

## **GIFT ACCEPTANCE**

Generally, all gifts are acceptable to NAUF, subject to the following policies and procedures. The procedures for gift acceptance can be found below and in the NAU procedures manual.

### **Authority to Negotiate**

The Board authorizes the NAU President, his/her delegates, the Foundation President, and the gift planning staff, working through the gift planning program of NAU and any advisor or outside counsel deemed necessary, to negotiate the establishment and the terms of planned gifts (such as charitable remainder trusts, charitable lead trusts, charitable gift annuities, life estate agreements, charitable loans, etc.), inter vivos or otherwise.

The Board authorizes the NAU President and his/her delegates to negotiate on behalf of NAUF acceptable outright gifts. Gifts negotiated by the delegates must be in consonance with this policy.

### **Policies on the Acceptance of Certain Types of Gifts**

#### **Gift in Kind (Gifts of Tangible Personal Property and Real Property)**

A gift of tangible personal property such as equipment, art objects, furniture, instruments, books, valuable papers, or real estate, etc., may be accepted on behalf of NAU by NAUF provided that:

- (a) such a gift is consistent with the missions of the University, or may be liquidated and the proceeds used by NAUF;
- (b) acceptance of such a gift will not involve significant additional expense in its present or future use, display, maintenance, or administration; and
- (c) no financial or other burdensome obligation or expense is or will be directly or indirectly incurred by NAUF as a result thereof.

The receipt and acceptance of gifts of tangible personal property by Vice Presidents, Deans, Directors and other authorized officers shall be reported in detail promptly to NAUF for confirmation and formal acceptance. Unless otherwise specified as a condition of the gift, NAUF, in assuring that the donor's intent for the gift is honored, is empowered to retain the gift of property, turn it over to the University, or liquidate it. Gifts of real property will be sold and converted to cash as soon as practical unless it is held for the use of Northern Arizona University or there is some compelling reason for the Foundation to retain ownership.

#### **Requirements for Accepting Gifts in Kind (GIK)**

Before any such gifts-in-kind will be received by the Foundation, the following will be determined:

- (a) The user college, school, department, program or unit at Northern Arizona University must declare that the gift-in-kind will be useful to meet its stated objectives and goals.
- (b) The donor must be advised to make provisions for a qualified appraisal which will enable the donor to claim a tax deduction.
- (c) Arrangements must be made in advance to transport, ship or deliver the gift-in-kind to Northern Arizona University.
- (d) Arrangements must be made in advance for space to house the gift-in-kind at Northern Arizona University.

- (e) Provisions must be made in advance for installation costs, if any, for the gift-in-kind at Northern Arizona University.
- (f) Arrangements must be made in advance for insurance coverage, if any, for gifts-in-kind during shipping and when housed at Northern Arizona University.
- (g) Arrangements for maintenance costs, if any, for the gift-in-kind must be made in advance.
- (h) Determination must be made if there is any liability associated with receiving the gift-in-kind by the Foundation.
- (i) Final determination regarding acceptance of any gift-in-kind will be made by the Foundation President, or designee, of the Foundation. The Foundation President may consult with the Executive committee if necessary regarding acceptance.
- (j) The donor will be notified of the Foundation's intent to maintain or dispose of the property.
- (k) All real estate gifts offered to the Foundation are to be reviewed by the appropriate gift acceptance committee and presented to the Executive committee or the Board of Directors with the committee's recommendation to accept, reject or refer to the University. The committee will also make recommendations regarding environmental assessment requirements.

### **Procedures for Recording Gift in Kind**

After the above requirements have been met, the gift-in-kind will be received by the Foundation. A proper acknowledgement will be issued to the donor. The acknowledgement will clearly state that the donor is solely responsible for the declared fair market value of the gift-in-kind the donor wishes to claim as a charitable income tax deduction for the gift.

If title to the gift-in-kind is retained in the Foundation, the item or items will be placed on the inventory list of foundation assets with appropriate information such as serial number, model number, declared value, description, location, etc. An annual inventory check will be made to certify that the gift-in-kind is still in the possession of the user department at Northern Arizona University. At this time, a depreciation or appreciation schedule will be provided for each Foundation asset where appropriate.

If the gift-in-kind is declared of no further benefit to Northern Arizona University, and there was no restriction placed on the item or items by the donor, the gift-in-kind may be sold, traded or discarded, but only with the expressed written permission of the Foundation President.

Title to the gift-in-kind may be transferred from the Foundation to Northern Arizona University at any time, but only with the expressed written consent of the Foundation President. The University Advancement data entry department will notify NAU Property Control when any gifts-in-kind are received through University Advancement. The item or items will then be placed on the inventory list of the University and the Foundation will have no further concern or responsibility.

### **Gifts of Works of Art**

Gifts of works of art may be accepted by NAUF. In addition to the noted policies, requirements and procedures on gifts of tangible personal property, NAUF, in accepting works of art, will adhere to the following two-tier approach:

1. Works of high quality, individually or in whole collections, may be given to and may be accessioned by the NAU Art Galleries and Museum, the official collector and keeper of important works of art for NAU. To be "accessioned" indicates the Museum's commitment to care for and to use the work for Museum purposes. Art accepted by the Museum must be approved by the Museum Manager prior to acceptance and, if appropriate, the NAU Art Gallery Programming committee on collections. The principal criteria for acceptance, besides quality,

are condition, ownership, authenticity, and relatedness to the purpose and collections of the Museum. In addition, the following criteria must be met:

- (a) Generally, it must be unencumbered by any restrictions as to use, attribution, exhibition, and disposal. The Museum will, however, honor the donor's wishes regarding recognitions.
  - (b) Works of Art should also be accompanied by a bill of sale or other proof of ownership and a complete provenance (the artwork's history of ownership), where available.
2. Works not meeting Museum standards may still be of value to units of the University for decorative, instructional or resale purposes. However used, title to these works remains with NAU, and decisions regarding disposition resides with the entity that retains the title.

Proof of ownership is a condition of acceptance for any artwork because of increasing problems of repatriation lawsuits for certain ethnic and cultural categories.

### **Gifts of Partnership Interests, Non-Publicly Traded Stock, and Restricted Securities**

An offer of a gift of an interest in a limited or general partnership, or of stock in a corporation that is not publicly traded, or of restricted or controlled stock of a publicly traded corporation, may be accepted on behalf of NAU by NAUF provided the appropriate due diligence has been performed. The Foundation President will coordinate the investigation of such matters as NAUF's possible liability as a partner or owner, the assets of the entity, the liquidity of the assets, the entity's past and current financial condition (based on such things as audited financial statements and filed tax returns), the partnership or shareholder's agreement, the nature of the restrictions, and any other information the Executive Director deems reasonably necessary. Approval by the Foundation President or his/her designee must be obtained prior to any transfer to NAUF of a partnership interest, stock that is not publicly traded, or restricted or controlled stock.

Unsolicited transfers of partnership interests or such stock will not be accepted. Upon receipt of any such unsolicited transfer, the Foundation legal counsel will immediately notify the transferor (in writing) that the interest or stock has not been accepted and will not be accepted until the requirements of this policy are met.

The IRS requires a donor to obtain a qualified appraisal if the value of the interest transferred is over \$5,000 (\$10,000 for closely held stock) and the donor wishes to claim a charitable contribution income tax deduction. For proper accounting, marketing, and donor recognition purposes, an appraisal is requested for each gift of a partnership interest, non-publicly traded stock, or certain restricted or controlled stock. In the absence of an appraisal, the gift will be recorded at \$1.00.

### **Gifts of Real Property**

In addition to the noted policies, requirements and procedures on Gifts-In-Kind, gifts of real property may be accepted on behalf of NAU in accordance with the following additional policies, requirements and procedures as approved by the NAUF Board.

Most real property is actively marketed and the proceeds are used for the charitable purposes specified by the donor. A real estate policy has been adopted by the NAUF relating to the acceptance, management, and liquidation of real property.

No interest in real property, whether outright, in trust, by bequest, as a secured interest, or otherwise, will be accepted by or on behalf of NAUF without first complying with all environmental due diligence requirements as set by the Board. In addition, each real property acquisition requires a site visit by NAU staff, and may require a qualified appraisal, survey, or

title work. NAUF rarely accepts mortgaged property and never accepts mortgaged property into a charitable remainder trust.

NAUF will not discriminate or condone discrimination in its real property activities. NAUF will conduct all affairs in compliance with all applicable state and federal Equal Opportunity, Fair Housing, Equal Credit Opportunity, and other anti-discrimination laws.

## **Procedures for Accepting All Types of Real Estate**

Many gifts received by NAUF are gifts of real property. Also, in furtherance of its mission, NAUF may acquire interests in real property by non-gift means for use by NAU. Most frequently, NAUF markets gifts of real property. The proceeds are used for charitable purposes specified by donors.

The following procedures have been adopted by the NAUF Board relating to the acceptance, management, and liquidation of real property. All appropriate inquiries will be made concerning the condition of real property, valuation, including marketability, carrying costs, and environmental risks, prior to acquisition by NAUF in any capacity.

The following requirements must be met for the acquisition of any interest in real property, in any capacity, prior to acceptance or recording of any documents. After initial review and approval by the University Advancement gift planning committee, all issues and materials required for the acceptance of both real property and gifts-in-kind, as listed above, must be submitted for consideration by the gift acceptance committee.

### **Staff Site Visit and Analysis**

Prior to accepting receipt of any real property interest by NAUF, the Foundation President or his/her designee will inspect the real property. The University Advancement gift planning committee will review all required documentation. They will analyze the following, among other things:

- (a) Market conditions for resale or the ultimate disposability of the property;
- (b) The condition of any improvements located on the property;
- (c) Current and potential zoning, land use, and concurrency issues;
- (d) Any costs associated with holding the property for resale; and
- (e) Other considerations specific to the acquisition of the property.

### **General Warranty Deed**

Title will be transferred to NAUF by general warranty deed unless transfer is by a trustee, personal representative, or other fiduciary who will provide a deed with warranties appropriate to its capacity. Legal counsel will review all deeds.

### **Appraisal**

The IRS requires the donor to obtain a qualified appraisal if the value of the real property is over \$5,000 and the donor wishes to claim a charitable contribution income tax deduction. For proper accounting, marketing, and donor recognition purposes, an appraisal is requested for all real property gifts. In the absence of an appraisal, the real property will initially be recorded at \$1.00.

### **Title Search and Title Insurance**

A title search may be required for any real property transaction. A title search and title insurance will be required for gift acquisitions of mortgaged property and all non-gift acquisitions.

### **Owner's Affidavit**

An owner's affidavit in a form approved by the gift acceptance committee is required for all real property acquisitions. A copy is attached as Appendix C.

### **Survey**

A survey may be required for any real property transaction. A survey will be required for gift acquisitions of mortgaged property and all non-gift acquisitions, unless the gift acceptance committee and/or Foundation legal counsel determine existing surveys or drawings are adequate.

### **Real Property Taxes and Other Carrying Costs**

Evidence must be provided by the donor that all real property taxes and other carrying costs are paid and current. Donors will be encouraged to pay all or prorate the taxes and other carrying costs for the year of the donation.

### **Mortgaged Property**

NAUF rarely accepts mortgaged property and never accepts mortgaged property into a charitable remainder unitrust. Real property may be acquired subject to a mortgage, if the mortgage is current and assumable and only following Executive committee or Board of Director's approval. Prior to acceptance:

- (a) A clearly established method for the payment of the debt must be determined;
- (b) An MAI/SRA appraisal will be required; and
- (c) The loan-to-value ratio must not be more than 50 percent.

### **Bargain Sales**

If the appraised value of the property is \$50,000 or less, a bargain sale should not be considered. Also, bargain sales should not be considered unless the gift portion of the transaction is at least 50% of the fair market value of the property.

### **Leases**

When real property is acquired subject to a lease, the lease must not be in default and must be assignable by the landlord. Commercial property acquired subject to a lease will only be accepted following approval by the gift acceptance committee. Following approvals, and upon transfer of the property, the leases must be assigned to NAUF and all deposits, advance rents, and other monies transferred to NAUF or otherwise accounted for as required by law.

### **Special Deed Clauses**

The gift acceptance committee and Foundation legal counsel must approve special deed clauses in advance.

### **College or Unit Agreement**

Each college of unit benefiting from a gift or other acquisition of real property must agree in writing, prior to acceptance or acquisition, to pay any taxes, insurance, mortgage payments, and all other holding and carrying costs incurred by NAUF until the real property is liquidated. The written approval will authorize the NAUF Controller to disburse monies for these expenses and will identify an appropriate NAUF fund of the college or unit from which the monies are to be disbursed.

## **Environmental Requirements**

No interest in real property, whether outright, in trust, by bequest, as a secured interest, or otherwise, will be accepted by or on behalf of NAUF without first complying with the following procedures:

An environmental review as described below shall be performed on every potential real property asset prior to acceptance by NAUF. The environmental review will be performed by the person or firm selected by the Foundation President or his/her designee (approved consultant). Each environmental review will be reviewed and approved by the Foundation President.

## **Residential, Rural or Agricultural**

For real property located in a developed residential community, a rural area, or an agricultural area, an approved consultant will perform an Environmental Risk Assessment.

## **Industrial**

For real property located in a developed area where manufacturing of any class of industrial activity may have taken place, a Phase I approved consultant will perform the audit.

## **High Risk Operation**

For real property with present or past high-risk operations, an approved consultant will perform a Phase I audit.

If the environmental review indicates areas of significant concern, an additional investigation, including a Phase I, Phase II, or Phase III audit, as recommended, will be performed by an approved consultant prior to acceptance of the real property. If the above procedures disclose risk of liability, the real property will only be accepted with the approval of the Executive committee or the Board of Directors. All contracts for environmental audits will be prepared and reviewed by the Foundation legal counsel.

The donor must pay for any assessments and audits.

## **Unsolicited Deeds**

Unsolicited deeds will not be accepted. Upon the receipt of an unsolicited deed, the Foundation legal counsel will immediately notify the grantor (in writing) that the real property has not been accepted and will not be accepted until the requirements of this policy are met, and the deed will be returned to the donor, along with a quitclaim deed from NAUF if necessary.

## **Special Types of Acquisitions**

In addition to the above requirements, the following types of real property require additional items prior to acquisition:

### **(a) Properties Valued at Less than \$50,000**

For real property valued at less than \$50,000, the donor must pay all costs of transfer to NAUF, including those incurred through environmental assessments and title searches, and all real estate taxes. For purposes of complying with the \$50,000 limit, real property value will be determined either by an appraisal, the ad valorem tax- assessed value, or determination by a market analysis performed by a local real estate agent.

### **(b) Real Property Given to Fund Charitable Remainder Trusts**

Real property will only be accepted to establish net income unitrusts or "flip trusts."

(c) **Real Property Given to Fund Charitable Gift Annuities**

Real Property will ordinarily not be accepted to fund charitable gift annuities.

(d) **Time Share Units**

Time-share units will not be accepted.

**Procedures for the Sale and Management of Real Property Gifts**

The Foundation Director of Finance and Administration is authorized to charge routine property carrying expenses such as taxes, insurance, maintenance, travel, surveying, engineering, title examination, closing and other costs to the college or unit benefiting from the real property. These expenses will be reported regularly to the appropriate fund administrators.

The Foundation President or his/her designee will diligently work to obtain the best price and terms in the shortest amount of time for all real property. However, real property may be held for the production of income or appreciation after consultation with all interested parties and approval of the executive committee or the Board of Directors.

The Foundation President or his/her designee will attempt to have all properties listed or for sale at all times.

No referral fee will be paid to any broker securing a gift of real property. Special consideration may be given to the procuring broker when listing the real property for sale, provided any such agreement to list is non-binding on NAUF and the fees are not in excess of customary local fees.

**Use of Brokers**

The Foundation President or his/her designee is encouraged to provide all brokers equal access to its real property inventory. This will not preclude the use of exclusive listings.

Whenever possible, the Foundation President or his/her designee will solicit recommendations regarding local brokers and the general marketing effort from local Board members, friends of NAU, and the donor.

The payment of fees to brokers when they are principals is discouraged, unless it is the local custom. In such an event, the fee will be reduced by the proportion of the broker's interest in the transaction.

**Real Property Sold Without Signed Listing Agreements**

The Foundation President or his/her designee will use all normal means of marketing – including signs, advertising brochures and open listings – in their efforts to market real property.

The Foundation President or his/her designee will attempt to negotiate reduced fees when the brokers present buyers arising from in-house marketing efforts.

**Listing Price Determination**

Real Property will be listed at not less than the approved price. The approved price will be determined by either of the following:

- (a) If a qualified appraisal, dated within two years, is available, the Foundation President or his/her designee will set the approved price at not less than the value contained in the appraisal.
- (b) If no appraisal is available, or file appraisals are more than two years old, the Foundation President or his/her designee will attempt to determine market value via market inquiry, competitive market analysis, or updated or new appraisals and will recommend an approved price at that price.
- (c) At least once a year, the Executive committee will review and approve the approved price for all real property holdings.

For internal record keeping, if no appraisal is provided, then the real property will be entered on the books (book value) for \$1.00. A reasonable time will be allowed for the donor to provide an appraisal. If an appraisal is received, book value will be adjusted accordingly.

### **Acceptance and Execution of Real Estate Contracts**

The Foundation President and Foundation legal counsel will review and comment upon each contract prior to its presentation to either the Executive committee/Board of Directors for review, or to the appropriate NAUF officer for execution. Contracts will be subject to the following:

- (a) On all contracts with sales prices of less than \$100,000, the Foundation President or the Director of Finance and Administration are authorized to execute sales contracts without Executive committee/Board of Directors approval, if (1) the sales price is at least the approved price, and (2) the sales contract contains standard terms.
- (b) Contracts with sales prices equal to or exceeding \$100,000 require the approval of the Executive committee/Board of Directors and the Foundation legal counsel, prior to execution by the Foundation President or Director of Finance and Administration.
- (c) All other contracts require Executive committee/Board of Directors and Foundation legal counsel approval prior to execution by NAUF.
- (d) Authorized Foundation agents are encouraged to seek the advice of Foundation legal counsel when negotiating sales contracts.
- (e) If sales are financed, they will be subject to the approval of the Executive committee/Board of Directors and Foundation legal counsel.

### **Leasing**

#### **Leases with NAUF**

The executive committee or its designee may negotiate leases with NAU at less than market or nominal rents, provided the use of the real property (1) is non-profit and in furtherance of NAU's objectives and NAUF's mission and (2) does not result in any cost to NAUF. The leases may not result in a negative cash flow to NAUF unless the college so benefiting agrees in writing, in advance, to underwrite the losses.

All leases will be negotiated and executed in accordance with the Board of Regents' policies and procedures.

The Foundation legal counsel must review and approve all such leases prior to execution.

#### **Other Leases**

Upon approval of the lease by the Foundation legal counsel the Foundation President or Director of Finance and Administration are authorized to execute leases that are within the following guidelines:

- (a) A base lease term of no more than 5 years;
- (b) Renewal option which, together with the base term, do not exceed 10 years;
- (c) Appropriate rent escalator clauses for all renewal options; and
- (d) Total rent for the base term of no more than \$100,000.

All leases entered into by the Foundation will be reported to both the finance and executive committees.

## **Management and Transfer of Real Property**

All real property held by NAUF in any capacity will be so managed as to comply with all federal and state regulations and to minimize or eliminate any liability resulting from hazardous materials. The sale or transfer of real property by NAUF will be handled in a manner designed to eliminate any future liability by NAUF for hazardous substance remediation. NAUF will fully disclose to a prospective transferee any and all information concerning the condition of any hazardous substances existing on the real property. NAUF may convey title to real property only by means of a special warranty deed or (where appropriate) a trustee's deed without warranties or quitclaim deed.

## **Non-Discrimination**

NAUF will not discriminate or condone discrimination in its real property activities. NAUF will conduct all affairs in compliance with all applicable state and federal Equal Opportunity, Fair Housing, Equal Credit Opportunity, and other anti-discrimination laws.

## **Exceptions**

Upon written request by the Foundation's President, the executive committee will consider exceptions to these policies and procedures on an individual basis after consultation with the Foundation legal counsel and the NAU gift planning staff.

## **Miscellaneous Policy Provisions**

### **Securing Appraisals and Legal Fees for Gifts to NAUF**

It will be the responsibility of the donor to secure a qualified appraisal (where required) and independent legal counsel for all gifts made to NAUF. The Foundation may require an MIA or SRA appraisal depending upon the circumstances of the gift property.

### **Valuation of Gifts for Development Purposes**

When NAUF receives a gift, it will record the date of the gift and the value of the gift on that date.

### **Responsibility for IRS Filings Upon Sale of Gift Items**

The Foundation accounting department is responsible for filing IRS Form 8282 upon the sale or disposition of any part or all of an asset within two years of receipt when NAUF is required to sign IRS Form 8283 Part B when the gift is made. The Foundation accounting department must file this form within 125 days of the date of sale or disposition of the asset. The Foundation accounting department will file IRS Form 8282 if any part or all of a covered asset whose title is transferred to NAU. IRS Forms 8282 and 8283 with Filing Instructions are attached to these policies in Appendix B.

## **Policy on gifts NAUF will not accept**

The NAUF Board of Directors has determined that certain gifts are not advisable to accept on behalf of NAU.

- NAUF will not accept gifts of "S Corp stock".
- NAUF will not accept gifts of "time shares".
- NAUF will not accept outright gifts of term life insurance.
- NAUF will not accept mortgaged property into a charitable remainder trust.
- NAUF will not accept gifts of non-marketable securities.

- NAUF will not accept donor advised funds.

### **Procedures for Other Gift Acceptance**

The procedures for the acceptance of gifts not covered in this NAUF Policies and Procedures Statement are to be established under the direction of the Foundation President using the best practices of the profession.

The procedures for the daily operation of the Foundation are to be established and approved by the Foundation President.