

NYBG

Gift Acceptance Policy

Purpose

The New York Botanical Garden (“NYBG” or “The Garden”) has been a leader in horticulture, plant science, and education for more than 130 years, and its continued existence will depend upon the generosity of donors who support its mission. The NYBG Board of Trustees adopted this Gift Acceptance Policy (“Policy”) on July 19, 2023 to govern the acceptance of charitable gifts, provide guidance to prospective donors, and help ensure that the Garden’s gift acceptance practices will further its mission for many more years to come.

Policy Guiding Principles

Subject to the guidelines imposed by this Policy, any gift of cash, tangible or intangible property, or services may be accepted in furtherance of NYBG’s mission and related goals.

The Garden will comply with all Internal Revenue Service reporting requirements, tax laws and other legal requirements regarding gifts. NYBG will not knowingly facilitate a donor claiming an improper tax deduction or other benefit.

The New York Botanical Garden is committed to the highest ethical standards in all aspects of its fundraising and advancement activities.

Gift Acceptance Committee

The Gift Acceptance Committee (the “Committee”) is charged with reviewing gifts, pledges, bequests, and other proposed contributions as appropriate, in accordance with this Policy and with applicable laws, rules, and regulations. The Committee will review all gifts that do not comply with this Policy or which have any unusual features. Additionally, the Committee may recommend to the Chair of the Board of Trustees that NYBG declines a gift from an individual or organization that has come into public disrepute, may bring negative attention to the Garden by association, or misaligns with the Garden’s mission and values. The Board Chair may in their discretion consult with the Chair of the Finance Committee and the Chair of the Audit Committee or others on the Board to finalize accepting or declining these gifts.

The Committee is composed of the following staff positions:

- CEO & the William C. Steere Sr. President (or designee)
- Chief Operating Officer (or designee)
- Chief Advancement Officer (or designee)
- Chief Financial Officer (or designee)
- General Counsel (or designee)

Others may participate by invitation of the Committee.

The Committee will forward for review by the Chair of the Board of Trustees any gifts of \$2.5 million or greater or any gifts that do not comply with this policy or have any uncommon elements.

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Donor Stewardship

NYBG staff will assist donors in a manner consistent with customary standards of philanthropic stewardship. Accordingly, the following will apply to donor interactions:

- a. *Acknowledgement:* NYBG will acknowledge all gifts in writing to the extent required by law.
- b. *Representation:* NYBG may not act as a donor's representative without the express written consent of NYBG and the donor in situations appropriate to such representation.
- c. *Confidentiality:* Transactions should be held in strict confidence and may be publicly disclosed only with donor permission, or as required by law.
- d. *Anonymity:* NYBG respects donors' wishes to remain anonymous and will take reasonable steps to safeguard their identities.
- e. *Disclaimer:* NYBG may not provide legal, tax or financial advice to donors beyond information customarily provided in the normal course of philanthropic stewardship. Donors are encouraged to seek personal representation of their choice and own expense in matters of their overall philanthropic planning.

Donor Privacy Policy

The New York Botanical Garden wants our donors to be familiar with how information is collected, used, and disclosed. NYBG acts in accordance with the Privacy Policy, which is available at:

www.nybg.org/about/privacy-policy/

Gift and Pledge Documentation

Gifts and pledges of \$250,000 or greater, or gifts to be paid over multiple years of any amount, require a gift agreement. Any changes to the standard forms of Gift Agreement require approval of the Committee. Documentation by other means, such as email, transcribed telephone conversation, or database entry, may be acceptable provided that the donor separately acknowledges the succeeding details in writing wherever possible: donor name and address, gift amount, gift purpose or time restriction, and, for pledges, planned payment dates and amounts.

Restricted Gifts

In considering a gift with a restricted purpose, NYBG will take into account the administrative burden and other issues associated with meeting such purpose. Donors who are interested in supporting a particular department or mission activity are encouraged to give to pooled funds established for those purposes.

Redirection of Restricted Purpose

NYBG may not always be able to satisfy a donor's intent. In those cases, Institutional Advancement staff will work closely with the donor and program staff to find a suitable purpose or program within the organization to redirect restricted funds. Redirected gifts should be acknowledged and countersigned pursuant to the same

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process outlined for accepting the initial restricted gift (see *Gift and Pledge Documentation*).

Endowments

The creation of a new restricted endowment requires a minimum gift of \$250,000. Gifts at lower levels may be added to existing endowment funds.

Naming Opportunities

In accordance with New York City policy regarding donor recognition at City-owned buildings and public facing amenities, space within the Garden may be named for a period not to exceed 50 years.

All gifts for naming opportunities must be reviewed and approved by the Committee, and on occasion may be presented for review to the Chair of the Board of Trustees. Given NYBG's status as a public-private partnership, some naming opportunities may require coordination with local government authorities.

NYBG may terminate, return, or refuse any gift for naming opportunities that NYBG determines, in its sole discretion, could generate unwelcome controversy, adversely affect the reputation, image, mission, or integrity of NYBG, or if the gift is or becomes inconsistent with, or inappropriate for, NYBG's mission. If a situation arises in which NYBG determines that a previously received donation becomes controversial or raises any of the issues described in this section, public-facing recognition of the donor may be removed, but funds may or may not be returned at the discretion of NYBG.

Donors should contact Chief Advancement Officer Isaac W. K. Thweatt at ithweatt@nybg.org if interested in a Naming Opportunity.

FORMS OF GIFTS

Gifts of many types may be accepted by NYBG. The following sections outline the most common.

Cash and Equivalents

Gifts may be made in cash, or by check, credit card, or wire or ACH transfer and are accepted and credited at face value.

To make a gift to The New York Botanical Garden, contact Isaac W. K. Thweatt at ithweatt@nybg.org or at 718.817.8775.

Publicly-Traded Securities

Gifts of publicly-traded securities are accepted and credited at the mean of the highest and lowest selling price at 4 p.m. on the date the gift is consummated.

Where otherwise marketable securities are restricted by applicable law, a proposed gift of such securities will be reviewed by the Committee and may be accepted at the Committee's discretion. As a general policy, any restricted marketable securities that are accepted will be sold as soon as practicable upon expiration or satisfaction of their restrictions.

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Closely-Held Stock and Other Ownership Interests

Gifts of closely-held securities, including debt and equity positions in non-publicly traded companies, as well as interests in LLPs, LLCs and other ownership forms, must be approved by the Committee, taking into account:

- the value of the proposed gift (potentially obtaining an independent appraiser),
- the marketability of the proposed gift,
- any restrictions on transfer or other obligations accompanying the interests,
- special issues arising from co-ownership or ownership of a non-controlling or minority interest,
- potential tax consequences, including whether the proposed gift will generate unrelated business taxable income,
- the nature of the company's business, and
- potential liabilities, costs, reputational concerns, or other obligations arising from ownership of the interest.

As a general policy, NYBG will seek to sell any such securities or interests, if accepted, as soon as practicable.

Gifts from Private Foundations and Donor Advised Funds

NYBG accepts gifts from donor-advised funds ("DAFs") and private foundations, subject to two limitations that are observed by NYBG in recognition of certain legal restrictions applicable to DAFs and private foundations.

First, NYBG will not accept contributions from a private foundation to satisfy an individual's legally-binding pledge obligation to NYBG. A donor who wishes to make a pledge to NYBG that will be satisfied using a private foundation should be encouraged to cause the private foundation to make the pledge or else to make the pledge on a non-binding basis. NYBG may, in its discretion, choose to treat a DAF contribution toward satisfaction of an individual's legally-binding pledge. NYBG will accept a non-binding letter of intent confirming donor plans to recommend a grant of \$250,000 or greater, or gifts to be paid over multiple years of any amount.

Second, NYBG will not provide individuals with benefits (including special event tickets or membership) in recognition of contributions from a DAF or private foundation but may permit such individuals to purchase those benefits at cost. In very limited circumstances, it may be acceptable for individuals to attend a gala or event even if the contribution is paid for by a DAF or private foundation. These determinations are to be made by the individuals in consultations with their advisers.

NYBG will in all cases comply with its own legal obligations. Compliance with all applicable laws and regulations otherwise remains the exclusive responsibility of the donor, DAF, or private foundation, as applicable.

NYBG encourages donors to consult their tax advisors and/or legal counsel to determine the tax treatment of their proposed contributions and any other restrictions that apply to private foundation and DAF gifts.

Life Insurance

Gifts of life insurance policies will require Committee review. NYBG reserves the right, in its sole discretion, to

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cash in any policy or retain it, taking into consideration whether the donor has made satisfactory provisions for the payment of any future premiums.

Retirement Benefits

NYBG may be designated as the beneficiary under a donor's retirement plan, annuity, or individual retirement account (IRA).

The retirement account plan administrator will provide the donor with the beneficiary designation form to designate NYBG as a beneficiary. The correct designation to use is "The New York Botanical Garden."

Donors will not be credited with any value until the proceeds are received by NYBG.

Charitable Remainder Trusts and Charitable Lead Trust

NYBG may be designated as a remainder beneficiary of a charitable remainder trust or as an income beneficiary of a charitable lead trust. The Committee will review any no-cash funded trusts or other variations of unusual terms. NYBG will not serve as a trustee of a charitable remainder trust or a charitable lead trust.

Bequests

For the purposes of a general citation in a will or codicil, we recommend that donors cite the Garden as follows:

The New York Botanical Garden
2900 Southern Boulevard
Bronx, NY 10458
Tax ID #13-1693134

Donors contemplating a bequest are encouraged to contact Lisa Sifre, Director of Planned Giving, at lsifre@nybg.org or at 718.817.8545 to ensure that the gift will be able to be used as intended. Additionally, the following language is recommended:

"If at any time in the judgment of the Board of Trustees of The New York Botanical Garden the designated use of this bequest is no longer practicable or appropriate, then the Board of Trustees will use the bequest to further the general purposes of the Garden, giving consideration, where possible, to my special interest as described above."

Tangible Personal Property Other than for the Collections of the LuEsther T. Mertz Library

Gifts of tangible personal property such as artwork, collectibles, books, and antiques, must be reviewed by the Committee. As a general policy, tangible property donations—other than artworks that may require further consideration—will be sold as soon as practicable, if accepted.

Gifts for the Collections of the LuEsther T. Mertz Library

The collections of the LuEsther T. Mertz Library ("the Library") consist of books, papers, artifacts, works of art,

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etc. related to the botanical world. All proposed gifts to the Library collection must be recommended by the appropriate curatorial staff of NYBG. For additional information on making a gift for the collections of the Library, please contact Chief Advancement Officer, Isaac W.K. Thweatt at ithweatt@nybg.org.

Real Property

Proposed gifts of real estate must be reviewed by the Committee and the Chair of the Board of Trustees. In determining whether to accept such gifts, the donor will be asked to supply the Committee with information reasonably necessary to assess the benefit and burden associated with the proposed gift. Due to the expenses involved with gifts of real estate, except in unusual circumstances, only gifts of real estate valued in excess of \$500,000 will be accepted.

Gifts that NYBG generally will NOT accept

NYBG may consider gifts of personal or other property on a case-by-case basis with consideration for the property's value and a written appraisal provided by the donor when appropriate; however, the following types of gifts will generally only be considered in limited circumstances:

- Houseplants or other plant specimens
- Garden furniture or equipment such as lawn mowers, tools, etc.
- Artwork
- Vehicles
- Condemned Real Property
- Gifts subject to ownership disputes
- New Charitable Gift Annuities and Deferred Payment Gift Annuities

Appraisals and Independent Advisors

It is the donor's responsibility to determine whether it is necessary to obtain an appraisal of a proposed gift and, if so, to secure such appraisal. NYBG does not select the appraiser, hire the appraiser or pay for, endorse or provide such appraisals. NYBG also does not pay for or provide environmental reviews, title work, or other similar expenses in connection with gifts.

It is the donor's responsibility to secure independent legal, tax, financial, and estate advice with respect to the donor's gifts to NYBG. NYBG will not act as advisor to any donor in any of these respects.