

# First Baptist Church Keller

## Legacy Giving Ministry

### **LEGACY GIVING MINISTRY POLICY**

#### **THE MISSION**

The mission of the FBC Keller Legacy Giving Ministry is to encourage the members and supporters of FBC Keller (the “Church”) to be good stewards of the financial blessings God has given them by providing an opportunity for them to support the ministry of this Church through current gifts, planned gifts, and estate gifts.

#### **LEGACY GIVING COMMITTEE**

##### *Purpose*

The Legacy Giving Committee will administer the Legacy Giving Ministry of the Church. It shall also be the duty of the Committee, in cooperation with the Stewardship or Finance Committee, to promote the activities and advancement of the Legacy Giving Ministry before the congregation throughout the year. This will be accomplished by pastoral reports to the congregation, education programs, and other special events. The goal of these activities will be to promote giving opportunities and to show the potential impact of Legacy Giving.

##### *Membership*

The Committee shall consist of seven (7) members from other leadership positions in the Church. The seven (7) committee members are as follows: Senior Pastor, Business Administrator, Chairman of Long Range Planning Committee, Chairman of Finance Committee, Chairman of Deacons, Chairman of Properties Committee, and Vice Chairman of Deacons. If at anytime during the existence of the Committee there shall be less than seven (7) members for any reason, the Committee shall continue to operate and conduct its business in the voting protocols set forth below and endeavor to return the Committee to the seven (7) members as set forth above as soon as practicable. Each member of the Committee shall complete a Conflicts of Interest Policy and Disclosure Statement informing the Church of any potential for a conflict of interest as it regards service on the Committee in accordance with the laws then existing and the stated policies, procedures, and bylaws of the Church

#### **ACCEPTANCE OF GIFTS**

The Legacy Giving Committee shall decide whether or not to accept gifts offered to the Church in accordance with the FBC Keller Legacy Giving Ministry Gift Acceptance Policy.

## **GIFTS: DEFINITIONS AND GIFT CLASSIFICATIONS**

For purposes of this Policy, gifts to the Church are classified as either present gifts or legacy gifts. A gift in trust may result in a present gift or a legacy gift, depending on the terms of the trust instrument.

### **Gift Instrument**

For purposes of this Policy, a “gift instrument” is a record or records, including a solicitation by the Church, under which cash or other property is granted to, transferred to, or held by the Church. For these purposes, the term “record” is an expansive concept and includes information that is inscribed on a tangible medium that is stored in an electronic or other medium and is retrievable in perceivable form. The term includes a will, deed, grant, conveyance, trust or other gift agreement, or memorandum, and also includes writings that do not have a donative purpose (for example, a canceled check with a notation could be a gift instrument or one of several records constituting a gift instrument).

### **Present Gifts**

Present gifts are those gifts, separate from a member’s tithe or annual regular gifts, given to the Church to support the operation of the Church. Present gifts do not include gifts that, under the terms of the gift instrument, limit the Church’s ability to make expenditures on a current basis.

All present gifts are classified as restricted or unrestricted.

#### **Unrestricted Present Gifts**

An unrestricted present gift is a gift given to the Church on which the donor has not placed any restrictions as to the method or purpose of expenditure, leaving the Church to determine the appropriate use of such funds in accordance with the provisions of this Policy.

#### **Restricted Present Gifts**

A restricted present gift is a gift made by a donor for a specified purpose, but that does not otherwise limit the Church’s ability to use the gift to make expenditures on a current basis.

### **Legacy Gifts**

A legacy gift is a gift where the terms of the gift instrument limit the Church’s ability to make expenditures on a current basis.

### **Gifts in Trust**

Any person may set up a Trust Fund which produces income that benefits FBC Keller Church.

In the best interest of both the Church and the donor, it is strongly encouraged that the donor discuss the purpose and conditions of the trust with the Legacy Giving Committee for approval prior to making any Gift in Trust.

All trusts supporting FBC Keller should include language that allows the Church to be the “Best Steward” possible. “Best Steward” sample language:

*In order to allow FBC Keller to be the best steward of the income it receives from this trust, the Legacy Giving Committee may, in its sole discretion use any income above and beyond what is needed to fulfill the intent of the trust for purposes that best serve the ministry of the church, provided such purposes are consistent with the Church’s Statement of Faith and its charitable purpose.*

The steps for establishing a Trust Fund are as follows:

1. The donor should write a one-page proposal explaining the purpose and conditions of the trust.
2. The donor should submit the proposal to the Legacy Giving Committee for approval.
3. The Legacy Giving Committee should respond in writing with its decision to approve, alter, or decline the proposal for the new trust. The Legacy Giving committee has permission to reject, or to suggest alternations to, any proposal submitted that is not in the Church’s best interests or does not further the charitable purposes of the Church.
4. Once the donor and Legacy Giving Committee have reached agreement on the terms of the trust, then the donor and two representatives of the Legacy Giving Committee should sign a Letter of Agreement.

The Letter of Agreement establishing a Trust Fund should state that the Church is willing to accept the gift in trust, and will do its best to administer the trust according to this *Legacy Giving Ministry Policy*, any amendments thereto, and the agreed-upon purpose and conditions of the trust. The Letter of Agreement should include the “Best Steward” language set forth above. The Letter of Agreement should also include language stating that, if cumulative contributions to the trust (by the donor or others) do not reach or exceed \$10,000 within five (5) years after the date on which the Letter Agreement is signed, then the Legacy Giving Committee has the authority and full discretion to distribute the full balance of the Trust Fund to the current ministry line-item of the Church’s budget that best furthers the intent of the trust.

#### Honorary / Memorial Trusts

Honorary and Memorial Trusts may be established to benefit the ministries of FBC Keller.

Honorary and Memorial Trusts provide supporters of FBC Keller the opportunity to honor or remember significant individuals by establishing the trust with the name of the individual(s). Example: *John and Mary Doe Missions Trust Fund*.

All Honorary and Memorial Trusts must conform to the requirements discussed above in the *Gifts in Trust* section, and should include the “Best Steward” language.

The Church’s use of the principal and income of Honorary and Memorial Trusts may be restricted or unrestricted.

### Special Purpose Trusts

Special Purpose Trusts may be established to benefit the ministries of FBC Keller.

Special Purpose Trusts provide supporters of FBC Keller the opportunity to provide ongoing financial support to areas of ministry for which God has laid on their heart. Example: *FBC Keller Missions Trust Fund*.

Special Purpose Trusts must conform to the requirements discussed above in the *Gifts in Trust* section, and should include the “Best Steward” language.

Income from Special Purpose Trusts will be restricted to the intended purpose except when the “Best Steward” language may apply.

## **STANDARDS OF CONDUCT IN ADMINISTERING, MANAGING, AND INVESTING GIFT FUNDS**

Except as otherwise provided in a Letter of Agreement establishing a Trust Fund or other accepted trust instrument, and unless delegated to an external investment manager in accordance with the delegation provisions set out below, the Legacy Giving Committee, in its sole discretion, shall have the authority to select the institution(s) where one or more trust accounts shall be established for gifts in trust given to FBC Keller.

With respect to gifts not made in trust, and as provided for in more detail below, gifts made to the Church shall be directed either to the Church Opportunity Fund or to the Church Legacy Fund, except as otherwise provided in a gift instrument. Unless delegated to an external investment manager in accordance with the delegation provisions set out below, and except as otherwise provided in a gift instrument, the Legacy Giving Committee shall have the authority to select the institution(s) where one or more accounts shall be established. The specific purpose of each account shall be stated. All gifts given to the Church Opportunity Fund or the Church Legacy Fund shall be invested in the appropriate account or accounts established by the Legacy Giving Committee.

Consistent with Section 163.004 of Title 10, Chapter 163 of the Texas Property Code (the “Uniform Prudent Management of Institutional Funds Act”), and subject to the intent of a donor expressed in a gift instrument, in administering, managing, or investing either the Church Opportunity Fund or the Church Legacy Fund, the Legacy Giving Committee shall consider the mission and ministries of the Church and the purposes of the Fund. In addition to complying with the duty of loyalty imposed by state law, each member of the Legacy Giving Committee

shall: (i) administer, manage, or invest the Fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and (ii) make a reasonable effort to verify facts relevant to the management and investment of the Fund. If a member of the Legacy Giving Committee has special skills or expertise, or is selected in reliance upon such member's representation that the member has special skills or expertise, he or she has a duty to use those skills or expertise in administering, managing, or investing the Fund. The Legacy Giving Committee may incur only costs that are appropriate and reasonable in relation to the assets in the Fund, the purposes of the Church, and the skills available to the Church.

Except as otherwise provided in a gift instrument, in administering, managing, or investing assets in either the Church Opportunity Fund or the Church Legacy Fund, the Legacy Giving Committee must consider all of the following factors, if relevant: (i) general economic considerations; (ii) the possible effect of inflation or deflation; (iii) the expected unrelated business income (or other) tax consequences, if any, of investment decisions and strategies; (iv) the role that each investment or course of action plays within the overall investment portfolio of the Fund; (v) the expected total return from income and the appreciation of investments; (vi) the other resources of the Church; (vii) the needs of the Church and the Fund to make distributions and to preserve capital; and (viii) an asset's special relationship or special value, if any, to the charitable purposes of the Church.

Except as otherwise provided in a gift instrument, management and investment decisions about an individual asset must be made not in isolation, but rather in the context of a Fund's portfolio of investments as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the Fund and the Church. Except as otherwise provided in a gift instrument, a Fund's investments shall be diversified, unless the Legacy Giving Committee reasonably determines that, because of special circumstances, the purposes of the Fund are better served without diversification. Within a reasonable time after receiving a non-cash gift, and subject to any provisions in a gift instrument, the Legacy Giving Committee shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the Fund into compliance with the purposes, terms, and distribution requirements of this Policy as necessary to meet other circumstances of the Church and the requirements of this Policy.

### **DELEGATION PERMITTED**

The Legacy Giving Committee may delegate to an external investment manager the management and investment of the Church Opportunity Fund and the Church Legacy Fund. The Legacy Giving Committee shall act in good faith, with the care that an ordinary prudent person in a like position would exercise under similar circumstances, in selecting an agent and in establishing the scope and terms of the delegation consistent with the purposes of the Church and the Fund(s). The Legacy Giving Committee shall periodically review the actions of any external investment manager chosen by the committee in order to monitor the manager's performance and compliance with the terms of the delegation.

## **ADMINISTRATION AND DISTRIBUTION OF PRESENT GIFTS**

### **In General**

Unrestricted Present Gifts. The Legacy Giving Committee of the Church will direct all unrestricted present gifts to the Church Opportunity Fund. The Legacy Giving Committee has authority to decline any unrestricted present gifts it feels are not in the best interest of the Church or consistent with the stated policies of the Church.

Restricted Present Gifts. Restricted present gifts should be clearly designated by the donor in a gift instrument as intended to support a current ministry line-item of the Church's budget or a current fundraising emphasis. Any restricted present gifts supporting ministry opportunities apart from those included in the Church's current ministry line-item budget must be approved by the Legacy Giving Committee.

The Legacy Giving Committee has the authority to decline any restricted present gifts it feels are not in the best interest of the Church or consistent with the stated policies of the Church.

Present Gifts in Trust. Any gifts received from trusts that have no designation or restrictions on the use of the trust funds will be administered as a gift to the Church Opportunity Fund. A copy of this Policy should be given to any donor making a gift through or from a trust that has no designations or restrictions as to the use of the gift.

Under-Funded Trusts. Where a Letter of Agreement memorializing a trust includes language stating that, if cumulative contributions to the trust (by the donor or others) do not reach or exceed \$10,000 within five (5) years after the date on which the Letter Agreement is signed, then the Legacy Giving Committee has the authority and full discretion to distribute the full balance of the Trust Fund to the current ministry line-item of the Church's budget that best furthers the intent of the trust.

### **Church Opportunity Fund**

#### *Purpose of the Church Opportunity Fund*

The Church Opportunity Fund is a general purpose ministry fund created to allow supporters of FBC Keller to make gifts that will be immediately available for use by the Church. This Fund is established to receive planned and estate gifts. It is not intended that a Church member's tithe or current gifts to the Church's annual ministry budget will be made to this Fund.

#### *Administration of the Church Opportunity Fund*

The management, guidance, and administrative oversight for the Church Opportunity Fund shall be the responsibility of the Legacy Giving Committee. The Legacy Giving Committee will work in conjunction with the Pastor and Church staff to ensure that awareness of the Church Opportunity Fund is created throughout the year. All gifts made to the Church Opportunity Fund shall be accepted subject to the terms and

limitations set forth in this document and Legacy Giving Ministry Gift Acceptance Policy. The Legacy Giving Committee has the authority to decline a gift to the Church Opportunity Fund.

#### Investment of Church Opportunity Fund

The Church Opportunity Fund's general investment objectives are:

1. Preservation of principal;
2. Liquidity of funds; and
3. Return on investment.

#### Distributions from the Church Opportunity Fund

All gifts in the Church Opportunity Fund shall be distributed by the Legacy Giving Committee as follows:

10% to the Cooperative Program  
15% to Special Projects and/or Budget  
25% to Missions and/or Evangelism  
50% to Facilities, Capital Improvements, and/or Debt

The Legacy Giving Committee may, with advance approval from the Church, and subject to any conditions (including limitations as to duration) imposed by the Church, direct all gifts received into the Church Opportunity Fund differently than the percentages listed above if it best serves the current needs of the Church.

#### Amendments

Technical corrections and amendments to the Church Opportunity Fund, which do not alter the stated purpose of the Church Opportunity Fund, may be made by a 2/3 vote of the Church's members present in a regular or called business meeting.

### **ADMINISTRATION AND DISTRIBUTION OF LEGACY GIFTS**

#### **Church Legacy Fund**

##### Purpose of the Church Legacy Fund

The *Church Legacy Fund* is a permanent endowment fund created to allow supporters of FBC Keller to make gifts that will be held in a perpetual fund with the income generated going to support the mission and ministry of the Church. This Fund is established to receive planned and estate gifts. It is not intended that a member's tithe or current gifts to the Church's annual ministry budget be made to this Fund.

##### Administration of the Church Legacy Fund

The management, guidance, and administrative oversight for the Church Legacy Fund shall be the responsibility of the Legacy Giving Committee. The Legacy Giving Committee will work in conjunction with the Pastor and staff to ensure that awareness of the Church Legacy Fund is created throughout the year. All gifts made to the Church Legacy Fund shall be accepted subject to the terms and limitations set forth in this document and the Legacy Giving Ministry Gift Acceptance Policy. All gifts to the the Church Legacy Fund must be designated by the donor or gift instrument. The Legacy Giving Committee has the authority to decline a gift to the Church Legacy Fund.

#### Investment of Church Legacy Fund

The Church Legacy Fund's general investment objectives are:

1. Preservation of principal;
2. Predictable income stream;
3. Growth of income and principal above that necessary to offset the cost of living; and
4. Investment of assets in institutions, companies, corporations or funds that are investment grade and not in opposition to basic Baptist values and beliefs.

#### Distribution of Income from the Church Legacy Fund

In general, and subject to the percentage limitations discussed below, all income received from the Church Legacy Fund shall be distributed by the Legacy Giving Committee as follows:

- 10% to the Cooperative Program
- 15% to Special Projects and/or Budget
- 25% to Missions and/or Evangelism
- 50% to Facilities, Capital Improvements, and/or Debt

The Legacy Giving Committee may, with advance approval from the Church, and subject to any conditions (including limitations as to duration) imposed by the Church, direct all income from the Church Legacy Fund differently than the percentages listed above if it best serves the current needs of the Church.

#### Limitation on Church Legacy Fund

The Legacy Giving Committee may elect to limit the portion of income from the Church Legacy Fund that may be used in any specified period in order to increase the size of the assets by reinvesting a portion of such income. Once determined, a change in the limitation must be approved by a 2/3 vote of the Legacy Giving Committee.

In general, distributions in any given year from the Church Legacy Fund may not exceed an amount greater than 5% of the fair market value of the Church Legacy Fund (or 7% if the value of the Church Legacy Fund is \$1 million or greater). For purposes of this Policy, "fair market value" is calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately



preceding the year in which the distribution is to be made. This amount is a spending limitation, not a spending requirement.

In making a determination whether to distribute or accumulate funds, the Legacy Giving Committee shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors: (i) the duration and preservation of the Church Legacy Fund; (ii) the purposes of the Church and the Fund; (iii) the current general economic conditions; (iv) the possible effect of inflation or deflation; (v) the expected total return from income and the appreciation of investments; (vi) the other resources of the Church; and (vii) the investment policy of the Church. In applying these factors, the Legacy Giving Committee may determine that a distribution amount of less than 5% (or even no distribution) is appropriate in a given year or years in order to protect the long-term purchasing power of the Church Legacy Fund.

In appropriate circumstances, upon recommendation by the Legacy Giving Committee, supported by an opinion of counsel concluding that the recommendation is consistent with the requirements of the Uniform Prudent Management of Institutional Funds Act, annual distributions from the Church Legacy Fund may exceed the percentage limitation set forth above if the recommendation is approved by a vote at a duly called business meeting in accordance with the Bylaws of the Church.

In particular, provided this recommendation and approval procedure is followed, the Legacy Giving Committee may borrow from the Church Legacy Fund to fund special projects in the life of the Church if the following conditions are met:

1. The Church must have approved a reasonable repayment plan that can replenish the amount borrowed from the Fund within ten years; and
2. The amount that is borrowed from the Church Legacy Fund does not total more than 50% of Church Legacy Fund's value at the time the loan is made.

#### Amendments

Technical corrections and amendments to the Church Legacy Fund, which do not alter the stated purpose of the Church Legacy Fund, may be made by a 2/3 vote of the Church's members present in a regular or called business meeting.

#### **Reporting Policy**

At least annually, the Legacy Giving Committee shall make a report to the Church concerning the Church Legacy Giving Ministry and the distributions from the Church Opportunity Fund and Church Legacy Fund. The report shall also describe the performance of the Church Legacy Fund. The report should also include a description of how the mission of the Church has been advanced by the donations made through the Legacy Giving Ministry and to the Church Opportunity Fund and the Church Legacy Fund.

The report should include the following specific information: beginning and ending balances; amount of income earned; average total return; amounts withdrawn; and the amount of donations to and through the Church Opportunity Fund and the Church Legacy Fund.

### **Cost of Administration**

Reasonable costs incurred by the Church to maintain, administer, and manage the Church Opportunity Fund and the Church Legacy Fund, and the Legacy Giving Ministry generally, shall be paid from the investment revenues generated from the Funds.

### **Limitation of Liability**

In the absence of gross negligence or fraud, no member of the Legacy Giving Committee of FBC Keller shall be personally liable for any action taken, error, or omission with respect to the Legacy Giving Ministry, the Church Opportunity Fund, and/or the Church Legacy Fund, and shall be held harmless for such actions, errors, or omissions at all times for any reason.

### **Severability**

If any provisions or any application of any provisions of this Policy, or the establishment and operation of the Church Opportunity Fund and/or the Church Legacy Fund, shall be held or deemed to be or shall be illegal, inoperative or unenforceable, the same shall not affect any other provisions or any application of any provisions herein contained or the same invalid, inoperative, or unenforceable.

***Approved by the Church: MM/DD/YYYY***

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**This sample policy is not intended to provide legal, accounting, investment, or other professional advice. Before your organization adopts this sample policy, you should seek the independent advice of a competent professional or professionals to ensure it is appropriate for your organization to adopt such a policy, and to determine whether the policy needs to be amended in any respect to conform with your organization's existing policies and procedures and applicable local, state, and federal laws.**