

University of Southern California

Guidelines for Accepting Gifts of Real Property

Gifts of REAL ESTATE

- **Due Diligence:** Donor should be advised that USC conducts a full due diligence review on every property as would any buyer or investor, including evaluation of environmental, market, and financial risks.
- **REAM (Real Estate and Asset Management) orders a property profile and Preliminary Title report to verify ownership and review underlying documents.**
- **Inspections:** At minimum, REAM representative will inspect all properties proposed for acceptance. Commercial properties will also require a Phase I conducted by a third-party professional company.
- **Description of property:** Initial information from donor:
 - Full address
 - Assessor's Parcel Number preferable (located on property tax bill)
 - Vesting - how title is held (e.g., in individual's name, in trust -- specify)
 - Type of Property (e.g., vacant land, residential, commercial/investment property)
 - Type of Improvements (e.g., single family residence, triplex (e.g., 1 bedroom/1 bath), 8-unit apartment building (e.g., 6-2 bedroom/1 bath; 2-1 bedroom/1 bath), 3-unit retail shop, garage, condo)
 - Condition of property
 - Mortgage Status (if applicable)
 - Donor's estimate of fair market value
- **Appraisal**
 - Appraisals are required by USC's policy, and for donors to substantiate their charitable deduction
 - Appraisal may not be dated more than 60 days prior to date of gift. However, donor may obtain an appraisal after date of gift (before filing taxes)
 - Outdated appraisals may be updated – usually at minimal cost to donor
 - University policy requires that donor pays for the appraisal
- **Legal Expenses for Planned Gifts:**
 - USC Office of Planned Giving has an inventory of planned gift documents drafted
 - USC counsel may be consulted for specific gift issues.
 - Donor should retain and pay for their own advisors
 - USC does not pay finder's fees, nor does it pay for donor's counsel

Planned Gift Acceptance:

REAM will conduct due diligence and a formal review of the proposed real estate gift.
A third-party site inspection may be performed.

Gifts of real estate that are donated for the purpose of funding a planned gift for the donor, such as Charitable Remainder Trusts, Gift Annuities and Life Estates with Gift Annuities must be approved by the appropriate persons at USC.

REAM will issue a recommendation regarding the proposed property, which will include an opinion of value based on appraisal and broker's opinion, condition of the property including any environmental issues, marketability and sale. REAM will provide Development with a recommendation to accept or reject the gift based on the property's condition and marketability.

To be considered by the University of Southern California, a gift of real estate:

- Must be motivated by a charitable intent (philanthropic purpose).
- Should be of sufficient value that the university will ultimately realize a benefit from it, considering legal, administrative, and other costs likely to be incurred by the university in accepting the real estate and possible cost for holding real estate pending sale.
- The property must be sellable based on current and future market conditions.
- The property must be free from any liens, loans or trust deeds (except in very rare cases when the value of the university's interest, net of mortgages is substantial).
- The property must be free from any other encumbrances that would cause the university to incur significant cost or liability, or restrict the university from its ability to dispose of or use the property in a manner it determines best for furthering its purpose.
- The property should be clear of any environmental issues or contamination. Donors must understand that the university needs to pay special attention to environmental liability risks.

➤ **Document Review:** Numerous documents and information are required to assist the Office of Real Estate in the performance of a site assessment. General review documents include, but are not limited to:

- Statement of Information for title company or Trust Certification if property is held in a trust
- Real Estate Transfer Disclosure Statement
- Indemnity Agreement (Environmental)
- Copies of Donor's Insurance Policies
- Copies of Mortgage Documents (Note & current statement) If applicable.
- Proof of reconveyance on encumbered property.
- Copies of Leases
- Copy of Property Tax Bills.
- If Condo: Copies of Bylaws, Articles of Incorporation, Income/Expense
- Reports (2 years), monthly Homeowner's Association assessment, etc.

○ **Documents to Complete Gift:** Donors should be advised of what documents are needed to complete/sign the gift over to USC. They include, but are not limited to:

- Planned Gift Agreements (CGA or CRT Agreement, Life Estate Agreement, etc.)
- Grant Deed(s) (Grant Deed can be prepared by donor's counsel or by the office of REAM)
- Gift Agreement
- Donor Information Summary form
- Letter to donor's insurance company naming USC as "additional insured" on insurance policies (for life estate gifts)

- **Reimbursement of Expenses:** Donor should be advised that, before applying the gift to Donor's purpose, REAM will reimburse itself or any other funds which were used in the acceptance, management, and sale of the subject property.

Conditions for Declining or rejecting a Gift: The university reserves the right to refuse any gift that is not consistent with its mission. Such gifts are as follows:

- Gifts which do not further the mission or the goals of the university.
- Gifts which are financially unsound or which could expose the university to unacceptable liability or risk.
- Gifts which violate any university guidelines or policies.
- Gifts with restrictions which will necessitate discriminatory use of funds, or where administration of the gift violates university policy.
- Gifts where restrictions will present a strong likelihood that changed circumstances may render its use extremely difficult or impossible.

"In the event that at any time a determination is made by the university that the property cannot be used or that such use is no longer practicable, then, the property may be sold and the proceeds of such sale are to be held and distributed as provided under the terms of the gift agreement.

- Gifts where as a condition, the university will be required to hold it for a set or extended period of time. **The university will sell donated real estate as soon as possible after acceptance and will not hold on to property.**

➤ **Gift Minimum Guidelines: Reviewed on a case by case basis, but generally**

- Outright: \$100,000 Net.
Factors to be taken into consideration before acceptance: marketability, conditions, risk, liability. The property must be immediately marketable. USC will not hold or keep any property unless it is a strategic location serving USC's purpose and it is deemed to be in the university's best interest.
- Bargain Sale: FMV must be at least 2X the Bargain Sale amount and gift must meet minimum specified above.
 - For example: If a donor has a property valued at \$1,000,000, the University would not pay more than \$500,000 to the donor as a bargain sale amount.

➤ **Commercial / Investment Property:**

- FMV is based on many factors (including age and condition of building(s), but the major factors are income and expense. Request the following information from donor:
 - Income & Expense data for the previous 2-3 years
 - Information on configuration of buildings (e.g., six 2-bedroom units, three retail shops, etc.)
 - Lease information, including types of businesses, if commercial
 - The checklist "Commercial/investment Property Evaluation Criteria" is helpful in collecting the above
 - Upon gift, security deposits and prorated rents will be requested from donor

- **Gifts of Partial Interest in Real Estate:** Gifts of a partial interest in real estate – whether outright or in exchange for life income -- may work. Generally, the donor must be the owner of the remaining percentage interest. These gifts are assessed on a case-by-case basis.
- **Mortgage on Property – Possible Unrelated Business Income Tax (UBIT):** UBIT may be an issue if the property being donated has a mortgage. UBIT is a tax that the University would have to pay, which should be reimbursed by gift proceeds. Determine: (1) has property been owned by donor 5 years or less; and (2) has property been mortgaged or refinanced in the last 5 years. If yes, both Development and USC's legal counsel should be consulted.

TYPES OF PLANNED GIFTS

- **Charitable Gift Annuity funded by real estate:**
 - Property must be immediately marketable (REAM to consult with Realtor)
 - Discount: A deduction to the fair market value of the property should be applied prior to calculating the gift annuity payout. The discount is required in order to cover closing expenses and risk. The donor will receive a charitable gift receipt to include the discounted amount.
 - Standard discount: 10% to cover sale expenses and holding expenses
 - A higher discount may be required, should the situation warrant.
- **Charitable Remainder Unitrust:**
 - Naming: Use the University naming convention (for security/privacy)
 - Internal Name: The [DONOR NAME] Charitable Remainder Unitrust [YEAR]
 - External Name: The [DONOR INITIALS] Charitable Remainder Unitrust [YEAR]
 - Anticipated Expenses: These are defined as expenses normally associated with the property that must be maintained and are not generally optional (e.g., gardening, utilities, property taxes). These expenses will need to be funded by Donor, as a gift to the unitrust, if not (or not sufficiently) income-producing property, as they cannot be loaned to the Trust by the university because of a technical legality of unitrusts. The University generally requests approximately 3-6 months expenses be funded at time unitrust is established.
 - Services when The University is NOT Trustee: The University may provide certain services to donors who act as trustee of their own CRTs. These services may include drafting the CRT document and/or Grant Deed. Other services (accounting, preparation of tax forms, etc) may be contracted through Kaspick & Company, via an Agency Agreement, if the donor's intent is to resign as trustee in the near future (such as, immediately after a sale of real property.) Otherwise, the donor is fully responsible for the performance of all services while they are trustee.
- **Life Estate (Gift of Remainder Interest – no Gift Annuity):**
 - Property must be the donor(s)' personal residence: single family home, condominium, or farm
 - Property may not be a rental property
 - Life Tenancy Agreement must be executed between donor(s) and University
 - Donor is expected to maintain property in same condition as upon acceptance of gift, and to pay all property related expenses (taxes, insurance, maintenance, etc.)
 - Donor(s) must be sole owner(s) of property at the time of gift
- **Life Estate / Gift Annuity (Refer to Life Estate guidelines above, plus):**
 - LE/GAs are encouraged be given unrestricted to USC

- Discount: A deduction to the fair market value of the property should be applied prior to calculating the gift annuity payout. The donor will receive a charitable gift receipt to include the discounted amount.
 - Discount at a minimum of 10% will be taken to cover costs of sale and holding expenses
 - A higher deduction (additional to cover risk involved in these types of gifts arrangement) will likely be required
- Property must be located in one of the 50 states of the USA
- Property must be owned “fee simple” by donor(s)
- Mortgage property may be considered on a case by case basis.