



## **Gift Acceptance Policies & Guidelines**

Yampa Valley Community Foundation, a not for profit organization organized under the laws of the State of Colorado, encourages the solicitation and acceptance of gifts to Yampa Valley Community Foundation (hereinafter referred to as “YVCF”) for purposes that will help to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to YVCF or for the benefit of any of its programs.

### **The mission of YVCF is to:**

Lead transformational change throughout the Yampa Valley by engaging donors in purposeful philanthropy, empowering local nonprofit organizations, inspiring impactful grantmaking, and collaborating to build vibrant communities.

#### **I. Purpose of Policies and Guidelines**

The board of trustees of YVCF and its staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and missions of YVCF. These policies and guidelines govern the acceptance of gifts by YVCF and provide guidance to prospective donors and their advisors when making gifts to YVCF. The provisions of these policies shall apply to all gifts received by YVCF for any of its programs or services.

1. To protect the interests of the donor, Yampa Valley Community Foundation, or causes named as the beneficiary of a gift.
2. To make certain all gifts to YVCF are structured to provide maximum benefits to the donor and the named entity.
3. To encourage interested donors to make gifts without encumbering their own or YVCF’s financial or other resources.
4. To optimize opportunities to secure gifts from individuals to causes without compromising or endangering the reputation of YVCF.

#### **II. Nonstandard Gifts**

1. No irrevocable gift, whether outright or life-income in character, will be accepted if, under any reasonable set of circumstances, the gift would jeopardize the donor’s financial security.
2. Any gift presented to YVCF shall not be received until after it is determined that the intended gift and the manner in which it is given is in the best interest of the donor. (donor intent)
3. The Executive Director of YVCF shall be apprised of any potential gift or bequest to YVCF. Each case shall be reviewed on a regular basis by the Executive Committee and the Executive Director to ensure proper action, accounting, and acknowledgement surrounding each gift.

4. Donors should always be advised of their own need for legal counsel to assist them in the process of making their gift. YVCF staff shall avoid becoming involved in what can be interpreted as unauthorized practice of law; any suggestions made to a donor by YVCF staff should be accompanied by encouragement to seek advice from the donor's personal counsel and/or financial advisors.
5. Every precaution shall be taken by YVCF staff to protect the privacy and confidentiality of each donor and the donor's family. Permission must be obtained before any public acknowledgement is made of gifts received by YVCF. The right of anonymity must always be respected.
6. YVCF staff shall attempt to have the Executive Director meet with each individual donor prior to or concurrent with the execution of a gift agreement. In the case of charitable remainder trusts or other complex arrangements such a meeting is mandatory. All complex arrangements must be reviewed by YVCF's counsel.
7. In all cases, any professional advisors such as Attorneys or CPAs hired by YVCF must recognize their client is YVCF, and that they do not represent the donor. Professional advisors for YVCF will always seek to work with the advisors for the donor.
8. YVCF will provide gifts receipts meeting IRS substantiation requirements for property received by YVCF as a gift. However, except for gifts of cash, no value shall be ascribed to any receipt or other form of substantiation of a gift received by YVCF.
9. Investment considerations and gift considerations are in all cases to be evaluated separately, each on their respective merits. In no event shall the offer of a gift be tied in any way to an investment action or decision by YVCF.
10. YVCF shall in no way compensate, whether through commissions, finders' fees, or other means, any third party for directing a donor to YVCF.
11. All written instruments setting out the description and terms of a gift shall be reviewed by legal counsel on behalf of YVCF and a written report made to the Executive Director on its compliance with applicable laws and regulations as well as an explanation of its potential liability to YVCF.

### **III. Use of Legal Counsel**

YVCF shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

1. Closely held stock transfers that are subject to restrictions or buy-sell agreements.
2. Documents naming YVCF as Trustee.
3. Gifts involving contracts, such as bargain sales or other documents requiring YVCF to assume an obligation.
4. Transactions with potential conflict of interest that may invoke IRS sanctions.
5. Other instances in which use of counsel is deemed appropriate by the gift acceptance committee.

### **IV. Conflict of Interest**

YVCF will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

### **V. Restrictions on Gifts**

YVCF will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are consistent with its stated mission, purposes, and priorities. YVCF will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the Foundation's bylaws, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of YVCF. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Executive Committee of YVCF.

## VI. Types of Gifts

The following gifts are acceptable:

- Cash
- Tangible Personal Property
- Securities
- Cryptocurrency
- Real Estate
- Remainder Interests in Property
- Oil, Gas, and Mineral Interests
- Bargain Sales
- Life Insurance
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Retirement Plan Beneficiary Designations
- Bequests
- Life Insurance Beneficiary Designations

The following criteria shall govern the acceptance of each gift form:

1. **Cash.** Cash is acceptable in any form. Checks shall be made payable to YVCF and shall be delivered to the YVCF's administrative offices.
2. **Tangible Personal Property.** All other gifts of tangible personal property shall be examined in light of the following criteria:
  - a. Does the property fulfill the mission of the YVCF?
  - b. Is the property marketable?
  - c. Are there any undue restrictions on the use, display, or sale of the property?
  - d. Are there any carrying costs for the property?

The Executive Committee shall make the final determination on the acceptance of other tangible property gifts.

3. **Securities.** YVCF can accept both publicly traded securities and closely held securities.
  - a. **Publicly Traded Securities.** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all

marketable securities shall be sold upon receipt unless otherwise directed by the investment committee. In some cases, marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the Executive Committee.

- b. **Closely Held Securities.** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in limited partnerships and limited liability companies, or other ownership forms, can be accepted subject to the approval of the gift acceptance committee of the YVCF. However, gifts must be reviewed prior to acceptance to determine:
  - i. There are no restrictions on the security that would prevent YVCF from ultimately converting those assets to cash;
  - ii. the security is marketable; and
  - iii. the security will not generate any undesirable tax consequences for YVCF.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The Executive Committee and legal counsel shall make the final determination on the acceptance of closely held securities when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

4. **Cryptocurrency.** Cryptocurrency is defined by the IRS as property. All Cryptocurrency gifts will be reviewed and accepted upon approval from the Executive Committee. Cryptocurrency gifts of \$5,000 or more will require a qualified 3rd party appraisal for the donor to take a deduction. Cryptocurrency may be sold immediately unless other instructions are in place. FYI Deduction Rules:
  - a. Cryptocurrency is property for federal tax purposes.
  - b. Deductions for property in excess of \$500 requires IRS Form 8283, which must be signed by donee.
  - c. Deduction for property in excess of \$5,000 requires a “qualified appraisal” unless the property is “readily valued property.”
5. **Real Estate.** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, YVCF shall require an initial environmental review of the property to ensure that the property has no environmental damage. In the event that the initial inspection reveals a potential problem, YVCF shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be an expense of the donor.

When appropriate, a title binder shall be obtained by YVCF prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor.

Prior to acceptance of the real property, the gift shall be approved by the gift acceptance committee of YVCF and by YVCF’s legal counsel. Criteria for

acceptance of the property shall include:

- a. Is the property useful for the purposes of the YVCF?
  - b. Is the property marketable?
  - c. Are there any restrictions, reservations, easements, or other limitations associated with the property?
  - d. Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
  - e. Does the environmental audit reflect that the property is not damaged?
6. **Remainder Interests in Property.** YVCF will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph 4 above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, YVCF may use the property or reduce it to cash. Where YVCF receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary.
7. **Oil, Gas, and Mineral Interests.** YVCF may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the Executive Committee, and if necessary, by YVCF's legal counsel.
8. **Bargain Sales.** YVCF will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of YVCF. All bargain sales must be reviewed and recommended by the Executive Committee and approved by the board of trustees. Factors used in determining the appropriateness of the transaction may include:
- a. YVCF must obtain an independent appraisal substantiating the value of the property.
  - b. If YVCF assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
  - c. YVCF must determine that it will use the property, or that there is a market for sale of the property, allowing sale within 12 months of receipt.
  - d. YVCF must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.
9. **Life Insurance.** YVCF must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, YVCF will include the entire amount of the additional premium payment as a gift in the year that it is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, YVCF may:

- a. continue to pay the premiums;
- b. convert the policy to paid up insurance; or
- c. surrender the policy for its current cash value.

10. **Charitable Gift Annuities.** At this time, YVCF does ***not*** offer charitable gift annuities.
11. **Charitable Remainder Trusts.** YVCF may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the gift acceptance committee. YVCF will not accept appointment as trustee of a charitable remainder trust.
12. **Charitable Lead Trusts.** YVCF may accept a designation as income beneficiary of a charitable lead trust. The board of YVCF will not accept an appointment as Trustee of a charitable lead trust.
13. **Retirement Plan Beneficiary Designations.** Donors and supporters of YVCF will be encouraged to name YVCF as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the YVCF until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
14. **Bequests.** Donors and supporters of YVCF will be encouraged to make bequests to YVCF under their wills and trusts. Such bequests will not be recorded as gifts to YVCF until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
15. **Life Insurance Beneficiary Designations.** Donors and supporters of YVCF will be encouraged to name YVCF as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to YVCF until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

## **VII. Miscellaneous Provisions**

**Excess Business Holdings in Donor Advised Funds.** The Pension Protection Act of 2006 amended Section 4943 of the Internal Revenue Code to limit ownership of closely-held business interests in a donor advised fund. A fund's holdings, together with the holdings of disqualified persons (donor, advisor, members of their families and businesses they control) may not exceed any of the following:

- 20% of the voting stock of an incorporated business;
- 20% of the profits interest of a partnership, joint venture, or the beneficial interest in a trust or similar entity; and
- Any interest in a sole proprietorship.

These limitations do not apply if the donor-advised fund holds an interest that does not exceed two percent (2%) of the voting stock and two percent of the value of the business.

Donor-advised funds receiving gifts of interests in a business enterprise have five years from the receipt of the interest to divest holdings that are above the permitted amount, with the possibility of an additional five years if approved by the Secretary of the Treasury. To prevent a violation of these rules, it is the Foundation's policy is to divest itself of such holdings within five years from the date the Foundation acquired the asset. If that is not possible, the asset will

be transferred to a new or existing fund that is not an advised fund.

Because they are not “business enterprises,” the rule will not apply to most gifts of real property, although undeveloped land may become a business enterprise under some circumstances. Interests in investment partnerships and LLCs—including family partnerships, hedge funds, REITs, and so forth—are excluded from the definition of business enterprise as long as 95 percent (95%) or more of the entity’s income is from passive sources. Examples of other property gifts that are excluded because they are not business enterprises include: oil and gas interests (non-working); life insurance; tangible personal property (as long as it is not inventory); and remainder interests in personal residences and farms.

**Securing appraisals and legal fees for gifts to YVCF.** It will be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to YVCF.

**Valuation of gifts for development purposes.** YVCF will record a gift received at its valuation for gift purposes on the date of gift.

**Responsibility for IRS Filings upon sale of gift items.** The Finance Director of YVCF is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by YVCF when the charitable deduction value of the item is more than \$5,000. YVCF must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.

Acknowledgement of all gifts made to YVCF and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the board of YVCF.

These policies and guidelines have been reviewed and accepted by the Executive Committee of YVCF. The Executive Committee must approve any changes to, or deviations from, these policies.

**Approved on the 16<sup>th</sup> day of June 2022.**

**Board Chair, Board of Trustees, Yampa Valley Community Foundation**

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**Gordon Hattersley**