

# BUILDING FOR THE FUTURE:

## A GUIDE TO ESTABLISHING AN ENDOWMENT FOR YOUR NONPROFIT ORGANIZATION

San Luis Obispo County Community Foundation promotes philanthropy and makes community-building grants in San Luis Obispo County. These grants help communities in the County address their unique challenges, as well as create a stronger public benefit sector. We are a "donor-driven" organization and work to help donors achieve their charitable giving *and* financial goals. We can set up many different types of endowed funds, and donors can stay actively involved by recommending where the earnings on their fund should be distributed. Endowment funding is a lasting force because every dollar donated is preserved, not spent. For example, if we existed in 1950 and you made a one-time gift of \$10,000, the fund would be worth over \$60,000 today. Most importantly, *it would have generated over \$75,000 in total grants during that time.*

SAN LUIS OBISPO COUNTY  
 COMMUNITY  
FOUNDATION

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*Turning Passion into Action*

# BUILDING FOR THE FUTURE

*Building for the Future* is the Community Foundation's program to help nonprofit organizations create permanent endowments and add to their current endowment funds. It is part of our overall effort to build philanthropy in the communities of San Luis Obispo County.

The program includes:

- Materials, available in print and on our website, [www.sloccf.org](http://www.sloccf.org).
- The opportunity to establish a permanent, irrevocable endowment fund at the Foundation.
- Planned giving expertise for development staff, donors and professional advisors.
- Consultations with donors to help them identify philanthropic goals and strategies.
- Information for professional advisors and their clients about philanthropy's role in estate planning.

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For more information:  
 Barry VanderKelen  
 Executive Director  
 San Luis Obispo County Community Foundation  
 1401 Higuera Street  
 San Luis Obispo, CA 93401  
 Phone: 805-543-2323  
 Fax: 805-543-2346  
[barry@sloccf.org](mailto:barry@sloccf.org)  
[www.sloccf.org](http://www.sloccf.org)

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**S**ometime during the life of a nonprofit organization, a board member, donor or executive director will want to discuss the possibility of establishing an endowment.

This important step for your organization may not only bring in additional dollars, but also demonstrates your long-term commitment to the community and the foresight to stabilize your funding base. However, your board and staff must carefully assess their readiness to take such a step, your organization's capacity to maintain the long-term effort required, and the legal requirements involved. The San Luis Obispo County Community Foundation has created this guide to help your organization think through these issues. We encourage you to contact us if you need further clarification or have questions.

### **WHAT IS AN ENDOWMENT?**

An endowment is a fund established by a donor or donors in which the original and subsequent contributions are held in perpetuity or for a specific term of years. It is invested to provide regular, predictable income for a specified charitable purpose and to maintain or increase its purchasing power. The contributions are not spent; usually only a portion of the earnings is expended.

### **WHAT IS THE DIFFERENCE BETWEEN A CASH RESERVE AND AN ENDOWMENT?**

A cash reserve is a board-designated fund, which may act like an endowment because an organization chooses not to spend the contributions. However, both the contributions and earnings are available to meet emergency needs should the board choose to use them. Usually cash reserves are managed and invested by the organization's staff and board. Reserves of at least 25% to 50% of the annual operating budget, less depreciation are often recommended. It is wise for nonprofit organizations to establish cash reserves as part of their financial planning, prior to creating an endowment.

An endowment, on the other hand, is a fund comprised of contributions the organization is not able to spend. Sometimes this can be accomplished by placing the endowment with a third party such as a community foundation, trust company or trust department of a bank.

Because of the substantial difference in purpose between an endowment and a cash reserve, it is important to be very clear about a donor's intent for their contribution. Is it for operations, program or capital expenses, to build a cash reserve, or for a permanent endowment? If a donor's preference is not honored, you may be legally vulnerable.

## WHY SHOULD AN ORGANIZATION HAVE AN ENDOWMENT?

An endowment:

- Augments existing contributed and earned income.
- Increases the diversity of revenue to enhance your financial stability.
- Creates earnings to be directed as needed for operations, program or facility, unless restricted by the donor.
- Allows donors of all income levels to make a lasting gift to your organization.
- Demonstrates that your organization has made a long-term commitment to the community, thereby encouraging donors to make a permanent gift.
- Works well in combination with annual and capital funding appeals.
- Provides donors with the opportunity to increase their support and to help an organization in the way which most appeals to them.
- Provides additional ways a donor can make a gift, e.g., through a bequest or other planned gift.\*
- Provides additional development opportunities such as the creation of “legacy” societies and featuring donors, who make endowment gifts, in newsletters and other publications.

*\* A planned gift usually provides a future gift to a charity, while providing income to a donor. It is often made from a donor’s assets, rather than annual discretionary income, and is usually created in consultation with a donor’s professional advisors to take estate and tax planning into account. Examples include charitable remainder trusts, charitable lead trusts, charitable gift annuities, and life estates.*

## WHEN IS AN ORGANIZATION READY TO ESTABLISH AN ENDOWMENT?

Endowment development is a long-term funding strategy, with results often seen only after three or more years. Therefore, it is critical to assess whether your organization will benefit sufficiently from an endowment’s income to justify the effort required to establish and build it. Experience within the philanthropic community suggests that organizations work to receive between 10 and 20 percent of its operating budget from an endowment.

The size of the endowment that must be created to meet this goal is often larger than originally anticipated. This is because only a portion of an endowment’s earnings may be used to help meet organizational expenses. The balance of earnings is often used to counteract the effects of inflation and to pay for investment and administrative fees. (See discussion about **spending policy** on page 8).

Experience has shown that organizations with the following characteristics have a better chance of success in reaching their endowment goals. Prior to launching an endowment development effort, it is worthwhile to assess your areas of strength and weakness and, if necessary, devise a plan to build your organization’s capacity, i.e. your skills, knowledge and resources.

**Longevity and Service:** To attract the large gifts necessary, it is essential that the organization have a track record of outstanding performance and service to the community, as well as the

capacity to adapt to changing priorities and needs in its field. Organizations that focus on short-term causes, particular events, or for which there is not a permanent need, are usually not candidates for endowments.

**Leadership:** There should be strong leadership and experienced management, an active board that truly governs the organization and has the capacity to identify, cultivate and solicit endowed gifts, and a history of at least one successful leadership transition and board succession.

**Financial Stability and Accountability:** Over several years, income should equal or exceed expenses, and there should be fiscal accountability, with annual outside audits.

The organization should also have created both short- and long-term cash reserves to support its cash flow and emergency needs.

**Capacity:** There must be trained staff and other capacities sufficient to conduct an endowment campaign, while simultaneously raising core and project support.

**Pool of Donors:** Individuals make up the great majority of endowment contributors.

Therefore, it is essential for an organization to have a committed and diversified pool of donors, from which it actively solicits. Ideally, the organization has worked with donors to increase their contributions to annual or capital fund drives and has the potential to raise support from other donors as well.

Organizations need to discuss the possibility of establishing an endowment with current donors, to assess donor interest, and to determine the potential level of financial commitment. This is best achieved through on-on-one discussion and/or focus groups.

**Commitment:** Board and staff must be committed to pursuing an endowment strategy, evidenced by:

- Commitment of the board to creating an endowment.
- Creation of an endowment development committee, the members of which have the required skills, knowledge and willingness to cultivate and solicit donors.
- Earmarking resources for associated costs (materials, communications, training, staffing, etc.).
- Educating themselves and participating in training opportunities.
- Hiring or contracting with staff necessary to support the effort or to free up current staff to focus on endowment development.

## **WHAT LEGAL REQUIREMENTS PERTAIN TO ENDOWMENTS?**

Prior to creating an endowment it is important to be aware of the legal issues pertaining to the establishment and management of endowments to protect your organization, its board members and your donors. Briefly, these fall into three areas:

1. The Permanence of Your Endowment
2. How the Endowment is Invested
3. Maintenance of the Endowment Fund's Historic Value

### **The Permanence of Your Endowment**

**True endowments** are established by donors through an expressly made or implied contract with your organization, which stipulates that the contributions will not be expended and only the earnings will be spent. In some cases, an endowment may be created by a donor to fulfill a special purpose, e.g., to support a particular program.

**Board-designated endowments**, which are established by resolution, are quasi-endowments. While the board can initially plan not to spend the contributions, it can, at some future time, actually do so. An organization may have both types of endowments, but they must be accounted for separately. *However, there is a way for your organization to establish a board-designated endowment and, at the same time, guarantee that the contributions will not be spent.* This is through the use of a third party, which holds and invests the endowment fund.

- Working with a community foundation is an ideal way to meet this objective. By completing a simple fund agreement, and making the minimum contribution a community foundation will create a permanent, inviolable endowment fund on your organization's behalf. It will invest the contributions and provide you with an annual distribution in accordance with the legislation regulating endowments and the foundation's spending policy. The foundation does the record keeping, investment, and distribution of earnings. This frees you to focus on building your endowment and planning how to use the earnings most strategically.
- Another way to assure the permanence of an endowment is for a board to establish a trust with the trust department of a bank or through a trust company. The trust document must specify that the contributions are inviolable with only a portion of the earnings to be spent. Be aware that the minimum investment to establish a trust is usually high and technical assistance services in endowment development are usually not provided.

### **How the Endowment is Invested**

Your endowment must be invested according to the “**prudent investor rule**” of 1992, which contains five basic principles:

- Sound diversification is fundamental to risk management and is therefore ordinarily required of trustees.
- Risk and return are so directly related that trustees have a duty to analyze and make conscious decisions concerning the levels of risk appropriate to the purposes, distribution requirements, and other circumstances of the trusts they administer.
- Trustees have a duty to avoid fees, transaction costs and other expenses that are not justified by needs and realistic objectives of the trust's investment program.
- The fiduciary duty of impartiality requires a balancing of the elements of return between production of income and the protection of purchasing power.
- Trustees may have a duty as well as having the authority to delegate as prudent investors would.

To meet these requirements the endowment will usually be invested in diversified assets to provide current income for the organization, to moderate portfolio volatility and to build the fund to counteract the effects of inflation.

### **Maintenance of the Endowment Fund's Historic Value**

Endowments are governed by the **Uniform Management of Institutional Funds Act**, which requires that expenditures from an endowment fund not reduce the fund below its “**historic value**.” The “historic value” is made up of the value of the original contribution establishing the fund plus the value of subsequent contributions at the time they were made. (See Appendix V)

The governing board of an endowment ideally invests it to:

- allow a distribution to be made for the designated charitable purpose;
- increase the value of the fund to counteract inflation;
- pay investment and administrative fees, if required.

To accomplish this, the governing board must establish both an investment policy and a **spending policy** that take the above goals into account. These policies enable the endowment to build value in good economic times, which protect its value in hard economic times. Research has shown that a spending policy of between 4 - 5 percent of the value of the fund is the maximum that can be sustained and still meet all these goals.

Poor economic times may result in reduced or even negative earnings by the endowment. During these times, the governing board must carefully monitor the current value of the fund and reduce distributions if the fund is in danger of dropping below its historic value. In extreme cases of sustained “down” markets the charitable distribution may have to be discontinued when a fund drops below its historic value.

A board may be tempted to spend from a fund because income from other sources may also be reduced. However, it is prudent to look towards other revenue sources or cost-cutting measures in order to comply with the law.

### **FAS 136**

Agencies who ask the Community Foundation to serve as the fiduciary of an endowment fund need to understand the Financial Accounting Standard 136 (FAS 136). Briefly, in FAS 136 there are two types of funds:

**Agency Funds:** An Agency Fund is established by a nonprofit that transfers certain assets to the Community Foundation and designates itself as the beneficiary of the fund. This type of fund is an asset on the financial statements of the nonprofit, and a liability on the financial statements of the Community Foundation.

**Designated Funds:** Designated Funds receive gifts made by individual donors (third parties) to the Community Foundation for the benefit of a specific nonprofit. Gifts can either pass through this fund or be held permanently in the fund. Some donors direct that only the income from their gift be transferred to the nonprofit rather than the entire gift. When a nonprofit establishes an Agency Fund, the Community Foundation automatically establishes a Designated Fund, a sister fund. The creation of the Designated Fund is the vehicle that allows the Community Foundation to receive gifts directly from individual donors that are given for the benefit of the nonprofit. The creation of the Designated Fund does not require an additional fund agreement.

Key to properly treating donations under FAS 136 is the donor's intent for which organization has variance power over the gift. Variance power is the unilateral power to redirect the use of the transferred assets to another beneficiary, should the gift's original purpose no longer exist. Nonprofits typically have the variance power included in its by-laws or articles of incorporation. The Community Foundation has disclosure of variance power included in fund agreements in addition to its by-laws and articles of incorporation. It is critical to understand donor intent when gifts are received, especially when the gift is for an endowed fund.

## WHERE DO ENDOWMENT GIFTS COME FROM?

Organizations can build endowments from a variety of sources. Some are within the control of an organization, while others, both outright or planned gifts, may be received after extended discussion with prospective donors. Occasionally, gifts may come as a complete surprise. While endowment gifts can come from both current and future assets, often the largest contributions are made after the death of a donor through a bequest or from a charitable trust.

*Cautionary Note - Boards of directors need to be aware of the impact very large individual contributions to an endowment can have on a nonprofit organization's tax status. Such gifts may significantly affect the ability to meet the public support test. This could result in "tipping," either the non-profit organization holding the endowment or a trust established for this purpose, from public nonprofit status to that of a private foundation. Contributing major gifts to an endowment fund established at a community foundation will help avoid this problem.*

### **Current Gifts:**

*Organizations* can build their endowments by:

1. Reinvesting annual distributions of an endowment until the fund reaches a certain value.
2. Contributing a percentage of annual earned revenue, memorial gifts, or gifts over a certain dollar amount.
3. Holding special fund-raising activities to celebrate organizational "milestones" and to highlight challenge grant opportunities, which match contributions to the endowment.

*Individuals* can build endowments through current gifts of:

1. Appreciated property, e.g., securities, which enable a donor to receive a tax deduction and avoid capital gains tax

2. Income from a charitable lead trust established for the donor's lifetime or a specific time period
3. Cash
4. Paid-up, but unneeded, life insurance policies.
5. Income paid to a donor from a charitable remainder trust or gift annuity

### **Future Gifts:**

*Individuals* can also contribute:

1. A bequest contained in a will, which is the most prevalent type of planned gift and the way most people make a significant gift.
2. Life insurance, with the charity made the beneficiary of the policy.
3. IRAs and other retirement funds by naming the charity as the beneficiary.
4. Planned gifts, which make the charity the beneficiary of a trust, annuity, or life estate.

### **HOW DO YOU CREATE AND BUILD AN ENDOWMENT?**

Once your organization has decided to begin its endowment development effort, the following may help you with your planning.

Create an Endowment Development Committee, which will:

- Educate itself about endowments, through training and meeting with representatives of organizations experienced in endowment development.
- Develop a board vote creating the endowment and gift acceptance policies.
- Choose how the endowment will be held and managed.
- Make initial contacts with donors to explore lead gifts and possible challenge grants to stimulate other contributions.
- Set an overall fund-raising goal.
- Determine organizational capacity and choose an appropriate fund-raising strategy.
- Create an endowment-specific marketing plan.
- Identify technical assistance needed to help obtain planned gifts or develop your internal capacity to do so.
- Select and recruit members of the Endowment Fund-raising Committee to implement the strategy.

Create an Endowment Fund-raising Committee, which will:

- Sets the fund-raising goals for campaign components.
- Develops marketing and recognition opportunities.
- Identifies staff and volunteer needs.
- Identifies and meets with prospective donors (individuals, businesses and foundations).
- Identifies campaign costs and possible revenue to support the effort.

Campaign Strategies:

Traditionally, an organization builds its endowment through long-term donor cultivation and donor estate planning. However, many organizations have been successful with shorter-term campaigns to “kick-off” the establishment of their endowment or to bring it to the next level of

growth. In some instances a challenge grant from individuals, a government agency, or foundation can energize this effort. Rural communities, most familiar with conducting special events to fund-raise for their annual needs, often use this type of fund-raising for endowment development as well, although care needs to be exercised in the costs associated with even fundraising. Consider these six approaches for your endowment fundraising strategy.

1. **Getting Started.** This is a simple way to begin to develop your endowment, which can also prepare you for some more intensive approaches.
  - Explore the possibilities for “current gifts” described on page 6.
  - Contribute lifetime memberships.
  - Increase annual dues.
  - Systematically educate your donors about the endowment.

*Note: This should be a core component of all endowment campaigns and may include:*

    - i) information in your newsletter.
    - ii) listing endowment contributions with a focus on memorials and lifetime gifts.
    - iii) featuring stories about donors, focusing on why they give and how they benefit.
    - iv) periodic reports on your endowment’s growth.
    - v) a promotional brochure with a response card.
2. **The Core Supporters Campaign:** This “pump priming” effort identifies and involves people who have:
  - a formal affiliation with your organization.
  - a strong sense of connection and engagement.
  - knowledge of the organization.
  - a history of financial support.
  - a history of making use of organizational services.
  - played significant leadership roles.
  - an on-going relationship.
3. **The Donors Circle Approach:** This effort includes:
  - major donors (\$500 or more) who have the capacity to give a substantial gift to the endowment in addition to their annual contribution.
  - donors or institutional funders that may offer a challenge grant to provide an incentive for core supporters and others.
4. **Endowment, Codicil or Bequest Clubs:** This low-key approach encourages donors to make a gift to the endowment through a bequest, or by:
  - making your organization the beneficiary and/or owner of a life insurance policy or beneficiary of their IRA or retirement plan.
  - creating opportunities to recognize the donors through social events and inclusion in organizational publications.
  - use of “pacesetters,” who will lend their names to promotional materials and appeal letters.
5. **The Grand Event Approach:** This serves to “kick off” an endowment effort and helps people reconnect to the organization by:
  - using this as an opportunity to build around a major anniversary.

- announcing a leadership gift or challenge grant.

*Cautionary Note - These events require full board support, adequate staff and volunteer resources, significant lead-time and creating an appeal, which will ensure attendance.*

- 6. The Capital Campaign:** Organizations renovating or constructing facilities will most likely see increased operating costs, which can be concretely communicated to donors and can help define the endowment fundraising goal. Some factors to consider are:
- a capital and an endowment campaign are natural partners, with both contributing to the overall fundraising goal.
  - major donors can use a variety of assets to contribute for capital, operating or endowment needs.
  - the campaign provides a good context in which to encourage donors to move up the “giving ladder” to a higher level of contribution and to expand their knowledge about the variety of ways gifts can be made.

## **HOW CAN THE COMMUNITY FOUNDATION HELP YOU?**

The Community Foundation helps donors, professional advisors and nonprofit organizations build philanthropy in San Luis Obispo County. We provide grants to non-profit organizations. In addition, we maintain over 180 funds for a wide variety of purposes.

SLOCCF has established *Building for the Future*, a program to assist nonprofit organizations in creating and building endowments, which includes:

- Establishing a permanent, irrevocable fund at the Foundation for your organization.
- Providing planned giving expertise to your development staff, donors and their professional advisors.
- Meeting with donors to help them identify their philanthropic goals and strategies.
- Providing professional advisors with information about philanthropy so that they may better serve their clients.

The Community Foundation is very interested in learning about your endowment development experience. Please let us know about your successes. If you wish, we will be happy to discuss the challenges you face as well.

### **Additional Resources:**

Ronald R. Jordan, Katelyn L. Quynn, *Planned Giving for Small Nonprofits*, Jossey Bass, 2002.

Lynda S. Moerschbaeher, *Building An Endowment Right From the Start*, Precept Press, Chicago, IL 2001.

David G. Schmeling, CFRE, *Planned Giving for the One Person Development Office*, Deferred Giving Services, Wheaton, IL, 1998.

## **APPENDIX I A PLANNED GIVING PRIMER**

Planned gifts go hand in hand with the development of endowments and provide a cornucopia of giving opportunities. However, even experienced fundraisers may perceive them as complex and not applicable to their donors. A basic grounding in planned giving will help increase your awareness about how they might apply to different donor situations. Therefore, we have provided definitions of the variety of planned gifts and examples of how they might be used.

“Planned” gifts are part of estate and tax planning and are usually made **in consultation with financial and legal professionals**.

- A donor generally makes a **contribution from his or her assets or estate**, rather than from current income.
- A donor generally **receives the current income and tax benefit**. The benefit to charity is deferred to a future time.

*Cautionary note: The following are educational examples only. Please urge donors to seek professional tax and legal advice about their particular situations.*

### **1. CHARITABLE BEQUESTS: A REVOCABLE PLANNED GIFT**

The simplest and most common form of planned gift, a bequest, is made through the donor’s Last Will and Testament.

- Making a bequest does not reduce current assets but distributes them to the charity after the death of the donor.
- Existing wills can be easily modified with a codicil that specifies a dollar amount, percentage, or residual of an estate to go to charity.
- The donor may cancel the bequest or change the beneficiary at any time until death.
- Charitable bequests can help reduce estate taxes by reducing the size of the donor’s estate.
- Bequests can benefit single or multiple charities.

**Example:** Alfreda Jones, an elderly widow with no heirs or close relatives, has been involved with her local senior center for many years. She would like to help the center with a gift larger than her annual contribution. While she owns her own house, which was purchased in the 1950’s, she needs the income from her social security payment, a small pension, and some savings and investments to maintain a modest life style. Mrs. Jones expressed her desire to help the center to its director, who suggested that she discuss this with her attorney. Mrs. Jones’ attorney recommended that she update her will to include a charitable bequest to the center from any assets remaining after her estate was settled. In this way Mrs. Jones would have access to her resources during her life, but would also have the possibility of making a substantial contribution to the center after her death.

**Endow your annual gift:** By making a bequest 20-25 times larger than your annual gift and contributing it to an endowment, you can ensure your annual contributions will be made in perpetuity.

**Making a Charity the Beneficiary of Your Retirement Plans:** People have often accumulated substantial dollars in IRAs, 401(k)s, 403(b)s and a variety of other qualified retirement plans. However, IRAs are among the most heavily taxed assets that you can leave to heirs, because individual beneficiaries will have to pay income taxes on IRA distributions. For large estates, there may be estate tax consequences as well. Thus, financial professionals counsel that retirement plans should be used to make charitable contributions, naming a charity as beneficiary at the time you establish the plan or any time thereafter. The donor can use non-retirement assets for heirs with much lower tax consequences.

**Example:** Richard Hernandez, a successful businessman, was reviewing his estate plan. In his current will he provided for his family and left a sizeable bequest to the local arts group. He had also named his son and daughter as beneficiaries for his considerable 401(k) plan. At the urging of his tax advisor, he removed the charitable bequest in his will and changed the beneficiary on his 401(k) to the arts group. This will reduce the size of his estate upon death, as well as a potential income tax burden for his children.

## 2. IRREVOCABLE PLANNED GIFTS

*These planned gifts are made from current assets through a trust or annuity.* Usually they provide annual income for life to the donor and often a successor beneficiary such as a spouse. At the death of the last surviving income beneficiary, the remaining amount of the gift (the remainder) goes to the charity.

- Planned gifts are **permanent**. However, a donor may reserve the right to change the charitable beneficiary to another tax-exempt beneficiary.
- Planned gifts are **usually made by transferring appreciated assets**, e.g. securities which have substantially grown in value. The donor's tax deduction is based on the market value on the transfer date.
- Planned gifts usually generate **greater income than produced by the asset** used to fund the gift.
- Planned gifts may **produce significant tax savings**. They often help a donor avoid or stretch out payment of capital gains tax, earn a federal and state income tax deduction, and reduce the size of the donor's estate.

### Why Make a Planned Gift?

- A donor can **make a larger contribution** to charity than is possible with an outright gift during his or her lifetime.
- A **donor has under utilized, or marginally productive, appreciated assets** which provide little income.
- Selling the appreciated asset would result in a **substantial capital gains tax**.
- A donor wants to **reduce estate and related taxes**.
- A donor needs to **increase annual income** to meet living expenses or to increase charitable contributions.

- Gifting to a charitable endowment ensures the **contribution will remain intact**.

### **Who Should Make a Planned Gift?**

- People in their retirement years who have non-productive assets and want to support charity as well as increase their income.
- Individuals who may want to redirect income or estate taxes.
- Younger donors who have made maximum contributions to their retirement plans, and may need additional retirement income.
- Individuals who may need to shelter a large inheritance, sale of substantial property or pension payout.

### **What Kinds of Planned Gifts are There?**

A. **Gifts that provide current or future income to the donor** (e.g., Charitable and Deferred Gift Annuities and Charitable Remainder Trusts).

A donor gifts an asset, for example, highly appreciated, low-dividend stock, to the charity through a trust or annuity. This asset is invested to produce substantially more income for the donor. At the donor's death or that of the last income beneficiary, the remainder of the trust or annuity is paid to the charity.

**Example:** Anna Smith is a 77-year-old retired and unmarried schoolteacher. She has a comfortable retirement and a portfolio of highly appreciated growth stocks (which yield only a very small dividend) worth about \$350,000. For many years she volunteered at the local Humane Society and would very much like to remember this charity generously when she is gone. In discussions with her financial and legal advisors, she learned that she could increase her spendable income by creating a charitable trust funded with her portfolio assets, name the Humane Society as the ultimate beneficiary, and create the Anna Smith Endowment at the society.

**B. Gifts that enable the donor to continue to live in their home or on a farm or ranch.**

Called life estates, the residence becomes the property of the charity at the donor's death.

**Example:** Mary White is a widow with adequate income, liquid assets to leave to her children and a house in a good neighborhood. Her children do not want to inherit the house. Mary would like to leave it upon her death to her local Community Foundation. By creating an irrevocable life estate she can continue to live in her home during her lifetime, make a substantial gift to charity, and receive a federal income tax deduction.

**C. Gifts which provide annual income to charity.** Called a Charitable Lead Trust, the remainder of the gift goes back to the donor or heirs at the end of a specified number of years.

**Example:** John Brown received a substantial payout from his pension, which significantly affects his current income tax situation. He needs these funds to help pay for his retirement or to leave to his heirs. Thus, he is unable to gift them permanently to charity, but would like to augment his annual contributions to a local conservation organization. After meeting with his financial advisors, John creates a Charitable Lead Annuity Trust with the pension and designates the conservation organization's endowment as the beneficiary of the Trust's annual income. After 20 years, the remainder of the Trust will revert to John. This improves his current tax situation by reducing his income and gives him a federal income tax deduction. As he funds the trust with municipal bonds, he pays no tax on the income paid to charity.

**D. Gifts of Paid Up Life Insurance.** Younger people and those of modest means, as well as people who have policies that are no longer needed to protect family, can use insurance to make a substantial gift. This can be done by re-designating an existing policy or by purchasing a new policy that names the charity the owner and beneficiary.

**Example:** David and Juanita Jones are both retired. They are 67 years old and have two grown children. They would like to leave the bulk of their sizeable estate to these children. They would also like to make a generous contribution to the local hospital where David was well cared for during a recent surgery. They have a paid-up life insurance policy on David (with a current cash value of \$10,000), which they want to give to the hospital. They transfer ownership of the policy to the hospital, restrict it for endowment purposes, and receive a federal tax deduction for their gift.

Please contact SLOCCF by returning the response form included in this booklet, or call 805-543-2323, if you have questions about planned gifts or how they might apply to potential donors.

**APPENDIX II**  
**DESIGNATED AGENCY ENDOWMENT FUND**

THIS AGREEMENT, made and entered into on \_\_\_\_\_ 200\_ by and between the SAN LUIS OBISPO COUNTY COMMUNITY FOUNDATION, INC. (the Foundation) and \_\_\_\_\_ (hereinafter referred to as the "Agency").

**WITNESSETH:**

WHEREAS, the Agency desires to create a charitable designated agency endowment in the Foundation; 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 an endowment as a Designated Agency Endowment Fund, subject to the terms and conditions hereof,

NOW THEREFORE, the parties agree as follows:

1. NAME OF THE FUND. There is hereby established in the Foundation, and as a part thereof, a fund designated as \_\_\_\_\_ (hereinafter referred to as "the Fund") to receive gifts, in whatever form of money or property, and to administer the same.
2. PURPOSE. The primary purpose of the Fund shall be to provide support to (the "Agency") to carry out its role and mission as described by its governing documents.
3. GIFTS. The Agency hereby transfers to the Foundation the following property \$\_\_\_\_\_ to establish the Fund. Subject to the right of the Foundation to reject any particular gift, any person whether an individual, corporation, trust, estate, or organization (hereinafter referred to as "Donor") may make additional gifts to the Foundation for the purposes of the Fund by a transfer to the Foundation of property acceptable to the Foundation in whole or in part for the Fund. All gifts, bequests, and devises to this Fund shall be irrevocable once accepted by the Foundation.
4. DISTRIBUTION. The annual earnings allocable to the Fund, net of the fees and expenses set forth in paragraph 11, may be committed, granted, or expended only for purposes described in Code section 170(c)(1) or (2)(B) to organizations described in Code section 509(a)(1), 509(a)(2), or 509 (a)(3); provided, however, that such purposes are consistent with the exempt status and purposes of the Foundation. Neither the Fund principal nor the net appreciation of Fund principal, realized or unrealized, may be committed, granted, or expended. If any gifts to the Foundation for the purposes of the Fund are received and

accepted subject to the Agency'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 of Directors (hereinafter the "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.

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 local laws and the Foundation's Articles of Incorporation and Bylaws. The Board shall monitor the distribution of the Fund to ensure it is used exclusively for charitable or other exempt purposes (within the meaning of Codes section 170(c)(1) or (2)(13)), and shall have all powers of modification and removal specified in United States Treasury Regulations Section 1.170A-9(e)(11)(v)(B).

The Board agrees to provide the Agency 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 Agency 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. 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 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 Agency 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.

\_\_\_\_\_  
Agency

SAN LUIS OBISPO COUNTY COMMUNITY FOUNDATION

\_\_\_\_\_  
John Dunn, President

\_\_\_\_\_  
Barry VanderKelen, Executive Director

Approved by the Board of Directors of the San Luis Obispo County Community Foundation on \_\_\_\_\_.

**APPENDIX III**  
**SAMPLE NEWS RELEASE**

FOR IMMEDIATE RELEASE

**Endowment Created By Local Support Group for Homeless**

San Luis Obispo – May 16, 2001 - Friends of Prado Day Center, an organization that raises funds to sustain San Luis Obispo’s homeless day shelter, plays an important role in preserving the quality of life for people in this county. To ensure that the shelter will have lasting stability, this support organization has established an agency endowment at the San Luis Obispo County Community Foundation.

"By setting up an endowment, we will have the opportunity to maintain the center over the long-term," said Deborah Nicklas, president of Friends of Prado Day Center. "We thought that an endowment would be a wonderful way to provide options for our donors, so that they know their gift would contribute to the future stability of the center."

Friends of the Prado Day Center encourages donations to its new endowed fund. Additional contributions to the fund will give the organization the perpetual support it needs.

The Prado Day Center opened in 1997 through a collaboration of local businesses and organizations that sought to provide a daytime shelter for the homeless in San Luis Obispo County. The Center is located on Prado Road and provides restrooms, showers, laundry, mail and housing placement services, children’s activities, job counseling and medical and rehabilitation services. People's Kitchen, another non-profit group, provides hot meals at the center through volunteer support.

Recently, the Friends of Prado Center completed a fundraising effort to add weekend hours. The organization is always looking for support to sustain its operations and improve the services it provides. Friends of Prado Day Center are hoping that their new endowed fund will give their fundraising needs more exposure.

“There are many donors that may want to help the homeless but don't know how, and the Community Foundation can help us with that.” Nicklas said. “We appreciate the fact that the Foundation is here to support the community and encourage local donors to support the community as well.”

Anyone interested in contributing to this fund or learning more about endowments may contact the Community Foundation at 543-2323 or log on to the Community Foundation's Web site via the Internet at [www.slocf.org](http://www.slocf.org).

**For More Information Contact:**

David Edwards  
San Luis Obispo County Community Foundation  
543-2323  
[dave@slocf.org](mailto:dave@slocf.org)

Deborah Nicklas  
Friends of Prado Day Center  
543-0100  
[dnicklas@c1-slo.com](mailto:dnicklas@c1-slo.com)

## APPENDIX IV

### UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

#### SECTIONS

- 24.44.010 Definitions.
- 24.44.020 Appropriation of appreciation.
- 24.44.030 Investment authority.
- 24.44.040 Delegation of investment management.
- 24.44.050 Standard of conduct.
- 24.44.060 Release of restrictions on use or investments.
- 24.44.070 Uniformity of application and construction.
- 24.44.080 Short title.
- 24.44.090 Section headings.
- 24.44.900 Severability -- 1973 c 17.

24.44.010 **Definitions.** As used in this chapter:

- (1) “Institution” means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes or a governmental organization to the extent that it holds funds exclusively for any of these purposes;
- (2) “Institutional fund” means a fund held by an institution for its exclusive use, benefit or purposes, but does not include (a) a fund held for an institution by a trustee which is not an institution, or (b) a fund in which a beneficiary which is not an institution has an interest other than possible rights which could arise upon violation or failure of the purposes of the fund;
- (3) “Endowment fund” means an institutional fund, or any part thereof, which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;
- (4) “Governing board” means the body responsible for the management of an institution or of an institutional fund;
- (5) “Historic dollar value” means the fair value in dollars of an endowment fund at the time it first became an endowment fund, plus the fair value in dollars of each subsequent donation to the fund at the time it is made, plus the fair value in dollars of each accumulation made pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive;
- (6) “Gift instrument” means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund. [1973 c 17 § 1.]

24.44.020 **Appropriation of appreciation:** The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by RCW

24.44.050. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the character [charter] of an institution. [1973 c 17 § 2.]

24.44.030 **Investment authority:** In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary is authorized to make, the governing board (subject to any specific limitations set forth in the applicable gift instrument or in applicable law other than law relating to investments a fiduciary is authorized to make) may:

- (1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks and bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;
- (2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;
- (3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and
- (4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board. [1973 c 17 § 3.]

24.44.040 **Delegation of investment management:** Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

- (1) Delegate to its committees, to officers or employees of the institution or the fund, or to agents (including investment counsel) the authority to act in place of the board in investment and reinvestment of institutional funds;
- (2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and
- (3) Authorize the payment of compensation for investment advisory or management services. [1973 c 17 § 4.]

24.44.050 **Standard of conduct:** In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and

prudence under the facts and circumstances prevailing at the time of the action or decision, and in so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions. [1973 c 17 § 5.]

**24.44.060 Release of restrictions on use or investments:**

- (1) A restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by the governing board with the written consent of the donor.
- (2) If consent of the donor cannot be obtained by reason of the death, disability or unavailability, or impossibility of identification of the donor, upon application of the governing board, a restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by order of the superior court after reasonable notice to the attorney general and an opportunity for him to be heard, and upon a finding that the restriction on the use or investment of the fund is obsolete, inappropriate or impracticable. A release under this subsection may not change an endowment fund to a fund which is not an endowment fund.
- (3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.
- (4) The provisions of this section do not limit the application of the doctrine of cy pres. [1973 c 17 § 6.]

**24.44.070 Uniformity of application and construction:** This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it. [1973 c 17 § 8.]

**24.44.080 Short title:** This chapter may be cited as the “Uniform Management of Institutional Funds Act”. [1973 c 17 § 9.]

**24.44.090 Section headings:** Section headings as used in this chapter do not constitute any part of the law. [1973 c 17 § 10.]

**24.44.900 Severability -- 1973 c 17:** If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. [1973 c 17 § 7.]

## APPENDIX V GLOSSARY OF TERMS

**Agency Fund** An endowment fund, which is established at a community foundation by a nonprofit organization for its own benefit.

**Appreciated Assets** Assets that have grown in value and are often used to make a gift to charity or to fund a planned gift.

**Asset Class** Different types of investments, e.g., cash; small, medium or large capitalization stocks; short, medium or long-term bonds; or real estate that are used to create a diversified investment portfolio.

**Beneficiary** The person or entity to receive funds, property or other benefits from a will, insurance policy, retirement account or trust instrument.

**Bequest, Charitable** A commitment in a Last Will and Testament, which stipulates how an individual's property will be distributed to qualified charities, e.g., a dollar amount, percentage of an estate or the residual of an estate.

**Board-designated Endowment** See Cash Reserve

**Capacity** An organization's skills and knowledge, as well as human, financial and other resources.

**Capital Gains, Realized** The difference between the cost-basis of an asset and the amount for which it was sold.

**Capital Gains, Unrealized** The difference between the cost-basis of an asset and its current value.

**Cash Reserve** Cash held by an organization for emergencies, to take advantage of unforeseen opportunities or for other purposes.

**Charitable Gift Annuity** A planned gift in which a donor makes a contribution to a charity in return for a contract, which guarantees that a specific dollar amount will be paid annually to the donor. Upon the final income beneficiary's death the remainder (or balance) of the annuity goes to the charity.

**Charitable Lead Trust** A planned gift in which a qualified charity receives income from the property transferred to the trust. Non-charitable beneficiaries, e.g. donor or his/her heirs, receive the remaining principal after the specified period of time. There are two forms, the charitable lead annuity trust and unitrust.

**Charitable Remainder Trust** A planned gift in which income is paid to at least one living non-charitable beneficiary, e.g., donor and spouse, for a term of years not to exceed 20 years or for

the life or lives of the non-charitable beneficiaries. When the income interest terminates, the remainder interest is distributed to a qualified charity(s). There are two forms, the charitable remainder annuity trust and unitrust.

**Codicil** A modification in a will that adds or deletes provisions or clarifies portions of the document.

**Community Foundation** A tax-exempt, public charity created by and for the people in a local area, which enables donors to support, readily and effectively, the issues they care about - immediately or through their will - by establishing a variety of endowment funds.

**Cost-Basis** The original price paid to acquire a property, adjusted by certain factors such as buying expenses, depreciation and capital improvements. Cost-basis is generally used to determine the gain or loss on the sale or disposition of the property.

**Designated Fund** An endowment fund set up at a community foundation by an individual donor for the benefit of one or more nonprofit organizations.

**Discretionary Fund** An endowment fund set up at a community foundation that usually supports the foundation's competitive grants program.

**Donor-Advised Fund** An endowed or pass-through fund established at a community foundation, commercial gift fund or certain other nonprofit organizations that allows a donor to recommend grants from the fund.

**Endowment** A fund established by a donor or donors in which the original and subsequent contributions are held in perpetuity, or in the case of a term endowment, for a specific term of years; only a portion of the earnings is spent.

**Field of Interest Fund** A fund at a community foundation, in which a donor specifies that it will benefit a specific charitable category, e.g., arts, education, the environment, and healthcare.

**Historic Value** The value of the original contribution establishing an endowment fund plus the value of subsequent contributions at the time they were made.

**Planned Gift** A gift, which usually benefits a charity in the future often after a donor's death. It may provide current or deferred income to the donor, and is usually made in consultation with tax and/or legal advisors as part of a donor's estate planning.

**Prudent Investor Rule** Legislation governing the investment of institutional funds, which requires that a governing board exercises "ordinary business care and prudence" and takes into account the long- and short-term needs of an institution, its present and anticipated financial requirements, expected total return on its investments, price level trends and general economic conditions.

**Quasi-Endowment** See Cash Reserve

**Spending Policy** A policy established by a governing board that sets the percentage of assets that can be spent annually from an endowment.

**Total Return** The earnings of an endowment fund that include interest, dividends, realized and unrealized capital gains.

**True Endowment** See Endowment

**Trust** The arrangement whereby legal title to property is conveyed to a trustee (an individual or entity) for the benefit of another. The person establishing the trust is called the grantor, creator, settlor and may also be a beneficiary of the trust.

**Uniform Management of Institutional Funds Act (UMIFA)** The legislation that guides the actions of a governing body overseeing an institutional endowment. It requires that investment be in accordance with the prudent investor rule and that expenditures may not reduce the fund below its historic value. UMIFA allows expenditure of appreciation, in addition to the interest and dividends earned by a fund.