

Johnson County Community Foundation
Fund and Gift Acceptance Policy
(Approved by the JCCF Board of Directors on July 18, 2023)

The purpose of this fund and gift acceptance policy is to advance the Johnson County Community Foundation's (JCCF) mission of connecting donor interests to community needs and opportunities utilizing community knowledge and leadership. By providing guidelines for negotiating and accepting various types of gifts, this policy is designed to serve the best interests of JCCF, donors who support JCCF's programs through charitable gifts, and the community. Exceptions to the following policy must be approved by the Executive Committee of JCCF's Board of Directors.

Scope

This policy addresses all types of gifts accepted by JCCF. The goal is to encourage financial support for JCCF without encumbering it with gifts which either generate more cost than benefit, or which may be restricted in a manner that is not in keeping with JCCF's charitable purposes or applicable laws governing charitable gifts. This policy also describes the types of funds that JCCF maintains.

Ethical Standards in Dealing with Donors

Every person acting for or on JCCF's behalf shall adhere to those standards set forth in *A Donor Bill of Rights*:

http://www.afpnet.org/files/ContentDocuments/Donor_Bill_of_Rights.pdf,

JCCF is committed to the highest ethical standards of philanthropy and development. In all transactions between potential donors and JCCF, JCCF will aspire to provide accurate information and full disclosure of the benefits and liabilities that could influence a donor's decision, including with respect to JCCF's fees, the irrevocability of a gift, prohibitions on donor restrictions, items that are subject to variability (such as market value, investment return, and income yield), JCCF's responsibility to provide periodic financial statements with regard to donor funds, and investment policies and other information needed by donors to make an informed choice about using JCCF as a vehicle of charitable gifts. **In addition, all donors will be strongly encouraged to discuss their gifts with their own financial and tax advisors before signing any gift agreement.** The role of JCCF's staff is to inform, guide, and assist the donor in fulfilling his or her or their philanthropic goals, without pressure or undue influence.

In carrying out JCCF's development program, staff will recognize and acknowledge donors in appropriate ways, both publicly and privately, subject to JCCF's Policy on Confidentiality and IRS regulations. Donors reserve the freedom to determine the degree and type of recognition that they prefer and JCCF respects the confidentiality of donors who do not wish to be publicly recognized.

Funds

Distributions from JCCF funds generally are determined by applying JCCF's stated duly adopted spending policies. JCCF offers several different types of funds (either endowed or pass-through). These include:

- ***Unrestricted Funds.*** JCCF makes distributions from unrestricted funds to support effective work of charitable organizations throughout the area we serve.
- ***Field of Interest Funds.*** These funds support a charitable purpose suggested by the fund's donor or donors. Distributions are determined by JCCF consistent with the fund's purposes. Where appropriate, JCCF may create an advisory committee to make recommendations for distributions.
- ***Designated Funds.*** These funds support a charitable organization designated by the fund's donor or donors.
- ***Charitable Organization Funds.*** These funds are created by charitable organizations that designate themselves as the fund's beneficiary.

- **Scholarship Funds.** These funds provide financial assistance to students at schools, colleges, and universities. Scholarship funds can also support vocational training and assistance in paying for special courses. Donors recommend eligibility criteria and may serve on selection committees.
- **Donor Advised Funds.** Donors recommend grants to charitable organizations (see JCCF's Donor Advised Fund Policy for additional information).
- **Disaster Relief Funds.** Contributions to these funds help our community recover when emergencies or disasters strike.

Variance Power

The original purpose of some funds may become no longer relevant or appropriate. JCCF has the ability to address these situations through its variance power. This power gives JCCF's board the ability to make changes to a fund when its purpose is no longer necessary, can no longer be fulfilled, or has become inconsistent with the charitable needs of the community. This power to update funds helps protect donors by avoiding the need for complex and costly legal proceedings.

Authority to Accept Gifts

Acceptance by Officers & Designated Employees. Any of JCCF's officers or employees designated by JCCF's Executive Committee may accept, for and on JCCF's behalf.

- Cash (U.S. currency, checks, credit cards, electronic transfers)
- Gifts In-Kind (see the In-Kind Gift Acceptance Policy)
- Agricultural commodities
- Marketable securities
- Gifts of usable furniture and equipment for JCCF's offices or for programs of JCCF.
- Gifts of precious metals, where the value is easily established.

Acceptance by the JCCF Board of Directors. All other gifts, including those listed below, will require review and, if appropriate, approval by JCCF's Executive Committee and the Board of Directors (if delegated by the Board, the Executive Committee may act on behalf of the Board for gift acceptance purposes).

- Gifts of marketable real estate. The donor will be required to provide an independent appraisal and in most cases an environmental review as well as a legal description of the property. The Board will review these documents as well as consider any liabilities, restrictions or other conditions related to the gift.
- Interests in business entities (i.e., closely held marketable securities, partnership interests) where, in the opinion of staff, there may be concerns about the assets owned by the entity, valuation, long-term disposition, income production, business partnership, charitable intent, requirements or limitations, tax deductibility or other questions which indicate that a Board review is necessary.
- Charitable remainder trusts, charitable lead trusts, or charitable gift annuities, if funded with assets other than cash or publicly-traded securities.
- Retained life estate in real estate.
- Other property that may be unusual or fall outside the type of gifts usually handled by JCCF, including tangible personal property unrelated to JCCF's charitable purpose.
- Gifts with a purpose that may fall outside the purposes, bylaws and procedures of JCCF.

In cases where such review is required, the staff will provide the Board all pertinent details of the gift and its charitable purpose.

Notation: Gifts requiring immediate action (e.g. gifts on December 31) may be exempted from full Board review if, in the judgment of the President & CEO or legal counsel, that gift may be accepted without significant reservations or in any way jeopardizing JCCF's tax exempt status. The President & CEO will present this gift acceptance for ratification at the next full meeting of the Board.

Timing of Review. Gifts requiring review will be handled promptly. JCCF staff will immediately notify donors if a gift is not accepted. After a gift is accepted, acknowledgement of the gift will be completed within 30 days of the gift.

Authority to Negotiate and Sign Fund & Gift Agreements

Subject to the Executive Committee's review and approval authority, JCCF's President & CEO, will have the authority to address inquiries, negotiate with donors, assemble documentation, retain expert and technical consultants, and execute agreements on JCCF's behalf. The President & CEO may authorize the Vice President of Development to carry out all of the above except executing the final agreement.

Purpose and Designation of Gifts

The purpose of each gift to JCCF must fall within JCCF's broad charitable purposes. JCCF cannot accept any gift that will be directly or indirectly subject to any material restriction or condition by the donor that prevents JCCF from freely and effectively employing the gift assets or the income from such assets to further its charitable purposes. In addition, JCCF reserves the right to reject any gift that might place the other assets of JCCF at risk or that is not readily convertible into assets that fall within JCCF's investment guidelines. JCCF may also decline a gift if it is not able to administer the terms of the gift in accordance with the donor's wishes.

All undesignated, unrestricted gifts of any amount shall be added to the Fund(s) approved by JCCF's Board of Directors.

Minimum Gifts

Subject to the policies set forth in this document, JCCF may accept gifts to existing funds of any size. The minimum gift for new endowed funds is \$10,000 and new pass-through funds is \$2,500. A new fund may be established with a lower minimum if the donor arranges regular payments to bring the fund to the minimum level within a reasonable time frame. Exceptions are subject to the approval of JCCF's President & CEO.

Investment of Gifts

JCCF reserves the right to make any or all investment decisions regarding gifts to it in accordance with its Investment Policy, as amended from time to time. In making a gift to JCCF, the donor gives up all rights, title and interest to the assets contributed. In particular, the donor relinquishes the right to choose investments and investment managers, brokers, or to veto investment choices for the contributed assets.

Costs of Accepting and Administering Gifts

Costs associated with the acceptance of a gift, such as the donor's attorneys' fees, accounting fees, and appraisal and escrow fees, are borne by the donor. The direct costs of administering gifts are generally paid out of the assets of the individual funds. The Executive Committee may approve exceptions to this policy if it considers it to be special circumstances. Custodial, investment, and administrative fees are paid from the respective funds in accordance with JCCF's guidelines and fee schedules. JCCF reserves the right to assess a set-up fee.

Fundraising by Donors

Because JCCF is legally responsible for all fundraising undertaken on its behalf, fundraising undertaken by donors in connection with funds of JCCF must be approved in advance by JCCF pursuant to JCCF's policy on fundraising by donors. All such fundraising activities are also subject JCCF's supervision.

Excess Business Holdings

With the passage of the Pension Protection Act in 2006, section 4943 of the Internal Revenue Code was amended to limit ownership of closely-held business interests in donor advised funds. 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;
- 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 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 JCCF's policy to divest itself of such holdings within five years from the date JCCF 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.

Illiquid Assets

JCCF's general policy is to liquidate in-kind gifts promptly. On occasion, the Executive Committee may decide that it will not liquidate certain gifts immediately. Factors the Committee will consider include:

- *Market conditions* – a gift may be retained for a reasonable period of time if the likely current sales price would be substantially less than the asset's real value. Similarly, a large block of stock might be sold over a period of time in order not to artificially depress the price.
- *Use by JCCF* – JCCF may elect to keep gifts that it will employ directly in furtherance of its exempt purposes. For example, JCCF might keep real property that it will use as its offices.
- *Desirability as an investment* – on rare occasions, JCCF may be given property that it wishes to retain as an investment. Considerations in this decision include the projected return and how the asset fits into JCCF's investment portfolio.

If a fund's illiquid assets do not generate a sufficient return to permit grantmaking that is consistent with the assets' value, JCCF will seek an additional gift of cash or marketable securities to allow the fund to begin making distributions.

Deferred Gifts and Planned Giving

These are gifts whose benefit does not fully accrue to JCCF until some future time, or whose benefits are split with non-charitable beneficiaries (examples include bequests via the donor's Will or Revocable Living Trust). JCCF representatives are authorized to solicit direct charitable gifts through wills and revocable living trusts as well as contributions to establish gift annuities or charitable trusts. JCCF will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts. In cases where the gifts are complex, the President & CEO may request review by the Executive Committee and/or the Board of Directors.

Bequests. JCCF accepts bequests from donors who have directed in their Wills or Revocable Living Trusts, that certain assets be transferred to JCCF and honors the wishes of the donor as expressed, but reserves the right of refusal as necessary and appropriate. Sample bequest language for restricted and unrestricted gifts is available from JCCF, to donors and/or advisors, upon request. JCCF may not be named as Executor, or Trustee for a

charitable trust, and will not serve if named. JCCF may create a named fund in memory of the donor, if there is no stipulation for anonymity.

Retirement Plans or IRA Accounts. Donors may make lifetime gifts of retirement assets or name JCCF as the beneficiary of their plan. Retirement plans include, but are not limited to, “qualified” Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans.

Life Income Gifts. JCCF will work closely with donors and their advisors to implement planned giving options from which JCCF will benefit.

Types of Gift Assets

Cash

JCCF accepts gifts of cash. This includes U.S. currency, checks, credit cards and electronic transfers.

Publicly-Traded Securities

General. JCCF accepts gifts of marketable, publicly-traded stocks and bonds. As a general rule, publicly-traded stocks and bonds contributed to JCCF will be redeemed or sold as soon as practicable. All net proceeds from such redemption or sale less commissions and expenses are then credited to the component fund to which the stocks or bonds were originally contributed. JCCF may accept gifts of publicly-traded stocks and bonds in any amount to any existing fund. However, gifts to establish a new component fund at JCCF must meet the applicable minimum funding requirement.

Appraisal. No appraisal is required so long as the stock or bond is not subject to any restrictions, including those imposed by contract or the Securities Exchange Commission. Although an appraisal is not required, the value of the gift of publicly traded securities for internal records and donor recognition purposes is determined by calculating the mean of the high and low prices of the securities on the date of the gift.

Real Estate

General. This policy applies to all gifts of real property, including outright gifts of residential and commercial property and farmland; bargain-sale transactions; and gifts of remainder interests in which the donor retains a life estate. JCCF does not accept gifts of time shares.

Gifts of real property must be reviewed by the Executive Committee. Subject to the Committee’s approval, JCCF may accept gifts of real property to any fund. Gifts to establish a new component fund at JCCF must meet the applicable minimum funding requirement. In deciding whether to accept real property gifts JCCF will:

- Determine whether the real estate gift is of an acceptable minimum value.
- Confirm that the donor has legal capacity and is entitled to convey the property through copies of deed, title report, etc., provided by donor.
- Determine whether, if property is encumbered by debt, the debt is of a level that will not unduly burden JCCF or adversely affect the marketability of the property.
- Perform a market and financial analysis prior to acceptance of the gift to determine whether the gift is a financially sound acquisition.
- Weigh its ability to manage commercial property for the time necessary to sell the property. For example, income producing property may subject the Community Foundation to unrelated business income tax and/or other types of expenses, including but not limited to, upkeep of land, maintenance of buildings and management of property.
- Determine that there are no environmental concerns related to the property that will cause liability concerns for JCCF.

- Evaluate whether any restrictions on the gift desired by donor will jeopardize the classification of such gift as charitable.

Appraisal. Each gift of real property giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal. Donors will be advised of the requirement to attach IRS Form 8283 to their federal income tax return if they wish to claim a charitable deduction.

Distributions. Distributions from a component fund that consists entirely of real property are limited to the net income generated by the property less fees assessed by JCCF and any unrelated business tax imposed thereon.

Liquidation. JCCF will generally seek to sell real property as soon as possible and generally will not accept gifts that cannot be liquidated within three years. Donors will be advised that if JCCF liquidates the gifted property in less than three years it will file IRS Form 8282.

Procedures for Accepting Gifts of Real Property. Donors will provide the information and documents requested in the Real Property Donation Checklist at the earliest possible time prior to the acceptance of the gift (see attached checklist). JCCF may request additional information or documents when necessary to its evaluation of the proposed gift.

Whenever possible, a member of JCCF staff or an authorized representative will visit the property to determine its nature and type and to identify any potential problems not evident from information supplied by the donor that might hinder or prevent JCCF's sale of the property.

Environmental Assessment. Donors will provide at least a Phase I Environmental Report with disclosure of any environmental problems or statement that none exists. Additional reports will be required if the Phase I report identifies issues that make additional investigation prudent.

Closely-Held Stock and S Corporation Stock

General. Gifts of closely-held and S corporation stock must be reviewed by the Executive Committee, perhaps with input from the Investment Committee or advice of counsel. Subject to the Committee's approval, JCCF may accept gifts of closely-held or S corporation stock in any amount to any existing fund. Gifts to establish a new component fund at JCCF must meet the applicable minimum funding requirement. JCCF may accept gifts of stock in closely-held or S corporation that generate unrelated business income only if certain agreements are reached with the donor and/or the corporation. These include an agreement by the donor that the taxes on the unrelated business income and JCCF's associated administrative expenses (e.g., accounting and tax return preparation) will be charged against the fund holding the contributed stock. Further, the donor should agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expenses to the extent there is insufficient cash in the subject fund balance to cover such taxes and expenses.

Appraisal. Donors will be advised that each gift of closely-held or S corporation stock giving rise to a charitable deduction of more than \$5,000 will require that the donor have an appraisal and attach IRS Form 8283 to his or her federal income tax return in order to claim a charitable income tax deduction. JCCF must have an appraisal for internal accounting purposes.

Distributions. Distributions from a component fund that consists entirely of closely-held or S corporation stock are limited to the income generated by the securities less fees assessed by JCCF and any unrelated business tax imposed thereon.

Liquidation. JCCF will generally seek to redeem or sell closely-held or S corporation stock contributed as soon as possible and generally will not accept gifts that cannot be liquidated as JCCF deems best.

Procedures for Accepting Gifts of Closely-Held or S Corporation Stock. The following procedures apply to all proposed gifts of S corporation stock:

- JCCF will review corporate governing documents to determine the rights and obligations associated with the stock and whether or not JCCF should undertake such obligations in light of such rights.
- JCCF will review the corporation's most recent tax returns and the donor's most recent K-1 to determine the nature of the income associated with the stock (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to JCCF's form or be approved by JCCF's counsel.
- As a condition for JCCF's acceptance of the gift, a written agreement between the donor and JCCF should be in place that provides for the payment of administrative expenses and unrelated business income taxes generated by the stock to the extent there is insufficient cash in the fund to which the stock has been donated to cover such expenses and taxes. The agreement should also require the donor to indemnify JCCF against all liabilities incurred by the donor on account of the stock up to the date of the gift.
- The donor shall provide JCCF with all documents which outline, discuss or relate to the duties and liabilities which shareholders have, including Shareholder Agreements.

General Partnership Interests

JCCF generally does not accept gifts of general partnership interests due to the unlimited liability of general partners.

Limited Partnership Interests

General. Gifts of limited partnership interests must be reviewed by the Executive Committee. Subject to the Committee's approval, JCCF may accept gifts of limited partnership interests in any amount to any existing fund. Gifts to establish a new component fund at JCCF must meet the applicable minimum funding requirement. JCCF reserves the right to carefully screen all proposed gifts of limited partnership interests to ensure that they place no undue risk upon JCCF.

JCCF generally does not accept gifts of interests in partnerships that carry on active business. Interests in passive, investment-type limited partnerships such as those holding real estate, stocks and bonds and Limited Liability Partnerships, are preferred.

JCCF may accept gifts of limited partnership interests that generate unrelated business income only if certain agreements are reached with the donor. These include an agreement by the donor that the taxes on the unrelated business income and JCCF's associated administrative expenses (e.g., accounting and tax return preparation) will be charged against the fund holding the partnership interest. Further, the donor would have to agree to contribute additional cash to the fund to pay the foregoing taxes and administrative expenses to the extent there is insufficient cash in the subject fund balance to cover such taxes and expenses.

Appraisal. Each gift of limited partnership interest must be appraised in accordance with federal tax law. The donor will be responsible for obtaining such appraisal.

Distributions. Distributions from a component fund that consists entirely of limited partnership interests are limited to the lesser of the income distributed to JCCF by the partnership less fees assessed by JCCF and any unrelated business income taxes imposed thereon and the amount determined by JCCF's spending policy.

Liquidation. JCCF will generally seek to redeem or sell limited partnership interests contributed to it as, and when it deems best.

Procedures for Accepting Limited Partnership Interests. The following procedures apply to all proposed gifts of limited partnership interests:

- JCCF will review the partnership governing documents to determine the rights and obligations associated with the limited partnership interest and whether or not JCCF should undertake such obligations in light of such rights. If required, the donor should be asked to obtain the other partners' consent to the gift as a condition to JCCF's accepting the gift.
- JCCF will review the donor's most recent K-1 and the partnership's tax returns to determine the nature of the income associated with the limited partnership interest (e.g., unrelated business income, active versus passive business).
- All proposed transfer documents must conform to JCCF's form or be approved by JCCF's counsel.
- As a condition for JCCF's acceptance of the gift, a written agreement between the donor and JCCF must be in place that provides for the payment, by the donor, of administrative expenses and unrelated business taxes generated by accepting the Limited Partnership Interest. The agreement should also require the donor to indemnify JCCF against all liabilities incurred by the donor on account of the limited partnership interest up to the date of the gift.

Limited Liability Company Interests

The same considerations given to gifts of limited partnership interests apply to gifts of interests in limited liability companies.

Tangible Personal Property

General. JCCF accepts gifts of personal tangible property (e.g., artwork, coin collections, jewelry) only if:

- JCCF determines that the property will be used in furtherance of JCCF's exempt purposes;
- JCCF will be able to sell the property. If the property is to be sold, JCCF will accept the gift only if it has sufficient value to justify the expenditure or resources required for such sale. JCCF may accept gifts of personal tangible property in any amount to any existing fund. Gifts of tangible personal property to establish a new component fund at JCCF must meet the applicable minimum funding requirement; or
- JCCF will advise the donor as to whether or not the gifted property will be used for "related" or "unrelated" purposes and will provide the donor(s) with documentation of that notification.

Appraisal. Each gift of personal tangible property for which the donor expects a charitable deduction exceeding \$5,000 must be appraised in accordance with federal tax law. The donor will be responsible for obtaining and paying for such appraisal. JCCF will inform the donor of the requirement to file IRS Form 8283 with the federal income tax return if a charitable deduction is desired.

Procedures for Accepting Personal Tangible Property. The following procedures apply to all proposed gifts of personal tangible property:

- JCCF will review all prior appraisals and authentication documents, if any, relating to the property.
- If the property is to be sold, JCCF will ascertain the market for such property and estimate the costs to be incurred in connection with the sale as well as the costs of holding the property prior to sale.
- All costs incurred by JCCF in connection with the holding and sale of the property shall be charged against the sale proceeds, with the balance being credited to the fund to which the property has been contributed.
- JCCF will inform the donor that if the contributed property is sold in less than three years JCCF will file IRS Form 8282.

Life Insurance

General. JCCF may accept gifts of life insurance policies: (a) the policy is not encumbered (i.e., there is no outstanding loan against the policy); and (b) JCCF is made the policy's owner and primary beneficiary. When premium payments can no longer be made because there is insufficient value in the policy to keep it in force, or because JCCF chooses to discontinue premium payments, the policy will be surrendered. JCCF may accept gifts of

life insurance policy in any amount to any existing fund. Gifts of life insurance policies to establish a new component fund at JCCF must meet the applicable minimum funding requirement.

Appraisal. Each gift of life insurance policy giving rise to a charitable deduction of more than \$5,000 must be appraised in accordance with federal tax law. JCCF will inform the donor of the requirement to file IRS Form 8283 with his or her federal income tax return. JCCF's Executive Committee, with input from the President & CEO, will determine whether or not the policy is to be maintained or to surrender the policy.

Approved by the JCCF Board of Directors, July 18, 2023. This document supersedes all prior documents related to such policies and procedures.

Stephen F. Spencer

Steve Spencer, Board Chair

Stephen F. Spencer

Signature

07-12-2023

Date

Real Property Donation Checklist

- ☐ Exact legal name of donor and federal identification number.
- ☐ Legal description of property (copy of deed).
- ☐ Description of any buildings or other structures located on the land.
- ☐ Boundary survey of property with location of all structures, easements, and encumbrances appearing on the face of the survey.
- ☐ Information regarding existing zoning status.
- ☐ Information on all ingress/egress for the property.
- ☐ Description of prior use of the property.
- ☐ Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
- ☐ Disclosure of any contemplated or anticipated condemnations, right-of-ways or other actions by municipalities that may affect the subject property.
- ☐ Phase I Environmental Report on the property, including environmental report on any structures located on the real estate. Depending on the content of the Phase I report, additional environmental reports may be required.
- ☐ Evidence of title, such as title examination and report, title insurance commitment, or schedule describing any liens, encumbrances, or title matters affecting the property.
- ☐ The Board will require an appraisal showing the fair market value of the property current within sixty days prior to the date of the gift.
- ☐ Disclosure of amount of existing real estate taxes, insurance premiums, and assessments attributable to the property.
- ☐ Discussion with proposed donor regarding any special arrangements for donor's fund or other sources to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, and similar items.