

# **University Presbyterian Church**

## **Policy on Gifts, Contributions, and Solicitations**

### **A. General Statements of Purpose**

University Presbyterian Church believes that establishing clear and consistent policies about gifts, contributions, and solicitations encourages stronger relationships among the Church, its members, other supporters and their advisors. Upon the advice of the Administration Committee, the Session has adopted these policies to describe and guide contributions to the Church outside the UPC Endowment, which has its own similar Gift Acceptance Policy. This document is a compilation of policies to describe and guide in the solicitation of and acceptance of gifts to the Church.

### **B. General Information**

**Gifts.** For purposes of these policies, the term “gifts” refers exclusively to private contributions given for the benefit of the Church. Gifts may be described as “grants” by foundations and corporations. A gift is an outright or deferred contribution received from an individual, foundation, or corporation (the “donor”) for which no goods or services are expected, implied or forthcoming for the donor. In its discretion, the Session may decline to accept a proposed gift from an individual, corporate or foundation donor.

**Current Gifts. Concept of Planned Giving.** Various distinctions are made between the different types of gifts received by the Church. Current gifts are immediately utilized to benefit a Church program, add to, or establish an endowed fund at the Church

**Deferred Gifts.** Deferred gifts postpone the benefit to the Church until some time in the future and the donor benefits from the gift in the interim period. Many of these gifts are described as life-income gift plans because they utilize vehicles that provide an income to the donor as part of the gift plan.

**Planned Gifts.** Planned gifts include those gifts - whether given currently or deferred - that require the assistance of the donor's advisors to complete the gift. A planned gift requires careful consideration by the donor in light of his/her estate and financial plans. Gifts of real estate, securities, and other assets are planned gifts that may also be utilized to establish a life-income gift plan to benefit a donor.

**Designation.** Gifts to the Church may be either for the general purposes of the Church or for specific uses approved by the Session.

**Preference for Unrestricted Gifts.** Although the preference is for unrestricted gifts, donors may specify that a gift be used for a wide range of purposes. Donors may direct that(1) the gift be used to establish a special restricted or unrestricted reserve account or fund; (2) it be

added to current reserve accounts or funds; or (3) it be handled in other ways not inconsistent with the purpose and policies of the Church.

**Beneficiary.** All gifts should name University Presbyterian Church as owner or beneficiary.

### **C. Policies Concerning Restrictions on Uses**

**General.** The Church will not accept any bequest or gift that contains restrictions based on race, color, religion, gender, disability, national origin, or sexual orientation.

**Contingency Clauses.** The Church reminds donors that the needs, policies, and circumstances at the Church may change in unforeseen ways over the many decades following the establishment of a restricted reserve account or fund or other specially designated gift. Therefore, the Church must be able to make use of funds in its best interest under changed conditions, while continuing to honor the donor.

The following statement should be included in the instrument that establishes a restricted gift:

If the Session of University Presbyterian Church determines that all or part of this gift cannot be appropriately used as set out in this instrument, it may use the same for other more appropriate purposes as nearly aligned to the original intent of the donor as good conscience and need dictate within the authorized powers of the Church.

### **D. Policies on Solicitations and Acceptance of Gifts**

The solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, tax, and estate planning considerations. Donors, advisors, and representatives of the Church will work together to structure a gift that achieves a fair and proper balance between the charitable interests of the donor and the needs of the Church. When issues arise regarding gifts to the Church, it will generally be the responsibility of the Administration Committee to structure the decision-making process and to recommend action to the Session. The Committee may perform this role in conjunction with other committees of the Church, financial, legal or other specialists, and it may delegate its responsibility in appropriate cases.

#### **1. Types of Gifts**

**Cash.** The Church staff and/or authorized representatives will work to facilitate the transfer of such funds to the Church in a timely and efficient manner.

**Publicly Traded Securities.** Gifts of publicly traded securities, including stocks, mutual funds, municipal and corporate bonds, treasury bills and notes, warrants, stock options and stock appreciation rights are generally acceptable gifts to the Church. Title to securities deemed to be readily transferable is generally acceptable to the Church.

Proposed gifts of warrants, stock options and stock appreciation rights should be reviewed on a case-by-case basis to ensure that there are no limitations on the transfer. The acceptance of gifts of securities often has specific tax consequences to the donor. As a result, all gifts of securities for the benefit of the Church are to be delivered as soon as received to the Church Treasurer.

The Treasurer, in conjunction with the Church's stock brokerage firm, handles the transfer of ownership, determines a fair market value, and handles the sale and liquidation of gifts of securities.

**Closely Held Corporation Stock.** Closely held stock gifts are carefully evaluated by the Church staff and its legal and financial advisors before acceptance because of their inherent illiquid nature. The evaluation will include, without limitation, an identification of potential buyers of the stock, determination of the company's ability or willingness to redeem the stock, and a qualified appraisal of the stock. The Church may not be legally required to sell the shares back to the corporation because such an agreement may bring consequences unfavorable to the donor.

**Subchapter S Corporation Stock.** Even though a gift of subchapter S corporation stock may yield a significant gain to the Church, the nature of S corporation stock requires special scrutiny. These types of gifts will be handled on a case-by-case basis and will involve discussions with outside counsel.

**Tangible Personal Property Gifts.** Tangible Personal Property Gifts include art collections, antiques, jewelry, and similar property. These gifts will sometimes be referred to as "gifts-in-kind." Unless treated categorically, an offer of tangible personal property will be reviewed on a case-by-case basis by the Session on recommendation of the Administration Committee. The Church is able to accept gifts-in-kind only if the following conditions apply:

- a) The gift shall not require the Church to commit significant additional expenses for its present or future use, display, maintenance, or administration.
- b) The gift shall not commit the Church to any financial or other burdensome obligation, either directly or indirectly.
- c) The valuation of the gift shall be based on market value as determined by a qualified independent third party who is not an officer or employee of the Church, and unless the Church agrees to secure such evaluation, it will be the responsibility of the donor.
- d) There is no expectation, understanding or condition that gifts such as books, paintings, or other tangible property will be loaned back to the donor or his designee for life or for extended periods of time determined by the donor.

**Real Estate.** Real estate gifts can include personal residences, rental properties, office buildings, land, leasehold interests and other structures. Such gifts may be outright gifts, bargain sales, installment sales, or part of a charitable life-income plan with the Church. As real estate can be costly to maintain until liquidation, and have pre-existing conditions attached to it, any offer of real estate will be carefully scrutinized before acceptance by the Church. Information gathered on the property shall be provided to the Administration Committee, which will forward the information with a recommendation regarding gift acceptance to the Session.

a) The Church requires a thorough evaluation of the condition and characteristics of the proposed real property gift before a gift of real estate may be formally accepted. Typically, the donor must provide a legal description and location of the property; copies of all relevant and available information about the property including tax evidence of clear title; zoning restrictions; a copy of the most recent appraisal, if available; and information concerning any environmental problems on the property including if available the most recent environmental assessment. On some occasions, the Church may require that an appraisal, a survey, or other assessment be completed before the Session can accept the property. Ordinarily the cost of such an assessment commissioned by the Church will be the responsibility of the donor but under special circumstances the Session upon recommendation of the Administration Committee may bear the cost.

b) Site Evaluation. Before any property can be accepted by the Church, the site must be thoroughly inspected by a Administration Committee member or delegated representative.

c) Environmental Issues. It is the responsibility of the Administration Committee to determine the liabilities associated with the acceptance of any gift before it may be accepted. The Church requires that an outside technical consultant be engaged to complete a Phase I Environmental Site Assessment report, as a minimum, for each property proposed as a contribution to the Church. The cost of this assessment and report will be the responsibility of the donor. The Administration Committee, with the concurrence of the Session, may determine, under special circumstances, that the Church will bear the costs of the Phase I Environmental Site Assessment report. Church acceptance of real property is not final until Session review of this report is complete and the Session has made a determination of appropriateness of accepting the gift.

d) Indebtedness. Accepting and holding properties subject to a mortgage or other form of indebtedness is likely to involve the Church in unrelated business activity, thereby raising the issue of unrelated business income tax liability. The Church will consider on a case-by-case basis a bargain purchase of mortgaged properties

e) Costs. The marketability of a property must be considered before a gift is accepted. The cost to hold the property for sale is important in deciding whether or not to accept a gift. Carrying costs may include property taxes, mortgage payments, maintenance, insurance, and association or membership fees. Where unusual carrying costs are anticipated the donor of the property may be asked to cover these expenses or make a contribution to the Church to offset them.

f) Designated Purpose. The donor may designate a purpose within the Church for a fund created by the assets received from the transfer and sale of such property, subject

to approval of the special designation by the Session upon advice by the Administration Committee (see part B above).

g) Maintenance. No financial or other burdensome obligation or expenses shall be incurred directly or indirectly by the Church as a result of a gift of real property without the approval, in advance, of the Session.

h) Life Estate. A donor may retain a life estate for himself and others in the gifted property. Expenses for maintenance, real estate taxes and indebtedness relating to the property will normally be borne by the donor or the holder of the life interest where a life estate is retained in such property.

i) Disposition of property. The basic policy of the Church is to sell all gifts of property as soon as advantageous. Authorized representatives of the Church are responsible for the sale or disposal of property on behalf of the Church as authorized by the Session. The donor may assist in locating a buyer for the property, but under no circumstances should the donor have established a marketing or sales agreement with any agent or principal, nor should the buyer have a signed sales agreement on the property. To do so would bind the Church's hands and jeopardize the donor's tax deduction. The Church will seek to obtain the best possible price to meet its fiduciary responsibility to the Church and the donor. In most cases the Church will receive a copy of the donor's appraisal utilized to establish the fair market value of the contributed property. This appraisal will aid the establishment of a market price for the property.

## **2. Bargain Sale Arrangements**

A bargain sale is a sale of property for less than its fair market value. A bargain sale may be utilized when the donor wants to maximize the charitable deduction, and the donor needs some funds or an installment income stream from the sale. It is also one way to enable a gift of encumbered property to proceed. If the property or item is desired by the Church, a bargain sale is one means to acquire the property that may be advantageous for the donor and the Church.

## **3. Contributions for Facilities or Landscapes/Naming**

The Session is responsible for approving names of buildings, additions to a building, spaces in a building, other tangible relatively permanent features located on Church property, outdoor spaces and memorial landscape improvements. While there may be exceptions to this general guideline, in no cases shall any agreement, understanding, or negotiation be entered into without prior approval of Session or its designee.

## **E. Policies Pertaining to Bequests and Other Deferred Gifts**

### **1. Bequests and Estate Distributions**

Estate plan distributions have provided significant contributions to the Church. The Church will continue to actively encourage bequests. Distributions received by the Church through a person's estate plan may involve a devise by will (commonly called a bequest) or a distribution from a trust. The Church should obtain a copy of a bequest designation to ensure that the devise is properly described and directed; however, providing a copy of such documentation is solely at the discretion of the testator. In many cases the Church is not aware of a bequest or trust distribution until notice is received from the personal representative or trustee. In some cases, it may be best for the Church to disclaim or renounce a bequest or distribution based on institutional concerns of liquidity, marketability, holding costs, environmental contamination, and liability or other reasons. If the bequest involves securities, real estate, or personal property, the Church will follow the appropriate policies for those items.

During the probate of estates containing a devise to the Church and during the post-death administration of revocable trusts containing dispositive provisions benefiting the Church, the Administration Committee or its designee, in consultation with legal counsel, shall represent the Church in all dealings with the attorney and personal representatives of the estate.

## **2. Trusts, Annuities, and Life Insurance Gifts**

All gifts from trusts, annuities, and life insurance will be evaluated on a case basis with the advice of counsel. These gifts may include but are not limited to the following:

### **a. Revocable Trusts**

Revocable trusts may be established for various reasons. Revocable living trusts are commonly utilized as part of an estate plan. Sometimes the grantor(s) will establish a revocable trust, retaining the possibility of being able to gain access to those funds in the future when emergencies or extraordinary costs are encountered. A revocable charitable trust has a prominent charitable purpose and is designed to provide for an ultimate gift of real estate, cash or other property. Since the property may be returned if needed later, there are no current income tax advantages to a revocable trust plan. At the grantor's passing, title passes under the terms of the trust agreement.

Property in a revocable trust passing to the Church may be eligible for the unlimited charitable estate tax deduction. The income from a revocable trust during the grantor's lifetime may be paid to the Church as the grantor may direct.

### **b. Charitable Remainder Trusts**

Charitable remainder trusts are irrevocable, separately administered trusts established by the donor. Trust payments are provided to the donor and/or other named beneficiary(ies) for life or a term of years (not exceeding twenty), whereupon the remaining assets are distributed to one or more charities. A charitable remainder annuity trust pays a fixed amount each year. This distributed amount cannot exceed an amount that would likely exhaust the trust assets during the

anticipated term of the trust. The amount payable in an annuity trust does not change, and no additional gifts may be made to the annuity trust after its creation.

A charitable remainder unitrust pays annually a fixed percentage (at least 5 percent) of the fair market value of trust assets, as valued annually. Because the value of assets can be expected to change from year to year, the unitrust payment will vary in amount each year. Additional contributions may be made to the trust after it is established.

### **c. Charitable Lead Trust**

In many ways the lead trust is the opposite or reverse of the charitable remainder trust. A charitable lead trust pays out income (or the lead interest) to the Church for the life or lives of persons living when the trust is created or for a specified term of years. At the end of the term, the trust assets revert to the donor, the donor's estate, or specific beneficiaries named in the trust document. The amount paid to the Church during the term of the trust may be either a fixed sum (an "annuity trust" interest) or a percentage of the trust assets as valued each year (a "unitrust" interest). Unlike the charitable remainder trust, there is no 5% minimum payout rate with the lead trust. The lead trust may be a grantor lead trust with the principal being returned to the donor at the conclusion of the trust term, or a nongrantor lead trust with the principle being transferred to someone other than the donor at the end of the trust term. The income tax implications will vary depending on the type of trust selected. There are estate-planning advantages in using a lead trust to transfer appreciated assets to heirs. The donor must be aware of the Generation Skipping Tax (GST) implications.

### **d. Charitable Gift Annuities**

A charitable gift annuity is a combination of a gift to a charitable organization and an annuity. It is an irrevocable transfer by a donor of cash (or other property) to a qualified organization in exchange for that organization's commitment to pay a fixed amount for the lifetime of one or two beneficiaries. Gift annuities are governed by state regulation, and those regulations vary from state-to-state. Some states have specifically exempted gift annuities from regulation, and other states do not address gift annuities by statute. By establishing a gift annuity, the donor receives a charitable income tax deduction based on the donor's age and established actuarial tables governing annuities. The tax deduction is based on the value of the asset after the income payments have stopped. Generally, a gift annuity may be funded with a gift of cash or marketable securities. When the annuity is funded with appreciated assets, a portion of the gain is avoided by the gift and the balance is spread over the life expectancy of the donor. A gift annuity may reduce, but may not avoid the capital gain tax obligations of the donor. A donor's financial advisor can provide information on gift annuity providers including the Presbyterian Foundation.

### **e. Life Insurance Gifts**

Sometimes donors wish to give life insurance policies to the Church. While this is not the most preferred method of giving, the Church is grateful for such gifts. The Church will accept whole life policies, either new, partially paid-up or fully paid-up policies. Gifts of term life insurance will not be accepted by the Church because it provides few options if the donor is unable to continue paying the premiums. A gift of life insurance is considered a gift of ordinary income property. There are four primary ways that life insurance can be utilized as a charitable gift to benefit the Church: (1) The donor transfers an existing policy to the Church as owner/beneficiary (in whole or part). The gift is accomplished with an absolute assignment form obtained from the insurance company. (2) The donor purchases a new policy with the Church as owner and irrevocable beneficiary. The premium payments under this scenario are in reality cash donations to the Church, which in turn makes the premium payments to the insurance company. The donor makes a pledge to make regular gifts to cover the premium payments. Cash or negotiable securities may be accepted for premium payments. (3) The donor retains ownership of a policy and designates the Church as a beneficiary or contingent beneficiary of the policy. While the donor retains ownership of the policy, there is no immediate tax deduction available. (4) The donor purchases life insurance to provide a benefit to heirs when assets are contributed to the Church. Through an irrevocable life insurance trust, heirs of the donor and/or the Church may receive additional benefits through the donor's estate plan.

#### **f. Life Estate Agreements (Gift of the Remainder Interest in a Residence or Farm)**

A life estate agreement is a charitable instrument by which a personal residence, vacation home, or farm is transferred by deed to a charitable organization during a donor's lifetime and the donor retains usage of the property for life.

#### **F. Policies on Investment of Gift Property**

1. The responsibility for the investment of any gift rests with the Church Treasurer.
2. Donors expressing an interest in the investment policy or expected income yield on their gifts should be advised of the general investment policies of the Church. Information as to these policies may be obtained from the Treasurer.
3. Donors should understand that their gifts will be invested in a manner consistent with the general policies of the Church.
4. In the case of charitable remainder trusts and charitable lead trusts, the donor must choose his/her own trustee. In these cases, the setting of investment policy shall be between the donor and trustee.

#### **G. Policies on Bequests and Offers of Gifts That Fail to Meet Church Policies**

The Church will not accept any bequest or gift that contains restrictions based on race, color, religion, gender, disability, national origin, or sexual orientation.



## **H. Other Policies**

**1. Tax Exempt Status.** The Church shall not accept any gift or enter any agreement which would improperly inure to the benefit of any individual or in a manner that would jeopardize the tax-exempt status of the Church as determined upon the advice of legal counsel. In all its dealings and agreements, the Church will seek to guard its reputation within the community.

**2. Confidentiality.** All information concerning deferred gift donors, including names and addresses, amount of gift, names of beneficiaries, nature and value of estate, amounts of provisions, etc., will be kept strictly confidential by the Church and its committees unless permission is granted by the donors to release such information or is otherwise required to be released by law.

**3. Legal Counsel and Other Advisors.** Prospective donors shall be advised to consult their attorney in all matters related to deferred gift instruments such as wills, trusts, agreements, contracts, etc.

**4. Tax Advice.** Prospective donors are encouraged to seek independent tax counsel regarding the completion of planned gifts. The Church is not in the position of giving any tax advice.

**5. Forms and Agreements.** Church counsel may provide suggested language for trust or other gift documents, subject to review or utilization by the donor's own counsel. Legal counsel shall be utilized to review or prepare appropriate formal and legal documents. Certain deferred gifts, such as charitable gift annuities, require the use of standard forms approved by appropriate governmental agencies.

**6. Signature Authority.** Only certain authorized officials at the Church have authority to sign documents on behalf of the Church. Currently, the following individuals have authority to sign: The Chair of the Board of Trustees for all matters affecting property and the Moderator and Clerk on behalf of the Session. Any documents requiring signature from an official of the Church must be routed through outside counsel for review. The counsel will review the documents and submit for signature once approval has been given.

Adopted by the Session and effective on

June 2010