



## Agency Fund Agreement

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, between \_\_\_\_\_, an Oregon not-for-profit corporation having its principal office at \_\_\_\_\_, \_\_\_\_\_, Oregon (the "Agency"), and Benton Community Foundation, ("BCF"), an Oregon not-for-profit corporation having its principal office at 660 NW Harrison Blvd., Corvallis, Oregon, to create a philanthropic and charitable fund.

Upon the effective date of this Agreement, the Agency shall transfer to BCF the following gift:

This gift constitutes an irrevocable gift to BCF and is subject to the following terms and conditions:

1. Establishment of Fund. An Agency Fund shall be established as a fund on the books of BCF and known as the \_\_\_\_\_ (the "Fund"). [OPTIONAL LANGUAGE FOR PAYMENT OVER FIVE YEARS OF GIFTS TO ESTABLISH MINIMUM BALANCE OF NAMED FUNDS: *Agency understands and agrees that it has five (5) years from the date of the Agreement to raise the minimum balance of \$15,000 required to establish the Fund. All gifts (or the net sales proceeds of the gifts) received for this purpose shall be irrevocable and will be held in a temporarily restricted account until the minimum balance is achieved. Fees shall be deducted monthly from the temporarily restricted account as set forth in Paragraph 2. In the event that total gifts are less than \$3,000 on the 1st anniversary of the date of this Agreement; \$6,000 on the 2<sup>nd</sup> anniversary of the date of this Agreement; \$9,000 on the 3rd anniversary of the date of this Agreement; \$12,000 on the 4th anniversary of this Agreement; or \$15,000 on the 5th anniversary of this Agreement, the account may be closed and the gifts to the account will be treated as unrestricted gifts for use as determined by BCF's Board of Directors. If circumstances so warrant, BCF staff will work with the Agency to ensure that the Agency has reasonable time to achieve each financial benchmark prior to account closure. No distributions shall be made from the account until the principal balance of the Fund is at least fifteen thousand dollars (\$15,000). Once the minimum balance is achieved, a (type of fund) fund shall be established as a fund on the books of BCF and known as the (name of fund) (the "Fund").*

The Fund shall be held, managed and maintained by BCF as a (*permanently restricted endowment or temporarily restricted fund.*) The Fund shall include the property transferred with this Agreement and any other gift that the Agency may later transfer to BCF for inclusion in the Fund subject to acceptance by BCF board. All gifts (or the net sales proceeds of the gifts) to the Fund shall be irrevocable. Assets of the Fund may be commingled for purposes of investment with other assets of BCF. BCF has the sole responsibility to manage and invest the funds and may retain firms or individuals to assist in this responsibility.

2. Administrative Fees. Annual administrative fees will be assessed to the Fund as provided in *Schedule A*. This fee schedule is subject to periodic review and revision by BCF's Board of Directors from time to time, but increases in fees, if any, will be effective only upon thirty (30) days written notice by BCF to the Agency.

3. Designation of Purpose. The Fund shall be used for support of the charitable, scientific, or educational purposes of the Agency and its affiliated agencies (if any).

4. Distributions from the Fund. The Agency is the beneficiary of the Fund. Distributions from the Fund shall be in accordance with the Investment & Spending Policy as set forth on *Schedule B*. Except as otherwise provided herein, distributions shall be made at least annually, or more frequently, as the parties may from time to time agree.

(CHOOSE PARAGRAPH 4 (a) FROM FOLLOWING ALTERNATE PROVISIONS)

4(a). [Alternative Quasi 1] Other Distributions. In transferring its property to the Fund, the Agency intends to create a permanent endowment. However, distributions in excess of the amount dictated by the application of BCF's spending policy may be made to the Agency in any year as determined by the Board of Directors of BCF provided one of the following conditions is met: (a) the distribution is for the purpose of enabling the Agency to acquire or renovate a capital asset; or (b) the Agency is faced with unexpected financial needs that are not likely to recur, and the distribution will enable the Agency to meet those needs. The Agency may request that BCF disburse up to one hundred percent (100%) of the Fund to the Agency for the purposes described above. Such request, however, is not binding on BCF and may be accepted or rejected, in whole or in part, by BCF in its sole and absolute discretion.

4(a). [Alternative Strict Endowment 2] No Other Distributions. In transferring its property to the Fund, the Agency intends to create a permanent endowment. No distributions in excess of the amount dictated by the application of BCF's spending policy may be made to the Agency in any year.

5. Agency Acknowledges that Fund will be Administered Pursuant to Foundation's Policies. Agency acknowledges that the Fund shall be administered in accordance with all BCF Policies. BCF policies shall be periodically reviewed and amended and any such revision in effect shall control at any given time.

6. Permission to Use Agency Name and Fund Name in BCF Publications. Agency (*select one of the following options:*) *consents/does not consent* to the legal use by the BCF (and its designees) of (*select one or both of the following options:*) *Agency's name and/or Photo and/or the name of Agency's Fund* as in any form or medium, for news stories, publicity, and website posting. (*If consent is given, add the following:*) Agency waives any right to inspect or approve the finished products or the copy or printed matter that may be used with the use by BCF of Agency's *name and/or photo and/or the name of Agency's Fund*. Agency hereby releases BCF from any and all

claims in connection with the use of Agency's *name and/or photo and/or the name of Agency's Fund*, including any and all claims of libel.

7. Variance Power. Agency acknowledges and agrees that, pursuant to tax law, the board shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations set forth above, if, in the sole judgment of the board (without the approval of any trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

8. Fund is Component Part of Foundation. Agency and BCF agree that the Fund shall be a component part of BCF and not a separate entity for tax purposes, and that nothing in this Agreement shall affect the status of BCF as a charitable organization described in Section 501(c)(3) of the Code, and as an organization that is not a private foundation within the meaning of Section 509(a) of the Code. This Agreement shall be interpreted to conform to the requirements of the foregoing provisions of the federal tax laws and any regulations issued pursuant thereto. BCF is authorized to amend this Agreement to conform to the provisions of any applicable law or government regulation in order to carry out the purposes of the Fund.

9. Status of Agency. All transfers of property under this Agreement are subject to the condition that the Agency is classified in good standing by the Internal Revenue Service as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation as defined in Section 509(a) of the Code. If the Agency ceases to be classified in good standing by the Internal Revenue Service as an organization (i) described in Section 501(c)(3) of the Code and (ii) which is not a private foundation as defined in Section 509(a) of the Code, no further distributions will be made to Agency and the purpose for which the Fund was created shall be deemed incapable of fulfillment. In such event, the Board shall exercise its variance power to redirect future distributions from the fund.

IN WITNESS WHEREOF, the Agency and BCF have executed this Agreement as of the date first above written.

AGENCY:

By \_\_\_\_\_

Name & Title: \_\_\_\_\_

BENTON COMMUNITY FOUNDATION:

By \_\_\_\_\_

President/CEO

**SCHEDULE A**

**Annual Fees Charged to Agency Endowment Funds of Benton Community Foundation**

The following annual administrative fees will be assessed to all Agency Funds. This fee schedule is subject to periodic review and revision by BCF's Board of Directors from time to time, but increases in fees, if any, will be effective only upon thirty (30) days written notice by BCF to the Donor. The fees are graduated based on the size of the Fund.

The first \$2,000,000	1.00% per annum
Additional amounts >\$2,000,000	.75% per annum

AGENCY:

By \_\_\_\_\_

Name & Title: \_\_\_\_\_

**SCHEDULE B**

**INVESTMENT & SPENDING POLICY**