

# **TFEC PROPERTIES, INC. REAL ESTATE ACCEPTANCE POLICIES AND PROCEDURES**

## **INTRODUCTION**

TFEC PROPERTIES, INC. (TFEC PROPERTIES) follows these general policies and procedures governing its acceptance of conveyances, including charitable gifts of real property. It is the policy of TFEC PROPERTIES to adhere to the following guidelines.

## **OUTRIGHT CONVEYANCES OF REAL PROPERTY**

TFEC PROPERTIES will accept many types of real property conveyances, including residential property, commercial property, vacant land and working farms and forests either through direct conveyances or by transfer from THE FOUNDATION FOR ENHANCING COMMUNITIES (TFEC). Where possible, real property should be donated or transferred to TFEC PROPERTIES only, with the understanding that these properties may be sold and the proceeds used to support the mission of TFEC and its affiliates. The net proceeds from the sale of real estate conveyances will be used for charitable purposes specified by the Donor. Each prospective conveyance of real estate is unique and presents different issues. Consequently, these Policies and Procedures are general in nature to allow flexibility as required for specific transactions.

## **RESTRICTED CONVEYANCES**

Donors may place restrictions on real property conveyances; however, these restrictions must be discussed in advance with TFEC PROPERTIES, and the restrictions must be stated in writing and approved by TFEC PROPERTIES. Acceptance of conveyances with restrictions will be considered acceptance of the restriction. TFEC PROPERTIES reserves the right to refuse conveyances if the conditions of the conveyance or restrictions are deemed to be unsuitable or incompatible with TFEC PROPERTIES' mission or priorities.

## **BOARD APPROVAL OF RESTRICTED REAL PROPERTY GIFTS**

Should serious questions arise among the TFEC PROPERTIES Board of Directors concerning the acceptance of a conveyance, those questions will be presented as an aid in the decision-making process. The Board makes the ultimate decision regarding the acceptance of any conveyance of real property or any restricted conveyance of real property.

## **STEWARDSHIP FUNDING POLICY**

It is the policy of TFEC PROPERTIES to have the Board of Directors, prior to any property acquisition, approve a stewardship funding plan. A stewardship funding plan contains the amount of funding required to cover the immediate and long-term costs of ownership, identifies the funding source(s), and how the required funding will be secured. All stewardship funds raised are to be placed in a board-restricted fund managed in accordance with TFEC PROPERTIES' financial management policies.

## **SCOPE**

The stewardship funding conditions that must be met prior to the acquisition of real property, and the guiding principles for reviewing and determining immediate and long-term costs of holding land include:

## **BASIC OPERATING PRINCIPLES/PROPERTY USE**

For all properties that TFEC PROPERTIES considers for acquisition, a thorough review and determination of the immediate and long-term costs shall be made as well as the highest and best use of the property, subject to any restrictions. This review and determination will provide the basis for verifying the feasibility of ownership, and the plan for generating the determined amount.

## **PART I. PROCEDURES FOR ACCEPTING REAL PROPERTY**

The first step is for a Philanthropy Team member to meet with the prospective Donor to discuss the proposed real estate conveyance and review all the requirements that must be completed and satisfied prior to TFEC PROPERTIES' acceptance of the charitable conveyance of real property. For contributions of real estate, the Donor will be required to apply and provide an application fee in the amount of Five Thousand (\$5,000.00) Dollars to cover the administrative costs of processing the charitable contribution.

The following will be required for all real property acquisitions prior to acceptance and recording of any documents, the cost of which shall be paid by the donor:

### **A. Minimum Asset Value Guidelines**

Generally, the minimum net fair market value for a conveyance of real estate to TFEC PROPERTIES shall be \$100,000. Exceptions to the minimum asset value requirement may be made by the Board of Directors on a case-by-case basis.

### **B. Mortgaged and Other Debt Encumbered Real Estate**

Property subject to a mortgage may be considered for acceptance by TFEC PROPERTIES' Board of Directors on a property-by-property basis. When real property is accepted subject to a mortgage, the mortgage must be satisfied prior to or at closing.

### **C. Appraisal**

A qualified MAI appraisal is required to be provided by the donor for real estate (unimproved property, residential or commercial property) valued at \$500,000 or more. For any real estate worth less than \$500,000 and more than \$100,000, a qualified appraisal by a duly licensed and certified appraiser is required. For real estate valued at \$100,000 or less, a written opinion of value based on an analysis of relevant market data by a real estate professional or assessed value may be used in connection with the acceptance of the real estate. To satisfy the tax deductibility of the real estate conveyance, the IRS requires the qualified appraisal be no older than 60 days prior to the date of the conveyance.

If using assessed value in lieu of an appraisal, all parties involved will be notified of the date of the assessment. When an interest in real property is donated to TFEC PROPERTIES with the intent of qualifying the conveyance for federal income tax benefits, it is the responsibility of the Donor to establish the value of the conveyance in accordance with applicable laws and regulations.

As used in this policy, the terms "current qualified appraisal" and "qualified appraiser" have the same meanings as set forth in treasury regulations regarding the valuation of charitable donations (§1.170A-13(c)).

#### **D. Environmental Review and Requirements**

It is the policy of TFEC PROPERTIES to require an environmental assessment for every property in which TFEC PROPERTIES is proposing to acquire any interest. The purpose of the assessment is to gather information regarding possible contamination of the property or susceptibility of the property to sinkholes or other subsidence. Each step of this environmental analysis, including the results, shall be documented in the project files prior to acquisition. Sinkhole insurance for properties in geographic areas with known limestone or Karst geology may be required at the discretion of the Board of Directors.

The nature and scope of the assessment will depend upon the characteristics of the property and the potential for an environmental problem. The results of the assessment must be considered in determining whether to proceed with the project. This policy is intended to be inclusive and applies to all acquisitions of interests in land.

Each environmental assessment shall include the following:

1. An environmental review as described below will be performed on every potential real property asset prior to acceptance by TFEC PROPERTIES. The environmental review will be performed by the person or firm approved by TFEC PROPERTIES as an approved consultant. Each environmental review will be reviewed and approved by TFEC PROPERTIES.

*Residential:* For real property located in a developed residential community, a site inspection by a qualified home inspection firm or engineer is the minimum requirement for adherence to this policy. An Environmental Risk Assessment performed by an approved consultant may also be required at the discretion of TFEC PROPERTIES.

*Rural or Agricultural:* For real property located in a rural area or an agricultural area, an approved consultant will perform an environmental Phase I audit.

*Commercial Real Estate:* For all proposed conveyances of commercial real estate, an approved consultant will perform an environmental Phase I audit.

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

*High Risk Operations:* There is a high probability that this type of real property may not be acceptable by TFEC PROPERTIES. For real property with present or past high-risk operations, an approved consultant will perform an environmental Phase II audit.

2. If the environmental review referenced above discloses areas of significant concern, an approved consultant will perform additional investigation(s), including Phase II or Phase III audits and/or other remediation, at the discretion of TFEC PROPERTIES.
3. Tests for radon will be required for all conveyances of real estate, at the discretion of TFEC PROPERTIES.
4. If the above procedures disclose probable significant risk of liability, the real property may not be accepted, subject to the discretion of the Board of Directors.
5. All contracts for environmental audits will be reviewed by the legal counsel, TFEC Philanthropy team member, and the Board of the TFEC PROPERTIES
6. The donor shall be responsible for payment of the costs of all environmental reviews and audits.

## **E. Property Inspection/Assessment**

### **Physical Inspection**

A preliminary inspection may be done as part of an initial site visit. The extent of an assessment will be dependent upon the nature of the property to be acquired and the potential for contamination.

### **Review Prior Land Use**

If possible, a TFEC PROPERTIES Board Member should talk to those knowledgeable about the tract of land and surrounding property, such as the landowner, current and prior tenants, neighbors, local government officials, or anyone else who may have information about the current and prior uses of the property. Again, the extent of this inquiry will depend upon the likelihood that any prior use involves hazardous or toxic materials.

### **Carrying Investigation Further**

Should the preliminary investigation reveal a potential environmental issue, a more detailed subsequent investigation must be considered and may be necessary. The Donor may need to hire a qualified professional to do a more complete assessment.

### **F. Survey.**

An ALTA survey will be required for all potential conveyances of real estate. This requirement may be waived by TFEC PROPERTIES in appropriate circumstances.

### **G. Title Search and Title Insurance**

The donor is responsible for providing clear and marketable title to the property, including easements or other beneficial interest, insurable by an approved reputable title insurer at standard rates, with such exceptions as are acceptable to the Board of Directors.

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

The donor will be required to provide evidence that all real property taxes and other carrying costs are paid and current. Donors will be required to pay or prorate the taxes and other carrying costs for the year of the donation.

### **I. Leases**

Commercial property subject to leases will only be accepted following TFEC PROPERTIES' approval. When real property is subject to leases, the leases shall not be in default and shall be assignable by landlord. Credit checks will be made on existing tenants and TFEC PROPERTIES may not accept real property if past credit history problems pose a potential liability or risk for TFEC PROPERTIES.

Following TFEC PROPERTIES' approval to accept the proposed conveyance of real estate, the leases will be assigned to TFEC PROPERTIES, and all deposits, advance rents, and other monies will be transferred to TFEC PROPERTIES or otherwise accounted for as required.

### **J. Special Warranty Deed**

Title will be transferred to TFEC PROPERTIES by special warranty deed unless transfer is by a trustee, personal representative or other fiduciary that will provide a deed appropriate to its capacity. Legal counsel and/or legal staff will review all deeds prior to transfer. TFEC PROPERTIES reserves the right to approve or reject any special clauses in the Deed.

### **K. Operating Capital Reserves**

Donors of real property may be required to fund in advance operating reserves for taxes, insurance, and all other holding and carrying costs incurred by TFEC PROPERTIES until the real property is liquidated.

For conveyances of real estate to a charitable remainder unitrust, some additional gifts of cash and/or marketable securities will be required to provide adequate operating capital while the donated real property is in the process of being sold.

**L. Compliance with Governmental and Municipal Regulation**

The subject real estate shall follow all applicable governmental and municipal regulations, including but not limited to Americans with Disabilities (ADA) requirements, zoning ordinances, housing and property maintenance codes, conservation acts, etc., prior to TFEC PROPERTIES' acceptance of the real estate. These regulations shall be reviewed prior to acceptance of the conveyance to assure compliance and ultimate marketability of the property.

**M. Payment of Transfer Costs**

Transfer costs, including but not limited to realty transfer taxes, shall be paid by the donor. Exceptions to this requirement may be made under certain circumstances.

**N. Site Visit and Analysis**

Prior to acceptance of real estate conveyances by TFEC PROPERTIES, designated representatives will review the real property including a site visit and will review all documentation required, taking into consideration time constraints of the donor. The proposed conveyance of real property will be reviewed by TFEC PROPERTIES, and will include but not be limited to the following:

1. Marketability and potential sale of the proposed real estate conveyance within a two-year period.
2. The condition of any improvements located on the real property.
3. The qualified appraisal, environmental report(s), and other related documents.
4. Review of neighboring properties for potential problems that could affect the salability of the potential conveyed property.
5. The current and potential zoning, land use, and any occupancy issues for the real property.
6. Projected costs associated with holding the real property for resale, which costs shall be the responsibility of the Donor..
7. Other considerations specific to the acceptance of the real property, as may be determined by the Board of Directors.

**O. Selling Price of Donated Property**

TFEC PROPERTIES reserves the absolute right to sell donated real estate for whatever price it deems to be appropriate. However, TFEC PROPERTIES will seek to sell donated property at a fair price and not sell the property if the proposed offer is unrealistically low.

**P. Property Disclosure**

The Donor is required to disclose to TFEC PROPERTIES all known material defects in the property being conveyed to TFEC PROPERTIES that are not readily observable.

**Q. Donor Indemnity for Representations**

Donor shall certify that the representations and warranties containing any documents provided by Donor to TFEC PROPERTIES, including the Donor's Disclosure Statement, are accurate, true and correct to the best of Donor's knowledge or information. The Donor shall indemnify and hold harmless TFEC PROPERTIES against any damage, liability, loss or deficiency (including reasonable attorneys' fees and other costs and expenses incident to any claim, suit, action or proceeding) arising out of or resulting from the breach of Donor's representations and warranties.

**PART II. SPECIAL TYPES OF ACQUISITIONS**

In addition to the requirements as outlined above in Part I, the following types of real property require additional review prior to acquisition:

**A. Real Property Given to Establish Charitable Remainder Trusts (CRT)**

1. Real property will be only accepted to establish net income charitable remainder unitrusts or charitable remainder FLIP unitrusts. A FLIP unitrust is a type of charitable remainder unitrust that allows the donor to receive income based on the trust's net income and then, upon a predetermined event, "flip" to receiving a fixed percentage of the trust's value, revalued annually.
2. Additional gifts of cash and/or marketable securities will be required for conveyances of real estate to a charitable remainder unitrust to provide adequate operating funds while the donated real property is in the process of being sold.

**B. Gift of Remainder Interest in Personal Residence or Farm (Life Estate Reserved)**

1. The Donor must have a clear title to the primary personal residence or farm and be free of all liens and encumbrances.
2. The net fair market value of the primary residence or farm should exceed \$100,000 and must be supported by a qualified appraisal that meets IRS guidelines and be obtained at the donor's expense.

3. The value of the charitable remainder interest in the personal residence or farm should equal or exceed 25% of the fair market value of the property.
4. The Donor must agree in writing to retain total responsibility for all estate taxes, insurance and property upkeep and maintenance throughout the term of the life estate interest and to bear the costs of remedial action, if necessary, to correct any adverse environmental conditions. The Donor must agree to provide TFEC PROPERTIES continuing proof of insurance coverage against casualty perils and payment of annual property taxes.
5. The Donor must grant access to the site for environmental testing, site visits, surveys and related purposes.

#### **D. Real Property Given to Fund Charitable Gift Annuities**

Generally, TFEC PROPERTIES will not accept real property to fund charitable gift annuities. However, special circumstances may warrant the use of charitable gift annuity when it is in the best interest of TFEC PROPERTIES to acquire a specific property. Gifts of real estate may be made to establish a charitable remainder unitrust. (See A. above)

#### **E. Time Share Units**

TFEC PROPERTIES will not accept time-share units or interests.

### **PART III. PROCEDURES FOR THE MANAGEMENT AND SALE OF REAL PROPERTY**

#### *Property management*

##### **A. Property with current management**

If donated real estate has an existing property manager which is acceptable to TFEC PROPERTIES it is the policy of TFEC PROPERTIES to retain, whenever possible, the existing property manager while the conveyed property is listed for sale by TFEC PROPERTIES.

##### **B. Property without a current property manager**

Any new property manager that is to be hired shall be approved in advance by the Board of Directors of TFEC PROPERTIES. The Board of Directors may delegate this hiring authority to the Chairman of the Board

#### *Listing property for sale*

A. Donated real estate that is referred by licensed or otherwise qualified real estate professional

It is the policy of TFEC PROPERTIES that real property which is donated by a donor as a direct result of a referral from a licensed or otherwise qualified real estate professional be listed for sale with the referring real estate professional, subject however to the discretion of the Board of Directors.

B. All other donated real estate

When selecting a listing company for donated property which has not been referred to TFEC PROPERTIES by a real estate professional, TFEC PROPERTIES shall take into consideration the following:

- Type of property (residential, commercial, undeveloped land, etc.)
- Location (county, etc.)

An appropriate listing company shall be selected and approved by TFEC PROPERTIES board. The Board of Directors may delegate this authority to select a listing company to the Chairman of the Board of TFEC PROPERTIES

#### **PART IV. EXPENSES ASSOCIATED WITH THE RECEIPT, MANAGEMENT AND SALE OF ACQUIRED REAL ESTATE**

1. The donor will be responsible for the payment of all costs associated with the transfer of real estate as outlined in Part I. above unless alternative arrangements have been reviewed and approved by TFEC PROPERTIES' Board of Directors.
2. All income and expenses incurred by TFEC PROPERTIES directly associated with the evaluation, retention, management and sale of the donated real property shall be accounted for by the individually named fund holding such donated real estate within TFEC PROPERTIES Such income and expenses may include, but are not limited to, rental income, title search, appraiser's fee, insurance, security, environmental clean-up, real estate taxes, property management, property repair and maintenance needed to sell or maintain the property, condominium fees, and prior debts levied against the property, and the real estate commission for the sale of the property.
3. TFEC PROPERTIES may assess an additional administration fee to cover time and other expenses, including fees incurred during TFEC PROPERTIES' holding of investment property. This fee will be assessed and paid as they are incurred but no later than the sale of the property.
4. TFEC PROPERTIES shall maintain a policy of general liability insurance against claims for bodily injury, death or property damage occurring upon, in or about the property, such insurance to provide coverage in the minimum limit of not less than One Million Dollars (\$1,000,000.00) in respect of any one accident or occurrence or Two Million Dollars (\$2,000,000.00) aggregate. Property and casualty insurance shall be maintained,

including rental interruption coverage, on all buildings, structures and improvements on the property, insuring against loss or damage by fire, lightning, windstorm, explosion and/or other extended coverage risks, such as sinkhole insurance, flood insurance and plate glass insurance as applicable, as are ordinarily insured against by standard policies of insurance in accordance with good business practice. Such insurance shall be maintained in an amount not less than the full insurable value thereof, which term "full insurable value" shall mean the actual replacement cost, or such other measure as may be determined by the Board of Directors in its sole discretion.

5. Between the time of the acceptance of the donation of the real estate by TFEC Properties, Inc. and the sale of the property and transfer of assets to TFEC for establishment of the charitable fund, the donor is responsible for any operating costs, expenses, taxes or assessments, including but not limited to insurance, utilities, advertisement, maintenance and repairs.