

San Luis Obispo County Community Foundation
**Advised Pass-Through
Fund Agreement**

THIS AGREEMENT, made and entered into on [REDACTED], 2003 by and between the SAN LUIS OBISPO COUNTY COMMUNITY FOUNDATION, INC. (the "Foundation") and [REDACTED] (the "Donor").

WITNESSETH:

WHEREAS, the Donor desires to have established in the Foundation an advised passthrough fund designated [REDACTED] with respect to which the donor can recommend recipients of charitable grants; and

WHEREAS, the Foundation is a nonprofit public benefit corporation exempt from taxation under Internal Revenue Code ("Code") section 501(c)(3), a public charity described in section 170(b)(1)(A)(vi) of the Code, and accordingly an appropriate institution within which to establish such a charitable endowment; and

WHEREAS, the Foundation is willing and able to create such a fund, subject to the terms and conditions hereof,

NOW THEREFORE, the parties agree as follows:

- I. GIFT AND NAME OF THE FUND. Donor hereby transfers irrevocably to the Foundation the property described in the attached Exhibit A to establish in the Foundation the Fund. Subject of the right of the Foundation to reject any particular gift, the Foundation may receive additional irrevocable gifts of property acceptable to the Foundation from time to time from Donor and from any other source to be added to the Fund, all subject to the provisions hereof all grants, bequests, and devises to this Fund shall be irrevocable once accepted by the Foundation.
2. PURPOSE. The primary purpose of the Fund shall be to provide support as directed by the Board of Directors (the "Board") for [REDACTED].
3. DISTRIBUTION. The annual earnings allocable to the Fund, net of the fees and expenses set forth in paragraph 11, and principal, to the extent expressly permitted by this Agreement or the gift instrument, may be committed, granted, or expended only for purposes described in Code section 170(c)(1) or (2)(B); provided, however, that such purposes are consistent with the exempt status and purposes of the Foundation. If any gifts to the Foundation for the purposes of the Fund are received and accepted subject to a Donor's conditions or restrictions as to the use of the gift or income therefrom, said conditions or restrictions will be honored, subject, however, to the authority of the Foundation's Board to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Foundation's Board unnecessary, incapable of fulfillment or inconsistent with the charitable or other exempt purposes of the Foundation or needs of the community served by the Foundation. No distribution shall be made from the Fund to any individual or entity if such distribution will in the judgment of the Foundation endanger the Foundation's Code section 501(c)(3) status.

4. RECOMMENDATIONS FOR DISTRIBUTION. Subject to the Foundation's principles and procedures for advised funds, the commitments, grants, or expenditures from the Fund contemplated in paragraph 3 shall be made at such time or times and in such amount or amounts as may be determined solely by the Foundation for such purposes described in paragraph 3 as may be designated by the Foundation ; provided, however, that Donor may from time to time submit to the Foundation the specific charitable or other exempt purposes or the names of specified organizations or individuals for or to which is recommended that distributions be made. All recommendations from Donor shall be solely advisory, and the Foundation may accept or reject them, applying reasonable standards and guidelines with regard thereto. If Donor is married and Donor's spouse does not desire to serve as an advisor, Donor's spouse is requested (but not required) to sign a Spousal Consent as an addendum to this Agreement. If both spouses sign this Agreement as Donor, each shall equally advise as to Fund distribution. After the death of Donor or the survivor of Donor and Donor's spouse, as appropriate, the Board of the Foundation shall itself serve as the advisor of the Fund,
5. ADMINISTRATIVE PROVISIONS. Notwithstanding anything herein to the contrary, the Foundation shall hold the Fund, and all contributions to the Fund, subject to the provisions of the applicable state and federal laws and the Foundation's Articles of Incorporation and Bylaws. The Board shall direct or monitor the distribution of the Fund to ensure it is used exclusively for charitable or other exempt purposes within the meaning of Code section 170(c)(1) or (2)(B), and shall have all powers of modification and removal specified in United States Treasury Regulations Section 1.170A-9(e)(1)(v)(B).

The Board agrees to provide the Donor a copy of the annual examination of the finances of the Foundation as reported upon by independent certified public accountants.

6. CONDITIONS FOR ACCEPTANCE OF FUNDS. The Donor agrees and acknowledges that the establishment of the Fund herein created is made in recognition of and subject to, the terms and conditions of the Articles of Incorporation and Bylaws of the Foundation as from time to time amended, and that the Fund shall at all times be subject to such terms and conditions, including, but not by way of limitation, provisions for:
 - (a) Presumption of donors' intent;
 - (b) Variance from donors' direction;
 - (c) Amendments.
7. CONTINUITY OF THE FUND. The fund shall continue so long as assets are available in the Fund and the purposes in the Fund can be served by its continuation. If the Fund is terminated, the Foundation shall devote any remaining assets in the Fund exclusively for charitable or other exempt purposes that:
 - (a) are within the scope of the charitable or other exempt purposes of the Foundation's Articles of Incorporation; and,
 - (b) most nearly approximate, in the good faith opinion of the Board, the original purpose of the Fund.

8. NOT A SEPARATE TRUST. The Fund shall be a component part of the Foundation. All money and property in the Fund shall be held as general assets of the Foundation and not segregated as trust property of a separate trust; provided that for purposes of determining the share of the Foundation's earnings allocable to the Fund and the value of the principal of the Fund, the interest of the Fund in the general assets of the Foundation shall be a percentage determined by dividing the gift to the Fund by the then value of the total assets of the Foundation, such percentage interest being subject to adjustment at the time of each addition to or reduction of the assets of the Foundation,
9. ACCOUNTING. The receipts and disbursements of this Fund shall be accounted for separately and apart from those of other gifts to the Foundation.
10. INVESTMENT OF FUNDS. The Foundation shall have all powers necessary, or in its sole discretion desirable, to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest, and reinvest the Fund and the power to commingle the assets of the Fund with those of other funds for investment purposes.
11. COSTS OF THE FUND. It is understood and agreed that the Fund shall share a fair portion of the total investment and administrative costs of the Foundation. Those costs annually charged against the Fund shall be determined in accordance with the then current fee schedule identified by the Foundation as applicable to funds of this type. Any costs to the Foundation in accepting, transferring, or managing property donated to the Foundation for the Fund shall also be paid from the Fund.

IN WITNESS WHEREOF, the Donor has executed this Agreement and the Foundation has caused this Agreement to be approved by its Board and to be executed by a duly authorized officer, all as of the day and year first above written.

Donor: 


Date

SAN LUIS OBISPO COUNTY COMMUNITY FOUNDATION

Julian Crocker, President

David Edwards, Executive Director

Approved by the San Luis Obispo County Community Foundation Board of Directors on _____