

# THE CENTER FOR DISCOVERY

SUBJECT: Gift Acceptance Policy and Procedure	MANUAL: Corporate Compliance
	SECTION: Section 7

**Purpose:** The Center for Discovery Inc., Developmental Residential Services, Inc., Sullivan C.P. Residence Corp., SDTC Foundation, Inc., The Center for Discovery Endowment Fund, Inc., and Magnet Services Corporation (collectively, TCFD), not-for-profit corporations established under the laws of the State of New York, encourage the solicitation and acceptance of gifts for purposes that will help the TCFD to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the TCFD.

## **Policy:**

1. The Board of Directors of TCFD, and its staff accept and solicit current and deferred gifts (including estate plans) from individuals, corporations, and foundations to secure the future growth and mission of TCFD. These policies and guidelines govern the acceptance of gifts by TCFD and provide guidance to prospective donors and their advisors when making gifts to TCFD. The provisions of these policies shall apply to all gifts received by TCFD.
2. **Use of Legal Counsel:** TCFD shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:
  - a. Closely held stock transfers that are subject to restrictions or buy-sell agreements
  - b. Gifts involving contracts or other documents requiring TCFD to assume an obligation
  - c. Transactions with potential conflict of interest
  - d. Other instances in which use of counsel is deemed appropriate by the Gift Acceptance Committee
3. **Conflict of Interest:** TCFD will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. TCFD cannot give legal advice; the donor's counsel is responsible for all legal conclusions and advice.
4. **Restrictions on Gifts:** TCFD will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. Gifts that are too restrictive are those that may violate the terms of the corporate charter, gifts that may adversely impact TCFD's fulfillment of its mission or compliance with other legal obligations, gifts that may be too difficult to administer, or gifts that are for purposes outside the mission of TCFD. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by TCFD'S Gift Acceptance Committee.

## **Procedures:**

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1. **Gift Acceptance Committee:** The Gift Acceptance Committee shall consist of the following individuals:
  - a. The CEO of TCFD
  - b. The CFO of TCFD
  - c. The General Counsel and Corporate Compliance Officer of TCFD
  - d. The Executive VP of Development, Marketing and Strategic Communications
  - e. Such members of the Board of Directors or Senior Staff as appointed by the Board Chair or CEO

The Gift Acceptance Committee is charge with the responsibility of reviewing and properly screening all gifts over \$25,000; accepting those gifts and making recommendations to the Board on gift Acceptance issues when appropriate.

EXCEPTION: Corporate sponsorships of special events and/or individual gifts during our Annual Appeal do not need to be reviewed by the committee.

2. **Acceptable Gifts:** The following gifts may be received by TCFD;
  - a. Cash: Cash is acceptable in any form. Checks shall be made payable to TCFD
  - b. Tangible Personal Property: All gifts of tangible personal property (including Art Work) shall be examined in light of the following criteria:
    - i. Does the property fulfill the mission of TCFD?
    - ii. Is the property marketable?
    - iii. Are there any undue restrictions on the use, display or sale of the property?
    - iv. Are there any carrying costs for the property?
  - c. Securities: TCFD can accept both publicly traded securities and closely held securities.
    - i. 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 the Finance Committee of the Board of Directors in consultation with the Gift Acceptance Committee. In some cases marketable securities may be restricted by applicable securities laws; in such instances the final determination on the acceptance of the restricted securities shall be made by the Gift Acceptance.
    - ii. 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, can be accepted

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subject to the approval of the Gift Acceptance Committee of TCFD. However, gifts must be reviewed prior to acceptance to determine that:

1. There are no restrictions on the security that would prevent TCFD from ultimately converting those assets to cash;
2. The security is marketable; and,
3. The security will not generate any undesirable tax or other legal / financial consequences for TCFD.

If potential problems arise on initial review of the security, further review and recommendations by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities shall be made by the Gift Acceptance Committee and legal counsel when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

- d. Real Estate: Gifts of real estate may include developed property, undeveloped property or gifts subject to a prior life interest.
  - i. Evaluation of Potential Gifts
    1. Property and Report Form: Upon initial inquiry, potential donors will be asked to complete a property inquiry form ( a copy of the form is attached to this policy). The donor shall provide TCFD with appropriate maps and documentation.
    2. Liens, Mortgages and Encumbrances: Property which is subject to liens, unpaid mortgages, deeds of trust, judgment liens, unpaid taxes or assessments, mechanics' liens or other encumbrances will be accepted only in exceptional circumstances and upon advice from TCFD legal counsel.
    3. Field Evaluation: Following an offer of a gift of real estate, the Gift Acceptance Committee may retain an outside expert to investigate the property and prepare a report to TCFD, to determine the nature and type of property and to identify any potential problems not evident from initially supplied information that would hinder or prevent TCFD's sale or use of the property.
    4. Market Evaluation: Whenever practicable, arrangements will be made to have a realtor appraiser analyze the property to evaluate the existence of a market for such property. The CEO or CFO may request, at his/her discretion, that the donor provide such an evaluation from a realtor acceptable to TCFD.
    5. Expense Budget: The CEO, in conjunction with the CFO, will prepare a budget outlining all the projected expenses associated with the acceptance of all proposed real estate gifts.

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## ii. Responsibilities of the Donor

1. 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"). TCFD will not provide a value of the donated property to the donor.
2. At the request of the Gift Acceptance Committee, the donor must obtain, at the donor's expense, an environmental audit satisfactory to TCFD. No property will be accepted if there is a likelihood of any liability which could attach to TCFD as a result of its taking title to the property.
3. The donor must furnish TCFD with evidence of title which shows that title to the property is free and clear except for current real estate taxes and restrictions of record which, in the opinion of the Gift Acceptance Committee, would not create any economic burden on TCFD.
4. It is the donor's responsibility to prepare the deed and other instruments which are necessary to transfer the property to TCFD. All proposed transfer instruments must be reviewed by TCFD's legal counsel prior to acceptance by TCFD.
5. Prior to acceptance of the property, TCFD 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, TCFD will not advance funds for the payment of such expenses.
6. Donor will be encouraged to discuss contemplated bequests of real estate before finalizing their wills. Property that is bequeathed to TCFD will be evaluated in accordance with the Policy and Procedure like all other gifts of real property. The donor will be responsible for all professional and legal fees associated with gift.

## iii. Procedure for Accepting Real Estate

1. After the requirements of this Policy and Procedure have been satisfied, the Gift Acceptance Committee will have the authority to accept or refuse a gift of real property.
2. The Gift Acceptance Committee may refuse any offered gift of real property that is judged not to be in the best interest of TCFD.
3. Prior to or upon transfer of title to TCFD, the donor and TCFD will sign an agreement (approved by legal counsel) stating the terms of the gift, which shall specify that there are no restrictions on TCFD's right to use, mortgage, or convey the property.

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4. TCFD will seek exemption from real estate taxes for donated property intended to be utilized by TCFD in fulfilling its mission.
- iv. Sale of Real Estate: In the case of a sale of the property within two years of the date of the gift, TCFD will report the actual sales proceeds to the IRS on Form 8282 ("Donor Information Return")
- v. Real Estate Gifts by Bequests
  1. Upon becoming aware that TCFD has been named to receive a gift under any Will that has been admitted to probate or any trust arrangement, the CEO or his / her designee will contact the executor, trustee, or other legal representative of the estate, and determine if TCFD's gift consists of land or, if TCFD is a residuary beneficiary of the estate, where the residue passing to TCFD will contain any land.
  2. If TCFD will or may receive land in satisfaction of the gift, the CEO or his / her designee will notify the executor, trustee, or other representative of the policy requiring an environmental study similar to the one that TCFD would require if it were to receive an inter-vivos gift. If the executor, trustee, or other legal representative has not made the study and if it does not do so, the Gift Acceptance Committee may determine whether to make its own study, to decline to accept the gift, or to accept the gift absent the study.
- e. Life Insurance: TCFD must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its cash surrender value, upon receipt.
  - i. If the donor contributes future premium payments, TCFD will include the entire amount of the additional premium payment as a gift in the year that it is made.
  - ii. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, TCFD may:
    1. continue to pay the premiums;
    2. convert the policy to paid up insurance; or,
    3. surrender the policy for its current cash value.
  - iii. Donors and supporters of TCFD will be encouraged to name TCFD as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to TCFD 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 that gift may be recorded at the time the gift becomes irrevocable.

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- f. Charitable Remainder Trusts: TCFD may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the Gift Acceptance Committee. TCFD will not accept appointment as Trustee of a charitable remainder trust.
  - g. Charitable Lead Trust: TCFD may accept a designation as income beneficiary of a charitable lead trust. The Board of TCFD will not accept an appointment as Trustee of a charitable lead trust.
  - h. Retirement Plan Beneficiary Designations: Donors and supporters of TCFD will be encouraged to name the TCFD as beneficiary of their retirement plans. Such designations will not be recorded as gifts to TCFD until such time as the gift is 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.
  - i. Bequests: Donors and supporters of TCFD will be encouraged to make bequests to TCFD under their wills and trusts. Such bequests will not be recorded as gifts to TCFD until such time as the gift is 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.
3. TCFD WILL NOT:
- a. TCFD will not pay for legal assistance, appraisals or other services on behalf of the donor, except in extraordinary circumstances when approved by the Gift Acceptance Committee and the Board.
  - b. TCFD will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.
  - c. TCFD will not provide any benefit to the donor in the form of payments, services to the donor or anyone associated with the donor, other than an acknowledgement of the gift and / or provision of a token of appreciation of minimal or no value.
4. **Appraisals:** It will be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to TCFD.
5. **IRS Filings:** The Finance Office, specifically the CFO or his/her designee, is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by TCFD when the charitable deduction value of the item is more than \$5,000. The form must be filed within 125 days of the date of sale or disposition of the asset.

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- 6. Non-Cash Gifts:** TCFD's policy for all non-cash donations will be to convert the non-cash donation to cash as quickly as possible (e.g., securities, land). Any deviation from the policy requires approval of the Gift Acceptance Policy. Exempt from this requirement would be donated supplies or materials that have a use that would require TCFD to purchase the same or equivalent materials or supplies had we not been donated the items (e.g., donated medical supplies, etc.)
- 7. Acknowledgement:** Acknowledgement of all gifts made to TCFD and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the CEO or his/her designee
- 8. Right of Refusal:** TCFD reserves the right to refuse any gift.

## **Regulatory Reference:**

N/A

## **Sanction Statement:**

Non-compliance with this policy may result in disciplinary action, up to and including termination.

## **Compliance Statement:**

As part of its ongoing auditing and monitoring process in its Corporate Compliance Program, TCFD will review this policy based on changes in the law or regulations, as TCFD's practices change, and, at minimum, on an annual basis. Additionally, this policy will be tested for effectiveness on an annual basis or more frequently as identified in accordance with TCFD's Corporate Compliance Program. Testing will include but is not limited to ensuring that the policy is appropriately followed; the policy is effective; the policy has been disseminated to all Affected Individuals, as well as notified of any updates or changes.

Tracking of the criteria above and results of this testing will be completed by the CCO, or designee. Additionally, results will be reported to the CCC and Governing Body on a regular basis.

## **Record Retention Statement:**

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TCFD will retain this policy and all subsequent revisions, and any related documentation will be retained for a period of, at minimum, six years.

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