

The First Presbyterian Church of Midland, Texas

Gift Acceptance Policy

The First Presbyterian Church of Midland, Texas, (hereinafter referred to as the “Church”), a not-for-profit entity and recognized by the IRS as an exempt organization, encourages the solicitation and acceptance of gifts to the Church for purposes that will help the Church to further and fulfill its mission. The following policies outline the process by which prospective gifts to the Church or for the benefit of any of its programs, congregations and special ministries shall be accepted.

The mission of the Church is loving and leading all people to deeper life in Jesus Christ.

I. Purpose of Policies

The Church may solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of the Church. These policies govern the process for the review of prospective gifts prior to acceptance by the Church; the type of the asset and the form of the proposed gift will affect the review process undertaken by the Church. These policies are also intended to guide prospective donors and their advisors when considering a gift to the Church. The provisions of these policies shall apply to all gifts to the Church for any of its programs or services.

II. Use of Legal Counsel and Avoiding Conflicts of Interest

A. The Church shall seek the advice of legal counsel in matters relating to the acceptance of gifts, when appropriate. Review by legal counsel is recommended for:

Gifts of closely held stock that is subject to restriction or a buy-sell agreement;

Gifts involving contracts, such as bargain sales or other documents requiring the Church to assume an obligation;

Transactions with potential conflict of interest that may invoke IRS sanctions; and

Other instances in which use of counsel is deemed appropriate by the Board of Trustees

B. The Church shall encourage donors to seek independent professional counsel to represent the donor’s interests and to explore the alternatives, costs, tax benefits and obligations of potential gifts. The Church shall have no responsibility to provide and shall not provide technical, legal or tax advice to the donor or an analysis of the resulting tax and estate planning consequences to the donor.

III. Unrestricted and Restricted Gifts

The Church will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, policies and priorities. The Church will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are

those that are too difficult or costly to administer or value, or gifts that are for purposes outside the scope of the mission of the Church. The Board of Trustees will review all restricted gifts and make recommendations to the Session. The Board of Trustees of The First Presbyterian Church of Midland, Texas reserve the right to reclassify a designated contribution with a purpose outside those funds approved by the Session. Approved funds are:

- General Fund
- Deacon's Fund
- Endowment Fund
- Common Ground Building Fund
- Jubilee Fund
- Fasken Fund
- Lynn Scholarship
- Lloyd Seminarian Scholarship
- Braun Scholarship
- Africa Mission
- Belize Mission

IV. The Board of Trustees

A. The Board of Trustees is charged with the responsibility of reviewing all gifts except outright gifts of cash and unencumbered publicly traded securities. The purpose of the review by The Board of Trustees is to properly screen gifts and make recommendations to the Session.

B. The Board of Trustees will not have authority to bind the Church contractually without express prior written authority from the Session or members of the Session legally empowered to bind the Church contractually.

V. Types of Gifts

A. The Church will accept outright gifts of cash and unencumbered publicly traded securities.

B. Gifts of real or personal property other than cash and publicly traded securities or gifts in a form other than outright are subject to the review of the Board of Trustees.

C. The following criteria guide the acceptance of each gift:

(1) *Cash and Publicly Traded Securities.* Cash and publicly traded securities are acceptable in any form. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Session. In some cases marketable securities may be restricted by applicable securities laws; in such instance The Board of Trustees will make recommendations on the acceptance of the restricted securities.

(2) *Tangible Personal Property.* Gifts of tangible personal property shall be examined in light of the following criteria:

- Does the property fulfill the mission of the Church?

- Is the property marketable?
- Are there any undue restrictions on the use, display, or sale of the property?
- Are there any carrying costs or other liabilities for the property?
- Is the property's value ascertainable?

The Board of Trustees shall make recommendations on the acceptance of tangible personal property gifts.

(3) *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, may not be accepted without the review of the Board of Trustees.

The Board of Trustees shall review the facts and circumstances to determine the following:

- Are there any restrictions on the security that would prevent the Church from converting the security to cash?
- Is the security marketable?
- Will the security generate an undesirable tax consequence for the Church?

If potential problems arise on the initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on the acceptance of the closely held stock. The Board of Trustees and legal counsel, if applicable, shall make a recommendation on the acceptance of closely held securities. Every effort will be made to sell non-marketable securities as quickly as possible.

(4) *Real Estate.* Gifts of real estate may include developed property and undeveloped property. All gifts of real estate interests must be evaluated and inspected by an authorized representative of The Board of Trustees prior to acceptance. Such inspection shall include an initial environmental review of the property to ensure that the property has no environmental liability or hazard. In the event that the initial inspection reveals a potential problem, the Church may retain a qualified inspection firm to conduct an environmental audit if The Board of Trustees recommends further inspection. The cost of the environmental audit generally shall be at the sole expense of the donor. When appropriate, a title insurance binder shall be obtained by the Church prior to the acceptance of the real property gift. The cost of this title insurance binder generally shall be at the sole expense of the donor.

Prior to acceptance of real property, the following information should be provided by the donor:

- A map showing the location of the property
- A legal description of the property
- Proof of marketable title and ownership
- A registered land surveyor's survey of the property

- A list of improvements
- Copies of current leases and persons in possession, if any
- A list of encumbrances, including deed restrictions or covenants, liens and current expenses, if any
- A copy of current year's tax bill
- A notice of pending assessments
- Proof of payment of taxes, assessments, and association fees, if any
- A copy of title insurance policy or a recent title insurance commitment, including copies of all documents shown as exceptions to title on the report
- A recent appraisal or other acceptable valuation, which will be attached to the donor's IRS Form 8283
- A written statement from the donor identifying any known waste disposal sites or spills of hazardous waste material on the property, or a statement to the contrary
- A written statement from the donor outlining the purposes of gift, including gift restrictions, if any
- An Environmental Impact Study – Level 1 Environmental Impact Study and Audit and, if necessary, a Level 2 Study and Audit, with all costs to be borne solely by the donor

Prior to acceptance of the real property, the gift must be recommended by The Board of Trustees and the Church's legal counsel. Criteria for acceptance of the property shall include satisfactory answers to the following questions:

- Is the property useful for the purposes of the Church?
- Is the property marketable?
- Are there any restrictions, covenants, reservations, easements, or other limitations on use associated with the property?
- Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, associated with the property?
- Does the environmental audit reflect that the property has liability issues?

(5) *Remainder Interests in Property.* The Church may accept a remainder interest in a personal residence, farm, ranch, vacation property or other real property subject to the provisions concerning real estate in paragraph (4) above. Other typical requirements of this type of gift may include the following:

- the donor or other occupants may continue to occupy the real property for the duration of the stated life or lives;
- insurance by life tenant will be required;
- upon the death of the life tenant or life tenants, the Church may use or sell the property as it deems appropriate; and

- during the life tenancy, expenses, including maintenance, real estate taxes, liability insurance, and indebtedness, shall be paid by the donor or life tenant, as the case may be.

(6) *Oil, Gas, and Mineral Interests.* The Church may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest the gift shall be recommended by the Board of Trustees, and if necessary, by the Church's legal counsel. An environmental review may be undertaken. Criteria for acceptance of the property shall include satisfactory answers to the following questions:

- Do the surface rights have a value of \$20,000 or greater?
- Does the oil, gas, or mineral interest generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift)?
- Are there any extended liabilities or other considerations that make receipt of the gift inappropriate?

A working interest may only be accepted where there is a plan to minimize potential liability and tax consequences.

(7) *Bargain Sales.* The Church may enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the Church. All bargain sales must be reviewed by The Board of Trustees and to the extent the bargain sale involves real estate, the provisions concerning real estate in paragraph (4) above must be met.

Factors used in determining the appropriateness of the transaction include:

- Does an independent appraisal substantiate the value of the property?
- If the Church is asked to assume debt with the property, is the debt ratio less than 50% of the appraised market value?
- Can the Church use the property?
- If the property is to be sold, is it reasonable to expect a sale within twelve months of the property being placed on the market?
- What are the expected costs to safeguard, insure, and maintain the property during the holding period?

(8) *Life Insurance.*

Gift of Policy. The Church must be named as both primary beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. A gift of a policy is valued at the interpolated terminal reserve value, or cash surrender value on the date of the transfer of ownership. If the donor contributes future premium payments, the Church will treat the amount of the additional premium as a gift in the year that it is made. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the

Church may continue to pay the premiums, convert the policy to paid-up insurance or surrender the policy for its current cash value, as the Church deems appropriate.

Designation as Beneficiary of Policy. Donors and supporters of the Church may name the Church as a primary beneficiary or a contingent beneficiary of life insurance policies. Such designations shall not be recorded as gifts to the Church until such time as the gift is irrevocable. Where 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.

(9) *Retirement Plan Beneficiary Designations.* Donors and supporters of the Church may name the Church as a beneficiary of an individual retirement account, a 401(k) account, a 403(b) account or other retirement plan. Such designations will not be recorded as gifts to the Church 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.

(10) *Bequests.* Donors and supporters of the Church may make bequests to the Church under wills and trust instruments. Such bequests will not be recorded as gifts to the Church 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.

VI. Miscellaneous Provisions

A. Securing appraisals and legal fees for gifts to the Church. Generally, it will be the responsibility of the donor to secure an appraisal (where required), provide an environmental review (as appropriate) and retain independent legal counsel for all gifts made to the Church.

B. Acknowledgment.

(1) Valuation of gifts. The Church will acknowledge a gift on the date the gift is completed at the fair market value for federal gift tax purposes. The Church will sign IRS Form 8283 as the recipient of a charitable gift as is required for a gift having a value in excess of \$5,000.

(2) Responsibility for IRS Filings upon sale of gift items. The Church will file IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the Church when the value of the gift is more than \$5,000. The Church must file this form within 125 days of the date of sale or disposition of the asset.

(3) Adherence to U.S. Treasury Regulations. The Church will acknowledge all gifts made to the Church for charitable purposes in accordance with the regulations issued by the United States Treasury Department.

C. Review of Pertinent IRS Publications. IRS Publication 561 *Determining the Value of Donated Property* and IRS Publication 526 *Charitable Contributions* shall be reviewed by The Board of Trustees on a regular basis.

VII. Changes to Gift Acceptance Policies

Changes to, or deviations from, the Gift Acceptance Policies may be made with the approval of the Session. All such changes shall be in writing.

Approved by Session on October 24, 2016