

# Gift Acceptance Policy of The Friends of Rookery Bay

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## Purpose

The purpose of these fund and gift acceptance policies is to advance the Friends of Rookery Bay aka FORB mission of support for the Rookery Bay National Estuarine Research Reserve aka RBNERR. By providing guidelines for negotiating and accepting various types of gifts for different types of funds, these policies are designed to serve the best interests of FORB, donors who support FORB, and RBNERR's programs through charitable gifts, and a healthy and caring community. These policies are established to assure that each gift to FORB is structured to provide maximum benefits to the community, the donor, FORB and the RBNERR.

## Scope

These policies address both current and deferred gifts, with an emphasis on specific types of deferred gifts and gifts of non-cash property. The goal is to encourage financial support for FORB without encumbering it with gifts which either generate more cost than benefit, or which may be restricted in a manner that is not in keeping with FORB's charitable purposes or applicable laws governing charitable gifts.

*Notwithstanding anything in this policy to the contrary, FORB reserves the right to waive any requirements herein with respect to acceptance of specific gifts.*

## Ethical Standards in Dealing with Donors

Every person acting for or on FORB's behalf shall adhere to those standards set forth in *A Donor Bill of Rights*: (see Schedule A)

FORB is committed to the highest ethical standards of philanthropy and development. In all transactions between potential donors and FORB, FORB will aspire to provide accurate information and full disclosure of the benefits and liabilities that could influence a donor's decision, including the irrevocability of a gift, prohibitions on donor restrictions, items that are subject to variability (such as market value, investment return, and income yield), FORB's responsibility to provide periodic financial statements with regard to donor funds, and investment policies and other information needed by donors to make an informed choice about using FORB as a vehicle of charitable gifts. **In addition, all donors will be strongly encouraged to discuss their gifts with their own financial and tax advisors before signing any gift agreement.**

FORB recognizes the paramount role of donors and their gifts to FORB in executing its charitable mission. In carrying out FORB's development program, staff will recognize and acknowledge donors in appropriate ways, both publicly and privately, subject to FORB's Policy on Confidentiality. Donors reserve the freedom to determine the degree and type of recognition that they prefer and FORB respects the confidentiality of donors who do not wish to be publicly recognized.

### **Authority to Accept Gifts**

Acceptance by Officers & Designated Employees. Any of FORB's officers or employees designated by the Executive Committee or Board of Directors may accept, for and on FORB's behalf, any of the following:

- Cash
- Checks
- Marketable securities

Acceptance by Board of Directors. All other gifts, including those listed below, will require review and, if appropriate, approval by FORB's Board of Directors. The following gifts require the Board's review and approval:

- Closely-held and S corporation stock
- Partnership interests
- Accounts receivable (e.g., gifts of loans, notes, mortgages)
- Real property
- Gifts of intellectual property, mineral reserves, precious metals
- Artwork, coin collections, jewelry, etc.
- Life insurance and annuity policies
- Tangible personal property

Emergency Gifts. The Executive Committee has the authority to accept gifts requiring immediate action (such as gifts in late December) and may be exempted from full Committee review if, in the Board Chair's judgment, in consultation with the Chair and/or the Vice-Chair of the Investment Committee, that gift may be accepted without in any way jeopardizing FORB's exempt status, and in alignment with our broad charitable purposes.

Timing of Review. Gifts requiring Committee review will be handled promptly. FORB's staff will immediately notify donors if a gift is not accepted.

### **Authority to negotiate and sign gift agreements**

FORB's President/Executive Director will have the authority to handle inquiries, negotiate with donors, assemble documentation, retain expert and technical consultants, and execute agreements on FORB's behalf, subject to the Executive Committee or the Board of Directors review and approval authority.

## **Purpose of gifts**

The purpose of each gift must fall within FORB's broad charitable purposes. FORB cannot accept any gift that will be directly or indirectly subject to any material restriction or condition by the donor that prevents FORB from freely and effectively employing the gift assets or the income from such assets to further its charitable purposes. In addition, FORB reserves the right to reject any gift that might place the other assets of FORB at risk or that is not readily convertible into assets that fall within FORB's investment guidelines. FORB may also decline a gift if it is not able to administer the terms of the gift in accordance with the donor's wishes.

## **Investment of gifts**

FORB will invest gifts within the Community Foundation of Collier County's portfolio and in accordance with its Investment Policy, as amended from time to time. In making a gift to FORB, the donor gives up all rights, title and interest to the assets contributed. In particular, the donor relinquishes the right to choose investments and investment managers, brokers, or to veto investment choices for the contributed assets.

However, when the size of a fund warrants separate investment consideration, and when otherwise permitted by law, FORB will endeavor to accommodate requests from donors for separate investment of fund assets, or use a particular investment manager, broker or agent in accordance with FORB's Investment Policy and vetting requirements, and may consult with donors on investment options for such fund.

## **Costs of accepting and administering gifts**

Generally, costs associated with the acceptance of a gift, such as the donor's attorneys' fees, accounting fees, and appraisal and escrow fees, are borne by the donor. The direct costs of administering gifts are generally paid out of the assets of the individual funds. Custodial, investment, and administrative fees are paid from the respective funds in accordance with the Community Foundation of Collier County's guidelines and fee schedules. The Foundation reserves the right to assess a set-up fee.

## **Types of gift assets**

Generally, gifted assets will be either 1) "liquid" assets such as cash or marketable securities, or 2) "illiquid" assets defined as everything that is not cash or marketable securities. With respect to non-cash assets, it is FORB's general policy to liquidate all gifts promptly. On occasion, the Investment Committee or Board of Directors may decide that it will not liquidate certain gifts immediately. Factors the Committee will consider include:

- Market conditions – a gift may be retained for a reasonable period of time if the likely sales price would be substantially less than the asset's real value. Similarly, a large block of stock might be sold over a period of time in order not to artificially depress the price. The Investment Committee will review and make recommendations to the Board of Directors.

- Use by FORB – FORB may elect to keep gifts that it will employ directly in furtherance of its exempt purposes. For example, FORB might keep real property that it will use as its offices, or as a donation to RBNERR.
- Desirability as an investment – on rare occasions, FORB may be given property that it wishes to retain as an investment. Considerations in this decision include the projected return and how the asset fits into FORB’s investment portfolio.

If a fund’s illiquid assets do not generate a sufficient return to permit drawdowns that are consistent with the assets’ value, FORB will seek an additional gift of cash or marketable securities to allow the fund to begin making distributions.

Subject to Board approval, FORB may accept the following types of gifts:

### **Liquid assets**

#### Cash

FORB accepts gifts of cash

- In currency of the United States;
- By checks made payable to Friends of Rookery Bay; or
- By credit cards or wire transfer to The Friends of Rookery Bay account(s).

#### Publicly-Traded Securities.

*General.* FORB accepts gifts of marketable, publicly-traded stocks and bonds. As a general rule, publicly-traded stocks and bonds contributed to FORB will be redeemed or sold as soon as practicable. All proceeds from such redemption or sales less commissions and expenses are then credited to the component fund to which the stocks or bonds were originally contributed.

*Appraisal.* No appraisal is required so long as the stock or bond is not subject to any restrictions, including those imposed by contract or the Securities Exchange Commission. Where appraisal is not required, the value of the gift is determined by calculating the mean of the high and low prices of the securities on the date of the gift.

### **Illiquid assets**

#### Real Estate.

*General.* This policy applies to all gifts of real property, including outright gifts of residential and commercial property and farmland; bargain-sale transactions; and gifts of remainder interests in which the donor retains a life estate. The Foundation does not accept gifts of time shares.

Gifts of real property must be reviewed by the Executive Committee or Board of Director’s. Subject to the Board’s approval, FORB may accept gifts of real property. In deciding whether to accept real property gifts FORB will:

- Determine whether the real estate gift is an acceptable minimum value.
- Confirm that the donor has legal capacity and is entitled to convey the property through copies of deed, title report, etc., provided by donor.
- Determine whether, if property is encumbered by debt, the debt is of a level that will not unduly burden the Foundation or adversely affect the marketability of the property.
- Perform a market and financial analysis prior to acceptance of the gift to determine whether the gift is a financially sound acquisition.
- Weigh its ability to manage commercial property for the time necessary to sell the property. For example, income producing property may subject the Community Foundation to unrelated business income tax and/or other types of expenses, including but not limited to, upkeep of land, maintenance of buildings and management of property.
- Evaluate whether any restrictions on the gift desired by donor will jeopardize the classification of such gift as charitable.

*Appraisal.* Each gift of real property giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

*Distributions.* Distributions from gift that consists entirely of real property are limited to the net income generated by the property less fees assessed by FORB and any unrelated business tax imposed thereon.

*Liquidation.* FORB will generally seek to sell real property as soon as possible and generally will not accept gifts that cannot be liquidated within five years, or donated directly to the State of Florida.

*Procedures for Accepting Gifts of Real Property.* Donors will provide the information and documents requested in the Real Property Donation Checklist and the Real Property Inquiry Form at the earliest possible time prior to the acceptance of the gift. Copies of those forms are appended to this policy. FORB may request additional information or documents when necessary to its evaluation of the proposed gift.

Whenever possible, a member of FORB's staff or an authorized representative will visit the property to determine its nature and type and to identify any potential problems not evident from information supplied by the donor that might hinder or prevent FORB's sale of the property.

*Environmental Assessment.* If the property type warrants, donors will provide at least a Phase I Environmental Report with disclosure of any environmental problems or statement that none exists.<sup>1</sup>

#### Closely-Held Stock and S Corporation Stock.

*General.* Gifts of closely-held and S corporation stock must be reviewed by the Investment Committee. Subject to the Committee's approval, FORB may accept gifts of closely-held or S corporation stock in any amount. expenses (e.g., accounting and tax return preparation) will be charged against the fund holding the contributed

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<sup>1</sup> Not every property will warrant an environmental assessment, however the Foundation reserves the right to require such assessment at Donor's expense.

stock. Further, the donor must agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expense if there are insufficient cash in the subject fund to cover such taxes and expenses.

*Appraisal.* Each gift of closely-held or S corporation stock giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

*Distributions.* Distributions from a component fund that consists entirely of closely-held or S corporation stock are limited to the income generated by the securities less fees assessed by the Foundation and any unrelated business tax imposed thereon.

*Liquidation.* FORB will generally seek to redeem or sell closely-held or S corporation stock contributed as soon as possible and generally will not accept gifts that cannot be liquidated within three years.

*Procedures for Accepting Gifts of Closely-Held or S Corporation Stock.* The following procedures apply to all proposed gifts of S corporation stock:

- The Foundation will review corporate governing documents to determine the rights and obligations associated with the stock and whether or not the Foundation should undertake such obligations in light of such rights.
- The Foundation will review the corporation's most recent tax returns and the donor's most recent K-1 to determine the nature of the income associated with the stock (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to the Foundation's form or be approved by the Foundation's counsel.
- As a condition for the Foundation's acceptance of the gift, a written agreement between the donor and the Foundation must be in place that provides for the payment of administrative expenses and unrelated business income taxes generated by the stock to the extent there is insufficient cash in the fund to which the stock has been donated to cover such expenses and taxes. The agreement must also require the donor to indemnify the Foundation against all liabilities incurred by the donor on account of the stock up to the date of the gift.
- The donor shall provide the Foundation with all documents which outline, discuss or relate to the duties and liabilities which shareholders have, including Shareholder Agreements.

#### General Partnership Interests.

FORB generally does not accept gifts of general partnership interests due to the unlimited liability of general partners.

#### Tangible Personal Property.

*General.* FORB accepts gifts of personal tangible property (artwork, coin collections, jewelry) only if: (i) FORB determines that the property will be used in furtherance of FORB's exempt purposes or (ii) FORB will be able to

sell the property. If the property is to be sold, FORB will accept the gift only if it has sufficient value to justify the expenditure or resources required for such sale.

*Appraisal.* Each gift of personal tangible property for which the donor expects a charitable deduction exceeding \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining and paying for such appraisal.

*Procedures for Accepting Personal Tangible Property.* The following procedures apply to all proposed gifts of personal tangible property:

- FORB will review all prior appraisals and authentication documents, if any, relating to the property.
- If the property is to be sold, FORB will ascertain the market for such property and estimate the costs to be incurred in connection with the sale as well as the costs of holding the property prior to sale.
- All costs incurred by FORB in connection with the holding and sale of the property shall be charged against the sale proceeds, with the balance being credited to the fund to which the property has been contributed.

#### **ADDITIONAL CONSIDERATIONS FOR ACCEPTANCE OF ILLIQUID ASSETS**

In connection with the acceptance of many types of illiquid assets, FORB may incur costs such as unrelated business income tax, fees or commissions associated with the sale or liquidation of assets, asset management and holding costs, consultant fees or other expenses outside the normal scope of FORB's administrative costs. Accordingly, as a condition of FORB's acceptance of the gift, FORB may require a pledge or other written agreement between the donor and FORB that provides for the payment of all or a portion of any such costs or expenses, including unrelated business income taxes, to the extent there is insufficient cash in the donor's fund to which the asset(s) have been donated to cover such costs.

#### **DEFERRED GIFTS & PLANNED GIVING.**

These are gifts whose benefit does not fully accrue to FORB until some future time, or whose benefits are split with non-charitable beneficiaries. FORB representatives are authorized to solicit direct charitable gifts through wills, as well as contributions to establish gift annuities or charitable trusts. FORB will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts. In cases where the gifts are complex, the President/Executive Director may request review by the Executive Committee and/or the Board of Director's

#### Bequests

FORB accepts bequests from donors who have directed in their wills that certain assets be transferred to FORB and honors the wishes of the donor as expressed, but reserves the right of refusal as necessary and appropriate. Sample bequest language for restricted and unrestricted gifts is available from the Community Foundation of Collier County, to donors and/or advisors, upon request. FORB may not be named as Executor for a donor in his/her will and will not serve if named. FORB may create a named fund in memory of the donor, if there is no stipulation for anonymity.

### Retirement Plans or IRA Accounts

Donors may make lifetime gifts of retirement assets or name FORB as the beneficiary of their plan. Retirement plans include, but are not limited to, Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans.

### Life Income Gifts

FORB will work closely with donors through the Community Foundation of Collier County to implement planned giving options that provide income to a donor or his/her designees, as well as financial benefit to FORB (split-interest gifts). Options include:

**CHARITABLE REMAINDER TRUSTS (CRT).** This trust makes payments to one or more beneficiaries for their lifetimes, or for a fixed term, or a combination of both. Assets are put into a trust, beneficiaries are paid, and when the trust term ends, the remainder in the trust passes to the Foundation for its charitable purposes. The donor names a Trustee to manage the trust and determines whether the payout will be fixed (a charitable remainder annuity trust (CRAT)) or variable (a charitable remainder unitrust (CRUT)). Trusts can be set up during the donor's lifetime or by will. FORB encourages donors to consult their own legal counsel and tax advisors to create a charitable remainder trust. At the donor's request, the Foundation will confer with his/her advisors to assist in establishing the trust from which it will ultimately benefit. FORB will not serve as Trustee of the trust.

**CHARITABLE LEAD TRUST (CLT).** This trust first makes distributions to FORB for a specified period, with the remainder reverting to the donor or another beneficiary at the end of the period. It may be set up during one's lifetime or in a will. FORB will work closely with the donor through the Community Foundation of Collier County and/or his advisor to create the trust, but will not serve as Trustee.

**LIFE ESTATE.** A donor may wish to contribute a personal residence or farm to FORB and retain the right to use the property until death. Upon the donor's death, FORB owns the entire interest in the property.

**Real Property Donation Checklist**

1. Exact legal name of donor and federal identification number.
2. Description of property (copy of deed).
3. Description of any buildings or other structures located on the land.
4. Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey.
5. Information regarding existing zoning status.
6. Information on all ingress/egress for the property.
7. Description of prior use of the property.
8. Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
9. Disclosure of any contemplated or anticipated condemnations, right-of-ways or other actions by municipalities that may affect the subject property.
10. Phase I environmental report on the property, including environmental report on any structures located on the real estate.
11. Evidence of title, such as title examination and report, title insurance commitment, or schedule describing any liens, encumbrances, or title matters affecting the property.
12. Copy of appraisal showing the fair market value of the property current within sixty days.
13. Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property.
14. Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, and similar items.

**Real Property Inquiry Form**

**I. General Information**

Owner(s) \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Property Location \_\_\_\_\_

Land area (acres or square feet) \_\_\_\_\_

Building area (sq. ft. each floor) \_\_\_\_\_

Zoning \_\_\_\_\_

Replacement cost of building \_\_\_\_\_

Current property insurance coverage \_\_\_\_\_

Date of acquisition/form of acquisition \_\_\_\_\_

Current cost basis (includes improvements) \_\_\_\_\_

Principal balance of mortgage \_\_\_\_\_ Current fair market value \_\_\_\_\_

Assessed value for real estate taxes \_\_\_\_\_

Real estate taxes \_\_\_\_\_

Land value \_\_\_\_\_ Building value \_\_\_\_\_

Most recent appraisal (date) \_\_\_\_\_ Appraised value \_\_\_\_\_

Appraiser \_\_\_\_\_

Occupancy status after transfer of title to charity \_\_\_\_\_

Unimproved (no buildings) \_\_\_\_\_

Unoccupied (building, but not occupant) \_\_\_\_\_

Occupied (building with occupants) \_\_\_\_\_

Please indicate by checking "yes" your awareness of any condition or problem which may affect the title or marketability of the property. Use Section VII to provide additional information.

<b>II.</b>	<b>Title/Zoning</b>	<b>Yes</b>	<b>No</b>
A.	Title	_____	_____
B.	Zoning variances, violations or special permits	_____	_____
C.	Zoning violations	_____	_____
D.	Restrictions or easements	_____	_____
E.	Survey available	_____	_____
<b>III.</b>	<b>Condition of Building</b>	<b>Yes</b>	<b>No</b>
A.	Foundations/slab	_____	_____
B.	Basement water/dampness/sump pump	_____	_____
C.	Roof leaks	_____	_____
D.	General structural	_____	_____
E.	UFFI (formaldehyde insulation)	_____	_____
F.	Asbestos	_____	_____
G.	Lead paints	_____	_____
H.	Termites/ants/pests	_____	_____
I.	Swimming pool	_____	_____
J.	Radon	_____	_____
K.	Building systems	_____	_____
	1. Plumbing	_____	_____

- 2. Electrical \_\_\_\_\_
- 3. Heating \_\_\_\_\_
- 4. Air conditioning \_\_\_\_\_
- 5. Hot water \_\_\_\_\_
- 6. Water supply \_\_\_\_\_
- 7. Sewage; type \_\_\_\_\_
- 8. Other fixtures \_\_\_\_\_

**IV. Rental/Condominium/Cooperative**

- A. Building systems \_\_\_\_\_
  - 1. Leases \_\_\_\_\_
  - 2. Rental arrears \_\_\_\_\_
  - 3. Last month's rent/security deposit \_\_\_\_\_
- B. Common area fees in arrears \_\_\_\_\_
- C. Building or sanitary code violations \_\_\_\_\_
- D. Operating/capital budget \_\_\_\_\_

**V. Environmental**

**Yes No**

- A. History of property
  - 1. Property has prior or current use for industrial, commercial, agricultural, manufacturing, waste disposal or any other non-residential purposes \_\_\_\_\_
- B. Condition of property

- 1. Stressed or denuded vegetation or unusual barren areas \_\_\_\_\_
  - 2. Discoloration, oil sheens, or foul/unusual odors in water \_\_\_\_\_
  - 3. Storage drums \_\_\_\_\_
  - 4. Above or underground storage tanks; vent or filler pipes \_\_\_\_\_
  - 5. Evidence of oil or other chemicals in soil \_\_\_\_\_
  - 6. Evidence of PCBs \_\_\_\_\_
  - 7. Evidence of toxic air emissions \_\_\_\_\_
  - C. Adjacent properties
    - 1. Properties adjacent or close to subject have conditions requiring "yes" answer to any questions in (A) and (B) above \_\_\_\_\_
  - D. Flood plain/wetlands/drainage \_\_\_\_\_
  - E. Endangered plants or wildlife \_\_\_\_\_
- Are you aware of any other information concerning any part of the land or buildings which might affect the decision of a buyer or affect value of property or affect use by buyer? \_\_\_\_\_

**VI. Property Expense Budget**

To hold this property as a Foundation asset, the following income and expenses are anticipated:

A. Income **Annual**

1. Rent \_\_\_\_\_

2. Other \_\_\_\_\_

B. Expenses \_\_\_\_\_

1. Real estate taxes:

First payment due \_\_\_\_\_ (date) \_\_\_\_\_

Second payment due \_\_\_\_\_ (date) \_\_\_\_\_

2. Utilities:

Gas \_\_\_\_\_

Oil \_\_\_\_\_

Electric \_\_\_\_\_

Water/sewer \_\_\_\_\_

Other \_\_\_\_\_

3. Services:

Caretaker/property manager \_\_\_\_\_

Landscaping \_\_\_\_\_

Heating/cooling service contract \_\_\_\_\_

Snow removal \_\_\_\_\_

Pool services \_\_\_\_\_

Common area charge (condominium) \_\_\_\_\_

Security \_\_\_\_\_

Other \_\_\_\_\_

4. Maintenance/Repairs \_\_\_\_\_

5. Insurance \_\_\_\_\_

**Total Expenses**

**Net Income (Loss)**

**VII. Additional Information on Sections II through VII**

**VIII. Acknowledgments**

Owner(s) hereby acknowledge that the information set forth above is true and accurate to the best of my (our) knowledge

\_\_\_\_\_

Date \_\_\_\_\_

Owner

## APPENDIX A: A DONOR BILL OF RIGHTS

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PHILANTHROPY is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in Friends of Rookery Bay, we declare that all donors have these rights.

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| <ul style="list-style-type: none"><li><b>I.</b> To be informed of the organization’s mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.</li><li><b>II.</b> To be informed of the identity of those serving on the organization’s governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.</li><li><b>III.</b> To have access to the organization’s most recent financial statements.</li><li><b>IV.</b> To be assured their gifts will be used for the purposes for which they were given.</li><li><b>V.</b> To receive prompt acknowledgment and appropriate recognition for all gifts.</li></ul> | <ul style="list-style-type: none"><li><b>VI.</b> To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.</li><li><b>VII.</b> To expect that all relationships with individuals representing organization of interest to the donor will be professional in nature.</li><li><b>VIII.</b> To be provided with disclosure of all significant parties involved with the Friends of Rookery Bay.</li><li><b>IX.</b> To be assured that Friends of Rookery Bay will not share mailing lists with any other entity.</li><li><b>X.</b> To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.</li></ul> |
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Date: September 18, 2019

Board Secretary \_\_\_\_\_