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| James Madison University Foundation  Policies and Procedures Manual | **Section 20000** |

# 20105 REAL PROPERTY

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| Policy Approved By: | Board of Trustees |
| Governance Oversight By: | Development Committee |
| Issuing Date: | 05/15/2015 |
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| Responsible Officers: | Chief Executive Officer |
| Related Topics: |  |

**PURPOSE**

James Madison University andthe JMUF Board of Trustees welcome gifts of real property in support of the University’s mission and strategic interests. In most cases, the JMUF will market gifts of real property unless it or the University intends to retain the property for active or future purposes. Proceeds from donated real property sales, lease or trades are used for the charitable purposes specified by donors.

The JMUF Board of trustees must approve the acceptance and liquidation of all gifts of real property. To assist the Board in its review and assessment of real property for the purposes of determining the acceptability of a gift, authorized representatives of the University and/or the JMUF will review the condition, including valuation; marketability; carrying costs; and, the environmental risks of the property.

The following procedures are to be followed in the acceptance of real property gifts. Any questions about the procedures should be directed to the JMUF’s Chief Executive officer.

This guideline provides procedural assistance in determining the acceptability of real property gifts to the James Madison University Foundation, Inc. (JMUF) for the benefit of James Madison University (JMU). The guideline supports policy # 20100 Gift Acceptance Policy.

Gifts of real property made through Charitable Gift Annuities, Remainder Trusts and Long Lived Assets are addressed in guidelines and procedures for other gift instruments. Policy # 20125.

**DEFINITIONS**

**Real Property –** for purposes of this guideline, potentially acceptable improved and unimproved real property includes single-family residences, condominiums, cooperative units, apartment buildings, rental property, commercial property, farms, and acreage. The Foundation will not accept time share properties.

**Real Estate Committee of the JMU Foundation Board of Trustees –** The purpose of the committee is to advise the Board regarding the acquisition and disposition of real property whether acquired by gift, bequest, purchase, lease, or otherwise to be held, administered, and used, by the JMU Foundation to the ultimate benefit of the University.

**Bargain Sale** – is the purchase of property for less than its fair market value. The difference between the fair market value and the purchase price constitutes a charitable gift.

**Appraisals and Valuation –** It is the donor’s responsibility to establish a value for the property and to provide, at his/her or expense, a qualified appraisal as required by the Internal Revenue Service. The JMUF may obtain a separate appraisal for its own purposes, but it will not assign a value to the gift on the owner’s behalf.

The IRS requires an appraisal if the value of the real property is $5,000 or greater, and the donor wishes to claim a charitable tax deduction. The appraisal must be performed and value rendered no earlier than sixty days prior to the date of the gift and no later than the date of the donor’s tax return in which the charitable gift deduction will be claimed. Appraisals must conform to acceptable appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation as evidenced by USPAP, and the appraisers must be state licensed or certified. Appraisals must be performed by a member of the Appraisal Institute (MAI) for commercial properties or a Senior Residential Appraiser for residential properties.

**Costs associated with the conveyance of the gift of real property –** Survey, recording fees, title insurance, legal fees and other related costs are typically paid by the donor unless an exception is made in which case those costs will be charged to the University unit (college, school, department and etc.) that benefits from the gift. State appropriated funds may not be used for this purpose.

**Encumbrances –** Generally, gifts of real property will not be accepted until all mortgages, deeds of trust, liens, and other encumbrances have been discharged. Exceptions may be made when the fair market value of the Foundation’s interest in the property is considered substantial, or when a separate agreement to pay any encumbrances that might otherwise be charged to the JMU Foundation is executed. When accepting a property with a mortgage, the mortgage must be current, assumable, and reviewed by the Foundation’s legal counsel.

**Environmental requirements –** All properties considered for acceptance by the JMU Foundation, must comply with certain environmental expectations.

* All real property with the exception of single residences, are required to complete a Phase I Environmental Report. Residential property, at the discretion of the JMU Foundation may be required to complete a Phase I Report. It is the responsibility of the donor to pay for Environmental Reports.
* A Phase II or Phase III Environmental Report may be required if the Phase I Report indicates areas of potential concern.
* The Environmental Reports must be conducted by a consultant approved by the JMU Foundation. All Environmental Report consultant contracts must be approved by the JMU Foundation chief financial officer.
* Should remediation be required, it shall occur prior to transfer of ownership to the JMU Foundation and the expense will be borne by the donor.

**Leases –** All property gifted to the JMU Foundation subject to a lease requires approval of the JMU Foundation Board. Leases will not be in default and will be assignable by the landlord. Upon approval, the leases will be assigned to the JMU Foundation and all deposits, advance rents, and other monies will be transferred to the JMU Foundation.

**Minimum gift level –** The JMU Foundation will accept gifts of real property for which it can reasonably expect to net a minimum of $50,000 if sold. This requirement may be waived in cases where the gift may be part of a larger gift, or when it is reasonably expected to lead to additional gifts.

**Transaction costs and fees –** The JMU Foundation will deduct transaction costs from the proceeds of the sale of the property including the closing costs, title insurance, a survey if required, and any taxes due before the gift sale is completed. In addition, the proceeds of the sale will be charged a reinvestment percentage and an administrative fee. The reinvestment percentage will not be charged on gifts to benefit endowments or athletics.

**PROCEDURES**

* Once it is known that a prospective donor wishes to gift real property to the University/Foundation, the development officer should notify the JMUF. After initial discussion of the prospect’s wishes, an appropriate individual will be identified to prepare a decision brief on the proposed property. See Appendix A - *Decision Brief Regarding the Acceptance or Acquisition of Real Estate by the James Madison University Foundation.*
* The completed *Decision Brief* will be shared with the University’s chief financial officer who will determine the University’s willingness to accept the annual expenses associated with carrying the property until disposition. Such costs might include, but are not limited to: property taxes, insurance, utilities, maintenance, and association dues/fees. Written notification of the acceptance of the costs will be communicated by the University’s chief financial officer to the JMU Foundation’s CEO. This letter will be appended to the *Decision Brief.*
* The *Decision Brief,* will then be reviewed by the JMU Foundation chief executive officer and the chair of the real estate committee of the Board of Trustees. The CEO, committee chair, or the JMU Foundation’s chief financial officer along with a University representative will conduct a site visit of the property in question. A summary of the site visit will be appended to the *Decision Brief*. Assuming a favorable site visit and review of the *Decision Brief*, the CEO and committee chair will convene a meeting of the real estate committee as soon a practically possible.
* Should a negative decision be reached by the real estate committee, the JMU Foundation CEO and the University’s vice president for advancement will confer regarding the most appropriate method for informing the donor of the Foundation’s decision.
* An affirmative decision by the real estate committee of the JMU Foundation Board will result in a recommendation to the full JMU Foundation Board to accept the property. If the full Board cannot meet in a timely manner, the Executive Committee will meet and act on the recommendation.
* If the gift is accepted by the JMU Foundation, the CEO will inform the donor in writing of the Board’s action and will encourage the donor to seek guidance form his/her tax advisor regarding the potential need to file IRS form 8283. If form 8283 is required, the completed form should be sent to the JMU Foundation chief financial officer for execution by the Foundation after it has been signed by the appraiser. ***Note: An appraisal for gift purposes should be prepared no earlier than 60 days prior to the date of the gift and must be completed before filing the tax return.***
* The donor will also be advised that the JMU Foundation will report a disposition price to the IRS on Form 8282 and send a copy to the donor if the gift was reported on 8283 and is sold within three years of the date of the gift. ***Note: Should the property be sold at an amount below the original appraised value it could affect the donor’s tax situation*.**
* The gift acceptance will be completed upon execution of a fee simple/quit claim deed of gift or other appropriate conveyance.