

Cabrillo College Foundation
Real Property Gift Acceptance Policy and Procedure
September 15, 2015

SUMMARY OF POLICY

The Cabrillo College Foundation (hereinafter, The Foundation) will consider gifts of real property and assets which have real property holdings and elements of value such as partnerships, corporations, and trusts after the review and approval process set forth below.

Generally, the Foundation will sell gifted property as quickly as possible unless the property offers a clear potential to extend the learning environment of the college or as determined by the Foundation's Board.

Donor should be prepared to provide to the Foundation, the following when considering making a gift of real property:

1. A complete written description of the property and any improvements thereon.
2. A written appraisal of value prepared by a real estate professional.
3. An Environmental and Geological report.
4. All other material facts about the property normally noted on a Transfer Disclosure Statement.
5. Any material facts about the property which the grantor deems of significance.

The President of Cabrillo College and the Foundation's Executive Director will review the proposed gift and forward their recommendation to the Foundation's Executive Committee who will in turn make a final recommendation to the Foundation's Board of Directors for final determination.

RESPONSIBILITIES OF THE FOUNDATION

The Foundation will endeavor to maintain information regarding potential gifts of real property as confidential subject to the Foundation's review by staff, board members, and professionals engaged as provided within the guidelines contained in this policy. The Foundation will comply with legally authorized and enforceable demands for information received from governmental agencies and courts.

Donors are encouraged to seek the advice of qualified counsel with respect to both legal and tax matters in their consideration of a gift to the Foundation. The Foundation will not defend donors with regard to claims and obligations which arise in the course of a donation to the Foundation.

It is the donor's responsibility to obtain and pay for any necessary appraisals, finder's fees, or drafting of legal documents as well as file appropriate personal tax returns and defend against any challenges to claims for tax benefits.

A. PRELIMINARY ACCEPTANCE PROCEDURES AND DETERMINATIONS

(1) Market Value and Marketability

The donor completes the Description of Real Property Gift (Appendix A) and provides the appraisal. The IRS requires a qualified appraisal made within 60 days of the date of the gift. The Executive Director will inform the donor of the Foundation's policy to expeditiously sell the gifted property and the IRS reporting requirements (form 8282). If the Foundation elects to pay the appraisal fees, it is obligated to report such fees and issue an IRS form 1099 to the donor.

(a) Site Visit

The Foundation's Executive Director, or a representative, verifies the condition of the property, noting all factors or conditions of the land and structures that may have an impact on the value, disposition or maintenance of the gift. Through this visit, he/she may find it prudent to secure the opinions of a contractor, environmental specialist or geologist.

(b) Considerations for Accepting Real Estate Gifts

The Foundation will take into account the depreciation of real estate in considering gift proposals. If the donor has taken accelerated depreciation in excess of straight-line prior to making the gift, the donor will be responsible for making any recapture payments to the IRS.

The Foundation must weigh carefully whether or not it has the desire and ability to manage the property for whatever length of time is necessary to consummate the sale. If the property produces income, the Cabrillo College Foundation must consider the amount of income it receives against the ongoing cost of the encumbrances.

(c) Environmental/Pollution Concerns

In order to protect Cabrillo College and the Foundation from the high risk associated with accepting contaminated or polluted property, in all cases involving real property, the President and Executive Director may determine that an Environmental Assessment be prepared in writing for the property (See Appendix B: Environmental Interview Report Sheet). This environmental audit will be performed at the donor's expense. Only the Executive Committee may allow an exception to this requirement, and only on residential property which has been used solely for residential purposes for a significant (at least twenty-year) period of time. In cases where this exception applies and no environmental audit is undertaken, the Foundation may require the donor to execute an environmental indemnity agreement.

Any Environmental Site Assessment prepared shall be reviewed and approved by the Executive Committee prior to final acceptance of the gift by the Foundation.

The Foundation will generally not accept gifts of real property that are contaminated by hazardous materials at the time of the gift or have been so contaminated at any

time in the past. However, in the unusual event that the Foundation does elect to accept gifts of such property, a written agreement shall be made with the donor acknowledging the facts and circumstances concerning the hazardous materials, allocating responsibility for any damage or cost caused or incurred as a result of such hazardous materials and any other matters deemed appropriate by the Foundation under the circumstances of the proposed gift.

In cases where the real property may be geologically unstable, the President and Executive Director may determine that a Geological Assessment be prepared for the property in writing. This assessment will be performed at the donor's expense and must be approved by the Executive Committee prior to final acceptance of the gift by the Foundation.

(d) Co-Ownership

Potential problems associated with co-ownership will be evaluated if less than the full interest in a property is being donated.

(e) Commercial Properties

Commercial properties and businesses will be examined in relationship to the potential for exposure of the Foundation to unrelated business taxable income.

(f) Limitations and Encumbrances

The existence of any and all mortgages, deeds of trust, restrictions, reservations, easements, mechanic or tax liens and other limitations of record should be disclosed and reviewed for their impact on usability or marketability. No gift of real estate will be accepted until all mortgages, deeds of trust, liens and other encumbrances have been discharged, except in cases where the value of the Foundation's interest in the property net of all encumbrances is substantial and is approved following a review by the Executive Committee.

The foundation will consider encumbered property for acceptance only if the evaluation convincingly demonstrates that the property can be sold at a price that substantially exceeds the aggregate amount of the encumbrances and any costs associated with satisfying them.

B. APPROVAL PROCESS

(1) The Executive Director of the Foundation submits a written summary of the proposed gift to the Executive Committee. At a minimum the summary shall include the following information:

- Complete legal description of real property and copy of warranty deed, if possible
- Tax status of the property and any current or proposed Local Improvement District (LID) assessment
- Preliminary title report

- Current zoning and any proposed changes
- Current mortgage balance, if any
- Lease or rental information, if appropriate
- Any oil, gas, mineral, or other rights that may or may not be transferred
- The purpose of the gift (e.g., to fund an endowed chair, a deferred gift, an unrestricted gift) and the department(s), program(s), or endowment(s) to benefit from the gift
- The most current appraisal of the property and its marketability
- Real estate listing information if property is currently on the market
- Any potential for income and expenses, encumbrances, and carrying costs prior to disposition
- Any environmental risks or problems revealed by audit or survey or known by the owner
- Any geological risks
- Any legal risks or issues known by the owner
- Any potential Foundation and/or College use
- Any special arrangements requested by the donor concerning disposition (e.g., price considerations, time duration prior to disposition, potential buyers, realtors or brokers with whom the donor would like the Foundation to list the property, etc.)

- (2) The Executive Director reviews the material with the President of Cabrillo College.
- (3) The President recommends in writing to accept or reject the proposed gift of real property (or, if necessary, to postpone a decision pending the receipt of additional information).
- (4) The Executive Director advises the Executive Committee, who recommends approval to the full board.
- (5) All gifts of real property must be approved by the Foundation Board of Directors and in writing by the President of Cabrillo College.
- (6) The Foundation will obtain a final title report prior to accepting title to any property, either outright or as trustee. Because the title report is a form of insurance for the Foundation, the Foundation will bear the cost of the final report. An acceptable title report must be obtained before the gift acceptance is approved.
- (7) If a proposed gift of real property is accepted, the gift will be recorded on the date the deed to the property is irrevocably deeded to the Foundation, or to a deferred gift vehicle. The gift will be completed by the execution and delivery of a deed of gift or other appropriate conveyance.
- (8) The existence and amount of any carrying costs, including but not limited to property owners' association dues, country club membership dues and transfer charges, taxes and insurance must be disclosed and paid either by the donor or charged to the fund account of the department(s), program(s), or endowment(s) that are benefited by the donation.

- (9) It is the donor's responsibility to establish a value for the gift and to obtain for the donor's use and at the donor's expense, a qualified appraisal required by the IRS. In the event the donor is unable, or unwilling to do so, or where there is a difference of opinion or because the property is difficult to value, the Foundation will appraise and assign a value to the gift property (for its own internal use only).
- (10) The costs associated with the conveyance and delivery of the gift, including, but not limited to if deemed necessary, a current survey, recording fees and title insurance, will be paid either by the donor or charged to the fund account of the department(s), program(s), or endowment(s) that are benefited by the donation.
- (11) The IRS requires the donor to file Form 8283 *Noncash Charitable Contributions*, signed by the Foundation, for gifts of \$5,000 or more.

C. DISPOSITION AND MAINTENANCE OF GIFTED PROPERTY

- (1) Insurance: The Foundation will obtain liability insurance for any property it owns, either outright or as trustee.
- (2) Generally, the Cabrillo College Foundation will sell property as quickly as possible after the gift is completed.
- (3) Selection of Real Estate Agent:
 - The Executive Committee will review and recommend the selection of the listing real estate agent from a list of at least three qualified real estate agents submitted by staff.
 - No current Foundation Board member shall be submitted for consideration.
 - A committee member may present a potential buyer after the listing agreement has been signed. He or she will abstain from further committee review regarding this specific listing.
 - A real estate agent recommended by the donor should be given preference, providing two other proposals are solicited and reviewed to ensure due diligence. The solicited agent should be informed that the requested proposals are for comparison purposes.
 - For specialty properties, a real estate agent who specializes in the type of property should be included in the proposal review process.
 - If property is located out of the area, real estate agent referral networks as well as escrow officers at title companies should be consulted for potential listing agent.

Proposed delivery date of deed: _____

Date of physical inspection of property: _____

Documents to Obtain and Submit

Preliminary Title Report:

Donor to supply. _____

Appraisal:

Must be ordered, paid for and submitted prior to date of change of ownership. _____

Deed:

Shows how title is vested and is used to prepare the title transfer. _____

Property tax bill:

Shows assessed value of land, improvements, actual tax and any assessments. _____

Income/Expense Pro Forma for three-year period:

If commercial income-producing property. _____

Association agreement:

Ownership rights and responsibilities of some properties, primarily residential or condominiums, are governed by an owner's association. The agreement should include fees or assessments and conditions of sale together with a statement showing the condition of any reserve fund for deferred maintenance. _____

Covenants, Conditions, and Restrictions:

Covenants, conditions and restrictions are required of most subdivisions. A copy of these will show how the property may be used and what restrictions may apply. _____

Lease or rental agreements:

If the property is leased or rented to others, a copy of each rental agreement should be obtained showing the terms of the agreement, term of rental, deposits, etc. _____

Notes and trust deeds or mortgages:

If the property is encumbered by a note, mortgage, or other debt, copies of the promissory note, mortgage, or other relevant documents should be obtained showing the terms of the encumbrance. _____

Current mortgage statement:

Will show the current status of a loan and will be helpful in identifying

and discussing the loan with the lender and considering the value to the charity.

Insurance policy:

Will verify cost of insurance and provide information for the Cabrillo College Foundation to transfer insurance, if desired, after gift is made.

Plot Map/Property line:

This indicates location of property and is an important step in acquiring much of the information for gift analysis.

Inspection Report:

Where inspections reports are available from previous activity related to the property, such as inspection reports or structural assessment reports by an engineer.

Fund Agreement:

Outline of donor's charitable intent.

Donor/Donee Transfer Agreement:

Must use Cabrillo College Foundation approved agreement form (if appropriate, depending on type of gift). The agreement should be drafted with legal counsel's help to meet the needs of each gift.

APPENDIX B

ENVIRONMENTAL INTERVIEW REPORT SHEET

This interview is designed for use with current and/or prior owners or managers of the property.

Date of Interview _____	Interviewer _____
Person Interviewed _____	Relation to Property _____
Property Description _____	

Type of Property	Agricultural _____	Timber _____	
	Commercial _____	Manufacturing _____	
	Age of Buildings _____	Undeveloped Land _____	
	Residential _____	Other _____	

1. Indicate prior uses of property. _____
2. Are you aware of any environmentally sensitive situations on the property?
Describe: _____
3. For uses identified in question 1, has an environmental license or permit ever been issued?
4. ____ No ____ Yes
5. Are there any oil, fuel or chemical storage tanks on the property located above or below ground?
6. ____ No ____ Yes
7. Has an environmental assessment been previously conducted?
8. ____ No ____ Yes. If yes, provide a copy of the report.
9. If available, attach maps or surveys that describe the property to this questionnaire.
10. ____ attached ____ none available
11. If you are unable to furnish the information requested above, please advise us if there is a reliable source that may be able to furnish this information.

PROPERTY INSPECTION CHECKLIST FOR CURRENT ENVIRONMENTAL CONDITIONS

Name of Inspector _____	Date of Inspection _____
Owner of Property _____	Estimated Size _____
Location of Property _____	Current Use _____
Number of years the current use has been in effect _____	
Brief history of property use (list past use and former tenants, and source of information)	

ENVIRONMENTAL SITE INSPECTION CHECKLIST

- | | Yes | No |
|--|-----|-----|
| I. An on-site inspection revealed the following: | | |
| A. Stressed or denuded vegetation or unusual barren areas | ___ | ___ |
| B. Discoloration, oil sheens or foul/unusual odors in water | ___ | ___ |
| C. Dump site | ___ | ___ |
| D. Tire/battery/chemical storage or disposal | ___ | ___ |
| E. Storage drums | ___ | ___ |
| F. Above or below ground storage tanks, vent or filler pipes | ___ | ___ |
| G. Evidence of petroleum or oil products | ___ | ___ |
| H. Evidence of PCBs (electrical transformers, capacitors) | ___ | ___ |
| I. Subject or adjoining property used for industrial purposes | ___ | ___ |
| J. Existing structures: If yes, indicate if there is: | ___ | ___ |
| 1. Evidence of chemical spills/leaks | ___ | ___ |
| 2. Evidence of asbestos | ___ | ___ |
| 3. Any source of air emission | ___ | ___ |
| K. Does property appear on National/State Hazardous Site list? | ___ | ___ |

L. If "yes" to any of the above, describe: _____

II. () Based on the evaluation of known, discovered or observed environmental factors, there is no evidence of environmental contamination on this or neighboring properties, and no further action is recommended.

() Based on the evaluation of known, discovered or observed environmental factors, there is evidence of possible environmental contamination on this or neighboring properties and further investigation is recommended. *(Complete section, "Evaluation of Known Environmental Factors" if this block is checked.)*

 Person Completing Form Title Date

 Acceptance of Form Approved By Title Date

EVALUATION OF KNOWN ENVIRONMENTAL FACTORS

Check the appropriate response to each statement based on all sources of information, including the Environmental Site Inspection Checklist.

		Yes	No
A.	This property (or adjacent property) appears on federal, state or other environmental agency list of sites identified for environmental investigation or cleanup.	___	___
B.	This property is developed and used for an industrial or manufacturing purpose.	___	___
C.	This property is undeveloped land used for landfill or waste dump purpose.	___	___
D.	The prior, current or proposed use of this property involves the generation, storage, treatment or disposal of any potentially hazardous materials, oil/petroleum products or other substances regulated by environmental laws and agencies. Specify: _____ _____	___	___
E.	Activities on adjacent properties may have contributed to the environmental contamination of the subject property.	___	___
F.	This property is near a flood plain, wetland or ecologically sensitive area.	___	___
G.	The Environmental Site Inspection revealed evidence of possible environmental contamination.	___	___
H.	The donor has revealed potential sources or causes of environmental contamination.	___	___
I.	This property is used for agricultural purposes.	___	___

() Based on the evaluation of known environmental factors, there is no evidence of possible environmental contamination on this or neighboring properties and no further action is recommended.

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- () Based on the evaluation of known environmental factors, there is evidence of possible environmental contamination on this or neighboring properties and further investigation is recommended.

Recommendations:

Person Completing Form	Title	Date
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Acceptance of Form Approved By	Title	Date
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APPENDIX C

Cabrillo College Foundation Gift Acceptance Procedure

November 2008

When a donor expresses the desire to donate a gift of real estate, the following process will be followed:

- (1) The Description of Real Property Gift (Appendix A) needs to be filled out by the donor, returned and the procedure followed as provided therein.
- (2) The donor will be required to provide a written independent appraisal of the fair market value of the real property prepared by a qualified appraiser (MAI, FHA or equivalent) in accordance with IRS guidelines, regardless of the use of the real property, and a written disclosure statement in the form provided in California Civil Code sec. 1102.6 (or successor statute), together with any and all documents and information as may be required.
- (3) The Cabrillo College Foundation staff and the donor should meet to visually evaluate the property and develop appropriate gift arrangements with the donor, subject to proper approval. The acceptance and approval process will be conducted by the President of Cabrillo College and the Cabrillo College Foundation's Executive Director and requires approval of the Cabrillo College Foundation's Executive Committee, who will make a recommendation to the Board of Directors.
- (4) An analysis must be performed prior to acceptance to determine whether the gift makes a financially sound investment for the Cabrillo College Foundation, especially if commercial or income property is involved. The value of the property will be evaluated in relation to the costs of holding the property and the likely proceeds from selling it. All inspections deemed necessary by the committee shall be completed prior to the acceptance of the property.
- (5) Depending on the complexity (e.g. location, use of improvements, title) and value of the property being donated, the staff should discuss an appropriate fee/gift arrangement with the donor to help cover the overhead costs of accepting the gift. These costs may include but are not necessarily limited to property inspections, environmental and geological assessment, market analysis, sales commissions, title work, closing costs, legal fees, property taxes, insurance, and the cost of holding the property for eventual resale. The costs for said inspections will be the responsibility of the Foundation. If property is deemed to be unsuitable, donor will reimburse Foundation for the expenses.
- (6) Any potential problems associated with co-ownership if less than the full interest in a property that is being donated will also be evaluated.

Approved by the CCF Board of Directors on September 15, 2015.

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