



# Yellow Springs Community Foundation

## Gift Acceptance Policy

*Approved January 2023*

*Mission: Entrusted with the responsibility of enhancing community life, we are a catalyst and resource for local charitable giving and grant making.*

### **Purpose:**

In order to protect the interests of the Yellow Springs Community Foundation, (YSCF) as well as those of a donor and other entity's support of the YSCF, the Gift Acceptance Policy is designed to assure that all gifts to YSCF will be structured to provide maximum benefits to all parties. The acceptance, valuation, and disposal of current or deferred gifts will always be consistent with current IRS regulations.

The Gift Acceptance Policy includes current and deferred gifts, with special emphasis on various types of deferred gifts and gifts of non-cash property. The objective is to encourage giving to and personal support of the YSCF.

It is understood that except where stated otherwise, the Gift Acceptance Policy is intended as a guideline. Therefore, the Gift Acceptance Policy will in some instances require that YSCF's Gift Acceptance Committee consider merits of a particular gift and a final decision be made only by the YSCF Board of Trustees.

### **Principles:**

A variety of gift opportunities are available to donors. Some gifts are more routine than others and require simple interaction with YSCF personnel. The staff of YSCF, with approval of the trustees, is authorized to accept gifts of cash, publicly traded securities and simple life insurance policies where YSCF is named as owner and beneficiary of 100% of the policy. YSCF reserves the right to refuse any proposed gift.

The Trustees of YSCF will review on a periodic basis the procedures that are in place to assure due diligence on the part of the Board of Trustees, the Gift Acceptance Committee, and staff of YSCF. Generally Accepted Accounting Principles will govern all matters related to the accounting of gifts.

Donors will be advised to seek counsel from various professional advisors prior to execution of any documents related to their gifts.

In conformity with Treasury Department regulations governing community foundations, gifts to YSCF may not be directly or indirectly subjected by a donor to any material restriction or condition that would prevent YSCF from freely and effectively employing the transferred assets or the incomes derived there from, in furtherance of its exempt purposes. In accordance with IRS provisions, donors are wholly responsible for defending gift valuations for income tax purposes.

## **The Gift Acceptance Committee:**

The *ad hoc* Gift Acceptance Committee shall be comprised the YSCF Executive Committee and the the Executive Director. Should this committee deem it appropriate, it is authorized to utilize various resources to help in the evaluation of any complex gift.

Meetings of the Gift Acceptance Committee will be held only as needed. The Gift Acceptance Committee will report to the Board of Trustees all gifts accepted that required review and approval and the status of gifts it is presently reviewing. Gifts of real property, thinly-traded securities and non-marketable securities can only be accepted by action of the Board of Trustees.

## **Gift Class Overview:**

### **There are generally three classes of gifts:**

1. Current gifts, which the YSCF staff, under broad delegation from the Board of Trustees, is authorized to routinely accept and acknowledge, include:
  - a. Cash & cash equivalents (checks, credit card, ACH transfers),
  - b. Publicly Traded Securities,
  - c. Life insurance policies (paid up) when YSCF is named both as the owner and the beneficiary of the policy, &
  - d. Certain tangible personal property items:
    - i. Items donated for immediate consumption,
    - ii. Items donated for special events,
    - iii. Items used for prizes, &
    - iv. Items used in auctions.
2. Unique propositions involving current and deferred assets necessitating technical expertise regarding the structure, valuation, transfer may be accepted by delegation to the Gift Acceptance Committee following their due diligence with the advice and consent of the Board of Trustees. Such gifts may include:
  - a. Closely Held Business Interests,
  - b. Tangible Personal Property (e.g., chattles including: jewelry, artwork, collections, equipment, etc.), &
  - c. Deferred gifts.
3. Complex propositions including those gifts necessitating technical expertise regarding the structure, valuation, transfer and/or liquidation, which require the highest level of due diligence. Such gifts require specific action of the Gift Acceptance Committee recommending acceptance followed by an action by the Board of Trustees formally accepting the gift.
  - a. Real Estate, &
  - b. Other property (mortgages, notes, intellectual property (copyrights, patents, software licenses, etc.)

## Gift Classes Detail:

### A. CURRENT GIFTS

1. Cash
  - a) Gifts in the form of cash and checks shall be accepted regardless of amount.
  - b) All checks should be made payable to **YSCF**. In no event shall a check be made payable to an individual who represents YSCF.
  - c) Credit Cards will be accepted via online donations and are subject to credit card processing fees.
  - d) ACH (Automated Clearing House Network) transfers are managed using the online donation portal and are subject to the ACH processing fees.
  - e) CryptoCurrency will be accepted as a donation; however, it will be treated in the same manner as public traded securities and processed through a domestic, third party charged with managing the transaction in which there will be an immediately sold in exchange for US Dollars; and value transferred to YSCF as the amount of the donation recorded and acknowledged, net of any and all expenses.
2. Publicly Traded Securities
  - a) Securities that are traded on the NASDAQ national market, American or New York Stock Exchange, as well as other readily marketable securities, shall be accepted through a YSCF agent/broker financial institutions.
  - b) Normally, gifted securities will be immediately sold by YSCF unless retention is requested
    - i. by the donor and approved by both the Gift Acceptance Committee and the Board of Trustees.
  - c) For gift crediting and accounting purposes, the value of the donated securities will be the amount received by the Foundation net of any associated costs.
3. Pledges
  - a) Pledges may be payable in single or multiple installments over a period not to exceed five years.
  - b) Pledges must be confirmed in writing in order to be credited as a gift for donor recognition purposes.
  - c) Pledges will be acknowledged and tracked in the YSCF Accounting System.
4. Closely Held Business Interests
  - a) Non-publicly traded business interests may only be accepted by YSCF after approval of the Gift Acceptance Committee and the Board of Trustees.
  - b) Prior to acceptance of the non-publicly traded securities, YSCF will explore methods of liquidation through redemption or sale. A representative of the YSCF will attempt to contact the closely held corporation to determine an estimate of fair market value, potential for corporation repurchase, and any restrictions on transfers of the interests.
  - c) YSCF will not seek a commitment for the repurchase of closely held business interests by the donor prior to the completion of a gift of such interests.

## 5. Real Property

- a) Gifts of real property will be considered and deemed acceptable only after an analysis of the cost and benefit of its acquisition and approval by the Gift Acceptance Committee and Board of Trustees. Criteria for consideration of acceptance will include:
  - i. Usefulness for the purposes of the Foundation,
  - ii. Appraisal value
  - iii. Marketability
  - iv. Clarity of title
  - v. Environmental condition
  - vi. Restrictions, easements or other limitations
  - vii. Carrying costs, which may include insurance, property taxes, maintenance costs, mortgages, etc.
- b) Gifts of real estate as real property, commercial or residential, shall be accepted through an identified separate YSCF Holdings (x), LLC created for the sole purpose of holding gifts of real property.
- c) General Procedure see Appendix A (page 6)

## 6. Life Insurance

- a) YSCF will accept a life insurance policy as a gift only when it is named as the both owner and beneficiary of the policy.
- b) If the policy is partially paid up, the donor will Pledge to continue to make future premium payments.
- c) If a donor discontinues the premium payments for a partially paid up policy, YSCF may 1) continue to pay the premiums, 2) pay the amount necessary to convert the policy to fully paid up, or 3) surrender the policy for its current cash value.

## 7. Tangible Personal Property

- a) Upon action of the Gift Acceptance Committee, jewelry, artwork, collections, equipment, software, and other like personal property shall be accepted as a gift to the Foundation if the property has an appraised value in excess of \$5,000.
- b) Personal property shall be accepted by the Foundation if there is reason to believe the property can be easily liquidated or if it would be of value for use by YSCF. Personal property accepted that obligates the Foundation to ownership of it in perpetuity or subjects it to unbound costs such as insurance or maintenance is strictly on the decision of the YSCF Board. Generally, no property which will require special facilities or security to properly safeguard will be accepted, exceptions to this are strictly on the decision of the the YSCF Board and appropriate agreements to cover the cost related to such property will need to be in place. No perishable property will be accepted.
- c) Donors will be notified at the time of receipt of a gift that the Foundation will, as a matter of corporate policy, cooperate fully in all matters related to IRS investigations of non-cash charitable gifts and filing of appropriate forms.

## 8. Other Property

- a) Other property of any description including, but not limited to mortgages, notes, copyrights, patents, intellectual property rights, software usage licenses, royalties, easements, whether real or personal, will only be accepted by special action of the YSCF Gift Acceptance Committee following due diligence to assure a reasonable benefit to the foundation, followed by consent of the Board of Trustees.
  - i. Valuation. Donor will have determined the value of other property through an independent appraisal by a qualified valuation professional. Donor assumes all responsibility for the accuracy of the property valuation. Bequests will assume the valuation established by the executor of the estate with any discrepancies resolved by supporting documentation.
  - ii. The YSCF in performance of its due diligence, shall have the right to engage a qualified independent appraiser and other technical expert.

## B. DEFERRED GIFTS

### 1. Bequests

- a) In the event an inquiry by the legal representatives of an estate as to the future acceptability of property proposed to be left to YSCF in a will or through any other deferred gift arrangement is made, the inquiry must be in accordance with terms and provisions of paragraphs Gift Classes Detail part A, section .1 - 8 of this document.
- b) Gifts from the estates of deceased donors consisting of property, which is not acceptable, shall be rejected only by action of the Gift Acceptance Committee. A consultant or counsel for YSCF may communicate the decision of the Gift Acceptance Committee to the legal representatives of the estate. If there is any indication that the representatives of the estate or any family member of the deceased is dissatisfied with the decision of the Committee, this will be communicated by the Committee to the Trustees.
- c) Attempts shall be made to discover bequest expectancies. Donors who indicate that they have made a bequest may, depending upon the individual circumstances, be asked to disclose, in writing or by copy of the will, the relevant clause stipulating YSCF as beneficiary as evidence of the gift. Where possible, intended bequests of property is other than cash or marketable securities, every attempt should be made to encourage the donor involved to conform his or her plans to applicable Gift Acceptance Policy.

### 2. Charitable Trusts

- a) YSCF shall accept designation as a beneficiary of a Charitable Trust where distributions are cash or marketable securities.
- b) Generally, YSCF, its employees or Trustees, will not serve as a sole trustee or co-trustee of a Charitable Trust in which it is a name beneficiary. The Gift Acceptance Committee may consider exceptions to this policy upon review of all documents and facts related to the gift and addressing any fiduciary or conflict of interest issues present.

### 3. Charitable Remainder Trusts

- a) YSCF shall accept designation as a beneficiary of a Charitable Remainder Trust where distributions are cash or marketable securities. Trusts comprised of other asset classes will be considered on an exception basis by the Gift Acceptance Committee.
- b) YSCF, its employees or Trustees, will not serve as sole trustee or co-trustees of a charitable remainder trust.
- c) The Gift Acceptance Committee of YSCF will identify a number of fiduciary institutions that provide trust administration services. Only with the approval of the Gift Acceptance Committee may any such institution be recommended to donors.
- d) The Gift Acceptance Committee and the Executive Director of YSCF will engage experts to provide guidance with the types of property generally accepted by fiduciary institutions as suitable contributions to charitable remainder trusts, and YSCF will not encourage donors to make gifts of any property to charitable remainder trusts which are not in keeping with such guidelines. Cash, publicly traded stock, bonds, and marketable real properties normally are the preferred funding assets for trusts.
- e) No representations shall be made as to the manner in which charitable remainder trust assets will be managed or invested by fiduciary institutions that may be recommended by the YSCF without prior written approval of such representations by the fiduciary.
- f) Charitable remainder trusts and all other deferred gifts will be encouraged as a method of making gifts to YSCF while retaining income which may be needed by the donor or other person chosen by the donor for any number or personal purposes. Such trusts will not be marketed as tax avoidance devices or as investment vehicles.
- g) No charitable remainder trusts will be encouraged where it is determined that the net present **value** of the remainder interest in the trust is less than 10% of value of the funds transferred to the trusts.
- h) The payout rate may be renewed with donors and these will take into consideration the number of beneficiaries, their ages, and size of the trusts.

### 4. Charitable Gift Annuities:

- a) No charitable gift annuity shall be accepted by the YSCF.

### 5. Life Estate Gifts

- a) Gifts of real property (e.g. personal residence or farm) to YSCF under which donors maintain a life interest in the property are acceptable subject to conditions.
- b) Subject to approval of the Gift Acceptance Committee, such life estate gifts will be accepted by YSCF if the committee is satisfied that there has been full disclosure to the donor of the possible future ramifications of the transactions and the gifts in compliance with all other guidelines concerning gifts of real estate.
- c) If YSCF accepts a remainder interest in gifts of real property, donors or other occupants may continue to occupy the real property for the duration of the stated life. Expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by donor or primary beneficiaries. Upon the death of donors, YSCF will liquidate it, as appropriate to the life estate gifts.

6. Gifts of Life Insurance

- a) The Executive Director will encourage donors to name YSCF to receive all or a portion of the benefits of life insurance policies that they have purchased on their lives.
- b) No specific insurance products may be endorsed for use if or in funding gifts to YSCF.

7. PAYMENT OF FEES RELATED TO GIFTS

a) Fees or Commissions

1. It is understood that YSCF Funds will share a fair portion of the total administrative and investment costs of YSCF. The costs annually charged against the YSCF shall be determined in accordance with the then current fees identified by YSCF applicable to such accounts. Any costs including commissions or fees to YSCF in accepting, managing, or transferring gifts to the accounts also shall be paid.
2. Fees shall be reasonable, and directly related to the completion of gifts. These shall be limited to appraisal fees by persons who are competent and qualified to appraise real property, legal fees for the preparation of documents, accounting fees incident to the transaction, and other related fees.

C. ENDOWED FUNDS

1. A donor advises intent to create an endowment fund.
  - a) A permanent endowment for approved purposes may be established without a minimum gift.
  - b) The YSCF Endowment Agreement must be completed and accepted by the YSCF.

## APPENDIX A: GIFTS OF REAL ESTATE PROCEEDURE

### General Procedure

1. Members of the Gift Acceptance Committee of the YSCF must conduct a visual inspection of the real property with the owner/donor and /or his/her representative and ascertain the details of ownership by reviewing associated documentation. If the real property is located in a geographically isolated area, a local real estate professional can be a substitute in conducting and reporting upon the visual inspection.
2. The donor will be asked to provide all or some of the following documents:
  - a. Real estate deed
  - b. Real estate tax bill
  - c. Legal description
  - d. Substantiation of zoning status
  - e. Results of title examination
  - f. Copy of most recent appraisal
3. YSCF will request, at its own expense, a title search to ensure the donor owns the property free and clear and to verify the exact legal description of the property.
4. YSCF may request an initial environmental assessment (Phase I) of the property to insure that the property does not have existing or potential environmental contamination issues that would reduce its potential sale. If the review reveals a problem, the Foundation may require additional testing (Phase II inspection). Alternatively, it may choose to reject the gift at this juncture.
5. YSCF may request an initial archeological assessment (Phase I) of the property to insure that the property does not have existing or potential archeological issues (i.e., cemeteries, artifacts, etc.) that would reduce its potential sale. If the review reveals a problem, the Foundation may require additional testing (Phase II inspection). Alternatively, it may choose to reject the gift at this juncture.
6. A summary of the analysis of the property will be presented to the YSCF Gift Acceptance Committee and acceptability determined.
7. YSCF will provide the donor with a written proposal stating the acceptability of the property and steps to be taken.

### Conditions:

1. No gifts of real estate shall be accepted without an analysis to determine the net benefit of the gifts.
2. In general, once gifts of real estate have been formally accepted, YSCF will seek to liquidate these as quickly as circumstances allow.
3. If there is any question as to the market value of the real property to be donated, YSCF may, at its own expense, contract with an independent appraiser to satisfy itself of the value of the subject property. The appraisal is to record the value of the donated real property. The appraisal can be provided to the donor, but it cannot be presented as advice.
4. Consistent with prevailing IRS provisions, for gift crediting, reporting, and counting purposes, the value of the gifted property will be its appraised value.
5. Depending on the value and desirability of the gift, the donor's connection with the Foundation,



and the donor's past giving record, the donor will or may be asked to pay for all or a portion of the following:

- a. Appraisal costs
  - b. Environmental assessment costs
  - c. Survey fees
  - d. Closing costs
  - e. Maintenance costs
  - f. Real estate taxes
  - g. Mortgage payments
  - h. Insurance
  - i. Real estate brokers' commission and other cost of sale.
6. Real estate located outside the continental United States will not be accepted as gifts.
  7. In general, gifts of real property encumbered by a mortgage will not be accepted.

Procedure:

1. As a material inducement for YSCF to accept donor's contribution of real property, donor will need to make the following representations and warranties to YSCF, all of which will be to the best of donor's knowledge and belief.
  - Gifts. Donor's contribution of the real property to YSCF is a gift. YSCF will not have paid or promised any form of consideration to or on behalf of donor in whole or partial exchange for the contribution.
  - No Binding Obligations. There are no oral or written agreements, contracts or other obligations concerning the real property that will be binding on YSCF to perform or refrain from any act that will impair YSCF's unrestricted use of the property.
  - No Intent to Defraud Creditors. Donor will not have contributed the real property to YSCF with the intent to defraud any of donor's current or potential creditors. Donor is not insolvent, and is not a party to any insolvency proceeding. Donor is not currently a debtor under any bankruptcy proceeding, and is not contemplating the filing of any bankruptcy proceeding.
  - No Pending or Threatening Litigation. Donor will not be a party to, and the real property is not the subject of, any pending or threatened litigation, arbitration, alternative dispute resolution proceeding, administrative investigation or proceeding, zoning challenge, or any other form of legal dispute that could in any way involve or affect title to the property.
  - No Regulatory Violations. The real property will not be in violation of any zoning, building, health code or other regulatory statute, law, code, rule, regulation, or order of any federal, state or local governmental entity or agency, and donor does not have any notice or knowledge of any pending, threatened or potential claim of any such violations.
  - No Environmental Liabilities. The real property will not be in violation of any federal, state or local statute, law, code, rule, regulation, or order in any way concerning or relating to environmental issues, and donor does not have any notice or knowledge of any pending, threatened or potential claim of any such violations.
  - Valuation. Donor will have determined the value of the real property through an independent appraisal by a qualified real estate valuation professional. Donor assumes all responsibility for the accuracy of the real property valuation. Bequests will assume the valuation established by the executor of the estate with any discrepancies resolved by supporting documentation.
  - Survival. Donor's representations and warranties survive delivery of the deed to the real property without merger.

- Donor will indemnify, hold harmless, and defend YSCF against all claims, demands, actions, causes of action, lawsuits, administrative proceedings, judgments, orders, damages, fines, penalties, interest, losses, costs and expenses (including all fees and expenses of attorneys and other professionals at any stage of the process) asserted against or incurred by YSCF as a direct or indirect result of any of donor's representations or warranties being untrue or materially misleading, or arising out of, in connection with, or directly or indirectly relating to any event, occurrence, act or omission involving the real property during donor's period of ownership.
2. YSCF makes the following representations and warranties to a donor, all of which will be to the best of YSCF's knowledge and belief:
    - Organization. YSCF and the assigned limited liability company, duly organized and in good standing under Ohio law. YSCF Holdings (x), LLC is directly related to its sole member, YSCF.
    - Tax Status. YSCF Holdings (x), LLC is structured as a component part of YSCF. For federal and state income tax purposes, YSCF Holdings (x), LLC will be disregarded as a separate taxable entity. All tax matters are accounted for and reported through YSCF, an Ohio nonprofit corporation under taxpayer identification number 23-7372791.
    - 501(c)(3) Verification. YSCF may not permit or engage in activity that is not permitted under Section 501(c)(3) of the Code, or for which donations or contributions are not deductible under Section 170(c)(2) of the Code. YSCF is exempt from federal income tax under Section 501(c)(3) of the Code as a public charity.
    - Deductibility of Contributions. Under a ruling from the IRS dated May 21, 2006, YSCF Holdings (x), LLC and YSCF reasonably believe that qualifying contributions to YSCF are deductible for income tax purposes under Section 170(c)(2) of the Code, subject to limitations and restrictions provided in the Code.
    - No Goods or Services. YSCF Holdings (x), LLC does not provide any goods or services, in whole or in part, to or on behalf of donor in consideration of a contribution of real property. Donor's gifts will not be a quid pro quo contribution.
    - Survival. YSCF Holdings (x), LLC representations and warranties survive receipt of the deed to the property without merger.
  3. Independent Tax Advice. Donor has obtained independent tax advice from a qualified tax attorney or certified public accountant of donor's choice regarding the tax effects of donor's contribution of the property. Donor is not relying on any oral or written statement made by YSCF concerning the tax effects of the contribution, and YSCF has not made any statements or given any tax advice to donor. Donor is responsible for all tax reporting of this transaction, including substantiation of the value of the property.
  4. A specific instrument of donor acknowledgement will constitute a contemporaneous substantiation of the donor's charitable contribution of the real property to YSCF Holdings (x), LLC .
  5. Due diligence concerning environmental or archeological issues will be considered before accepting any real estate. Prior to acceptance of real estate, YSCF may require an initial review of the property. In the event that the initial inspection reveals a potential problem, YSCF may require additional testing. Alternatively, it may choose to reject the gift.