

Long Policies – 32 pages

**Policies for the Planned Giving Program
of Your Organization**

Name
Address
Phone

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All activities defined in this manual are subject to the by-laws, rules and regulations of the organization. Approval of a change in these policies requires a simple majority affirmative vote by the organization's Board of Directors. To the extent possible, potential donors will be made aware of this provision, and changes affecting intervivos gifts or certain testamentary gifts will be preceded with a discussion with the donor, the surviving spouse and/or adult children, or with those designated by the donor, if available.

I. Introduction

It is the mission of the organization's Planned Giving Program to serve the philanthropic and financial intentions of its donors and ensure financial stability for the organization.

To fulfill its mission, the planned giving program seeks to:

1. build a permanent endowment created through the gifts of many donors over time to insure the long-term financial stability of the organization and the fulfillment of its mission;
2. insure that long-term philanthropic gifts fulfill donor intent.

II. Policies

A. Preeminence of Donor's Interests: The interests of the donor shall come before that of the organization. No program, agreement, trust, contract, or commitment shall be urged upon any contributor or prospective contributor which would benefit the organization at the expense of the contributor's interests and welfare. No agreement shall be made between this organization and any agency, person, company, or organization on any matter related to investments or fund management which would jeopardize the contributor's interests. To safeguard donor interests, the organization affirms the following principles:

1. **Non-Coercion:** Representatives and solicitors shall refrain from using undue pressure when dealing with prospective donors. The role of a representative is to inform and assist the donor and the donor's advisers in making a gift to the organization Endowment Fund and in fulfilling his/her charitable objectives.
2. **Confidentiality:** All information, to the extent not required for federal and state tax reporting purposes, concerning actual and prospective donors, including names and addresses, names of beneficiaries, nature and value of estates, amounts of provisions, etc., will be kept strictly confidential by the organization and its authorized personnel unless the contributor grants written permission to use such information for purposes of referral, testimonial or example.
3. **Consultation with Independent Advisers:** Those acting on behalf of the organization shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.
4. **Educational Nature of the Organization's Role:** The organization shall clearly disclose to donors that the information the organization provides in estate planning and planned giving matters is for educational purposes only and is not intended as nor shouldn't be construed as a substitute for qualified independent legal or financial advice.
5. **Conformity with *Standards of Practice*:** the organization, in all dealings with donors and their advisers, shall conform to the *Planned Giving Standards of Practice* of the National Council on Planned Giving and American Council on Gift Annuities (see Addenda, item A).

B. Acceptance of Gifts: The Director of the Planned Giving Program will accept only gifts that meet the requirements of the Internal Revenue code of 1986 (IRC) and the regulations promulgated thereunder, and other applicable Federal and state laws. The organization shall not accept any gift which would improperly inure to the benefit of any individual. Prospective gifts will be directed to the Planned Giving Director for review and will be officially acknowledged when completed. The organization shall reserve the right to reject gifts due to changes in law, tax aspects, etc., and reserves the right to abstain from accepting any and all gifts that are not consistent with the objectives of the Endowment Fund.

1. **Restriction of Gifts:** Donors placing gifts in the Endowment Fund may designate the use of income for a specific program, a specific agency, or a specific field of service. If no designation is made, the income will be deemed unrestricted.
2. **Outright gifts:** Outright gifts to the Endowment Fund are those gifts in which the organization has the assets at its immediate disposal and in which the contributor retains no continued interest. The policy of the organization shall be to encourage outright gifts of any type and description that are consistent with the charitable objectives of the Endowment Fund and acceptable to it.
3. **Gifts of Cash:** Contributors shall deliver gifts of cash in the form of money orders or checks payable to the organization. The Office of Planned Giving, the President of the organization, or other person designated by the President may accept gifts of any amount which are in the form of cash, check or credit card on behalf of the Endowment Fund. Contributors will receive a receipt from the organization. The gift date for contributors' tax reporting purposes is ordinarily the date of delivery, although contributors mailing checks which subsequently clear may use the date of postmark as the effective contribution date. In the case of a credit card, the date of the gift shall be the date the charge is accepted by the credit card company.
4. **Gifts of Publicly Traded Securities:** A gift of securities registered with the Securities and Exchange Commission and bought and sold on a periodic basis through a recognized stock exchange or association of brokers is usually considered complete when the security is transferred to a securities firm brokerage account designated by the organization. Contributors shall be advised that selling appreciated securities and gifting the proceeds may not preserve the advantage of eliminating the capital gains tax. A gift of stock held for more than one year that is made directly to the organization, however, will pass free of capital gains tax under current rules. The Office of Planned Giving, the President of the organization, or other person(s) as designated by the President, may

- accept gifts of any amount which are in the form of publicly traded securities. The value of the gift for income tax deduction purposes shall be deemed to be the average of the high and low value of the security on the date of the gift. Unless specifically instructed by the contributor at the time of the gift, and agreed upon by the organization, publicly traded securities will be liquidated as soon as possible after receipt to prevent potential loss to the organization.
5. Gifts of Closely Held Securities: Donations of closely held securities to the Endowment Fund shall be reviewed by the Advisory Council who will determine acceptance or declination. The Council will accept or decline the gift based on its determination of the value and marketability of the stock. For accepted gifts, the Council will also determine appropriate liquidation guidelines specific to the gift. The Office of Planned Giving will notify contributors of acceptance or declination of the gift. Contributors will receive written acknowledgment of gift acceptance.
 6. Gifts of Real Estate: Outright gifts of real property to the organization and the organization's Endowment Fund shall be reviewed and evaluated by the Advisory Council using the *Checklist for Gifts of Real Property* (see Addenda, item B) as completed by the Planned Giving Director. Generally, real estate gifts shall be considered for immediate resale. Gifts of real estate that are not sold immediately must show potential for future appreciation and be "management free." The Advisory Council shall submit its recommendation for approval or declination of the gift to the Executive Committee of the Board of Directors. The Executive Committee shall accept or decline the gift by majority vote. Considerations of real property gifts should evaluate the usefulness of the property for endowment purposes, the marketability of the property, the market value of the property as determined by a qualified appraisal, the existence of or potential for any environmental problems, the existence of or potential for any encumbrances, such as mortgages, restrictions or easements, and the existence of any costs associated with the property, such as condo fees, taxes and insurance. Appraisals of gift property must be provided by the contributor and conducted by an independent certified appraiser. Unless otherwise recommended by the Endowment Committee and subsequently approved by the Executive Committee, gifts of encumbered real property or partial interests will not be accepted. Contributors shall be advised that making gifts of encumbered real estate creates tax consequences for them.
 7. Environmental Issues and Real Estate Gifts: All gifts of commercial and residential property will require due diligence prior to acceptance due to potential liability exposure under the Comprehensive Environmental Responsibility, Compensation, & Liability Act (CERCLA) and other laws, which may hold all owners in the chain of title jointly and severally liable

for costs associated with removal and cleanup of toxic substances and environmental hazards. All gifts of commercial properties will require owners to provide a minimum of a Phase One environmental impact study as part of the due diligence. The Endowment Committee shall retain the right to require a Phase Two environmental study in the event the Phase One report indicates evidence of environmental issues. If required by the Executive Committee, the contributor shall undertake a remediation plan to satisfy all environmental requirements and issues so the organization can take clear, marketable and unencumbered title to the gift of real property.

8. Indemnification of the Organization and Real Estate Gifts: If the Executive Committee deems it advisable, it may require an environmental indemnity from the contributor which states that the contributor will indemnify the organization for any and all claims, liabilities, suits, costs and other expenses of any kind incurred by the organization if the property must be cleaned up after the organization takes ownership. This Agreement shall be based upon representations and warranties by the contributor that he/she has no notice or knowledge of any violations of environmental law affecting the property, and to the contributor's best knowledge the property is free of contamination or other environmental hazards. The Agreement shall also state that with concurrence of the Executive Committee the contributors can undertake a plan to satisfy all environmental law requirements so your organization can take marketable title.
9. Gifts of Tangible Personal Property: Generally, the organization will not accept gifts of tangible personal property to the Endowment Fund. However, the Advisory Council reserves the right to consider such gifts under special circumstances.
10. Gifts of Life Insurance Proceeds: The organization may be named the primary, secondary, or residual beneficiary of a life insurance policy. In cases where the organization receives the proceeds of such policies when they mature, the full amount received shall be reported as a gift on the date delivered.
11. Gifts of Life Insurance Policies: The organization must be named both beneficiary and irrevocable owner of an insurance policy before a policy can be recorded as a gift before the death of the insured. The organization will accept gifts of life insurance for which the organization becomes the irrevocable owner and beneficiary and for which annual premiums are either paid-up or will be paid by the contributor or paid from the net earnings of the policy. When the gift is not self-sustaining, either because the contributor does not pledge to pay the premiums or net policy earnings are not equal to or greater than the premiums, the organization will accept the policy only if there is a net positive cash value. In such a

case, the organization will terminate the policy and receive the net cash value as the gift. Exceptions to this policy will be considered by the Endowment Committee on a case-by-case basis. The organization will record the cash surrender value of the policy when given, rather than its face value, as the amount of the gift, and will carry it in the Endowment Fund. Whether a donor continues to pay further premiums or the organization pays the premiums, the difference between the cash value and the insurance company's settlement at the death of the donor will be reported in a realized appreciation account.

12. Gifts of Retirement Plans: Retirement plans can be used for gifting purposes by naming the organization or the organization's Endowment Fund as a beneficiary or contingent beneficiary. Contributors may also direct through estate planning documents that all or part of qualified retirement plans are distributed to the organization, though care must be taken that such directives are consistent with the retirement plan's beneficiary designations. Proceeds from retirement plans left to the organization are not subject to income tax, estate tax, or generation skipping tax. Since beneficiary status does not require any financial commitment on the part of the organization, contributors are not required to obtain acceptance from the organization prior to designating them as a beneficiary. Pending transfer of assets and gifts of retirement plans assets are subject to the same acceptance criteria as outright gifts.

13. Contributors are required to file IRS Form 8283 with their Federal income tax return, if the amount of their tax deduction for all non-cash gifts exceeds \$500. Forms may be obtained from the Internal Revenue Service (IRS). For non-cash gifts valued at \$5,000 or more, the contributor must file IRS Form 8283 and have Section B signed by the organization representative. The organization will file Form 8282 with the IRS for gifts of \$5,000 or more, which are sold or disposed of within two years of the date of transfer. With certain exceptions items reported in Section B of Form 8283 worth more than \$5,000 (such as real estate, art, gems) will require a written appraisal by a qualified appraiser. An appraisal is not needed if the property consists of non-publicly traded stock of \$10,000 or less and certain securities considered having market quotations readily available. An appraisal must include:

- Detailed description of the property
- Date of gift
- Physical condition of the property
- Any terms of the gift relating to disposition of property
- Appraiser's name, address and Tax Identification Number
- Appraiser's qualifications, including education, experience, certificate, etc.
- Declaration that appraisal was performed for tax purposes
- Date of appraisal

- Appraised fair market value on gift date
- Method of determining value, and/or basis for making valuation

C. Gift Vehicles: The organization staff and representatives shall make every effort, insofar as possible, to ensure that the donor receives a full and accurate explanation of the planned giving vehicles and techniques available to them and the tax and income benefits of various planned giving methods. Consistent with its policy of protecting donor interests, the organization shall not clearly disclose to donors that the information the organization provides in these matters is for educational purposes only and is not intended as nor should it be construed as a substitute for qualified independent legal and financial advice.

1. **Bequests:** Authorized Planned Giving Program solicitors may solicit gifts made by will or living trust with provisions to establish trusts, as well as outright gifts. Assets transferred by bequest may include cash, real property, tangible personal property, securities and business interests. The Planned Giving Director shall provide donors inquiring about bequests with the Tax Identification Number and legal name of the organization, together with suggested bequest language for review by the donor's legal counsel. Bequests shall be recorded for accounting purposes at the time accepted, assuming a reasonable, ascertainable, and minimum fixed value.
2. **Charitable Remainder Unitrusts:** The basic form of unitrust provides for payment to the donor and/or other non-charitable beneficiaries living at the time of a fixed percentage (not less than 5%) of the net fair market value of trust assets, determined annually. The percentage is established at the time the unitrust is created. The charitable deduction generated at the creation of the unitrust must be at least 10% of the face value of the gift. The Unitrust is irrevocable. A "net income" alternative may be included in the Unitrust terms. If the actual Unitrust income is less in any year than the specified percentage, only the actual income is paid in such year, with the difference made up in future years when excess income is available.
3. **Charitable Remainder Annuity Trusts:** The payment rate (at least 5%) is applied to the value of the gift at time of transfer to the trust to determine the annual payment. The payment never changes. If there is a 5% or greater probability that the fixed payments will leave nothing to charity, the trust is invalid from the beginning. Like a unitrust, a charitable remainder annuity trust is irrevocable and the charitable deduction generated at the creation of the trust must be at least 10% of the face value of the gift. Unlike a unitrust, an annuity trust cannot receive subsequent contributions and allows for only one payment method.
4. **Charitable Lead Trusts:** Charitable Lead Trusts, like Remainder Trusts, may be established in either Annuity or Unitrust forms. The Charitable Lead Trust gives the donor the opportunity to place income

producing assets in trust for a period of years with income or specified payments made to the organization or the organization Endowment Fund, annually. Under a Charitable Lead *Annuity* Trust arrangement, a specific amount, stated in the trust instrument, or a fixed percentage of the initial value of the trust principal, is paid to the organization annually; while under a Charitable Lead *Unitrust* arrangement, a percentage of the trust principal, valued annually will be distributed to the organization. At the expiration of the trust period the assets return to the donor or to the beneficiary (ies) whom the donor has designated.

5. Trusteeship of Charitable Trusts: The organization does not at this time wish to act as trustee of charitable remainder or charitable lead trusts. The Planned Giving Advisory Council shall from time-to-time revisit this policy and, if the organization accepts trusteeship of a charitable trust, the Council will review and apply the following standards of charitable trust management:
 - Investment policy for a Unitrust or Annuity trust shall be determined by the Unitrust trustee(s) in accordance with the terms of the governing instrument and applicable law.
 - A statement of current income based on trust assets is to be sent at least annually to each non-charitable beneficiary.
 - Only the assets of the specific Unitrust shall back the commitment to each non-charitable beneficiary. Assets of the organization shall not be involved.
 - It shall not be the responsibility of the organization to cover costs associated with management of Unitrust assets, with the exception of custodial charges, brokerage fees, investment advisory fees, tax work, and trust accounting fees, which shall come from the Unitrust.
 - A trust agreement shall limit the non-charitable beneficiaries to two lives.
 - The minimum age of a non-charitable beneficiary shall be determined on a case-by-case basis.
 - At the death of the last non-charitable beneficiary, the assets of the Unitrust shall be distributed as provided in the trust. Unrestricted funds left to the organization shall revert to the Endowment Fund. The name of each charitable remainder trust and lead trust shall be entered on the books and records of the organization as specified by the donor, or for example, as follows: "The (donor chooses name) Unitrust Fund." The holdings in each trust shall be reviewed by the Advisory Council at least annually.
 - Procedures previously stated for Charitable Remainder trusts shall apply to charitable lead trusts. An additional procedure for Charitable Lead Trusts is: at the end of the Charitable Lead Trust term the assets of the Charitable Lead Trust should be distributed as provided for in the Trust instrument.

1. Life Estate Agreements: Gifts of real estate with a retained life interest should have a value of at least \$100,000. The contributor will be required to maintain the property, pay real estate taxes, pay fees such as association fees or assessments, and pay for insurance, utilities and repairs. Capital improvements must also be made at the contributor's expense. The organization's legal counsel must approve retained life agreements and contributors must sign a memorandum of understanding of their responsibilities at the time the gift is made. Designated official(s) of the organization shall sign on all required title transfers.
2. Gift Annuities: The organization is not licensed to issue gift annuities. Should the Advisory Council wish to explore obtaining a license they shall review the following:
 - Definition: A charitable gift annuity is a contract between a charity and an individual or a couple. The individual or couple transfers property, usually cash or stock, to the charity and the charity promises to pay a fixed annual amount to the annuitant for life or to two annuitants for both lives. To issue gift annuity contracts in California, charities must be licensed by the state Department of Insurance.
 - Organizational requirements: Your organization's board must be willing to back the annuity program with the full faith and credit of the organization. Even if annuitants live far beyond their life expectancies the organization must make the guaranteed payments. The greater the number of gift annuity contracts written however, the higher the probability that the average lifetimes of the organization's annuitants will follow a normal distribution. The organization will also have to determine how the program is to be run and define in-house staff responsibilities.
 - The organization's market for charitable gift annuities: Charitable gift annuities appeal to those who are older and financially conservative. The annuity amount is fixed, guaranteed, and age-sensitive: the older the annuitant, the larger the annual payment. When interest rates are low and the stock market is volatile, gift annuity rates compare well to those of certificates of deposits. The guaranteed fixed payments add a stable and predictable anchor to the donor's portfolio. Consideration needs to be given to whether a significant number of the organization's donors are likely to be attracted to charitable gift annuities.
 - Registration: The organization will have to fulfill the registration requirements of the state Department of Insurance, a process that can take six months to a year or more and cost some \$3,500 in application fees.

- Technical requirements: The organization will have to determine investment policy, minimum age of annuitants, and rates offered, and select an agent from companies offering gift annuity management and investment services. The program will also need access to specialized computer software to develop proposals and contracts for prospective gift annuitants.
1. Pooled Income Fund: A donor may enter the organization's Pooled Income Fund by making an irrevocable gift which entitles the donor, and/or one or more other non-charitable beneficiaries to a proportionate share of the value of the Fund, based on a quarterly valuation. The donor's gift is invested with others in the "Pool". The minimum amount necessary to purchase an interest in the organization's Pooled Income Fund shall be \$5,000. Additional assets may be deposited by the donor in his/her Fund on an annual basis, in minimum denominations of \$1,000. Pooled Income Fund contributions are best made in the form of liquid assets (cash or securities) since the donor's contributions must be easily convertible into the pool in order to meet initial payout requirements. A Pooled Income account shall be limited to the lives of two beneficiaries. At such time as the donor or other living beneficiaries are deceased, the principal amount in their Pooled Income Fund account shall revert to the organization's Endowment Fund. The investment objective of the Pooled Income Fund is to achieve maximum yield while preserving principal.

D. General Endowment Fund: Donors to the organization may provide ongoing support to through unrestricted gifts of any amount to the General Endowment Fund. These gifts may include cash, securities, real property, jewelry, real estate, and other assets which can be converted to cash, and funds for which restrictions no longer apply. Principal may be invaded out of the General Endowment Fund (Type A Fund), but only in the event of an extraordinary emergency. An “Emergency” shall be determined by the organization’s Board of Directors in consultation with the Endowment Committee.

1. Endowment Fund Priorities: Available annual income from the unrestricted General Endowment Fund (Type A Fund) may be used for the following purposes, listed in order of priority:
 - To increase the Endowment Fund.
 - To provide for extraordinary community emergencies.
 - To encourage, through one-year external grants, innovative agency program development.
 - To provide start-up resources for special projects within the organization.
2. Promoting Gifts to the Endowment Fund: In encouraging undesignated endowment gifts, the organization staff and representatives shall use the following guiding principles:
 - Except for memorial donations, an effort will be made to solicit gifts of \$5,000 or more.
 - Solicitation for the Endowment Fund will be designed to work in concert with the annual campaign effort. Therefore, Endowment representatives will refrain from soliciting campaign contributors or specifically identified campaign prospects during the period of the annual campaign. This does not preclude year-round education and information programs by the Planned Giving Program to the general public.
 - Planned Giving Program representatives will encourage campaign contributors to make a planned gift commitment to sustain their campaign gifts, produce additional tax advantages for the contributors, and generate principal for the Endowment Fund.
 - The Endowment Fund will be developed from the following sources: new and additional planned gifts; asset appreciation; and campaign revenues, which might include percentage designations by campaign contributors, or a diversion of a specific percentage from the annual campaign, at the discretion of the organization’s Board of Directors.
3. Undesignated Bequests: Undesignated bequests received by the organization shall be placed in the General Endowment Fund and shall be used to offset the organization's general operating expenses. This will assure that income only will be used from such bequests and their principal will be preserved. A "bequest" in this context includes any gift made through an estate planning vehicle such as a will, living trust,

insurance policy, retirement plan, charitable remainder trust, and the like. Exceptions to this policy shall require a two-thirds vote of the organization's Board of Directors.

E. Philanthropic Funds: Donors may personalize an endowment gift by establishing a restricted fund (Type B Fund) or a donor-advised fund (Type C Fund)

1. **Restricted Funds (Type B):** An Endowment gift restricted by the donor for a specific purpose (e.g. geographic area of distribution; target population recipients; field of service limitation). Stipulated restrictions placed on these funds may apply for a designated period of time. Principal may not be invaded in Type B funds except as stipulated in individual donor agreements.
2. **Named Restricted Funds:** Type B funds may also include those funds which are managed and distributed in the name of the donor or the donor's designee (e.g. a memorial) as stipulated through a will. The minimum amount for a named fund shall be \$50,000, which can be given at one time or fulfilled through a three-year pledge.
3. **Donor-Advised Funds (Type C):** Also called advise-and-consent funds, donor-advised funds are individual fund accounts, managed by the organization, into which a donor may add periodic contributions, and from which the donor may suggest periodic distributions to specified charitable groups operating within the area served by the organization. Contributions to a donor-advised fund may be in the form of cash, appreciated property or securities. Donor-advised funds require the organization to provide reports to the donor, to guide donors when requested in selecting causes or agencies to benefit from their fund, and to make sure donors do not exceed their advisory role. (See Addendum D, for a suggested donor-advised fund agreement and a draft of a marketing/policy statement.)

III. Organizational Structures and Functions

A. Board of Directors: As with all the organization's fundraising efforts, the members of the Board of Directors will support the Planned Giving Program by making their own planned gift commitments, approving by formal resolution and reviewing as needed the organization's case statement, encouraging other organization donors to provide for the organization in their estate plans, and monitoring the performance of the Planned Giving Program. The board shall evaluate the Planned Giving Program based on the following:

- the number and quality of contacts made with planned giving prospects,
- the annual growth in membership of the organization's Legacy Circle.

B. Planned Giving Advisory Council: The Planned Giving Advisory Council shall be responsible to the Board of Directors of the organization. The purpose of the Advisory Council is to develop policies for and support the implementation of the Planned Giving Program. Membership shall consist of a Chair, a Vice-Chair and a sufficient number of CPAs, trust officers, estate planning and charitable gift planning attorneys, certified or chartered financial planners, and chartered life underwriters to ensure an informed and well-rounded technical perspective. Council members, both as a group and individually, shall offer their help in the following areas:

1. reviewing the planned giving marketing plan—including the organization's case statement for planned gifts—presented to them annually by the Planned Giving Director;
2. reviewing specific planned gifts of a technical nature offered to the organization, including encumbered or environmentally suspect real estate, charitable life estates, tangible personal property, charitable bargain sales, life insurance, privately held securities and other hard-to-value assets;
3. reviewing the feasibility of new planned giving initiatives, such as a gift annuity program, or the vigorous promotion of Donor-Advised Funds;
4. assisting in presentations designed to promote sound estate planning and planned giving on the part of the organization's donors;
5. encouraging planned gifts to the organization by making information on the organization's Planned Giving Program available to their clients and professional colleagues;
6. working with the Planned Giving Director by offering expertise, commitment and connections to increase donor gifts.

C. Planned Giving Director: The Planned Giving Director promotes planned gifts to the organization by informing donors of the organization's case for planned gifts and providing donors and their advisers with detailed information on planned giving techniques.

The Planned Giving Director's responsibilities include:

1. coordinating the Planned Giving Program with other organization fundraising efforts,
2. providing staff support for the volunteer and groups involved in the Planned Giving Program,
3. writing and implementing an annual marketing plan to promote planned gifts to the organization,
4. soliciting the advice of the Advisory Council members in technical matters as needed,
5. requesting review by the organization's Legal Counsel as required,
6. managing the Planned Giving Program office, and maintaining the prospect database and the Planned Giving Program library,
7. keeping the Planned Giving Program volunteers, board and staff abreast of current developments in the fields of planned giving,
8. developing an educational outreach program on planned giving to nonprofit organizations,
9. providing the CEO and board of the organization with an annual report on the number and quality of contacts made with planned giving prospects, and the annual growth in membership of the organization's Legacy Circle,
10. keeping abreast of new methods and technical aspects in the planned giving field by attending institutes, seminars and estate planning sessions.

D. Planned Giving Advocates: The Planned Giving Director, with the assistance of the Planned Giving Advisory Council, will recruit individuals who are both willing to make their own planned gift commitment to the organization and to encourage others to do the same. Supported by the Planned Giving Director, the organization Advocates shall:

1. become thoroughly acquainted with the organization's case for planned giving,
2. make personal one-to-one educational visits to organization donors, presenting the case and encouraging donors to become members of the organization's Legacy Circle,
3. help in the annual recognition to those who have made a planned gift commitment to the organization,
4. work as needed with the Planned Giving Director in implementing the annual marketing plan.

E. Marketing Plan: A written annual plan of scheduled activities is essential for a disciplined, effective planned giving program. The plan, focused on recruiting new members to the organization's Legacy Circle, can help keep the program on track by asking two questions at the end of each year:

1. Were the marketing activities committed carried out effectively?
2. How many new recruits to the Legacy Circle resulted?

The Planned Giving Director will write the plan, present it to the Advisory Council and to the organization's board each year. The plan shall be tuned to the changing marketplace and include activities that meet the broad objectives of the planned giving program: to build the organization's Endowment Fund, to fulfill donor objectives and meet critical community needs, and to provide planned giving information and expertise to the local non-profit community (See Addendum E. Marketing Plan Template).

F. Gift Administration: The following procedural standards will govern the administration of gift acknowledgment and general record keeping:

1. Receipts: Contributors will receive receipts from the organization for all gifts within 14 days from the date of the gift indicating the contributor's name, date of the gift, and a description of the property. This receipt shall be signed by appropriate administrative staff of the organization.
2. Record Keeping: A roster of planned gift contributors and prospects will be maintained by the Planned Giving Staff of the organization.
3. Endowment Fund Gifts: The organization will track the dollar amount contributed by donors to the Endowment Fund; the fund manager will track the percentage or unit of each donor's gift to the total fund and report both the total and the interest income attributed to the individual contributor annually. Interest income will be apportioned according to each contributor's investment. For transferring gifts into the Endowment Fund managed by a financial institution of the organization's choosing, the organization, upon receipt of money, will forward a check to the organization's Endowment Fund with an acknowledgment form (Attachment C). The organization will not forward the names of the contributors to the financial institution managing the Endowment Fund except when a named philanthropic fund is opened.
4. Individuals who wish to open a named philanthropic fund may do so under the auspices of the organization's Endowment Fund. The named fund allows the organization and the contributor to market the Fund for additional contributions.
5. Quid Pro Quo: The organization is responsible for providing contributors with written substantiation for contributions exceeding \$75 when the organization is providing any goods or services in exchange or partial exchange for the contribution (special events, dinners, etc.) The ticket and/or receipt is to state an estimate of the value of the goods and services indicating that this amount is not deductible for income tax purposes.

IV. Addenda

A. Standards of Practice

Standards of Practice of the Charitable Gift Planner

Following is the text of the code of planned-giving standards for fund raisers and financial planners adopted by the National Committee on Planned Giving and the Committee on Gift Annuities.

Preamble

The purpose of this statement is to encourage responsible charitable-gift planning by urging the adoption of the following Standards of Practice by all who work in the charitable-gift-planning process, including charitable institutions and their gift-planning officers, independent fund-raising consultants, attorneys, accountants, financial planners, and life-insurance agents, collectively referred to hereafter as "Gift Planners".

This statement recognizes that the solicitation, planning, and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purpose of the charitable institution.

I. Primacy of Philanthropic Motivation

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. Explanation of Tax Implications

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. Full Disclosure

It is essential to the gift-planning process that the role and relationship of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. Compensation

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payments of finder's fees, commissions, or other fees by a donee organization to an independent Gift Planner as a condition for delivery of a

gift are never appropriate. Such payments lead to abusive practices and may violate certain federal and state regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. Competence and Professionalism

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise and, as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact, and mutual respect.

VI. Consultation with Independent Advisers

A gift planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

VII. Consultation with Charities

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to ensure that the gift will accomplish the donor's objectives, should encourage the donor, early in the gift-planning process, to discuss the proposed gift with the charity to whom the gift is to be made.

In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift-planning process.

VIII. Explanation of Gift

The Gift Planner shall make every effort, insofar as possible, to ensure that the donor receives a full and accurate explanation of all aspects of the proposed charitable gift.

IX. Full Compliance

A Gift Planner shall fully comply with and shall encourage other parties in the gift-planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. Public Trust

Gift Planners shall, in all dealings with donors, institutions, and other professionals, act with fairness, honesty, integrity, and openness.

Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

B. Checklist for Gifts of Real Property

PROSPECTIVE GIFT INFORMATION

Name of Contributor: _____

Resident Address: _____

Phone Number: _____

Property Location: _____

Type of Property: _____ Residential _____ Commercial
_____ Farm _____ Undeveloped
_____ How Zoned

To the extent possible, the following information should be ascertained from the contributor during the early stages of gift consideration.

Owner's Interest in the Property: Full _____ Partial _____
Free & Clear _____ Encumbered by _____

Owner's Estimate of Value \$ _____

Land Value \$ _____

Improvements \$ _____

Age of Improvements \$ _____

Date Acquired \$ _____

Acquisition Cost \$ _____

Previous Owners _____

Current Property Income & Expenses:

| | | |
|--------------|----------|--------------------|
| Taxes | \$ _____ | Paid through _____ |
| Insurance | \$ _____ | |
| Utilities | \$ _____ | |
| Maintenance | \$ _____ | |
| Other | \$ _____ | |
| Rental Inc. | \$ _____ | |
| Oper. Exp. | \$ _____ | |
| Net Cash Fl. | \$ _____ | |

APPRAISAL – Gifts of real property valued in excess of \$5,000 are subject to federal tax regulations requiring an appraisal. The appraisal should include:

1. A description of the Property
2. A statement of the value and the valuation date
3. The factors and basis on which the appraisal was made
4. A summary of the appraiser’s signature, tax identification number

GIFT ANALYSIS – A representative of the organization or the Planned Giving Director should personally inspect real property. Copies of the following documents are needed:

1. Deed and legal description of the property
2. Abstract, or other evidence of legal title or title insurance
3. Property tax bill
4. Conditions, covenants, easements, restrictions and/or association agreements
5. Lease or rental agreements
6. Three years income & expense on commercial properties
7. Notes and trust deeds or mortgages (current mortgage statements)
8. Property Insurance policy
9. Appraisal

During the inspection of the property, critique the following:

1. Character of real property in relation to surrounding properties and the general area.
2. Access to utilities, relative value of neighboring properties, etc.
3. Physical condition of the improvements
4. Apparent liabilities (i.e. unfenced swimming pool, uncovered well, etc.)

ENVIRONMENTAL RISK ASSESSMENT – Under the Comprehensive Environmental Responsibility, Compensation and Liability Act (CERCLA) and other applicable laws, the owner of a cleanup site may be held jointly and

severally liable for the costs involved. To protect the organization from such risk, the following procedures should be followed and documented:

Inquire into the use of the property by all previous owners

For exclusively residential real property:

1. Make a visual inspection of the property
2. Inquire whether the owner knows of any buried toxics on site
3. Obtain a written representation from the donor regarding the condition of the property
4. Record the environmental condition of the property
5. Obtain an Indemnification Agreement, if needed

For commercial property (in addition to above):

1. Request information about any past or present problems involving compliance with environmental laws from EPA and appropriate state and local regulatory agencies
2. Inspect the property
3. Phase I Environmental Study
4. Phase II Environmental Study if indicated
5. Obtain and Indemnification Agreement, if needed

ADMINISTRATIVE (Subsequent to approval)

1. Acknowledgment letter to donor
2. IRS Form 8283 for Donor to file (An appraisal may be needed.)
3. Deeds signed and recorded
4. Notifications to tenants or other parties
5. IRS form 8282 must be filed by the organization, if donated property is sold within two years

RESALE (Subsequent to approval)

1. Anticipated time frame for sale
2. Determination of listing agent
3. Necessary repairs
4. Apportionment of taxes, management fees and expenses
5. Other

C. Receipt form for deposits to the organization's Endowment Fund

TO: _____ (Planned Giving Director)
Organization
Street
City State Zip

FROM: _____ (Financial Institution
managing the Endowment Fund)

I acknowledge receipt of a check from the organization in the amount of
\$_____. This money has been placed in the organization's
Endowment Fund held by _____ (Financial Institution.)

Signed: _____

Title: _____

Date: _____

D. Donor-advised Funds

SAMPLE DONOR ADVISED FUND AGREEMENT

This Donor Advised Fund Agreement (this "Agreement") is made on the date specified below by and between _____ and _____ of _____, _____ (hereafter referred to as the "Donors") and the organization, a (State) not-for-profit charitable organization (hereafter referred to as " ").

I. Donor Advised Fund Creation

The Donor hereby contributes to the organization the property specified in Attachment "A" as the initial contribution to the Donor Advised Fund, (the "Fund"), and represents that the value thereof is equal to or greater than the minimum required Donor Advised Fund amount of \$25,000, which may be fulfilled through a three year pledge. The organization by resolution of its Board of Directors has approved the acceptance of gifts and bequests of property for the purpose of creation of Donor Advised Funds. The name of the fund is the _____

_____ Fund. All Donor Advised Funds shall be component funds and the exclusive property of the organization, subject to the control of the organization with respect to all distributions of income. For purpose of this paragraph, income shall be defined as the total return in money or property derived from the use of principal and as much of the appreciation of the principal as the organization deems advisable in accordance with the policies and procedures established from time to time by the organization. The organization will hold and administer all property, which the Donor or any other person contributes to the Fund in accordance with this Agreement and the provisions of the Articles of Incorporation and the Bylaws of the organization.

II. Advisors

The Donor may advise the organization in writing regarding the distribution of the Fund's total return. In addition, the Donor may designate one person to act as their spokesperson in advising the organization. The following named children may serve as advisors after the death or incapacity of the Donors:

_____, _____,
_____, _____.

In the event that no written advice is received by the organization with respect to distributions of income or principal for three (3) consecutive years, or in the event of the death of the Donor with no appointment of an advisor, the organization may deem that no person has further interest in advising with respect to the fund. In this circumstance, the organization may give written notice to the last known designated advisor or spokesperson that the right to give further advice and counsel is terminated. Any remaining Donor Advised Fund assets shall become

part of the organization's permanent endowment fund. If the Fund at that time is \$25,000.00 or more, it will continue as the

_____ Fund as an undesignated endowment fund. If the Fund at that time is less than \$25,000 it will become part of the general undesignated endowment fund of the organization.

III. Distributions from the Donor Advised Fund

The organization shall make distributions from the total return of the Fund at such times and in such proportions as the Board of Directors deem appropriate after consultation with the advisors to the Fund. The Donor shall recommend at least annually appropriate distributions. All recommendations shall be for distributions in amounts equal to or in excess of the minimum distribution amount of \$300.00. No distributions shall be made to fulfill a legally binding pledge of the Donor. Distributions shall be made to qualified Section 501(c) (3) charities and shall include the following specified percentages: at least 50% to current programs in the organization's territory and operating in a way and having a purpose consistent with the organization's mission; 50% or less to programs to other qualified nonprofit organizations. All programs shall be consistent with the organization's Mission Statement as adopted by the Board of Directors. If the gift cannot be processed according to the Donor's advice, the organization shall have the power to modify or remove such restriction or condition on the distribution of funds if, in its discretion, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the communities served. This variance power gives the organization's Board of Directors the authority to change the recipient of the gift when the Donor's direction can no longer be honored.

IV. Administration

The organization shall accept contributions and administer the Fund in accordance with resolutions of the Board of Directors. These resolutions and policies may be amended as required by the Board of Directors. While the Donor Advised Fund is a component fund of the organization, the assets may be commingled for investment purposes and invested in units of any common investment fund of the organization. The organization shall have the right to convert any gifted property to securities or other assets of a common fund. Each Fund shall be assessed charges and fees similar to those applicable for similar funds managed by the organization.

V. Donor Advised Fund Remainder

This Donor Advised Fund is intended to be operational during the lives of the Donor. If the Donor so designates in writing a child, children or other person as successor advisors for life or a term of years, then the Fund shall continue for

those lifetimes or the specified term. After the death of the Donor or of the Donor's children appointed advisors or the expiration of the term of years, as applicable, the Fund shall become the exclusive and unrestricted asset of the organization. The Donors and, if selected, the child or children of the Donor, may prior to the termination date make recommendations for distribution of principal from the Fund upon the termination date.

VI. Donor Advised Fund Provisions

This Agreement is irrevocable. Nevertheless, solely to insure that the Fund is a qualified component of the organization for Federal Tax purposes, the organization, acting alone, shall have the power to modify the terms of the agreement to the extent necessary to insure such qualification. The laws of the State of (State name) shall govern this agreement. No individual, foundation, corporation, either public or private, whether in the classification of donor, donee, advisor or beneficiary, or anyone claiming by or through them or any other person, foundation, corporation, either public or private except the organization, shall have a right, title or interest in or to any of the Donor Advised Endowment Fund or any part thereof; title to all of the property, money and income paid into or acquired by the Fund shall be vested and remain exclusively in the organization; and it is the intention that no benefits or moneys payable from the Fund shall, prior to distribution, be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge by anyone other than the organization, and any attempt by anyone other than the organization to so anticipate, alienate, sell, transfer, assign, pledge, encumber or charge shall be void.

VII. Amendment

With the consent of the organization the Donor or Advisor may, during his/her lifetime, amend the guidelines for the fund or change the purpose as long as it is consistent with Article III of this document and with the mission statement of the organization.

IN WITNESS WHEREOF, the organization and the Donors have executed this Agreement on the date specified below.

_____ Date: _____
Organization Representative

DONOR ADVISED FUND:

_____ Date: _____

Donor 1: _____

Donor 2: _____

Attachment A

(Description of property contributed to the donor advised fund.)

Donor Advised Funds Marketing Piece

A New Way To Make A Difference

A Donor Advised Fund can be a charitable tool that gives you a convenient, tax-efficient way to support many good causes. Your Fund may also allow you to pass on to heirs a sense of service to others. This transfer of values should be as much a part of a person's inheritance as the material benefits received from a donor's estate. The organization encourages Donor Advised Funds:

1. As an effective way to help donors achieve their charitable, family, and financial goals.
2. As a way to allow donors to be more personally involved in the organization.
3. As a consistent well-managed source of stable funding for vital services.

Setting up a Donor Advised Fund

You can create a Donor Advised Fund by contributing cash, securities or other appreciated property to the organization. Both current gifts and gifts through wills and bequests may be used to establish a Donor Advised Fund. On a regular basis, and at least annually, you will be advised by the organization as to your Fund balance and a notation as to those funds available for distribution. A call to the organization's Planned Giving Director starts the process. A representative of the organization will meet with you to answer your questions, review with you a sample agreement for a Donor Advised Fund and tailor the wording to ensure your intentions are fulfilled. The funds will be administered in accordance with the Donor Advised Fund Policies adopted by the Board of Directors of the organization, and with the Fund Agreement entered into with the Donor.

Contribution levels

For a permanently endowed Donor Advised Fund, the organization requests a minimum initial contribution of \$25,000, which may be fulfilled through a three-year pledge. However, a smaller initial contribution may be accepted if the donor expresses intent to increase the size of the fund over time up to the suggested minimum level. Except for the initial minimum contribution, there is no further requirement to add to the fund, but you may make additions at any time.

Naming your Donor Advised Fund

Donors often choose to name their Donor Advised Fund. If desired, the Fund name accompanies distributions from the Fund.

Serving as adviser

You will recommend in writing the programs or organizations you wish to receive distribution of earnings from your Donor Advised Fund. Final approval rests with the organization. If there is more than one adviser, the advisers shall appoint

one person to make recommendations on behalf of the group. All such organizations must be in accord with the organization's Mission Statement as adopted by the Board of Directors. When the organization makes distributions from the Fund to the programs or organizations you recommend, you will be named as the Donor. However, if you choose, you may remain anonymous.

Allocation policy requirements

It is the policy of the organization that at least one half (50%) of distributions be to the organization. Other contributions may only be made to organizations whose purpose is consistent with the organization's mission but which operate outside the organization's area of service. These requirements are expected to be met over a three year period of time.

When does your fund terminate?

Your Donor Advised Fund will terminate upon the death of the last person authorized to act as adviser. The Fund may terminate if the amount falls and stays below 50% of the specified minimum balance and you choose not to replenish the fund.

Upon termination, the remaining balance in your Donor Advised Fund will become part of the organization's endowment accounts. Endowment funds over \$25,000 will be designated and continue to bear the original name of the Fund. Endowment funds under \$25,000 may become part of the organization's permanent endowment funds.

Administrative fees

Fees to cover the ongoing and overall administrative and investment costs of your Fund will be charged against the earnings of the Fund.

Investment of Funds

The organization is required by law to ensure that its assets are invested in accordance with accepted standards of fiduciary conduct. The organization's Finance Committee will supervise the investment of Donor Advised Funds, which will be placed under professional investment management.

Tax advantages of a Donor Advised Fund

A Donor Advised Fund offers you the full tax advantages of contributing to a qualified nonprofit organization. See your tax advisor to see how this vehicle can work for you.

To find out more...

We invite you learn more about Donor Advised Funds and other tax-advantaged gift opportunities with the organization.

**Planned Giving Director Name
Address**

Phone

E. Marketing Plan Template (Sample)

The following is a rough guide only and meant to help the Planned Giving Director determine a specific schedule of marketing activities for the year. The Director will have to add items—promoting donor-advised funds, putting in place a gift annuity program, for example—that may seem particularly advantageous to the organization at a given time.

Planned Giving Activities List (For twelve month period: _____ to _____)

1. Develop planned giving case statement and budget **Completion Date:**
2. Ask Board members to approve case statement and make their own planned gift commitments. **Completion Date:**
3. Make motivational presentation to Board of Directors with volunteer/planned giver as main speaker. **Completion Date**
4. Set up system of technical support on the tax and financial consequences of charitable trusts, life estates, bargain sales, and other gift strategies of a technical nature.
5. Meet with Planned Giving Advisory Council as needed to review marketing plan and receive technical support. **Meeting Schedule:**
6. Hold (number) one-to-one conversations, preferably with volunteer planned giving advocates involved, with planned giving prospects, inviting them to receive recognition as Legacy Circle. Staff sets up one-to-one meetings. **Completion Date:**
7. Schedule planned giving presentation(s) to the organization's volunteer groups. **Completion Date:**
8. Schedule planned giving presentations to estate planning professionals. **Completion Date**
9. Publish planned giving information, especially donor case histories, in the organization's newsletters: **Publication Schedule**
10. Develop planned giving "Legacy Society" recognition program: **Completion Date:**
11. Explore possibility of estate planning seminars: **Completion Date:**

12. Present Advisory Council and Board of Directors with planned giving activities and goals for the year: **Completion Date:**

13. Survey a few other similar organizations and ask what they've done that has promoted planned gifts successfully: **Completion Date:**

Evaluate planned giving program: (1) Was the plan for the year implemented?
(2) How many new members in Legacy Circle?