reputation and assets of FFTC, and can safeguard an individual from criminal, civil or disciplinary action for failure to report a crime or ethical lapse.
- K. **Staff Obligations.** In addition to this policy, staff members shall also be obliged to conduct themselves in accordance with, among other things, the employee policies of FFTC, such as the employment conflicts of interest policy.

## II. BOARD CONFLICTS OF INTEREST

- A. **Standard of Disclosure.** For purposes of this policy, the standard of disclosure shall be to the best knowledge and belief of the disclosing party.
- B. **Conflict of Interest Defined.** For purposes of this policy, the following circumstances shall be deemed to create potential Conflicts of Interest:
  - 1. **Direct Interest:**
    - a. A Director or Family Member has an existing or potential Material Financial Interest in a Transaction that impairs or might reasonably impair the independent, unbiased judgment of the Director in the discharge of his or her responsibilities to FFTC; or
  - 2. **Indirect Interest:**
    - a. A Director has a Material Financial Interest in another entity which is a party to the Transaction, including without limitation a Potential Grant Recipient; or
    - b. A Director or Family Member has a Material Affiliation or other relationship with the other parties to a Transaction, including without limitation a Potential Grant Recipient; or
    - c. A Director has a Material Affiliation with another entity that is a party to the Transaction, including without limitation a Potential Grant Recipient.
  - 3. **Disclosure of Client Names:** Nothing herein shall require that any Director disclose the name of a client or clients in order to disclose a Conflict of Interest. It shall be sufficient that a Director discloses a potential Conflict of Interest, with names excluded.
- C. **Other Definitions.**
  - 1. **Affiliation or Affiliate.** A Director has an affiliation or is affiliated with an entity if he or she or any of his or her Family Members holds any of the following positions with such entity:
    - a. member of the Board of Directors or other governing body;
    - b. member of any committee or subcommittee of any governing body;
    - c. trustee;
    - d. officer;
    - e. employee;
    - f. consultant with sufficient influence to control or substantially benefit from the affairs of the entity;
    - g. donor of sufficient amounts to control or substantially benefit from the affairs of the entity;

- h. volunteer with sufficient influence to control or substantially benefit from the affairs of the entity, or
  - i. other position of influence, if the influence is sufficient to control or substantially benefit from the affairs of the entity.
2. **Confidential Information:** Including but not limited to any information marked or otherwise noted by FFTC as confidential, any proprietary information of FFTC, or any non-public information that might be useful to any party if disclosed. Provided that, any information that is otherwise public or any information disclosed under power of subpoena, shall not be construed to be Confidential Information.
  3. **Conflict of Interest:** Any circumstance described in II.B above..
  4. **Family Member:** Any spouse, child, parent, domestic partner, spouse of a child or person living in the household of a Director.
  5. **Material Affiliation:** An affiliation that impairs or might reasonably impair the independent unbiased judgment of the Director in the discharge of his or her responsibilities to FFTC.
  6. **Material Financial Interest:** A direct or indirect (through an Affiliate or Family Member) ownership interest of sufficient amount to provide influence over the activities of any corporation, partnership, limited liability company, unincorporated association or other entity, or ownership of a general partnership interest of any size.
  7. **Potential Grant Recipient.** Any person, organization or entity that has applied to FFTC for a competitive grant of money or services.
  8. **Transaction.** Any agreement, relationship or activity to which FFTC is a party that involves:
    - a. the sale or purchase of goods or services, including without limitation real property, personal property, goods, services or rights of any kind, or
    - b. providing or receipt of a loan or grant of any kind.

**D. Procedures.**

1. **Prior Disclosure.** The disclosure of a Conflict of Interest should occur prior to entering into the proposed Transaction and prior to any consideration of the proposed Transaction by the Board.
  - a. **Transaction Subject to Board Action**
    - 1) **When in Attendance:** Prior to Board action on a Transaction involving a Conflict of Interest, a Director having a Conflict of Interest, who is in attendance at the meeting at which the Transaction shall be considered, shall disclose all facts material to the Conflict of Interest, except client names as provided in II.B.3. Such disclosure shall be made as soon as the Conflict of Interest is known to the Director.
  - b. **Transaction Not Subject to Board Action.** A Director who has a Conflict of Interest with respect to a Transaction that is not the subject of Board action shall disclose to the Chair of the Board any such Conflict of Interest. Such disclosure shall be made as soon as the Conflict of Interest is known to the Director.
  - c. **Untimely Disclosure.** If a Director fails to disclose the Conflict of Interest before the Board acts on a Transaction as to which a Director has a Conflict of Interest, then the Director shall promptly submit a written statement to the Board setting forth all facts material to the Conflict of Interest, along with an explanation concerning the untimely nature of the notice.
  - d. **Failure to Disclose.** If the Board has reasonable cause to believe that a Director failed to disclose an actual or potential Conflict of Interest, the Board shall inform the Director of the basis for such belief and afford the Director an opportunity to explain the alleged failure to disclose. After hearing the Director's explanation and conducting such investigation as may be warranted under the circumstances, the Board may determine

that the Director failed to disclose an actual Conflict of Interest. In such event, the Board shall vote on corrective action, which shall be either reprimand (confidential or public, in the discretion of the Board) or dismissal from the Board.

## 2. **Vote by Disinterested Board Members.**

- a. **Nonparticipation of Board Member with Conflict.** A Director who has a Conflict of Interest shall not vote nor participate in nor be permitted to hear the Board's discussion of the matter, except to disclose material facts and to respond to questions. Such Director shall not attempt to exert his or her influence with respect to the matter, either during or outside the meeting.
- b. **Action by Disinterested Board Members.** After disclosure of a potential Conflict of Interest, disinterested members of the Board shall determine whether a Conflict of Interest exists. If the Board concludes that a Conflict of Interest exists, the Board shall determine by voting whether the Transaction should be authorized, approved or ratified. The vote shall be conducted as follows:
  - 1) **Conflict Directors Depart.** Directors with a Conflict of Interest shall leave the room in which the meeting is conducted.
  - 2) **Majority of Disinterested Directors Required to Approve.** A majority of the disinterested Directors, without regard to any quorum requirement, must vote affirmatively for the Transaction to be authorized, approved or ratified. However, a Transaction cannot be authorized, approved or ratified by a single Director.
  - 3) **Vote Not Disallowed by Presence of Conflict Directors.** The presence of or a vote cast by a Director with a Conflict of Interest in a Transaction does not affect the validity of a vote regarding the Transaction, if the Transaction otherwise is authorized, approved or ratified as prescribed in subsection 2.b.2).

E. **Documentation.** The Board Secretary shall keep accurate minutes reporting:

1. **Conflict Disclosed.** That the Conflict of Interest was disclosed;
2. **Nonparticipation of Board Member with Conflict.** That the Director or Directors with a Conflict of Interest left the room and did not participate in the vote regarding the Transaction; and
3. **Vote of Disinterested Board Members.** That the remaining, disinterested Directors reviewed the Transaction and voted upon it, and the result of their vote.

F. **Purchase and Sale of Securities.** Typically Directors will not have knowledge of specific securities transactions conducted by FFTC or investment managers hired by FFTC. However, choice of investment managers can create a potential Conflict of Interest.

G. **Reporting Potential Conflicts of Interest.** A Director shall report violations or concerns regarding potential violations of this policy, and violations or concerns regarding potential violations of laws, regulations, rules, practices, procedures or other policies to the Chair, Vice Chair or staff of the Board as appropriate as soon as possible. If a Director is uncertain regarding whether a particular act or situation is unethical or illegal, he or she shall disclose the circumstances to the Chair of the Board.

## III. **CONFIDENTIALITY**

- A. **No Improper Disclosure.** A Director shall exercise care not to disclose Confidential Information.
- B. **No Use of Information for Personal Benefit.** A Director shall not use FFTC property, Confidential Information or the status of his or her position to solicit business for others or in any other manner obtain a private financial, social or political benefit.

## IV. **FAIR DEALING**

Every Director shall deal fairly with FFTC's staff, donors, volunteers, vendors, customers, suppliers and others. Directors shall not take unfair advantage of anyone or any situation through manipulation, concealment, abuse of Confidential Information, misrepresentation of facts or any unfair practice.

## V. DISCLOSURE AND ANNUAL REVIEW

- A. **New Board Members.** Each new Director shall review a copy of this policy and shall complete the Annual Statement of Disclosure and Compliance attached hereto.
- B. **Annual Review.** Each Director shall annually complete the Annual Statement of Disclosure and Compliance. The Board shall treat completed Annual Statements of Disclosure and Compliance as Confidential Information.

**Foundation For The Carolinas  
ANNUAL STATEMENT OF DISCLOSURE AND COMPLIANCE**

I have reviewed the Foundation For The Carolinas ("FFTC") Ethics Policy. If a possible ethical issue arises in my responsibilities to FFTC, I recognize that I have the obligation to call it to the attention of the Board of Directors as set forth in the Ethics Policy and to follow the Ethics Policy as to any consideration of any potential Conflict of Interest or other ethical matter.

To the best of my knowledge, the following is a listing of all organizations, institutions, corporations, partnerships or other associations or entities in which I have a Material Financial Interest (direct or indirect, as defined in the Ethics Policy) or with which I am Affiliated (also as defined in the Ethics Policy). Client names need not be disclosed if they are protected by confidentiality agreements or codes of professional ethics, but potential Conflicts of Interest, without disclosure of such client names, must be noted at the time they arise.

Please describe below or on a separate sheet any relationships, positions or circumstances in which could raise an ethical issue.

**Organization/Entity**

**Position/Affiliation**

**I hereby certify that the information set forth on this page and any attachments is true and complete to the best of my knowledge.**

\_\_\_\_\_  
Name

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

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## 17 Information Printed in This Guide

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The information contained in this Guide is current as of the date noted in the footer. The Foundation will make reasonable efforts to keep this policy statement up-to-date. From time to time, changes or additions may be possible. This Guide is prepared for informational purposes and is intended to provide only a general overview of the charitable giving process and related opportunities with the Foundation and cannot be expected to provide a full analysis and discussion of all relevant facts and law in a particular situation. Indeed, every donor and donation is unique. Accordingly, the Foundation encourages potential donors to consult with legal, tax, financial or other professional advisors for appropriately detailed and comprehensive advice prior to making any charitable gifts, whether to the Foundation or any other nonprofit organization.

**IRS CIRCULAR 230 NOTICE:** In order to comply with certain IRS regulations regarding tax advice, we inform you that, unless expressly stated otherwise, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for purposes of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.