



of SANTA CLARA and  
SAN MATEO COUNTIES

## Gift Acceptance Policies and Guidelines

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Second Harvest Food Bank of Santa Clara and San Mateo Counties, a not-for-profit organization under the laws of the State of California, encourages the solicitation and acceptance of gifts to Second Harvest Food Bank of Santa Clara and San Mateo Counties (hereinafter referred to as SHFB) for purposes that will help SHFB further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to SHFB or for the benefit of any of its programs.

### I. Statement of Purpose

SHFB manages a comprehensive program for long-term financial support of SHFB through a broad range of charitable gift options. The program actively solicits and accepts contributions to SHFB through bequests and other advantageous tax, financial and estate planning techniques. The purpose of this Gift Acceptance Policy is to provide guidelines relating to the acceptance and processing of gifts that are consistent with SHFB's mission.

The Board of Directors shall formally establish policies that officially commit the organization to a position which will protect:

- (1) the best interests of the donor;
- (2) the official representatives of SHFB;
- (3) the welfare of SHFB; and
- (4) the administrators charged with management related to a deferred gift program.

### II. Use of Legal Counsel

SHFB reserves the right to seek advice of legal counsel in any and all matters relating to acceptance of gifts. Examples of situations where legal review may be appropriate are:

- a. Transactions with potential conflict of interest. This may include use of board members as sales agents in transactions, leases of gift property to staff or board, etc.
- b. Closely held stock transfers and gifts of real estate.
- c. The review of transactions governed by contracts or legal documents. This would include trusts naming SHFB as the trustee or any document obligating the trustee to take action.

### III. Conflict of Interest

With respect to planned giving gifts, the interest of individual donors shall come before that of SHFB. SHFB will urge all prospective donors to seek the assistance and advice of independent professional advisors, including, but not limited to, tax or legal counsel in

matters relating to their gifts and the resulting tax and estate planning consequences. If a representative of SHFB makes a referral to an independent professional advisor, it shall be understood that the referral is offered as a courtesy and it is up to the donor to choose whether or not to retain that professional. No program, agreement, trust, contract, or commitment shall be knowingly urged upon any prospective donor that would benefit SHFB at the expense of the donor's interests and welfare.

SHFB recognizes the potential conflict between receiving donations from certain types of funders and fulfilling its programs. SHFB will not accept contributions from corporations, industries, organizations or congregations and their respective foundations whose core activities may be in direct conflict with the mission of SHFB or which may put SHFB's non-discriminatory or non-partisan standing at risk or in any way will limit SHFB's ability to carry out its mission.

SHFB endorses the Model Standards of Practice of the Charitable Gift Planner promulgated by the Partnership for Philanthropic Planning and the Donor Bill of Rights promulgated by the Association of Fundraising Professionals.

#### IV. Restrictions on Gifts

SHFB will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes and priorities. SHFB will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter, gifts that are too difficult to administer, gifts that are for purposes outside the mission of SHFB or gifts that require unreasonable marketing benefits. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Gift Acceptance Committee as listed below.

#### V. The Gift Acceptance Committee

The Gift Acceptance Committee will be charged to ensure that gifts received are consistent with these policies and that they are in the best interest of SHFB.

The Gift Acceptance Committee shall consist of the following individuals:

- Chief Executive Officer
- Chief Financial Officer
- VP of Development and Marketing
- Legal and Compliance Manager

Gifts that require review or approval by the Gift Acceptance Committee include:

- Closely-held Securities and Stock Options \*
- Real Estate (\*if keeping the real estate for use)
- Tangible Personal Property (\*depending on circumstances and value)
- Remainder Interests in Property (\* if keeping the property for use)
- Oil, gas, and mineral interests \*



- Intellectual Property Rights \*
- Bargain Sales \*
- Gifts whose structure fall outside the ordinary purposes, bylaws and procedures of SHFB

\* These gifts require the additional approval of the Board of Directors.

The Gift Acceptance Committee is responsible to report its decisions on gift acceptance to the Board of Directors for gifts over \$500k from the above list. The Board is also responsible for reviewing these Policies and Procedures on a regular basis to ensure that they remain consistent with applicable laws and the programs of SHFB.

#### VI. Anonymous Gifts

SHFB will accept gifts from donors who wish to remain anonymous. All SHFB staff are authorized to accept gifts. As such, staff members are authorized to know the origin of the gift including the donor name and gift amount. SHFB reserves the right to refuse any gift it believes is not in the best interest of the organization.

Those donors who do not request anonymity may have their names published in the SHFB annual report and they may be listed on SHFB donor recognition displays located at SHFB facilities.

#### VII. Influence

Representatives of SHFB shall exercise extreme caution to avoid pressure, persuasion, or undue influence when a representative is to inform, counsel, and assist the donor in gift planning concerns. Representatives will exercise prudent consideration of the donor's personal interests as well as his/her charitable objectives.

All personnel employed by SHFB who contact prospective donors to solicit gifts or promote the planned gift program shall be paid a salary or fixed wage but shall not receive commissions that could give such personnel a direct beneficial interest in any agreement.

If SHFB personnel form a relationship with a donor through their work at SHFB and then receive a personal, financial or beneficial interest from that donor, that benefit shall be transferable to SHFB.

#### VIII. Scope of service

Services of representatives of SHFB shall extend beyond the consideration of SHFB to help donors remember whatever additional charitable interests they may have in other organizations and agencies.

#### IX. Confidential information

All private donor information, including addresses, phone numbers, names of beneficiaries, nature and worth of estates, amount of provisions, etc., shall be kept strictly confidential by



SHFB and its authorized personnel unless the donor grants permission to use selective information for purposes of referral, testimonial, or example at the discretion of authorized representatives. Donors who make planned gifts will be notified of their inclusion in SHFB's Ashawna Hailey Legacy Society and will have the opportunity to remain anonymous if they prefer.

X. Authorization for negotiation

Only the personnel approved by the Board of Directors shall be authorized to negotiate on behalf of the institution with any donor with respect to gift annuities, trusts, life income agreements, and other formal planned gift instruments. Any agreements that involve a legal obligation on the part of the institution or its agents which do not follow the forms described in this program or are special agreements of any kind will require the approval of the CEO and the Board of Directors.

XI. Disposition of Funds

Only upon the demise of the last life income beneficiary shall the principal amount of a planned gift be released to or for the use of the institution, and only an amount equal to the charitable remainder shall be released unless otherwise stated by the agreement.

XII. Endowment Fund

SHFB has established an endowment fund to provide a permanent source of funding for SHFB. Funds may be placed in the Endowment Fund by board designation. Ninety percent of unrestricted and non-designated donations received from bequests will be put into the Endowment Fund.

XIII. Types of Gifts Accepted

**A. The following gifts are acceptable**

1. Cash
2. Food
3. Bequests
4. Publicly Traded Securities
5. Closely Held Securities and Stock Options
6. Retirement Plan and IRA Beneficiary Designations
7. Life Insurance Beneficiary Designations
8. Charitable Remainder/Lead Trusts
9. Real Estate
10. Tangible Personal Property
11. Remainder Interests in Property
12. Oil, gas, and mineral interests
13. Intellectual Property Rights
14. Revocable Trust Agreements
15. Bargain Sales



16. Other gifts as approved on a case by case basis by the Gift Acceptance Committee

**B. The following criteria govern the acceptance of each gift form:**

1. Cash

Cash is acceptable in any form. Checks shall be made payable to Second Harvest Food Bank of Santa Clara and San Mateo Counties and shall be delivered to one of SHFB's offices.

2. Food

Donations of food items are always welcome. Community members are encouraged to donate non-perishable food items through community-based food drives. Donations of fresh produce gleaned from local gardens will be accepted unless a quarantine or other policies are in effect that precludes SHFB from accepting such donations.

Prepared or perishable foods will be accepted at the discretion of SHFB personnel.

3. Bequests

Donors and supporters of SHFB will be encouraged to make bequests to SHFB under their wills and trusts. Such bequests will not be recorded as gifts to SHFB 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.

4. 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 CEO or Board of Directors. In some cases marketable securities may be restricted by applicable securities laws; in such instances the final determination on the acceptance of the restricted securities shall be made by the CEO or the Board of Directors.

5. Closely Held Securities/Stock Options

Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, and stock options can be accepted. However, such gifts must be reviewed by the Gift Acceptance Committee prior to acceptance to determine:

- The type of entity represented by the gift (for example CA Corporation, LLC, LLP)
- How the entity operates
- Whether the security has been formally appraised (at the expense of the donor)

- Whether there are no restrictions on the security that would prevent SHFB from ultimately converting those assets to cash
- Whether the security is marketable and can be sold quickly, and
- Whether the security will not generate any undesirable tax consequences for SHFB

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.

## 6. Retirement Plan and IRA Beneficiary Designations

Donors and supporters of SHFB will be encouraged to name SHFB as beneficiary of their retirement plans and IRAs. Such designations will not be recorded as gifts to SHFB 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.

## 7. Life Insurance Beneficiary Designations

Donors and supporters of SHFB will be encouraged to name SHFB as beneficiary or contingent beneficiary of their life insurance policies. Gifts of life insurance when SHFB is designated both owner and beneficiary may be accepted. When all rights in a policy are gifted to SHFB, the donor shall be informed of the advantages of making a gift of the premium amount to SHFB and encouraged to continue to make premium payments. Premium payments made to a policy that SHFB owns are tax-deductible. Such designations will not be recorded as gifts to SHFB 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.

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

- continue to pay the premiums,
- convert the policy to paid up insurance, or
- surrender the policy for its current cash value

Once the policy is accepted, life insurance holdings will be reviewed annually to determine whether it is best to continue to pay the premiums, convert the policy to paid up insurance, surrender the policy for its current cash value, or change the underlying investment structure.

## 8. Charitable Remainder/Lead Trusts

SHFB may accept designation as remainder beneficiary of a charitable remainder trust or income beneficiary of a charitable lead trust. SHFB will not accept appointment as trustee and will instead encourage the donor to use a professional fiduciary.

## 9. 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, SHFB may retain a licensed contractor to inspect the property. In the event that the initial inspection reveals a potential problem, SHFB shall retain a qualified inspection firm to conduct an assessment. The cost of the assessment shall be paid for by the donor.

When appropriate, a title binder shall be obtained by SHFB prior to acceptance of the real property gift. The cost of this title binder shall be paid for by the donor.

Criteria for the acceptance of the property shall include:

- Usefulness of property for the purposes of SHFB
- Present market value, as determined by a formal appraisal
- Undue restrictions on the use or sale of the property
- Knowledge of other owners and their interests
- Marketability – assessment of the market for salability, including likely timeframe for sale
- Restrictions, reservations, easements or other limitations associated with the property
- Carrying costs including insurance, taxes, mortgages, notes, etc.
- Costs associated with improvement, renovation or retrofitting
- Appreciation/depreciation potential
- Zoning
- Income potential while the property is held
- Cost of acquisition
- Results of the inspection/assessment

## 10. Tangible Personal Property

SHFB accepts contributions of tangible personal property and reserves the right to display, utilize, or sell donated personal property as it deems appropriate. The donor will be informed whether it is the intent to display, use or sell the property. The criteria for the acceptance of tangible personal property shall include the following considerations:

- Does the property fulfill the mission of SHFB?
- Is the property marketable?
- Are there any undue restrictions on the use, display or sale of the property?
- Are there any carrying costs for the property?
- Do the costs associated with liquidating the property exceed the benefits?
- Will sale of the property require a seller's permit and/or sales tax?

SHFB may accept vehicles for internal use that meet the requirements of the Vehicle Donation SOP.

Donors who plan to take a charitable income tax deduction of a total of over \$500.00 for all gifts of non-cash assets including vehicles (other than publicly traded stock) in any given tax year must file IRS Form 8283 with their income tax returns. Donors who plan to take a deduction of more than \$5,000 for gifts of one or more similar items of property in any given tax year must obtain a qualified appraisal of the gift property and attach an appraisal summary (Section B of Form 8283) to their tax returns. Part I (Donee Acknowledgment) of this appraisal summary must be completed by the SHFB Director of Finance or CFO. A copy of the completed appraisal summary must be retained by SHFB for its tax records when the donor submits Form 8283 to SHFB for signature. In the event SHFB, within three years of the date of the gift, sells or disposes of said gift property for which an appraisal summary was required, SHFB must file IRS Form 8282 within 125 days of the date of sale or disposition. A copy of the Form 8282 will be furnished to the donor.

#### 11. Remainder Interests in Property

SHFB may accept a gift of personal residence or farm with a life estate retained by the donor. The donor may retain the right to live in the property, share this right with another, or gift the right to a third party. Acceptance of the property shall be subject to all the requirements for the acceptance of any gift of real estate as outlined above. In addition SHFB shall have a written agreement stating that the donor will be responsible for any expenses concerning maintenance, insurance, taxes and other matters. At the death of the final life tenant, SHFB shall have unrestricted title to the property and may use the property or reduce it to cash.

#### 12. Oil, Gas, and Mineral Interests

SHFB may accept oil, gas, or mineral interests, when appropriate. In accepting oil, gas, or mineral interests, SHFB will consult with outside experts to determine whether the following criteria have been met:

- Gifts of surface rights should have a value of \$20,000 or greater
- Gifts of oil, gas, and mineral interests should generate at least \$3,000 per year in royalties or other income or have a market for sale
- The property should not have extended liabilities or other consideration that make receipt of the gift inappropriate
- A working interest is rarely accepted. A working interest may only be accepted when there is a plan to minimize potential liability and tax consequences.
- The property must undergo an environmental review to ensure that SHFB has no current or potential exposure to environmental liability. The cost of the environmental review should be borne by the donor.

#### 13. Intellectual Property Rights

Intellectual property rights, which include royalties, patents, copyrights, contract rights or other similar interest, will be examined in light of the following criteria:

- Is the intellectual property right related to the mission of SHFB?

- Can the ownership of the intellectual property right be clearly transferred or assigned to SHFB?
- Is the intellectual property right a full or fractional interest?
- Does the right to the intellectual property generate, or have the potential to generate, at least \$5,000 or more each year?
- Is there a market for the sale or licensing of the intellectual property right?
- Are there any costs associated with the acceptance of the right?
- Are there any restrictions on the retention or use of the property?
- What agreements or other legal documents would SHFB be required to execute in order to obtain patents, market the property and grant licenses in the name of SHFB?

#### 14. Revocable Trust Agreements

SHFB encourages donors to name SHFB as a beneficiary of all or a portion of a revocable trust agreement. However, SHFB will not serve as trustee of a revocable trust agreement and will instead encourage the donor to use a professional fiduciary.

#### 15. Bargain Sales

SHFB may enter into a bargain sale arrangement in instances where the bargain sale furthers the mission and purposes of SHFB. In determining the appropriateness of the transaction, SHFB will consider whether:

- The value of the property has been substantiated by an independent appraisal
- Any debt ratio assumed with the property is less than 50% of the appraised market value
- SHFB will use the property, or there is a market for sale of the property allowing sale within 12 months of receipt
- The costs to safeguard, insure, and expense the property during the holding period has been determined

### **C. Miscellaneous Provisions**

#### 1. Securing appraisals and legal fees for gifts to SHFB

It is the responsibility of the donor to secure and pay for an appraisal (when required) with a firm reasonably acceptable to SHFB. If a second appraisal is requested by either the donor or SHFB, that appraisal shall also be paid for by the donor. It is the responsibility of the donor to secure all independent legal, financial or other professional counsel (when needed) for all gifts made to SHFB.

#### 2. Valuation of gifts for development purposes

SHFB will record a gift received by SHFB at its valuation for gift purposes on the date of the gift.

### 3. Responsibility for IRS filings upon sale of gift items

The SHFB Finance Department is responsible for filing all appropriate tax forms when the charitable deduction value of the item is more than \$5,000.

### 4. Gift acknowledgements

Acknowledgements of all gifts made to SHFB and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the SHFB Development Department. Donors may specify their communication and acknowledgement preferences.

### 5. Sponsorships

SHFB has a robust sponsorship fundraising program. Campaign, fund and program sponsorships which publicly recognize corporations, organizations, foundations and individuals for their gifts will be accepted at the discretion of the CEO and VP of Development and Marketing subject to review by the Finance Department to ensure tax requirements are met. Marketing and public relations benefits recognizing sponsors will be fulfilled as they are outlined in the specific sponsorship contracts. SHFB will carefully consider offering sponsorship opportunities to institutions that have religious or political affiliations and institutions whose core business conflicts with the mission of SHFB. SHFB may at the discretion of the CEO or the VP of Development and Marketing, refuse any sponsorship offer that is deemed to conflict with or potentially damage the mission and objectives of the agency.

### 6. Donor privacy

Please see SHFB's Privacy Policy.

## XIV. Types of Gifts Not Accepted

### A. **The following gifts are not accepted**

1. Pooled Income Funds
2. Time Shares

## XV. Changes to Gift Acceptance Policies

These policies and guidelines have been reviewed and accepted by the Board of Directors of SHFB. The Board of Directors of SHFB must approve any changes to or deviations from these policies.

Approved on April 12, 2016

