

Brooklyn Community Foundation Gift Acceptance Policy

The Brooklyn Community Foundation (“BCF” or the “Foundation”), a public charity organized under the laws of the State of Delaware, encourages the solicitation and acceptance of gifts that will help the Foundation to further the fulfillment of its mission.

In order to protect the interests of the Foundation and to act prudently in connection with considering and accepting potential gifts to the Foundation, the Board of Directors of the Foundation (the “Board”) hereby establishes the following rules and conditions for the acceptance of various gifts made to the Foundation for the benefit of any of its programs (the “Gift Acceptance Policy” or “this Policy”).

I

General Provisions

A. **Purpose of the Gift Acceptance Policy**

The purpose of this Gift Acceptance Policy is to establish procedures for the Foundation to accept gifts and to provide guidance to the Foundation staff in order to assist donors and their professional advisors in transferring gifts to the Foundation. Due to the complexities of the applicable tax laws and regulations as well as giving plans and concepts, it is important to establish a process to carefully screen prospective gifts in order to ensure compliance with applicable laws and regulations and suitability for the purposes and needs of the Foundation.

B. **Oversight of the Gift Acceptance Policy**

The Board has delegated to the Finance and Investment Committee the responsibility to review potential gifts for conformance with this Policy in order to protect the mission and interests of the Foundation. When appropriate, the Finance and Investment Committee will make recommendations to the Board on gift acceptance issues.

The Finance and Investment Committee is comprised of Board members educated in financial and legal matters. The Foundation’s President & CEO and Director of Strategy & Operations shall be ex-officio members of the Finance and Investment Committee for purposes of this Policy only.

All non-routine gifts and any gifts designated in this Policy for review by the Finance and Investment Committee should be directed to such committee to undertake the appropriate review as set forth in this Policy. Except where otherwise specified, the Finance and Investment Committee has the authority to accept or refuse any such gift, based on this Policy or other considerations.

C. Confidentiality

All information concerning prospective, current and past donors, including names and addresses, names of beneficiaries, and nature and worth of estates, shall be kept strictly confidential by the Foundation and its personnel unless the donor grants permission in writing to use selective information for purposes of acknowledgement. The only exceptions to this rule are (i) legally authorized and enforceable requests for information by government agencies and courts, and (ii) any reporting required by any governmental agency having authority, including the Internal Revenue Service. Names of donors will not be provided by the Foundation to other organizations, nor will any lists containing the names or other information with regard to prospective, current or past donors be sold or otherwise provided to other organizations.

D. Ethical Standards and Compliance

The Foundation shall administer all gifts properly and shall comply with all applicable laws and regulations, including those governing reporting and retention of documents and information.

The Foundation shall strive to consider the interests of its donors, including by fully informing the donor of all essential information prior to the acceptance of each donor's gift. In particular, donors shall be advised of: (i) the irrevocability of a gift; (ii) the Foundation's variance power; and (iii) any applicable administrative and investment management fees.

All prospective donors of gifts, other than outright gifts of cash or publicly traded stock given for unrestricted use, will be encouraged to consult with legal counsel and/or financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

E. Gift Acknowledgments and IRS Reporting

All donors are to be provided with a gift acknowledgment letter within a reasonable timeframe.

The Manager of Donor Services shall be responsible for oversight and compliance with the requirements regarding gift acknowledgment and receipts that comply with all applicable substantiation requirements, including those established by the Internal Revenue Service.

Non-cash Gifts: The Foundation shall inform donors that for non-cash gifts valued at \$5,000 or more, the donor is responsible for sending IRS Form 8283 to the Foundation to be signed by authorized personnel confirming the gift. In addition, before the Foundation accepts such gifts, donors shall be informed of the Foundation's policy of considering the sale of such gifts at the best available price as soon as possible, and that in the likely event that the Foundation disposes of such gift within three years from the date of the gift, the Foundation will be required to file IRS Form 8282. The donor shall be notified that delay of the sale or liquidation of property solely for the purpose of avoiding the filing of Form 8282 is not permissible.

F. Use of Legal Counsel

The Foundation shall seek the advice of legal counsel in matters relating to the acceptance of gifts when the Foundation shall deem it appropriate for the following:

- Closely held stock transfers that are subject to restrictions or buy-sell agreements;
- Documents naming Brooklyn Community Foundation as Trustee, an appointment that the Foundation will not accept under any circumstances;
- Gifts involving contracts, such as bargain sales, or other documents requiring the Foundation to assume an obligation;
- Transactions presenting potential conflicts of interest; and
- Other instances in which use of counsel is deemed appropriate by the Finance and Investment Committee.

Where the Policy requires consultation with legal counsel in connection with a proposed gift, the Finance and Investment Committee shall retain outside legal counsel with relevant experience. In addition, the Finance and Investment Committee may retain outside counsel, as required, to review legal documents, contracts and other donor agreements.

II

Types of Gifts and Rules for Acceptance

The following policies relate to those categories of gifts typically accepted by the Foundation. It is understood that special gifts or circumstances might require review by the Finance and Investment Committee, in consultation with the Director of Strategy & Operations and the Director of Philanthropy & Donor Services, and might not be addressed by this document. If, notwithstanding the particular principles set forth in this Policy, a decision is made to accept a gift, the reasoning for such acceptance shall be documented in writing.

Generally, the Foundation reserves the right to refuse certain gifts, including without limitation any gift that:

- would not be in the best interest of the donor;
- would not allow the Foundation to realize sufficient financial gain;
- is offered for purposes inconsistent with the Foundation's mission;
- violates the terms of any of the Foundation's formation or governance documents; or
- has any restriction that might violate the Foundation's ethical standards or require any form of illegal or unethical discrimination.

In addition, the following criteria govern the acceptance of each specific type of gift:

A. Cash

- i. Description: Gifts of cash to the Foundation may be made in the form of currency, checks and money orders made payable to Brooklyn Community Foundation, as well as by credit card, Electronic Funds Transfer, wire transfer or other cash equivalents.
- ii. Minimum Amount: There is no minimum size for a gift of cash to the Foundation.
- iii. Valuation and Disposition of Gift: Gifts of cash are reported on the day the Foundation receives them. Unless otherwise directed by the donor or specified in a Donor Advised Fund's terms and conditions, any fees assessed by the credit card company for processing will be absorbed by the Foundation.
- iv. Review Process: Foundation staff is authorized to accept all gifts of cash. However, gifts of currency in excess of \$10,000 must be referred to the Finance and Investment Committee for a final determination regarding the acceptance given that federal law has certain restrictions intended to prevent money laundering.

B. Publicly Traded Securities/Mutual Funds

- i. Description: Securities or mutual funds that are traded on any recognized stock exchange or that have prices quoted daily and are readily marketable shall be accepted by the Foundation. 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.
- ii. Minimum Amount: There is no minimum size for a gift of publicly traded securities or mutual funds to the Foundation.
- iii. Valuation and Disposition of Gift: The fair market value of said securities is determined by averaging the high and low trading price on the day the securities are received by the Foundation in accordance with established IRS policy. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Finance and Investment Committee. In some cases, 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 the Finance and Investment Committee. One such instance includes Rule 144A securities for which the donor shall provide documents which confirms appropriate exemptions from Rule 144A requirements. A donor may recommend that a particular security or mutual fund be held by the Foundation, sold through a specific broker or traded on instruction of the

donor, but the final determination will be made by the Finance and Investment Committee.

- iv. Review Process: Foundation staff is authorized to accept all such gifts.

C. Closely Held Securities

- i. Description: For purposes of this Policy, closely held securities shall mean securities that are not publicly traded and shall include, but shall not be limited to, debt and equity interests in non-publicly traded or closely held entities, as well as interests in LLPs and LLCs. Interests in other forms of ownership may also be deemed closely held securities.
- ii. Minimum Amount: The minimum size for a gift of closely held securities is \$50,000 unless waived by the Finance and Investment Committee.
- iii. Valuation and Disposition of Gift: Prior to acceptance, the value of the security must be determined by an independent appraiser. The costs associated with this appraisal shall be an expense of the donor. If the stock is immediately marketable, it may be accepted and will be sold. If the stock is not immediately marketable, the Finance and Investment Committee may recommend non-acceptance of the gift or may authorize that the stock be held by the Foundation until such time that it may be redeemed or sold for cash.
- iv. Review Process: Closely held or non-publicly traded securities may be accepted only upon approval of the Finance and Investment Committee. Such gifts must be reviewed prior to acceptance to determine that:
 - The Foundation is the named transferee;
 - There are no restrictions on the security that would hinder the Foundation from ultimately converting the gift to cash;
 - The security is marketable; and
 - The security will not generate any undesirable tax consequences for the Foundation.

The Finance and Investment Committee may deem it appropriate to consult with an independent professional advisor as part of the review process. Review by legal counsel and tax advisors is recommended before making a final decision to accept such gifts.

D. Real Property

- i. Description: Gifts of real property may include developed or undeveloped property.
- ii. Minimum Amount: The minimum size for a gift of real property is \$200,000.
- iii. Valuation and Disposition of Gift: Prior to acceptance, the value of the property must be determined by a qualified appraiser. Any costs associated with obtaining a qualified appraisal shall be an expense of the donor. The Foundation will accept an appraisal prepared by a qualified appraiser unless the Director of Strategy & Operations determines a second appraisal is warranted. In that case, the Foundation will be responsible for all costs of the second appraisal. The average of the two qualified appraisals will be considered to constitute the “fair market value” of the real estate, thus the value of the gift. Every effort will be made to sell the property as quickly as possible if use by the Foundation is not feasible.
- iv. Review Process: All gifts of real property must be reviewed by the Finance and Investment Committee. Prior to consideration by the Finance and Investment Committee:
 - A member of the Foundation’s staff must conduct a visual inspection of the property, if feasible.
 - The value of the property must be determined by an independent appraiser. The costs associated with this appraisal shall be an expense of the donor.
 - The donor may be asked to provide any or all of the following items: a property deed, a property tax bill, any existing leases or agreements encumbering the property, and substantiation of the property’s zoning status.
 - The donor must furnish a copy of any title information, such as the most recent survey of the property, a title insurance policy and/or an attorney’s title opinion. When appropriate, a title insurance binder shall be provided to the Foundation prior to the acceptance of the real property gift. The costs of title insurance insuring title to the property shall be an expense of the donor.
 - The Foundation shall require an initial environmental review of the property to ensure that the property has no environmental damage. In the event that the initial inspection reveals a potential issue, the Foundation shall retain a qualified inspection firm to conduct an environmental audit. Costs associated with any environmental review and/or audit shall be an expense of the donor.

Once the foregoing steps have been taken, the Finance and Investment

Committee shall use the following criteria to evaluate acceptance of the property:

- Is the property useful for the purposes of the Foundation?
- Is the property marketable?
- What is the estimated value of the real property?
- Does the location of the property present any problem or raise concerns?
- Are there any restrictions, reservations, easements, or other limitations associated with the property?
- Are there carrying costs, which may include but are not limited to insurance, property taxes, mortgages, and transfer charges, association dues or notes, associated with acquiring, selling or maintaining the property?
- Does the environmental audit reflect that the property is damaged? No property will be accepted if it has violations of local, state or federal law.

The Finance and Investment Committee may deem it appropriate to consult with independent professional advisors as part of the review process. Review by legal counsel is recommended before making a final decision to accept such gifts.

E. Remainder Interest in Real Property

- i. Description: For purposes of this Policy, a remainder interest in real property refers to a gift of a future interest in real property that will take effect upon the expiration of a prior legal interest in the property, typically upon the death of the donor or other specified holder of a life or term interest in the property. The Foundation may accept a remainder interest in a personal residence, farm or vacation property.
- ii. Minimum Amount: The minimum size for a gift of a remainder interest in real property is \$200,000.
- iii. Valuation and Disposition of Gift: Prior to acceptance, the value of the property must be determined by a qualified appraiser. Any costs associated with obtaining a qualified appraisal shall be an expense of the donor. The Foundation will accept an appraisal prepared by a qualified appraiser unless the Director of Strategy & Operations determines a second appraisal is warranted. In that case, the Foundation will be responsible for all costs of the second appraisal. The average of the two qualified appraisals will be considered to constitute the “fair market value” of the real estate, thus the value of the gift. Once the Foundation takes full legal title to the property, every effort will be made to sell the property as quickly as possible.

- iv. Review Process: In evaluating a gift of a remainder interest in real property, the Finance and Investment Committee will consider the criteria set forth for *Real Estate* above, as well as the age(s) of any life estate holders. In addition to the requirements set forth under *Real Property* above, the Foundation will require the donor to agree in writing to undertake to pay all expenses in order to fully maintain the property, to pay all fees and taxes associated with such property, and to service any property indebtedness associated with such property, until such time as title to the property is transferred to the Foundation.

F. Life Insurance

- i. Description: The Foundation will encourage donors to name the Foundation as a beneficiary and irrevocable owner of policies of life insurance on donors' lives. Before such gifts are accepted, a donor should provide the policy value, type of insurance product, and the insurance company name.
- ii. Minimum Amount: A life insurance policy must have a minimum death benefit of \$50,000 in order to be considered for acceptance.
- iii. Valuation and Disposition of Gift: The gift is valued at its interpolated terminal reserve value upon receipt. The Foundation will request Form 712 from the life insurance company directly to determine the current policy values and the total premiums paid to date. Otherwise, the Foundation will request the life insurance company to prepare an "in force" policy illustration containing roughly the same data but additional data that is helpful in projecting the policy out into later years. In the event that the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Foundation will generally not continue to make premium payments but will instead convert the policy to paid up insurance or surrender the policy for its current cash value.
- iv. Review Process: Prior to accepting a gift of a policy of life insurance, the Finance and Investment Committee shall consider the following:
- Does the life insurance policy name the Foundation as beneficiary and irrevocable owner?
 - Is the life insurance policy fully paid? The Foundation prefers life insurance policies that are fully paid.

The Finance and Investment Committee shall not accept a gift of life insurance: (i) where the Foundation would be required to accept a donor's premium payments as gifts and send them to the life insurance company on a regular basis; or (ii) when such policy is encumbered by a loan.

The final determination on acceptance of life insurance policies shall be made by the Finance and Investment Committee.

G. Retirement Plan Assets

- i. Description: The Foundation shall encourage donors to name the Foundation as the beneficiary of a donor's retirement plan. If the donor's spouse is living, state law may require that s/he sign a Spousal Waiver of Benefits Form. The donor should complete a Change of Beneficiary Form provided by the plan administrator.
- ii. Minimum Amount: There is no minimum gift size for retirement plan assets.
- iii. Valuation and Disposition of Gift: Such gifts will be recorded at such time as they are irrevocable. When the gift is irrevocable but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
- iv. Review Process: Foundation staff is authorized to accept all such gifts. Donors must provide Foundation staff with a copy of the actual beneficiary designation and evidence of spousal waiver of benefits.

H. Tangible Personal Property

- i. Description: Tangible personal property includes any physical item that is not a security or traded currency. Gifts of tangible personal property typically include art, jewelry, collectibles, and automobiles.
- ii. Minimum Amount: The minimum gift size for a gift of tangible personal property is \$5,000.
- iii. Valuation and Disposition of Gift: Prior to acceptance, the value of the tangible personal property must be determined by a qualified appraiser. Any costs associated with obtaining a qualified appraisal shall be an expense of the donor. The Foundation will accept an appraisal prepared by a qualified appraiser unless the Director of Strategy & Operations determines a second appraisal is warranted. In that case, the Foundation will be responsible for all costs of the second appraisal. The average of the two qualified appraisals will be considered to constitute the "fair market value" of the tangible personal property, thus the value of the gift. Gifts of tangible personal property shall either be put to use by the Foundation to further its charitable purpose, or sold as soon as possible.
- iv. Review Process: Foundation staff shall review a proposed gift of tangible personal property to determine:

- Has BCF received a clear description of the property?
- Is the property marketable?
- Are there any undue restrictions on the use, display or sale of the property?
- Are there any carrying costs (including insurance) associated with ownership or possession of the property?
- Does a third party hold any type of lien or other interest in the property?
- Will the gift subject BCF to continuing financial obligations?
- Will a specialist need to be hired to sell the property?
- Is BCF likely to benefit from the acceptance of such gift within a reasonable amount of time?

The Foundation will engage legal counsel to review all proposed gifts of tangible personal property valued at \$10,000 or above.

Foundation staff is authorized to accept all gifts of tangible personal property valued up to \$10,000. The Finance and Investment Committee will make the final determination on acceptance of tangible personal property valued at \$10,000 or greater.

III

Bequests and Other Deferred Gifts

A. Bequests

Donors typically may make gifts to the Foundation through bequests in their wills of either a specific gift or dollar amount or a percentage of the estate residue. Such bequests shall not be recorded as gifts to the Foundation until such time as the gift is irrevocable. Where the gift is irrevocable but is not due until a future date, the present value of the gift may be recorded at the time the gift becomes irrevocable. All bequests are subject to the specific considerations and minimum gift amounts set forth in the foregoing provisions regarding the particular kind of gift.

In order to assist donors or their counsel in drafting testamentary language, the Foundation offers the following samples:

“I hereby give and bequeath [name of asset] or [[\$___ from] or [___% of] my estate] to the Brooklyn Community Foundation, a Delaware not-for-profit corporation operating in Brooklyn, New York, for its general purposes.”

“I hereby give and bequeath all [or ___%] of the rest, residue and remainder of my estate to the Brooklyn Community Foundation, a Delaware not-for-profit corporation

operating in Brooklyn, New York, for its general purposes.”

B. Other Deferred Gift Instruments

Donors may also make gifts to the Foundation through a variety of other deferred gift instruments, including: charitable remainder trusts, and charitable lead trusts. The Finance and Investment Committee shall consider the acceptance of all such deferred gifts, subject to the specific considerations and minimum gift amounts set forth in the foregoing provisions relating to the particular kind of gift.

The Foundation will not accept such gifts where the Foundation is not the beneficiary; however, the Finance and Investment Committee may consider on a case-by-case basis acceptance of such gifts where the Foundation is a contingent beneficiary or one of the beneficiaries of the gift. However, under no circumstances will the Foundation serve or accept an appointment as trustee of any trust.

IV

Rules Governing Restricted and Endowment Gifts

A. Restricted Gifts

For the purposes of this Policy, a restricted gift is any gift where the donor requires the Foundation to direct such gift to a particular program, activity or capital expense. The Foundation encourages donors to consider unrestricted gifts, which allow it to meet the changing needs of the Foundation as well as the Brooklyn community.

Donors making restricted gifts shall be advised that if, in the opinion of the Board, any restriction on the distribution of funds becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community, the Foundation may exercise its variance power to use the funds for other appropriate purposes as nearly aligned to the original intent of the donor as good conscience and need dictate.

Review and Administration of Restricted Gifts:

- The Foundation will not accept gifts deemed by the Finance and Investment Committee to be overly restrictive. Overly restrictive gifts include, but are not limited to, (i) gifts with restrictions that are counter to or beyond the scope of the Foundation’s mission and purpose, and (ii) gifts that are too difficult to administer or place undue burdens on the Foundation.
- All restricted gifts are subject to the specific considerations and minimum gift amounts set forth in the foregoing provisions regarding the specific type of gift.

- The Director of Philanthropy & Donor Services is responsible for ensuring compliance with the restrictions.
- The President & CEO will have the authority to accept restricted gifts of up to \$100,000 but will consult with the Finance and Investment Committee to ensure that all specific considerations under the Policy are considered. The Finance and Investment Committee will make the final determination on acceptance of restricted gifts greater than \$100,000 but less than \$1,000,000. The Board must approve restricted gifts in amounts of \$1,000,000 and above.

B. Endowment Gifts

For the purposes of this Policy, an endowment fund provides ongoing support to the Foundation. A gift to the Foundation's unrestricted general endowment fund is any gift where the donor has no restrictions on the use of funds, allowing the Foundation to determine how to make grants to address a broad range of local needs. A gift to the Foundation's restricted endowment funds is any gift where the donor requires that the Foundation maintain the principal of the gift and spend only the present and future income according to the current spending policy and for the general or particular purposes of the Foundation.

An endowment gift may be restricted or unrestricted according to the donor's intent. However, donors should recognize that the needs, policies and circumstances of the Foundation as well as the needs of the Brooklyn community can change in the future and are thus encouraged to make unrestricted gifts whenever possible or, where desired, to describe any specific purposes of their gifts as broadly as possible and avoid imposing detailed limitations and restrictions on endowment gifts.

- Minimum Amount: Gifts of any size may be made to an existing endowment fund of the Foundation. Donors may establish named funds in the endowment provided any such fund shall have a minimum initial amount of \$100,000, assuming the purpose of the fund is approved by the Finance and Investment Committee or the Board of Directors as specified below.
- Administration of Gift: The Director of Philanthropy & Donor Services is responsible for ensuring compliance with any specified restrictions.
- Review Process: Foundation staff is authorized to accept all unrestricted gifts to existing unrestricted general endowment funds. The Finance and Investment Committee must approve all restricted gifts to existing endowment funds. The Finance and Investment Committee may accept all named endowment gifts greater than \$100,000 but less than \$1,000,000 provided that the donor requirements are consistent with the programs and mission of BCF. The Board must approve endowment gifts of \$1,000,000 and above.

Gifts to which the donor has attached conditions, such as those concerning retention, storage, display, or classification, will not be accepted by the Foundation. Upon receipt and acceptance of any donation, the Foundation is considered owner of the gift and is solely responsible for determining the retention and other considerations relating to the use or disposition of gift materials. As such, although donors may make recommendations, the Foundation cannot be required to hold any gift for any time period and must be permitted to sell any such gift at its discretion. Accordingly, the Foundation shall be under no obligation to discuss retention decisions with the donor or other parties.

V

Periodic Review

The Board has reviewed and accepted the foregoing Gift Acceptance Policy. The Finance and Investment Committee shall conduct periodic reviews of this Policy to determine if any amendments are necessary to reflect changes in law or the Foundation and to address new situations not previously addressed by this Policy.

* * *

This Gift Acceptance Policy was approved by the Board of Directors on September 29, 2015.