

# GIFT ACCEPTANCE AND RECOGNITION POLICIES - FOOD BANK OF CONTRA COSTA AND SOLANO

## PURPOSE

This policy statement shall give guidance and counsel to individuals concerned with soliciting, receiving, accepting, applying, and disposing of gifts to the Food Bank of Contra Costa and Solano. It should be noted that this document is not intended to provide detailed descriptions of various giving instruments or offer advice to prospective donors regarding the most effective means of achieving their philanthropic goals.

Specifically, the policies contained herein will provide guidelines for Food Bank of Contra Costa and Solano to:

1. Accept gifts that are made using a range of the most common giving instruments.
2. Address non-cash gifts that require more involvement in terms of due diligence prior to acceptance and post-gift documentation (including acknowledgments, valuations/appraisals, and IRS Forms)
3. Credit/account for gifts made to the Food Bank of Contra Costa and Solano
4. Acknowledge donors who contribute to the Food Bank of Contra Costa and Solano and
5. Inform decisions made on matters related to gifts made to the Food Bank of Contra Costa and Solano.

## MANAGEMENT OF POLICIES

- The Development Team formulates these Policies and guidelines to better serve the Food Bank of Contra Costa and Solano's donor constituency in carrying out their charitable intentions. The leadership of Food Bank of Contra Costa and Solano, henceforth, "the Food Bank of Contra Costa and Solano Executive Leadership," shall refer to Food Bank of Contra Costa and Solano's CEO and members of the Executive Team (staff).
- Any unusual gift that does not comply with these Policies must be reviewed and approved by the Executive Committee or the Finance Committee of the Board.
- Any exception, change, or addition to approved policies must be approved and recommended by the Food Bank of Contra Costa and Solano's Executive Team to the Board. Such exceptions, changes, and/or additions may include policies regarding the acceptance and crediting of gifts and gift instruments not outlined in this policy statement. Policies are reviewed on an annual basis.

## USE OF LEGAL COUNSEL

Food Bank of Contra Costa and Solano will seek the advice of its legal counsel and/or investment advisors in matters relating to the acceptance of gifts when appropriate. Review is recommended for:

- A. Closely held stock transfers, including, but not limited to, those that are subject to restrictions or buy-sell agreements.
  - B. Documents naming Food Bank of Contra Costa and Solano as Trustees.
  - C. Gifts involving contracts or documents requiring the assumption of an obligation.
  - D. Transactions with potential conflict of interest.
  - E. All gifts of real estate/real property.
  - F. Gifts of art.
  - G. Other instances in which the use of counsel is deemed appropriate by Food Bank of Contra Costa and Solano's leadership.
- See later provisions in this policy on *Illiquid, Deferred, Planned, and Other Gifts* for additional consideration for legal counsel.

## GUIDING PRINCIPLES

The following are the guiding principles used in developing these policies:

- A. These policies are informed by established industry guidelines for best practices in campaign fundraising and gift acceptance. These guidelines include Generally Accepted Accounting Principles (GAAP), standards approved by the Financial Accounting Standards Board (FASB) and the National Association of Charitable Gift Planners (CGP).
  - B. It is assumed that the Food Bank of Contra Costa and Solano and its representatives will endeavor, at all times, to faithfully implement the stated and/or written goals of donors but retain the power to allocate gifts in the best manner to advance the Food Bank of Contra Costa and Solano's mission.
  - C. Persons acting on behalf of Food Bank of Contra Costa and Solano's shall encourage donors to discuss proposed gifts with independent legal, financial, and/or tax advisors and shall stress the importance of such counsel when gifts in question are structured, restricted, and/or irrevocable, or involve non-cash assets with significant value.
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## GIFT APPLICATION

- The donor may designate a gift for unrestricted use by the Food Bank of Contra Costa and Solano's or any part thereof. A donor may also make a restricted-use gift by designating a specific purpose for the gift. The purpose and use of a gift as specified by the donor must be appropriate to the functions of Food Bank of Contra Costa and Solano and consistent with current program and planning priorities. Gifts should not be directed to purposes that are so narrowly restricted that effective use or administration – either immediately or over time – will be problematic. Gifts to the Food Bank of Contra Costa and Solano intended to be “endowed funds” where the expenditure of principle is restricted for a period of time or in perpetuity must be approved in advance by the Food Bank's Executive Team and/or Board Development Committee.
- Food Bank of Contra Costa and Solano may enter into agreements with donors to maintain confidentiality of their identity for donors who wish to retain some level of anonymity. Gifts that include “permanent naming rights” must be reviewed and approved by the Board of Directors of the Food Bank of Contra Costa and Solano.
- Gifts requiring a commitment by Food Bank of Contra Costa and Solano's to **spend** Food Bank of Contra Costa and Solano's funds, either upon receipt or in the future, in addition to amounts donated or pledged, must receive prior approval from the Finance Committee. Examples of such gifts include:
  - A. Significant challenge grants requiring fundraising (over \$500,000).
  - B. A commitment to continue a project after termination or exhaustion of the gift.
  - C. A commitment to finance and/or administer an undertaking outside of the routine functioning of Food Bank of Contra Costa and Solano or any part thereof (e.g., accruing of income to apply the gift objective).
- Food Bank of Contra Costa and Solano will accept no gift with restrictions as to use or otherwise that, in Food Bank of Contra Costa and Solano's judgment, unlawfully discriminate on the basis of race, creed, color, citizenship, national origin, religion, sexual orientation, gender, age, marital or partnership status, military status or disability. The Executive Team and the Finance Committee will exercise discretion on a case-by-case basis.

## COMPLIANCE WITH TAX LAWS AND REQUIREMENTS

- The Food Bank of Contra Costa and Solano is tax-exempt under Section 501(c)(3) of the Internal Revenue Code, classified as a public charity and eligible for charitable tax deductions. The Food Bank of Contra Costa and Solano's Employer Identification Number (EIN) is 94-2418054.
  - Food Bank of Contra Costa and Solano shall comply with all tax laws and other legal requirements regarding gifts. Food Bank of Contra Costa and Solano's will not knowingly facilitate a donor claiming an improper tax deduction or other benefit and shall acknowledge all gifts in writing to the extent required by law, including providing written acknowledgments to
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donors who gift in excess of \$250.00 and completion of Forms 8282 and 8283 for non-cash gifts if and when required.

- Donors are responsible for obtaining appraisals of non-cash gifts that exceed \$5,000 in purported value where the donor intends to take a charitable contribution deduction for the gift. Food Bank of Contra Costa and Solano does not select the appraiser, hire the appraiser, or pay for such appraisals.
- Donors are responsible for seeking independent legal and tax advice in advance of making a gift to Food Bank of Contra Costa and Solano.

## GIFT APPLICATION

- To be counted as Food Bank of Contra Costa and Solano's revenue, all gifts must be received by Food Bank of Contra Costa and Solano outright or documented in writing and signed by the donor or the donor's qualified representative. Written confirmation should include a statement that allocates gifts to Food Bank of Contra Costa and Solano or, alternatively, projects agreed upon between the donor and Food Bank of Contra Costa and Solano's leadership.
- Acceptable forms of written confirmation include, but are not limited to, a signed: letter authored by the donor; written agreement; trust document or other legally binding documentation associated with acceptable planned giving instruments; signed pledge card, email, or other legal notification.
- The Food Bank of Contra Costa and Solano shall accept pledges for outright gifts with appropriate documentation. Appropriate pledge documentation shall include the gift amount and an indication of a payment schedule and may be best handled in a written pledge agreement. For gifts of significant value or that have a multi-year payment schedule, a pledge form must be signed by the donor(s). If a binding gift agreement is requested/required by either party, it should also be signed by the CEO and the VP of Development, Communications and Advocacy and should attempt to make the pledge a binding obligation.
- Deviations from the standard pledge form and gift contract will be reviewed and approved by the CEO and VP of Development, Communications, and Advocacy. Pledges exceeding five (5) years must have the approval of the CEO and the Finance Committee. Generally, extended pledge payment periods are only granted to increase the amount of the pledge or due to specific extenuating circumstances.
- In exceptional cases, verbal gifts may be counted only with the approval of the Food Bank of Contra Costa and Solano's leadership and if a confirmation letter has been delivered to the donor. Verbal gifts will not be recorded in Food Bank of Contra Costa and Solano's financial statements until written confirmation or the payment is received.

## ACCEPTANCE AND CREDITING OF OUTRIGHT GIFTS

- A. Cash.** Gifts in the form of cash (including checks, EFTs, and wire transfers) shall be accepted regardless of amount unless, as in the case of all gifts, there is a question as to whether donors have sufficient title to the gifted funds or are mentally competent to legally transfer funds to
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Food Bank of Contra Costa and Solano's as gifts, or should Food Bank of Contra Costa and Solano have other grounds for rejection of the gift. All checks should be made payable to Food Bank of Contra Costa and Solano; in no event should a check be made payable to an employee, agent, or volunteer for the credit of Food Bank of Contra Costa and Solano.

- B. Credit Card.** Donors may make gifts or partial gifts to the Food Bank of Contra Costa and Solano using credit cards. The date of the gift is the date the credit card charges are processed. All credit card information is handled, processed, stored, and discarded in accordance with PCI compliance.
- C. Publicly Traded Securities.** Readily marketable securities shall be accepted. Gifted securities will be sold promptly. In no event shall an employee or volunteer working on behalf of Food Bank of Contra Costa and Solano commit to a donor that particular security be retained by Food Bank of Contra Costa and Solano unless authorized to do so by Food Bank of Contra Costa and Solano's executive leadership or the CEO.

Crediting and Guidelines for Publicly Traded Securities:

Gifts of publicly traded securities will be acknowledged and counted on the date the donor transfers control of the asset to Food Bank of Contra Costa and Solano's and at the averages of the high and low selling prices on the date that the donors transfer control of assets to Food Bank of Contra Costa and Solano's (not the value of the securities on the dates that they are sold by Food Bank of Contra Costa and Solano's). Unless otherwise determined by the CEO, VP of Finance, or Finance Committee, publicly traded securities shall be sold as soon as practical.

- D. Real Estate.** Proposed gifts of real estate will be reviewed and approved by Food Bank of Contra Costa and Solano's Executive Team, but in general, Food Bank of Contra Costa and Solano will accept gifts of houses, residential condominiums, commercial property, and unimproved land if the properties are unencumbered, the property is readily marketable, the property is clear of environmental factors or considerations, and the sale will yield proceeds sufficient to justify the necessary efforts. Gifts of real estate will only be accepted if they have no related debt, lease associations, and/or inhabitants and have undergone environmental audits. Unless otherwise stated by the Food Bank of Contra Costa and Solano's Executive Leadership, gifts of real estate will only be accepted with the intent that they will be sold as soon as possible.

Prior to accepting any gifts of real estate, the donor will arrange for and obtain an appraisal from a qualified appraiser within a period of 60 days before the property is donated. The cost of the appraisal is borne by the donor; however, the appraiser should have no business or other standing relationship with the donor. Due diligence concerning environmental issues shall be considered before the Food Bank of Contra Costa and Solano accepts any gift of real estate. This may involve conducting an environmental audit. The cost of any additional associated expense will be borne by the donor, including, but not limited to, legal, accounting,

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environmental audits, title insurance, and appraisal fees in a matter mutually agreed upon by Food Bank of Contra Costa and Solano's and the donor.

Crediting and Guidelines for Real Estate:

Gifts of real estate will be acknowledged and counted at their appraised value at the time they are gifted (not the sale price).

- E. Tangible Personal Property.** Gifts of high-value tangible personal property may be accepted if Food Bank of Contra Costa and Solano's Executive Leadership deems that sales of such property may (1) be affected without undue burden and (2) realize significant proceeds for Food Bank of Contra Costa and Solano or the use of such property would be deemed to be clearly beneficial to day-to-day operations.

The donor shall obtain an appraisal, conducted in accordance with generally accepted appraisal standards and in accordance with IRS regulations, from a qualified appraiser who has no business or relationship with the donor. Food Bank of Contra Costa and Solano will only accept a gift of tangible personal property with a value of \$10,000 or more.

Crediting and Guidelines for Tangible Personal Property:

Gifts of tangible personal property will be acknowledged and counted at their appraised value at the time they are gifted (not the sale price).

- F. Other Property.** Other types of property, such as mortgages, notes, copyrights, royalties, NFTs, and easements, shall only be accepted at the recommendation and approval of the Food Bank of Contra Costa and Solano's Executive Leadership and legal counsel.

Crediting and Guidelines for Other Property:

Gifts of other property will be acknowledged and counted at their appraised value at the time they are gifted (not the sale price).

- G. Gifts In-Kind.** Gifts in-kind will be considered for acceptance and recognition if such gifts are eligible for charitable tax deductions under Internal Revenue Service standards.

Crediting and Guidelines for Gifts In-Kind:

1. In general, the monetary value of gifts in-kind will only be counted if Food Bank of Contra Costa and Solano's Executive Leadership determines that such gifts can be converted to cash within a 90-day period or used by Food Bank of Contra Costa and Solano in such a way that they liberate additional funds directed toward Food Bank of Contra Costa and Solano's operations.
  2. Deep discounts or bargain sales can be counted if an individual or company provides a bill of sale clearly indicating the normal retail price that Food Bank of Contra Costa and Solano would have paid the individual or company for the product (the "normal price")
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would reflect any discounts typically provided to Food Bank of Contra Costa and Solano), less the charitable contribution of the discounted amount, and a net cost.

3. The value of gifts of “time” in the form of donated professional services will not be counted toward Food Bank of Contra Costa and Solano’s revenue. A donor who wishes to donate professional services and get a tax donation receipt should be encouraged to bill Food Bank of Contra Costa and Solano for services rendered and then make a gift in the amount in which they are paid by Food Bank of Contra Costa and Solano. Gifts of time are not tax-deductible, but expenses incurred for that time are normally tax-deductible to the donor.

### **LIQUID, DEFERRED, PLANNED, AND OTHER GIFTS**

Any gifts in support of Food Bank of Contra Costa and Solano that would qualify as illiquid or deferred will be reviewed by the Executive Leadership and legal counsel of the organization before acceptance and crediting.

- A. Illiquid Securities
- B. Unrealized Bequests
- C. Retirement Plans
- D. Life Insurance
- E. Charitable Gift Annuities
- F. Charitable Remainder Trusts
- G. Charitable Lead Trusts

### **DECLINING AND RETURNING GIFTS**

Food Bank of Contra Costa and Solano’s Executive Team may decline or return gifts under certain conditions including, but not limited to, the following:

- A. Gifts that are restricted and would require support from other resources that are unavailable, inadequate, or may be needed for other institutional purposes.
  - B. Gifts that are restricted and would support purposes or programs peripheral to existing principal purposes of Food Bank of Contra Costa and Solano or create or perpetuate programs or obligations that would dissipate resources or deflect energies from other programs or purposes.
  - C. Gifts that conflict with Food Bank of Contra Costa and Solano’s mission, target clients, or are operationally difficult. As stated above, Food Bank of Contra Costa and Solano will not accept a gift that, in Food Bank of Contra Costa and Solano’s judgment, unlawfully discriminates on the basis of race, creed, color, citizenship, national origin, religion, sexual orientation, gender, age,
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marital or partnership status, military status or disability. Executive Leadership will exercise discretion on a case-by-case basis.

- D. Gifts that could put at risk Food Bank of Contra Costa and Solano's tax-exempt status or trigger negative tax situations, such as unrelated business income tax.

#### **CONFIDENTIALITY AND ANONYMITY**

In performing their duties, Food Bank of Contra Costa and Solano's executive leadership and Board of Directors are privy to information about individuals and families, such as giving history, assets, wealth, and family relationships. Due to the sensitivity of this information, all Food Bank of Contra Costa and Solano's Executive Leadership and all employees will adhere to the policy that information shared with them remains confidential, is not discussed with others in private or public settings and is not disclosed or used for any other purposes. Only the Food Bank of Contra Costa and Solano's executive leadership, Development Staff, and Board of Directors who are involved in the solicitation, documentation, or recording of a gift will have knowledge of the donor's intentions.

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