

# **Gift Acceptance Policy & Guidelines**

## **First Unitarian Universalist Church of Austin**

First Unitarian Universalist Church of Austin, a not for profit organization organized under the laws of the State of Texas, encourages the solicitation and acceptance of gifts to First Unitarian Universalist Church of Austin (hereinafter referred to as First Austin) for purposes that will help First Austin to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to First Austin or for the benefit of any of its programs.

The mission of First Austin is to:

Gather in community to nourish souls, transform lives, and do justice.

### **1. Purpose of Policies and Guidelines**

First Austin volunteers and staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of First Austin. It is the purpose of these policies and guidelines to govern the acceptance of gifts by First Austin and to provide guidance to prospective donors and their advisors when making gifts to First Austin. The provisions of these policies shall apply to all gifts received by First Austin for any of its programs or services.

### **2. Use of Legal Counsel**

First Austin shall seek the advice of legal counsel in matters relating to acceptance of gifts where appropriate. Review by counsel is recommended for:

- a. Review of closely held stock transfers that are subject to restrictions or buy-sell agreements
- b. Review of documents naming First Austin as Trustee
- c. Review of all gifts involving contracts, such as bargain sales or other documents requiring the Charity to assume an obligation
- d. Review of all transactions with potential conflict of interest that many invoke IRS sanctions
- e. Other instances in which use of counsel is deemed appropriate by the Gift Acceptance Review Panel

### **3. Conflict of Interest**

All prospective donors shall be strongly urged to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. First Austin will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the Partnership for Philanthropic Planning (formerly known as the National Committee on Planned Giving), shown as an appendix to this document.

### **4. Restrictions on Gifts**

First Austin 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. First Austin will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the bylaws or articles of incorporation, gifts that are too difficult to administer, or gifts that are for purposes outside the mission or ends of First Austin. The Gift

Acceptance Review Panel of First Austin shall make all final decisions on the restrictive nature of a gift, and its acceptance or refusal.

First Austin will not accept gifts that violate the terms of the bylaws or articles of incorporation, gifts that are deemed by the Director of Finance and Operations to be too difficult to administer, or gifts that are for purposes outside the mission or ends of First Austin. The Gift Acceptance Review Panel of First Austin shall make all final decisions on the restrictive nature of a gift, and its acceptance or refusal.

## **5. The Gift Acceptance Review Panel (GARP)**

The GARP shall consist of:

- The President of First Austin
- The Senior Minister of First Austin
- The Treasurer of First Austin
- The Director of Finance & Operations
- The Chair (or co-chairs) of the Ministry of Finance
- Such other members as appointed by the Senior Minister

The GARP is charged with the responsibility of reviewing all gifts made to First Austin that require special attention, per this policy, properly screening and accepting those gifts, and making recommendations on gift acceptance issues where appropriate. The GARP may also undertake special projects at the direction of the Senior Minister or Director of Finance & Operations.

## **6. Types of Gifts**

The following gifts are welcomed:

- a. Cash
- b. Tangible Personal Property
- c. Securities
- d. Real Estate
- e. Remainder Interests in Property
- f. Oil, Gas, and Mineral Interests
- g. Bargain Sales
- h. Life Insurance
- i. Charitable Gift Annuities
- j. Charitable Remainder Trusts
- k. Charitable Lead Trusts
- l. Retirement Plan Beneficiary Designations
- m. Bequests
- n. Life Insurance Beneficiary Designations

The following criteria govern the acceptance of each gift form:

- a. Cash: Cash is acceptable in any form. Checks shall be made payable to First Austin and shall be delivered to First Austin's administrative offices.
- b. Tangible Personal Property: All gifts of tangible personal property shall be examined in light of the following criteria;
  - Does the property fulfill the mission of First Austin?
  - Is the property marketable?
  - Are there any undue restrictions on the use, display, or sale of the property?
  - Are there any carrying costs for the property?

The GARP shall make the final determination on the acceptance of other tangible property gifts.

- c. Securities: First Austin can accept both publicly traded securities and closely held securities.
  - Publicly Traded Securities: Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt. In some cases applicable securities laws may restrict marketable securities; in such instance the GARP shall make the final determination on the acceptance of the restricted securities.
  - Closely Held Securities: Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the GARP. However, gifts must be reviewed prior to acceptance to determine that:
    - o There are no restrictions on the security that would prevent First Austin from ultimately converting those assets to cash
    - o The security is marketable
    - o The security will not generate any undesirable tax consequences for First Austin.

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

- d. Real Estate: Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, First Austin shall require an initial environmental review of the property to insure that the property is not contaminated with environmental damage. Environmental inspection forms are attached as an appendix to this document. In the event that the initial inspection reveals a potential problem, First Austin shall retain a qualified inspection firm to conduct an

environmental audit. The cost of the environmental audit shall generally be an expense of the donor.

Where appropriate, a title binder shall be obtained by First Austin prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor.

Prior to acceptance of the real property, the gift shall be approved by the GARP and by First Austin's legal counsel. Criteria for acceptance of the property shall include:

- Is the property useful for the purposes of First Austin?
- Is the property marketable?
- Are there any restrictions, reservations, easements, or other limitations associated with the property?
- Are there 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?

The congregation retains exclusive authority, per Article V of the bylaws, to "buy or sell any interest in real estate" and to "mortgage, encumber, or commit any asset owned by the Congregation." Therefore, the congregation would have to approve the acceptance of any gift of real estate if it came with mortgages or encumbrances. Likewise, should the executive choose to sell of the property after receipt, the congregation would have to approve such a sale.

- e. Remainder Interests in Property: First Austin will accept a remainder interest in a personal residence, farm, or vacation home subject to the provisions of the above paragraph on real estate. 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, First Austin may use the property or reduce it to cash. Where First Austin receives a gift of the remainder interest, expenses for maintenance, real estate taxes and any property indebtedness are to be paid by the donor or primary beneficiary.

The congregation retains exclusive authority, per Article V of the bylaws, to "mortgage, encumber, or commit any asset owned by the Congregation." Therefore, the congregation would have to approve the acceptance of any remainder interest in real estate.

- f. Oil, Gas, and Mineral Interest: First Austin may accept oil and gas property interests, where appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the GARP, and if necessary, by legal counsel. Criteria for acceptance of the property shall include:
- Gifts of surface rights should have a value of \$20,000 or greater.
  - Gifts of oil, gas and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).

- The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
  - If the interest is a working interest, the organization should determine the impact on First Austin so that it may develop a plan to minimize that impact if accepted.
  - The property should undergo an environmental review to ensure that First Austin has no current or potential exposure to environmental liability.
- g. Bargain Sales: First Austin will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of First Austin. All bargain sales must be reviewed and approved by the GARP. Factors used in determining the appropriateness of the transaction include:
- First Austin must obtain an independent appraisal substantiating the value of the property.
  - If First Austin assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
  - First Austin 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.
  - First Austin must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.
- h. Life Insurance: First Austin must be named as owner (and beneficiary) of an insurance policy before a life insurance policy can be recorded as a current and outright gift. Insurance policies are valued at the interpolated terminal reserve value if ongoing premiums are required. However, the donor's deduction is based on the lesser of the policy's fair market value or cost basis. (Policies that are contractually paid-up are rare and have different valuation and deduction amounts.) If the donor contributes future premium payments, First Austin will designate the additional premium payment 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, First Austin may:

- Continue to pay the premiums
  - Convert the policy to fully paid up life insurance
  - Surrender the policy for its current surrender cash value
- i. Charitable Gift Annuities: First Austin may offer charitable gift annuities. The minimum gift for funding shall be \$50,000. The GARP may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries can be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The GARP may approve exceptions to this payment schedule.

First Austin will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. First Austin may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5-year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the GARP approves the arrangement.

Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to such specific fund as designated by the donor (or, in the absence of a donor designation, the funds shall be handled according to the church's policy for unrestricted bequests).

- j. Charitable Remainder Trusts: First Austin may accept a designation as remainder beneficiary of the charitable remainder trust. First Austin will not accept appointment as Trustee of a charitable remainder trust.
- k. Charitable Lead Trusts: First Austin may accept a designation as income beneficiary of a charitable lead trust. First Austin will not accept an appointment as Trustee of a charitable lead trust.
- l. Retirement Plan Beneficiary Designation: Donors and supporters of First Austin shall be encouraged to name First Austin as beneficiary of their retirement plans. Such designations shall not be recorded as gifts to First Austin until such time as the gift is irrevocable. Where the gift is irrevocable (i.e., upon death), but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
- m. Bequests: Donors and supporters of First Austin shall be encouraged to make bequests to First Austin under their wills and trusts. Such bequests shall not be recorded as gifts to First Austin until such time as the gift is irrevocable (i.e., upon death). 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.
- n. Life Insurance Beneficiary Designations: Donors and supporters of First Austin shall be encouraged to name First Austin as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as current gifts to First Austin until such time as the gift is irrevocable (i.e., upon death). 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.

## **7. Miscellaneous Provisions**

- a. Securing appraisals and legal fees for gifts to First Austin: It shall be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all

gifts made to First Austin. First Austin cannot pay for, or provide funds for, the costs of an appraisal or legal fees.

- b. Valuation of gifts for development purposes: First Austin shall record a gift received by First Austin at its valuation for gift purposes on the date of gift.
- c. Responsibility for IRS Filings upon sale of gift items: The Director of Finance & Operations is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within three years of receipt by First Austin where the charitable deduction value of the item was \$5,000 or greater. First Austin must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.
- d. Acknowledgement of gifts made to First Austin and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility the Director of Finance & Operations. IRS Publication 561 Determining the Value of Donated Property and IRS Publication 526 Charitable Contributions are attached to these policies as an Appendix.
- e. Permanently Restricted Gifts: When the church accepts permanently restricted gifts (such as funds whose principal shall never be spent), the Director of Finance and Operations will ensure that a written record of the donor's intent be kept securely on file perpetually. The Director of Finance and Operations shall make assistance with documentation available to donors who wish to make such a gift (e.g., through the provision of a written gift instrument).

[Approved by Meg Barnhouse on 11/14/12.]

**Environmental Review Form 1 of 4: Environmental Interview**

This interview is designed for use with current and/or prior owners or managers of the property.

Date of Interview \_\_\_\_\_ Interviewer \_\_\_\_\_

Person Interviewed \_\_\_\_\_ Relation to Property \_\_\_\_\_

Property Description \_\_\_\_\_

\_\_\_\_\_

Type of Property: Agricultural \_\_\_\_\_ Timber \_\_\_\_\_

Commercial \_\_\_\_\_ Manufacturing \_\_\_\_\_

Age of Buildings \_\_\_\_\_ Undeveloped Land \_\_\_\_\_

Residential \_\_\_\_\_ Other \_\_\_\_\_

Indicate prior uses of property. \_\_\_\_\_

1) Are you aware of any environmentally sensitive situations on the property? No \_\_\_ Yes \_\_\_  
Describe: \_\_\_\_\_

\_\_\_\_\_

2) For uses identified in question 1, has an environmental license or permit ever been issued?  
No \_\_\_\_\_ Yes \_\_\_\_\_

3) Are there any oil, fuel, or chemical storage tanks on the property located above or below  
ground? \_\_\_ No \_\_\_ Yes

4) Has an environmental assessment been previously conducted?

No \_\_\_\_\_ Yes \_\_\_\_\_ If yes, provide a copy of the report.

5

) If available, attach maps or surveys that describe the property to this questionnaire.  
attached \_\_\_\_\_ none available \_\_\_\_\_

If you are unable to furnish the information requested above, please advise us if there is a reliable  
source that may be able to furnish this information.



**Environmental Review Form 2 of 4:  
Property Inspection Checklist For Current Environmental Conditions**

Name of Inspector \_\_\_\_\_ Date of Inspection \_\_\_\_\_

Owner of Property \_\_\_\_\_ Estimated Size \_\_\_\_\_

Location of Property \_\_\_\_\_ Current Use \_\_\_\_\_

Number of years the current use has been in effect \_\_\_\_\_

Brief history of property use (list past use, former tenants, and source of information) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



**Environmental Review Form 4 of 4: Evaluation Of Known Environmental Factors**

Check the appropriate response to each statement based on all sources of information, including the Environmental Site Inspection Checklist.

	Yes	No
This property (or adjacent property) appears on federal, state, or other environmental agency list of sites identified for environmental investigation or cleanup.		
This property is developed and used for an industrial or manufacturing purpose.		
This property is undeveloped land used for landfill or waste dump purposes.		
The prior, current, or proposed use of this property involves the generation, storage, treatment, or disposal of any potentially hazardous materials, oil/petroleum products, or other substances regulated by environmental laws and agencies. Specify: _____		
Activities on adjacent properties may have contributed to the environmental contamination of the subject property.		
This property is near a flood plain, wetland, or ecologically sensitive area.		
The Environmental Site Inspection revealed evidence of possible environmental contamination.		
The donor has revealed potential sources or causes of environmental contamination.		
This property is used for agricultural purposes.		
Based on the evaluation of known environmental factors, there is no evidence of possible environmental contamination on this or neighboring properties and no further action is recommended.		
Based on the evaluation of known environmental factors, there is evidence of possible environmental contamination on this or neighboring properties and further investigation is recommended.		

Recommendations: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Person Completing Form

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Acceptance of Form Approved By

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Addendum 1: In Kind Memorial Gifts Policy

This policy governs in kind memorial gifts to First Unitarian Universalist Church of Austin. This refers to any kind of in kind (non-cash) gift to the church, including trees, benches, or other items in memory of a deceased person. These sorts of gifts deserve special consideration by the church due to the emotional importance attached to them and the frequent expectation that the church will maintain and care for such items for many years, sometimes even perpetually.

All in kind memorial gifts to First Unitarian Universalist Church of Austin must be approved by the Management Team.

The Management Team encourages gifts that directly enhance our ability to live out our mission and which enhance our property. Such gifts include benches, musical and audio equipment, and other items which are easily moved and maintained.

The Management Team discourages gifts that do not enhance our ability to live out our mission or which may complicate future facility needs. Such gifts include trees, permanent installations, full-sized pipe organs, Ferris wheels, items which require special care and maintenance, or other items that are not easily moved.

This policy does not cover gifts of cash (or cash equivalent). It does not cover the gifts for the butterfly memorial sculpture. The Management Team strongly encourages all such gifts.

[Last updated by S Hale for Meg Barnhouse on 2/12/2014]