

AGENCY ENDOWMENT FUND AGREEMENT

Between

And
MONTGOMERY COUNTY COMMUNITY FOUNDATION

THIS INSTRUMENT OF TRANSFER (“AGREEMENT”) is made and entered into as of this _____ day of _____ by and between _____ (“DONOR”) and Montgomery County Community Foundation, a Texas Foundation having its principal place of business in Montgomery County, Texas (“FOUNDATION”).

RECITALS:

- a. The DONOR hereby irrevocably creates an Agency Endowment Fund to provide

_____.
- b. The FOUNDATION represents to DONOR that it has received a ruling from the Internal Revenue Service that it is a tax exempt organization described in Sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code and that it’s exempt status under Section 501(c)(3) of the Code remains in effect.
- c. The DONOR desires to establish a Agency Endowment Fund with the FOUNDATION to be known as the _____ (hereinafter referred to as the “FUND”). The FOUNDATION shall receive, administer and disburse money deposited with the FOUNDATION in such FUND, as provided under this AGREEMENT.
- d. The FOUNDATION, pursuant to the terms of this AGREEMENT and the restrictions imposed here by, desires to accept the initial contribution of DONOR as well as any subsequent donations to the FUND, as provided under this AGREEMENT.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and in reliance upon the recitals set forth above and incorporated herein by reference, the parties hereto agree as follows:

- 1. **Transfer**
Upon the terms and subject to the conditions hereinafter set forth, DONOR hereby unconditionally transfers, assigns and delivers to the FOUNDATION,

and the FOUNDATION hereby accepts from the DONOR, \$ _____, as the initial funding for the FUND to be established herein by the FOUNDATION.

2. **Investment and Management of Gift.**

The initial gift, together with any additions hereto, shall be held, managed and administered by the FOUNDATION either directly or through the use of an agency account, custodial account, trust or similar agreement between the FOUNDATION and a corporate fiduciary or investment advisor, as the FOUNDATION may deem appropriate, from time to time.

3. **Segregation of Funds.**

The FUND shall be held by the FOUNDATION, and the income and principal of the FUND may be either commingled with other FOUNDATION assets held by the FOUNDATION or may be segregated in a separate account. If the assets of the FUND are commingled with other FOUNDATION assets, the FUND assets shall be accounted for separately and any earnings from a common fund accruing to the FUND shall be credited to the account of the FUND.

4. **Administration of the FUND.**

The principal of the FUND shall be held and invested by the FOUNDATION. Grants shall be distributed from investment income (interest, dividends and /or appreciation) in accordance with the FOUNDATION'S Spending Policy and Grant Making Policies. The amount of distributable income or Grants from the FUND shall be determined annually by the Board of Directors of the FOUNDATION. The current Spending Policy as established by the Board of Directors of the FOUNDATION is that three percent (3%) of the FUND'S value as of December 31 each year shall be the available Grant amount in the following year, but is subject to change. The principal of the FUND shall not be distributed. This method of determining monies to be distributed is designed to preserve the FUND and allow monies to be distributed in perpetuity.

The FOUNDATION will receive as compensation for its services in investing, administering, and distributing the funds hereunder an administrative fee in accordance with the Fee Schedule adopted from time to time by the FOUNDATION'S Board of Directors. Investment management costs are netted against investment income in the FOUNDATION'S portfolio prior to the allocation of investment income to the FUND. Any out of pocket costs incurred in connection with establishing the FUND or at any time thereafter may be charged against the FUND balance.

The FOUNDATION shall provide annual reports of the status of the FUND to the DONOR. In the investment and handling of funds, the FOUNDATION is subject to and will be guided by the laws of the State of Texas.

5. **Variance Power.**

The DONOR and the FOUNDATION understand that the governing instrument of the FOUNDATION and applicable laws require that the Board of Directors of the FOUNDATION have variance power over the assets donated to the FUND. This means that the Board of Directors of the FOUNDATION shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to any specified organizations, if in the sole judgment of the Board of Directors (without the approval of any trustee, custodian or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, impracticable or inconsistent with the charitable needs of the community or area served by the FOUNDATION. Furthermore, no restrictions or conditions may be imposed upon the administration of the FUND that would/could cause the FOUNDATION to lose its exempt status.

6. **Irrevocable Gift.**

DONOR understands and declares that this AGREEMENT and the donations it represents are absolute and irrevocable gifts and that, after the execution of this instrument, the DONOR shall have no right, title, interest, or incidents of ownership in the FUND or any additional property transferred to this FUND. Further, DONOR shall have no unilateral right to alter, amend or terminate this AGREEMENT.

7. **Copies of Agreement.**

The DONOR and the FOUNDATION may furnish copies of this AGREEMENT to other potential donors of the FUND to demonstrate the protocol and procedures that have been put in place with regard to the administration and disbursement of the FUND.

8. **Governing Law.**

This AGREEMENT shall be construed and enforced in accordance with the laws of the State of Texas. Additionally, all provisions of the Articles of Incorporation, Bylaws and other rules, regulations, policies, and procedures of the FOUNDATION which are now in effect and which may be adopted or amended, or both, hereafter shall apply to the FUND and are incorporated herein by reference.

9. If the Foundation ceases to be a qualified charitable organization or if the Foundation proposes to dissolve, the assets of the Fund shall, after payment or making provision for payment of any liabilities properly chargeable to the Fund, be distributed to _____. If _____ is not then a qualified charitable organization, said assets shall be distributed in such manner and to such organization or organizations in the _____

community as satisfies the requirements of a qualified charitable organization and serves purposes similar to those of ____.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT the day and year first above written.

DONOR

Signature

FOUNDATION

MONTGOMERY COUNTY COMMUNITY
FOUNDATION

President, MCCF Board of Directors