

**THE THEATRE AT BOSTON COURT  
(dba BOSTON COURT PERFORMING ARTS CENTER)  
Gift Acceptance Policies and Guidelines**

## **INTRODUCTION**

**Purpose and Philosophy:** This Gift Acceptance Policy (hereinafter, “Policy” or “Gift Policy”) is intended to guide the staff of Boston Court Performing Arts Center (BCPAC) when discussing current and deferred gifts with donors and their representatives. Ideally, a donor will notify BCPAC as a gift is being planned, to formalize and document the donor’s charitable intent. This Policy is intended to establish the process for the acceptance and management of all current and deferred gifts from individuals, corporations, foundations, and government agencies to support the needs of BCPAC. BCPAC reserves the right to decline a gift for any reason, including but not limited to, gifts that impose an undue administrative burden, that involve unlawful discrimination, or that are likely to generate adverse publicity for BCPAC. The acceptance of corporate or foundation contributions, charitable donations or sponsorship shall not imply direct endorsement of a given organization, product, position or belief.

**Mission:** Boston Court Performing Arts Center is dedicated to creating and presenting works that are innovative, diverse, vital and adventurous in an intimate setting.

**Status:** Boston Court Performing Arts Center is a not-for-profit corporation chartered under the laws of the State of California with IRS tax-exempt status as defined in Section 501(c)(3) of the Internal Revenue Code of 1986. BCPAC’s federal tax identification number is 56-2390086.

**Scope:** This Policy is applicable throughout BCPAC, and to all individuals who raise funds from private, corporate, public or other sources on behalf of BCPAC.

**Communications with Donors:** BCPAC holds all communications with donors and information concerning donors and prospective donors in strict confidence, subject to legally authorized and enforceable requests for information by government agencies and courts. All other requests for or releases of information concerning a donor or a prospective donor will be granted only if permission is first obtained from the donor.

**Conflict of Interest:** Staff and volunteers of BCPAC will urge prospective donors to seek the assistance of legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. BCPAC will comply with the Model of Standards of Practice for the Charitable Gift Planner of the National Committee on Planned Giving shown as Appendix A.

**Restrictions on Gifts:** BCPAC 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. BCPAC will not accept gifts that are overly restrictive in purpose. Gifts that are overly restrictive may include those that violate the terms of its corporate charter, gifts that are difficult to administer, or gifts that are for purposes outside its mission. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, will be made by the Board of Directors.

**Approved:** This Policy was last approved at the regular meeting of BCPAC Board of Directors as dated at the end of this document. This Policy will be reviewed annually by the Gift Acceptance Committee. As used in this document, the term “Gift Acceptance Committee” shall mean the Development Committee of the Board of Directors or the following members: Chair of the Board, Chair of the Development Committee, and Executive Director of BCPAC.

**Amendments:** Any proposed amendments will be presented to BCPAC Board of Directors for approval. A written description of the proposed change(s) will be provided to the Board at least ten (10) days prior to the meeting at which the vote will take place.

**Authorization:** Authorization to negotiate planned gift agreements is granted to the Executive Director in consultation with the Board Chair and the Gift Acceptance Committee, as necessary. All planned gifts shall be negotiated in accordance with this Gift Acceptance Policy, and shall be consistent with the charitable intent of BCPAC. BCPAC will seek the advice of legal counsel as appropriate. Acceptance of any gift that is not in conformance with this Policy requires Board approval.

**Exceptions to Policy:** The Board of Directors and the Gift Acceptance Committee shall have the authority to make exceptions to this Gift Acceptance Policy as specific circumstances may warrant.

**Donor Statement:** BCPAC adopts The Donor Bill of Rights created by the American Association of Fund Raising Counsel (AAFRC), Association for Healthcare Philanthropy (AHP), the Association of Fundraising Professionals (AFP), and the Council for Advancement and Support of Education (CASE). It has been endorsed by numerous organizations.

*Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To ensure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the nonprofit organizations and causes they are asked to support, we declare that all donors have these rights:*

- I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.*
- II. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.*
- III. To have access to the organization's most recent financial statements.*
- IV. To be assured their gifts will be used for the purposes for which they were given.*
- V. To receive appropriate acknowledgement and recognition.*
- VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.*
- VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.*
- VIII. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.*
- IX. To have the opportunity for their names to be deleted from mailing lists.*
- X. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.*

## I. Types of Gifts

A gift is defined as anything of assignable value that is voluntarily and legally transferred to BCPAC's ownership and possession. A gift is a contribution to BCPAC that is donative in intent, bestowed voluntarily, and without expectation of tangible compensation, for which, in general, contractual or grants requirements are not imposed. Gifts are made irrevocably. A donor-restricted gift is intended for the purpose specified by the donor (e.g., a gift to BCPAC to support a particular production or program).

The following types of property and gift methods are acceptable.

### Property:

- Cash
- Securities
- Tangible Personal Property
- Real Estate
- Life Insurance

### Gift methods:

- Outright gift
- Pledge
- Charitable Lead Trust
- Bequest
- Retirement Plan Beneficiary Designation
- Charitable Remainder Trust
- Pooled Income Fund
- Bargain Sale
- Remainder Interest in Residence or Farm
- Intellectual Property Rights

The following briefly describes the types of property and gifts accepted by BCPAC, suggested gift criteria governing the acceptance of gifts, and accounting standards for reporting gift income.

### A. Property

- 1) **Cash.** Cash is acceptable in any form, currency, coins, checks, credit card sales, drafts, travelers' checks, and money orders. Checks shall be made payable to Boston Court Performing Arts Center. In no event shall a check be made payable to an individual who represents BCPAC.

*Cash gifts are reported in the amount given as of the date BCPAC receives them.*

- 2) **Securities.** BCPAC can accept both publicly traded securities and closely held securities.

**Publicly Traded Securities.** Marketable securities may be transferred to an account maintained by BCPAC at one or more brokerage firms (e.g., Wells Fargo Investments) or delivered physically with the donor's signature or a stock power. As a general rule, all marketable securities shall be sold upon receipt.

*Marketable securities are reported at the average of the high and low quoted trading prices (or the average of the bid/ask in the case of certain securities) on the date the donor relinquishes dominion and control of the assets in favor of BCPAC.*

**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 Board of Directors. Gifts must be reviewed by staff prior to acceptance to determine:

- There are no restrictions on the security that would prevent BCPAC from converting the asset into cash;
- The security is marketable; and
- The security will not generate any undesirable tax consequences for BCPAC.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional and legal counsel may be sought before making a final decision on acceptance. Every effort will be made to sell the securities as quickly as possible.

*Gifts of closely held stock exceeding \$5,000 in value are reported at the fair value placed on the stock by a qualified independent appraiser as required by the IRS for valuing gift of stock not publicly traded. BCPAC may obtain the appraiser's valuation figure from IRS Form 8283, on which the donor must obtain the signature of the appraiser.*

*Gifts of less than \$5,000 may be valued at the per-share cash purchase price of the most recent transaction. (Normally, this transaction is the redemption of the stock by the corporation issuing the stock.)*

- 3) **Tangible Personal Property.** Personal or business property (except securities and real property), including contributions to research collections, works of art, books, scientific and other equipment. These gifts are generally reported at fair market value as determined by an independent appraiser or other reliable market indicator. All such gifts shall be examined in light of the following criteria:

- Does the property fulfill the mission of BCPAC?
- Is the property marketable?
- Are there undue restrictions on the use, display, or sale of the property?
- Are there any carrying costs for the property?

*Gifts of tangible personal property are reported at their full fair-market value regardless of the value the donor may be able to claim as a charitable deduction. IRS requirements for gift substantiation note that the donor has the responsibility for valuing property for tax deduction purposes. Gifts of tangible personal property given to BCPAC with a fair-market value of more than \$5,000 should be counted at the values placed on them by qualified independent appraisers, as required by the IRS for valuing non-cash charitable contributions.*

- 4) **Real Estate.** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a life interest. In general, real estate will not be retained by BCPAC, but will be sold immediately. Because of the staff, legal and financial costs to BCPAC of evaluating real property, a gift will generally need to have an equity value in excess of \$100,000 to be evaluated by BCPAC. The donor will be asked to complete a Letter of Understanding indicating that if the property is acceptable, it will be donated, prior to BCPAC undertaking the time consuming and costly task of evaluating the property.

Prior to acceptance of real estate, BCPAC shall require an initial environmental review of the property to ensure that the property has no environmental damage or consequences. In the event that the initial inspection reveals a potential problem, BCPAC shall retain a qualified

inspection firm to conduct an environmental audit. The cost of the environment audit(s) shall generally be borne by the donor.

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

Prior to final acceptance of the real property, the Board of Directors shall approve the gift. Criteria for acceptance of the property shall include:

- Is the property marketable? Is there clear title?
- Are there any restrictions, reservations, easements, or other limitations associated with the property?
- Are there any carrying costs, which may include insurance, property taxes, mortgages, or notes, etc. associated with the property?
- Does the environmental audit reflect that the property is not damaged?

Under certain circumstances, the donor may be asked to pay for all or a portion of the following as determined by the Gift Acceptance Committee:

- Maintenance costs
- Real estate taxes
- Insurance premiums
- Real estate broker's commission and other costs of sale
- Appraisal costs

*Gifts of real property that qualify as charitable deductions for a donor are recorded at the appraised fair-market value, as valued by an independent appraiser. IRS requirements for substantiation note that the donor has the responsibility for valuing property for tax deduction purposes.*

- 5) **Life Insurance.** BCPAC 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 cash surrender value upon receipt. If the donor contributes future premium payments, BCPAC will include the entire amount of the additional payment as a gift in the year that it was made.

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

- Continue to pay the premiums;
- Convert the policy to paid up insurance; or
- Surrender the policy for its current cash value.

*For accounting purposes, the face value of a life insurance policy should not be counted in fundraising totals before the death of the donor, even if BCPAC is the owner and irrevocable beneficiary of the policy. Premiums paid by the donor should be reported as gift income. Realized death benefits from a policy, less any previously reported cash surrender values and premiums paid by the donor, should be reported as a gift on the date BCPAC receives the net proceeds of the policy. For any gift of life insurance where the value exceeds \$5,000, a qualified insurance appraiser should be engaged by the donor to complete the appraisal and complete Form 8283. The Pension Protection Act of 2006 specifically modified Section 1219 170(f)(11)(E)(ii) to tighten qualified appraiser/appraisal requirements and specifically excludes the donor, donee, related party or party to the transaction (i.e., the insurance agent/broker or insurance company).*

- 6) **Retirement Plan Gifts.** BCPAC will accept all or a portion of a donor's retirement account by beneficiary designation (e.g. IRA, 401(k) account, or profit sharing account). BCPAC staff will provide donors with the legal name of the organization and encourage donors to discuss their plans with their personal professional advisors.

*Beneficiary designations will not be recorded as gifts to BCPAC 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) **Intellectual Property Rights.** Intellectual property rights, which include royalties, patents, copyrights, contract rights or other similar interests, will be examined in light of the following criteria:
- Is the intellectual property right related to the mission of BCPAC?
  - Can the ownership of the intellectual property right be clearly transferred or assigned to BCPAC?
  - Is the intellectual property right a full or fractional interest? If fractional, who are the other owners of the property and percentage interests? Is the gift deductible to the donor under the IRS partial interest gift rules?
  - Does the right in 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 acceptance of the intellectual property right? (i.e., is the gift a patent application that will require further action to secure, are there any claims, liens or other contests associated with the property, or are there likely to be costs associated with defending the intellectual property right?)
  - Are there any restrictions on the retention or use of the property?
  - What agreements or other legal documents would BCPAC be required to execute in order to obtain patents, market the property and grant licenses in the name of BCPAC?

## **B. Gift Methods**

- 1) **Outright gifts.** Are immediately available for the needs of BCPAC and can fulfill the donor's gift intention as soon as completed.

*Gift accounting will reflect the nature of the property contributed as outlined above.*

- 2) **Pledges.** A pledge is defined as a promise to make a gift with the amount to be paid in the future in a lump sum or in installments. Generally, the pledge may not exceed five years in duration. All donors must confirm the pledge in writing, including electronic communication. Pledge reminders will be sent to donors on a regular basis.

*Pledges are reported as assets at their net present value at the time of receipt by BCPAC.*

- 3) **Charitable Lead Trusts.** BCPAC may accept a designation as income beneficiary of a charitable lead trust. BCPAC will not serve as trustee of a charitable lead trust.

*Because charitable lead trusts are not deferred gifts, but are immediate gifts in trust that pay over a period of time, the income value is reported and counted as a pledge.*

- 4) **Bequests.** Friends of BCPAC will be encouraged to make bequests to BCPAC through their wills and trusts.

*Such bequests will not be recorded as gifts to BCPAC 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.*

- 5) **Charitable Remainder Trusts.** BCPAC may accept designation as remainder beneficiary of a charitable remainder trust. BCPAC will not serve as trustee of a charitable remainder trust, but will provide information to donors regarding charitable remainder trusts and assist them in identifying an appropriate trustee as needed.

*Gifts made to establish charitable remainder trusts, where the remainder is not subject to change or revocation, should be credited as deferred gifts at both the discounted net present value of the remainder interest allowable as a deduction by the IRS and at the fair-market value.*

- 8) **Pooled Income Funds.** BCPAC may accept designation as remainder beneficiary of a Pooled Income Fund. BCPAC does not maintain a Pooled Income Fund.

- 9) **Bargain Sales.** A bargain sale is a sale of property to BCPAC for less than its fair market value. The bargain sale price may be any amount mutually acceptable to BCPAC and the donor. Some donors are willing to sell their property for an amount equal to their cost basis. The donor then recovers his or her investment and receives a charitable deduction for the appreciated portion. BCPAC may enter into a bargain sale arrangement for real property in instances in which the bargain sale furthers the mission and purposes of BCPAC. All bargain sales must be reviewed by the Gift Acceptance Committee and approved by the Board of Directors. Factors used in determining the appropriateness of the transaction include:

- BCPAC must obtain an independent appraisal substantiating the value of the property. The gift portion must be at least 50% of the gift or \$100,000.
- BCPAC 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.
- BCPAC must calculate the costs to safeguard, insure, and expense the property (including any property taxes) during the holding period.

*The gift portion of a bargain sale qualifies for a charitable tax deduction. The deduction equals the difference between the fair-market value and the reduced price—the transaction is thus part sale and part gift to BCPAC. The gift to BCPAC is counted as the amount of cash received from the transaction.*

- 10) **Remainder Interest in Residence or Farm.** BCPAC will accept a remainder interest in a personal residence, farm, or vacation property subject to the real property provisions stated in section I(A)(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, BCPAC may use the property or sell it. The donor or primary beneficiary is responsible for all expenses for maintenance, real estate taxes, insurance, and property indebtedness. The property must be inspected each year by a BCPAC representative and a checklist reviewed with the donor and/or primary beneficiary to ensure that maintenance, taxes and insurance are current.

*A gift of a remainder interest in a personal residence, farm, or vacation property should be reported as a deferred gift at both the remainder (net present) value recognized as an allowable deduction by the IRS and at the fair-market value.*

## II. Miscellaneous Provisions

- 1) **Securing appraisals and legal fees for gifts to BCPAC.** It will be the responsibility of the donor to secure appraisals (when required) and independent legal counsel for all gifts made to BCPAC. BCPAC does not pay legal fees for advice to donors or for the preparation of documents for an estate planned gift.
- 2) **Valuation of gifts for Development purposes.** BCPAC will record a gift received at its valuation for gift purposes on the effective date of gift.
- 3) **Responsibility for IRS Filing upon sale of gift items.** The General Manager (or chief financial officer) of BCPAC is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by BCPAC when the charitable deduction value of the item is more than \$5,000. BCPAC must file this form within 125 days of the date of sale or disposition of the asset.
- 4) **Acknowledgment** of all gifts made to BCPAC and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the Executive Director or development staff.

## III. Use of Legal Counsel

BCPAC shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. In general, legal advice *for donors* is not obtained or paid for by BCPAC. However, review by counsel is recommended for:

- 1) Closely held stock transfers that are subject to restrictions or buy-sell agreements.
- 2) Gifts transactions involving contracts or legal documents, such as bargain sales, remainder interests in property or other gift documents requiring BCPAC to assume obligation.
- 3) Gift transactions with potential conflicts of interest involving the Board of Directors or staff. (These might include use of Board members as sales agents in transactions, or leases of gift property to staff or Board.)
- 4) Other instances in which use of counsel is deemed appropriate by the Board of Directors.

## IV. Definitions

- 1) **Tangible Property**—gifts of personal or business property (except securities and real property), including gifts to BCPAC of research collections, libraries, works of art, books, jewelry, scientific and other equipment.
- 2) **Securities**—stocks, mutual funds, index shares, bonds, insurance policies, and promissory notes.
- 3) **Bequest or Testamentary Trust**—any donation given to BCPAC by provisions of a will or by court order at the distribution of estate assets following a donor's death.
- 4) **Real Estate**—land, buildings, and other improvements, and oil, mineral, and related rights.
- 5) **Deferred or Planned Gift**—a charitable contribution to BCPAC made through bequest, charitable trust, pooled income fund, life estate agreement, or similar vehicle.
- 6) **Endowment**—a fund derived from a gift or bequest, the terms of which stipulate that the fund principal must remain inviolate in perpetuity and is to be invested for the purpose of producing

present and future income, which may be expended or added to principal according to the donor's wishes. Endowments can be named, anonymous, unrestricted or restricted to a single purpose or priority area. Currently, the minimum principal required to establish a named endowment fund is \$100,000.

- 7) **Fund functioning as endowment, Board designated endowment or Quasi endowment**—a fund, the principal of which has been set aside by administrative action to be invested in the manner of an endowment. The principal is held inviolate, but the decision to do so may be reversed by appropriate administrative action.
- 8) **Quid pro quo**—goods or services, tangible or intangible, having a determinable fair market value and provided to donor in a transaction involving the donor's charitable contribution. Generally, the quid pro quo portion of the contribution is not tax-deductible.

Development Committee Review: 5/1/17  
Board Approved: 5/13/17

## APPENDIX A

### Model Standards of Practice for the Charitable Gift Planner

#### **Preamble**

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

#### **I. Primacy of Philanthropic Motivation**

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

#### **II. Explanation of Tax Implications**

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

#### **III. Full Disclosure**

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

#### **IV. Compensation**

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finder's fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

#### **V. Competence and Professionalism**

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

#### **VI. Consultation with Independent Advisers**

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

## **VII. Consultation with Charities**

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to ensure that the gift will accomplish the donor's objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

## **VIII. Description and Representation of Gift**

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

## **IX. Full Compliance**

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

## **X. Public Trust**

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

*Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999.*