THE COMMUNITY FOUNDATION
of Shelby County

Policy and Procedure for Potential Gifts of Real Estate

I. Authority to Accept Gifts of Real Estate

The Executive Director and the officers of The Community Foundation of Shelby County ("CFSC") are authorized to accept gifts of real estate that are permitted by these policies. In general, gifts of real estate will also be reviewed by the Foundation's Gift Acceptance committee.

II. Evaluation of Potential Gifts

A . Property report form: Upon initial inquiry, potential donors will be asked to complete a property inquiry form and return it to the Foundation with appropriate maps and documentation.

B. Liens, Mortgages and Encumbrances: Property which is subject to liens, unpaid mortgages, deeds of trust, judgment liens, unpaid taxes or assessments, mechanics' lines or other encumbrances will be accepted only in exceptional circumstances and upon advice form the Foundation's legal counsel. If accepted, property which is subject to encumbrances will be evaluated as a "bargain sale" (a bargain sale is an arrangement whereby a donor offers property to the Foundation for an amount less than its current fair market value).

C. Field Evaluation: Following an offer of a gift of real estate, a member of the Foundation staff or an authorized representative (a realtor or person as the Executive Director may deem appropriate) will visit the property. The purpose of the visit will be to determine the nature and type of the property and to identify any potential problems not evident from initially supplied information that would hinder or prevent the Foundation's sale of property.

D. Market Evaluation: Whenever practicable, arrangements will be made to have a realtor analyze the property to evaluate the existence of a market for such property. The Executive Director may request that the donor provide such an evaluation for a realtor acceptable to the Executive Director.

III. Responsibilities of the Donor

A. Appraisal The donor will be responsible for obtaining a qualified appraisal complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes, including the preparation of Form 8283 ("Noncash Charitable Contributions"). See Treas. Reg. 1.170A-13(a).

B. Environmental Audit The donor must obtain, at the donor's expense, a Phase I environmental audit or another arrangement regarding environmental concerns that satisfies the board of trustees of the CFSC. If the Phase I audit identifies problems with the gift property, the Gift Review committee will make a decision whether to recommend a Phase II environmental audit or recommend that the property not be accepted. No property will be accepted if there is a likelihood of any liability which could attach to the Foundation as a result of its taking title to the property.

C. Evidence of Title The donor must furnish the Foundation with evidence of title which shows that title to property is free and clear except for current real estate taxes and restrictions of record which would not create any economic burden on the Foundation.

D. Transfer Instruments It is the donor's responsibility to prepare the deed and other instruments which are necessary to transfer the property to the Foundation. All proposed transfer instruments must be reviewed by the Foundation's legal counsel prior to acceptance by the Foundation.

E. Expenses Prior to acceptance of the property, the Foundation and the donor must agree in writing on arrangements for paying expenses associated with the property, such as commissions, real estate taxes, utilities, insurance, and maintenance costs. Generally, the Foundation will not advance funds for the payment of such expenses.

If the Foundation and the donor agree, the real property may be held by the Foundation. This arrangement is acceptable only if the property produces an acceptable amount of income or if the donor agrees to contribute additional gifts to cover costs of maintenance and upkeep of the real property. The Foundation shall retain the right to sell the donated property if money is no longer available or if holding the land is no longer in the best interest of the Foundation.

F. Bequests Property that is bequeathed to the Foundation will be evaluated in accordance with the Policy like all other gifts of real property.

IV. Procedure for Accepting Real Estate

A. After the requirements of this Policy have been satisfied, the Executive Director will have the authority to accept or refuse a gift of real property.

B. The Executive Director may refuse any offered gift of real property that is judged not to be in the best interests of the Foundation.

C. Prior to or upon transfer of title to the Foundation, the donor and the Foundation will sign an agreement stating the terms of the gift, which shall specify that there are no restrictions on the Foundation's right to use or convey the property.

D. The Foundation will not seek exemption from real estate taxes for gifts intended to be sold immediately.

V. Marketing and Sale of Real Estate

A. After accepting a real estate gift, arrangements will be made to sell the property. The Executive Director has the authority to select whether a real estate professional shall be used as well as the agent to handle the sale.

B. While it is anticipated that in most circumstances the sale price will equal or exceed the appraised value of the property, the terms of the sale will take into account current market conditions, availability of financing and other factors. Any offer that is below 70 percent of the appraised value must be approved by the Gift Acceptance Committee.

C. In the case of a sale within two years of the date of the gift, the Foundation will report the actual sales proceeds to the IRS on Form 8282 ("Donor Information Return").

VI. What the Foundation Will Not Do

A. Except in extraordinary circumstances, the Foundation will not pay for legal assistance, appraisals, or other services on behalf of the donor.

B. The Foundation will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.