

CITY OF CHARDON

GIFT ACCEPTANCE POLICY

POLICY NUMBER: TC-2

DISTRIBUTION: All Departments

EFFECTIVE: August 9, 2007

The City of Chardon, Ohio, a municipal corporation organized under the laws of the State of Ohio, encourages the solicitation and acceptance of gifts to the City of Chardon hereinafter referred to as Chardon) for any purpose that will assist Chardon to provide services to its residents. The following policy and guidelines govern acceptance of gifts made to Chardon or for its programs, projects, or services.

I. Purpose:

The Council of the City of Chardon appreciates current and deferred gifts from individuals, corporations, and foundations for future municipal growth and enhancement of current services and facilities. This policy and the guidelines shall govern the acceptance of gifts by Chardon and provide guidance to prospective donors and their advisors when making a gift to Chardon. This policy and the guidelines shall apply to all gifts received by Chardon for any of its programs, projects or services unless the requirements herein are waived by vote of five members of Council.

II. Legal Advice:

The City of Chardon may seek the advice of its Law Director before accepting a gift. Review by the Law Director is recommended whenever:

- A. The proposed gift is closely-held stock subject to restrictions or buy-sell agreements.
- B. Documents naming the City of Chardon as Trustee.
- C. Contracts, such as bargain sales or other agreements requiring Chardon to assume an obligation or financial liability.
- D. Transactions involving a potential conflict of interest with municipal officials that may invoke IRS sanctions.
- E. Other instances in which the advice of the Law Director is deemed appropriate by the Council.

III. Conflict of Interest:

Chardon will urge a prospective donor to seek the assistance of personal legal and financial advisors for guidance and advice concerning tax and estate planning consequences. Chardon shall comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving, attached as an appendix to this document and incorporated herein by reference as though fully rewritten.

IV. Restrictions on Gifts; Acceptance

Chardon will accept unrestricted gifts and gifts for specific programs and purposes, such as a capital improvement. Every gift shall be consistent with a proper municipal purpose, the Codified Ordinances and state and federal law. Council will not accept a gift to the City that Council deems too restrictive in purpose or difficult to administer, which violates these guidelines, or which does not fulfill a proper municipal purpose.

Acceptance of gifts by the City shall be by resolution, ordinance or motion passed by Council. The City Manager on behalf of the City of Chardon shall notify the donor and acknowledge receipt of the gift within ten days of acceptance by Council. When appropriate, the Manager shall also issue a press release acknowledging receipt of the gift by the City of Chardon, with details thereof. The use of the donor's name, or another name suggested by the donor, shall not be a condition of any gift unless approved by resolution of Council.

V. Types of Gifts:

- A. The following types of property are acceptable:
 - 1. In kind gifts with a fair market value of less than \$200
 - 2. Cash
 - 3. Tangible Personal Property
 - 4. Securities
 - 5. Real Estate
 - 6. Remainder Interests in Property
 - 7. Oil, Gas, and Mineral Royalties
 - 8. Bargain Sales
 - 9. Life Insurance
 - 10. Charitable Gift Annuities
 - 11. Charitable Remainder Trusts
 - 12. Charitable Lead Trusts
 - 13. Retirement Plan Beneficiary Designations
 - 14. Life Insurance Beneficiary Designations
 - 15. Bequests of any of the above property.

- B. It is suggested that the donor meet with City officials to discuss the gift, to review the policy and to disclose any restrictions or conditions upon the gift proposed by the donor.

- C. The City Manager, Finance Director and Mayor shall review all proposed gifts and make a recommendation to Council to accept or reject a gift.

- D. The following criteria govern the acceptance of each gift:
 - 1. **Cash**: Cash is acceptable in any form. Checks shall be made payable to the City of Chardon and shall be delivered to the Finance Director at

the City of Chardon's administrative office at the Municipal Center Building, 111 Water Street, Chardon, OH 44024.

2. **Tangible Personal Property:** Acceptance of gifts of other tangible personal property shall be considered in light of the following criteria:

- Is acceptance of the property for a proper municipal purpose?
- Is the property marketable?
- Are there restrictions on the use, display, or sale of the property?
- Are there any carrying costs for the property?

3. **Securities:** The City of Chardon may accept both publicly traded securities and closely-held securities, subject to the following guidelines.

a. **Publicly Traded Securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by Council. Marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by Council.

b. **Closely-Held Securities:** Closely-held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, shall be accepted by Council so long as:

- restrictions on the security do not prevent the City of Chardon from converting the security to cash,
- the security is marketable, and
- the security will not generate an undesirable tax consequence for the City of Chardon

Council may consult a securities consultant before making its final decision on acceptance of the gift.

Non-marketable securities are not acceptable.

4. **Real Estate:** Gifts of real estate may include developed property, undeveloped property, or gifts subject to life interests. An initial environmental impact study of the property shall be obtained to ensure that the property does not require environmental remediation. Environmental inspection forms are attached as an appendix to this document. In the event that the inspection form indicates no potential hazardous waste on the real property, Council may waive the

environmental impact study. The cost of an environmental impact study shall generally be paid by the donor.

A title insurance binder shall be obtained by the City of Chardon prior to the acceptance of the real property. The cost of this binder shall generally be an expense of the donor unless waived by Council and paid by Chardon.

Prior to acceptance of the real property, the gift shall be approved by Council and accepted by ordinance. Criteria for acceptance of the property shall include:

- Does Chardon have a use for the parcel(s) of property?
- Is the property marketable?
- Are there any restrictions, reservations, easements, or other limitations associated with the use or sale of property?
- Are there carrying costs associated with the property, such as insurance, stewardship fees, property taxes, mortgages, or other liens?
- Are there environmental hazards or conditions that require remediation?

5. **Remainder Interests In Property:** Chardon will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph 4. above. The donor or other occupants may occupy the real property for the duration of the stated life estate. At the death of the life estate holder(s), Chardon may use the property or sell it. Chardon shall not accept a gift of a remainder interest in the real property unless the expenses for maintenance, repair, real estate taxes, reconstruction, property indebtedness, insurance, liens and all other related expenses shall be paid by the donor or life estate tenants. If Chardon is the primary beneficiary, the foregoing costs shall be paid by Chardon only at the time it is entitled to legal possession of the property. Chardon may liquidate the property to pay such expenses, or Council will secure another manner of resolving any property indebtedness or other expenses.

6. **Royalties from Oil, Gas, and Mineral Interests:** Chardon may accept royalties from oil, gas and other mineral interests only when the gift is separated from the real property. Criteria for acceptance of the royalties from mineral interests shall include:

- Gifts of oil, gas and mineral interests shall generate at least \$3,000 per year in royalties or other income (determined by averaging the royalties for the three prior years).
- The right to receive royalties shall not include liabilities or other considerations that make receipt of the gift inappropriate.

7. **Bargain Sales:** Chardon may enter into a bargain sale agreement when the bargain sale furthers any municipal purpose of the City of Chardon. All bargain sales must be reviewed and recommended by the City Manager, Finance Director and Law Director. Factors to consider before approving a bargain sale include:
- Either Seller or Chardon must obtain and pay for an independent appraisal substantiating the value of the property.
 - If the City of Chardon assumes debt with the property, the amount of debt must be less than 50% of the appraised market value.
 - Council must determine that the property has a useful municipal purpose, or market conditions are favorable for sale of the property within 12 months of receipt.
 - The City of Chardon shall calculate the costs to maintain, repair, insure, and hold the property (including property tax, if applicable) during its ownership.
8. **Life Insurance:** The City of Chardon must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy will be accepted as a gift. The gift shall be valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, the City of Chardon will include the amount of the additional premium as a gift in the year that it is paid.

If the donor does not make gifts to pay the life insurance policy premium, the City of Chardon may:

- pay the premiums,
- convert the policy to paid up insurance, or
- surrender the policy for its current cash value.

9. **Charitable Gift Annuities:** Chardon may offer charitable gift annuities. The minimum gift for funding is \$10,000, or such other amount as Chardon may approve. The minimum age of a life income beneficiary shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semi-annual, or annual schedule, or such other payment schedule as Council may approve.

Chardon shall not accept real or tangible personal property in exchange for a current charitable gift annuity. Chardon may accept real or tangible personal property in exchange for a deferred gift annuity so long as the commencement of the annuity payment date is no less than five years from the date received, the value of the property is reasonably certain, and Council approves the arrangement.

Funds contributed in exchange for a gift annuity shall be segregated in a separate account and invested during the term of the annuity payments. After the payments have terminated, the principal balance contributed in exchange for the gift annuity shall be transferred to one of Chardon's capital funds, or to such specific fund as designated by the donor.

10. **Charitable Remainder Trusts:** Council may consent to and approve Chardon's designation as the remainder beneficiary of a charitable remainder trust. Council shall not approve the appointment of the City of Chardon or any municipal official as Trustee of a charitable remainder trust.
11. **Charitable Lead Trusts:** Council may consent to and approve Chardon's designation as an income beneficiary of a charitable lead trust. Council shall not approve the appointment of the City of Chardon or a municipal official as Trustee of a charitable lead trust.
12. **Retirement Plan Beneficiary Designations:** Donors and supporters of the City of Chardon are encouraged to name the City of Chardon as beneficiary of their retirement plans. Such designation shall not be accepted as a gift until the designation is irrevocable. When the designation is irrevocable, but is not due until a future date, the present value of the gift may be accepted when the designation becomes irrevocable.
13. **Bequests:** Donors and supporters of the City of Chardon are encouraged to make bequests of property acceptable hereunder to the City of Chardon in their wills and trusts. A bequest shall not be accepted as a gift until the gift is vested. When the gift is not due until a future date, the present value of that gift may be accepted when the gift becomes irrevocable.
14. **Life Insurance Beneficiary Designations:** Donors and supporters of the City of Chardon will be encouraged to name the City of Chardon as the beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be accepted as gifts to the City of Chardon until the beneficiary designation is irrevocable. When the gift is irrevocable but is not due until a future date, the present value may be accepted at the time the beneficiary designation becomes irrevocable.

VII. Miscellaneous Provisions:

- A. **Securing appraisals and legal opinions; expenses related to gifts to the City of Chardon:** The City of Chardon requests that the donor secure and pay for an appraisal (where required), and the advice of independent legal counsel for all gifts made to the City of Chardon. Council may authorize the City of

Chardon to pay expenses related to the acceptance of a gift or waive any fees which may otherwise be required by Chardon.

- B. **Valuation of gifts for development purposes:** The City of Chardon will record a gift accepted by the City of Chardon at its valuation for gift purposes on the date of gift.
- C. **Responsibility for IRS Filings upon sale of gift items:** The Finance Director is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the City of Chardon when the charitable deduction value of the item is more than \$5,000. The City of Chardon must file this form within 125 days of the date of sale or disposition of the asset.
- D. **IRS Regulations:** Acknowledgement of all gifts made to the City of Chardon and compliance with the current IRS requirements in acknowledging receipt of such gifts shall be by resolution, ordinance or motion adopted by the Council. IRS Publication 561 **Determining the Value of Donated Property** and IRS Publication 526 **Charitable Contributions** should be reviewed by the donor.

VIII. Changes to Gift Acceptance Policies:

This policy and guidelines have been reviewed and adopted by the Council, which must approve any changes to, waivers of or deviations from this policy and guidelines.

Exhibit A

Model Standards of Practice for the Charitable Gift Planner

Preamble

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. Primacy of Philanthropic Motivation: The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications: Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure: It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation: Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. Competence and Professionalism: The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. Consultation with Independent Advisers: A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

VII. Consultation with Charities: Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

VIII. Description and Representation of Gift: The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. Full Compliance: A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust: Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999