

PORTLAND OPERA

PORTLAND OPERA ASSOCIATION

GIFT ACCEPTANCE AND PLANNED GIVING POLICIES

Adopted May 4, 2022

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INTRODUCTION

The mission of Portland Opera is to gather and inspire audiences, artists, and collaborators to share opera experiences that enliven and connect us all, enhancing the cultural landscape of the beautiful Pacific Northwest.

The purpose of these gift acceptance policies is to provide guidance to donors, staff, board members, and volunteers to ensure the protection of donors' and the organization's best interests through the continuing success of Portland Opera and its programs. We are guided by the Association of Fundraising Professionals code of ethics, donor bill of rights, Portland Opera Development commitments, and Portland Opera's mission, vision, and values.

The Donor Bill of Rights

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 assure that philanthropy merits the respect and trust of the general public, and those donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

1. 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.
2. 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.
3. To have access to the organization's most recent financial statements.
4. To be assured their gifts will be used for the purposes for which they were given and accepted for.
5. To receive appropriate acknowledgement and recognition.
6. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.
7. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
8. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.
9. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.
10. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

Portland Opera’s Development Department Fundraising Commits to:

1. Create a donor environment that is welcoming to all individuals regardless of race, color, national origin, gender, gender identity, sexual orientation, age, religion, disability, protected veteran status, or other characteristics protected by law.
2. Advocate on behalf of the donor and organization’s best interests.
3. Create safe spaces for staff, donors, community members, and artists.
4. Level power dynamics between executive leadership, donors, staff, artists to have open dialogue about what’s in the best interest of the organization.
5. Evaluate practices and policies to create a more community-centric fundraising approach.
6. Solicit gifts from individuals and organizations that share in our mission, vision, and values.
7. Never offer commissions or personal gain to representatives of Portland Opera when soliciting gifts.
8. Never accept a gift in which employment by Portland Opera Association is requested.
9. A no-tolerance policy for soliciting gifts from donors exhibiting or have knowledge of diminished cognitive abilities.
10. Not accept any gift that violates the requirements of the Internal Revenue Code or any other federal or state law.
11. Not accept any gift or enter into any agreement that would jeopardize the tax-exempt charitable status of Portland Opera or improperly benefit any individual.
12. Have the authority to decline gifts or uninvite guests to events if the safety of our community is compromised or their values do not align with the organization.

CULTIVATION AND SOLICITATION OF GIFTS

1. Role of Staff, Board Members, and Volunteers.

Portland Opera’s General Director, Director of Development, and Development staff have primary responsibility for the day-to-day decision making for the operation of the annual charitable giving program. The Development staff works closely with the Board of Directors, volunteers, and other departments within the organization to leverage relationships, and provide the most accurate and equitable information to donors as possible. The role of Portland Opera’s representatives is to inform, counsel, and assist donors with their annual giving, estate planning, and charitable objectives. All persons associated with Portland Opera have an important role in cultivating and procuring charitable gifts. If a decision requires the Board of Directors’ approval, the Executive Committee can make the decision only if it is not convenient for the entire Board to make the decision.

2. Negotiation and Acceptance of Gifts.

The power to accept charitable gifts to Portland Opera ultimately rests with the Board of Directors. Subject to policies and restrictions imposed from time to time by the Board of Directors, the board has delegated its acceptance authority as follows:

I. Unrestricted gifts, annual program support, or sponsorship gifts of cash or marketable securities may be accepted by the General Director, any officer of the Board of Directors, or any member of the Development Department.

II. Gifts of cash or marketable securities that are restricted to endowment but that are unrestricted as to the use of the gift may be accepted by the General Director, any officer of the Board of Directors, or any member of the Development Department.

III. The following types of gifts may be accepted by the General Director, Director of Development, or the President of the Board of Directors:

- Gifts of cash or marketable securities that are permanently restricted as to the use of the gift.

IV. Gifts of real property or an interest in a closely held business maybe accepted only by the Board of Directors or the Executive Committee.

V. Gifts of usable in-kind products or services can be accepted by the General Director or any member of the Development staff. Gifts in-kind must be aligned with the mission, vision, and values of the organization. From time to time, the Board of Directors or Executive Committee may decide to accept or decline a gift that fits outside of these guidelines.

Only the General Director, the Director of Development, and officers of the Board of Directors are authorized to negotiate with prospective donors on behalf of Portland Opera. Agreements providing for a planned gift may be signed on behalf of Portland Opera by the General Director, the Director of Development, or an officer of the Board of Directors, and (except for gift annuity agreements relating to gifts of cash or marketable securities) only after the agreement has been approved by a person with the power of acceptance and legal counsel.

STEWARDSHIP

1. Investment of Funds.

The Board of Directors is responsible for the investment and management of Portland Opera's assets, including the investment of its endowment fund and planned gifts. The Board of Directors may delegate day-to-day investment responsibility to the Finance Committee or other committees, but it will periodically review the investment performance of endowment, planned gift funds, and establish investment objectives. All invested funds will be subject to the Financial Investment Policy and supervision of competent professional investment counsel.

2. Confidentiality.

Portland Opera may list the names of donors in newsletters and other periodic publications, and may categorize donors by gift amounts. All other information concerning donors (including addresses, names of beneficiaries, gift amounts, or financial information) will be kept strictly confidential, except as to Portland Opera staff, directors, and volunteers. No such information will be disclosed by Portland Opera unless required by law or authorized by a donor in writing.

3. Use of Legal Counsel.

Portland Opera will obtain advice of legal counsel from time to time on matters relating to its charitable and planned giving program. Any such legal counsel will be retained to represent solely Portland Opera, and not any donor or prospective donor. Portland Opera will not enter into any agreement providing for a planned gift that has not been approved by legal counsel (except for gift annuity agreements relating to gifts of cash or marketable securities).

Prospective donors will be advised to consult their own attorneys on all matters relating to sophisticated or planned gifts. If a prospective donor declines to seek counsel, Portland Opera's legal counsel will be consulted for instructions. Portland Opera may provide referrals to attorneys, accountants, investment, real estate, life insurance, and other professionals, but in all cases the names of at least two such professionals will be provided, and it shall be understood that the professional is being retained to represent solely the donor's interests.

4. Gift Expenses.

Costs and expenses associated with the solicitation, procurement, and administration of charitable gifts generally will be charged against the gift. Subject to the requirements of the Internal Revenue Code, the General Director and Development staff are also authorized to pay gift-related expenses from Portland Opera's funds.

Portland Opera may, however, reimburse professionals for necessary documentation, appraisal, and other services relating to a gift, provided that no such payments include compensation for a "finding" effort. Portland Opera generally will pay normal and customary fees and commissions associated with the acquisition, sale, transfer, or management of assets in which Portland Opera acquires the rights of ownership.

GIFTS OF SPECIFIC KINDS OF PROPERTY AND RESTRICTED GIFTS

1. Cash and Marketable Securities.

Gifts of cash or marketable securities (including publicly-traded stocks and bonds, mutual funds, Treasury bills and notes, and most stock warrants, stock options, and stock appreciation rights) are generally acceptable gifts to Portland Opera. Acceptance of such gifts is subject to the rules provided in Section II(C) above, based on the size of the gift and any applicable restrictions.

2. Closely Held Stock.

Gifts of closely held stock or other business interests may be accepted only by the Board of Directors or the Executive Committee. Such gifts must be carefully evaluated by staff and legal counsel before acceptance, due to the inherently illiquid nature of the gift and potential liabilities. Before acceptance, it is critical to review any applicable shareholder or other agreements and to explore possibilities for subsequent sale or redemption of the stock. Donors should not transfer stock subject to a binding obligation to sell or redeem because of potential unfavorable tax consequences.

Portland Opera may also accept gifts of "S corporation" stock. Due to potential tax and other liabilities, however, all such gifts must be approved by the Board of Directors and legal counsel.

3. Restricted Gifts.

Unrestricted gifts provide the greatest flexibility and benefit to Portland Opera. Some donors, however, wish to restrict their gifts to support particular programs or projects. Subject to policies adopted from time to time by the Board of Directors for the negotiation and acceptance of gifts, Portland Opera is willing to accept donor-restricted gifts that are compatible with its mission and goals.

The Board of Directors recognizes that donor restrictions may become impracticable, impossible, or incapable of fulfillment. Subject to the requirements of Oregon law and the Internal Revenue Code, the Board of Directors reserves the right in such cases to redirect restricted gifts to other programs or purposes consistent with the donor's interests and intentions.

4. Real Property.

Gifts of real property may be accepted only by the Board of Directors or the Executive Committee upon due diligence of the property. Real property gifts may include personal residences, investment property, unimproved land, and other interests. Gifts of real property can involve complex tax and other issues, and it is critical to ensure that Portland Opera will not incur any environmental liability relating to current or former uses of the property. For these reasons, all gifts of real property must be reviewed by legal counsel. Vendors utilized or buyers solicited must align with Portland Opera's mission, vision, and values. Gifts of real property are also subject to any specific real property acceptance policies adopted by the Board of Directors.

5. Other Property.

Unrestricted or restricted gifts of assets other than cash, marketable securities, real property, or closely held stock may be accepted subject to the rules provided in Section II(C) above. The General Director and Director of Development will work with legal counsel to assess any potential tax or other issues in connection with such gifts.

PLANNED GIVING GUIDELINES.

1. Objectives.

A "planned gift" is a charitable gift that is made pursuant to a legal instrument and that (1) does not become effective and complete until a later time, when certain conditions have occurred or certain time has elapsed, or (2) involves the reservation of benefits for the donor or persons designated by the donor. The legal instrument involved may be a will, trust agreement, insurance policy, or other instrument.

The objectives of Portland Opera's planned gift program include the following:

- I. To provide information and counsel regarding Portland Opera generally and the opportunities available through planned and deferred giving, with a view toward helping Portland Opera's friends and donors accomplish their financial objectives for themselves, their loved ones, and Portland Opera;

- II. To provide friends and donors with the opportunity to make a charitable gift using planned giving vehicles that would otherwise be unavailable; and
- III. To broaden the support base of Portland Opera by providing opportunities to individuals who do not currently have a close association with Portland Opera.

2. Negotiation and Acceptance of Planned Gifts

Only the General Director, the Director of Development, and officers of the Board of Directors are authorized to negotiate with prospective planned giving donors on behalf of Portland Opera. The negotiation and acceptance of planned gifts are subject to the Board of Directors' policies and procedures for the negotiation and acceptance of gifts. In addition, agreements providing for a planned gift may be signed on behalf of Portland Opera only by the General Director, the Director of Development, or an officer of the Board of Directors, and only after the agreement has been approved by a person with the power of acceptance and legal counsel.

3. Serving as Trustee

Charitable organizations like Portland Opera are authorized to serve as trustee of charitable remainder and other trusts under federal and Oregon law. Portland Opera may serve as trustee, but in each case only with the specific approval of the Board of Directors or the Executive Committee.

4. Planned Giving Methods

I. Outright Testamentary Gifts. A donor may make a planned gift in the form of an outright gift under a will or revocable living trust agreement. An illustrative provision is as follows:

"I give to Portland Opera Association an Oregon nonprofit corporation, [description of dollar amount, specific property, percentage of residue, or other property]."

Under current tax laws, testamentary gifts to Portland Opera do not result in any income tax savings but are entirely free from federal and state estate tax. Portland Opera may provide prospective donors with sample language for testamentary gifts.

II. Retirement Plan Beneficiary Designation. A donor may designate Portland Opera as beneficiary under an individual retirement account, 401(K) or 403(B) plan, pension or profit-sharing plan, or other retirement account. Under current tax laws, such gifts do not result in any current income tax savings but are entirely free from federal and state estate tax.

III. Gifts of Remainder Interest in Trust. A lifetime gift of a remainder interest in trust may be appropriate if a donor wishes to make a gift to Portland Opera but retain lifetime benefits from the property for the donor or persons designated by the donor. Under current tax laws, such a gift results in the donor obtaining income, gift, and estate tax deductions for the "present value" of the charitable remainder interest. The non-charitable interest paid to others, however, may be taxable for gift and estate tax purposes. The present value of the remainder interest is determined under Internal Revenue Service tables, and depends on the benefits provided for the donor or other non-charitable beneficiaries and the life expectancies of the non-charitable beneficiaries.

In the case of either a lifetime gift of a remainder interest in trust or a testamentary gift of a remainder interest in trust, assets are transferred to a trustee under a governing instrument (trust agreement or will). The trustee administers and disposes of the income and principal under the terms specified in the instrument. After termination of the intervening non-charitable interests, the remaining income and principal is distributable to Portland Opera and used for the purposes specified in the instrument or (in the absence of specification) for the general purposes of Portland Opera.

Permissible trust arrangements include charitable remainder unitrusts, charitable remainder annuity trusts, and pooled income funds (Portland Opera does not have a pooled income fund, but it may be possible to utilize a pooled income fund at a community foundation).

IV. Charitable Lead Trusts operate for a set term, which could be the life of one or more individuals, and payments are made to one or more designated charitable beneficiaries for that time period. After the end of the trust term, the remainder of the trust is distributed to non-charitable beneficiaries—such as family members.

V. Gifts of Remainder Interests in Residences and Farms. A donor may make a charitable gift of a personal residence or farm, retaining the right to use and enjoy the property for the lifetime benefit of the donor and persons designated by the donor. Under current tax laws, such a gift results in the donor obtaining a current income tax deduction for the present value of the remainder interest. If the gift involves a residence, the residence must be a personal residence of the donor but need not be the principal residence (the donor may thus utilize a vacation home).

VI. Charitable Gift Annuities. Portland Opera is authorized to issue “charitable gift annuities.” Under this arrangement, a donor would transfer cash or other property to Portland Opera in exchange for a contractual commitment to pay the donor or persons designated by the donor a specified annual annuity for the lifetime of the beneficiaries. Under current tax laws, the value of the property transferred to Portland Opera would exceed the value of the annuity guaranteed by the program and the excess would be deductible as a charitable contribution for federal income tax purposes. The relative values of the gift and annuity interests are based on tables prescribed by the Internal Revenue Service.

Charitable gift annuities can be advantageous to the donor. A large portion of each annual payment is treated as the return of principal and is income tax free to the donor, and a portion of each payment is taxable as ordinary annuity income. If appreciated property is involved, a portion of each payment is reportable as capital gain.

VII. Bargain Sales. A donor may wish to sell property to Portland Opera for an amount less than its fair market value. Under current tax laws, the excess of the fair market value over the purchase price is deductible as a charitable contribution for federal income tax purposes. Such a transaction is treated in part as a charitable contribution and in part as a sale (hence the term “bargain sale”). The Internal Revenue Code requires a donor to allocate the donor’s income tax basis between the “contribution” and “sale” elements. Consequently, taxable capital gain generally is realized in connection with a bargain sale.

VIII. Life Insurance. Life insurance may be used to accomplish charitable objectives in a variety of ways. A donor could make Portland Opera the beneficiary of an existing life insurance policy or make Portland Opera both the owner and beneficiary. If Portland Opera is named beneficiary and receives the policy proceeds, the policy proceeds will be completely exempt from federal and state estate tax. If Portland Opera is also made the owner of the policy, the donor is entitled to an income tax deduction for the value of the policy at the time of the gift, and for any subsequent premium payments made by the donor.

Portland Opera Association is an Oregon nonprofit corporation recognized by the Internal Revenue Service as a tax-exempt charitable organization under Internal Revenue Code section 501(c)(3), Tax ID: 93-6034321, contributions to which are deductible for income, gift, and estate tax purposes.