

THE EL DORADO COUNTY ACEP FUND

**An Expendable Designated Agency Fund
of the
El Dorado Community Foundation**

FUND AGREEMENT

1. NAME AND PURPOSE

El Dorado County Department of Agriculture (“Donor”) hereby establishes the *El Dorado County ACEP Fund* (“Fund”) as a component fund under the administration of the El Dorado Community Foundation (“Community Foundation”). The Fund is established to support the El Dorado County Agricultural Conservation Easement program (“Agency”).

2. FUND TYPE

This is an expendable fund, subject to the provisions of Documents 1 and 3.

3. DONATIONS

Donations of any size may be made to this Fund at any time.

4. APPLICABLE TERMS AND CONDITIONS

The terms and conditions governing the Fund are contained in Documents 1 and 3: Provisions Governing All Funds of the Community Foundation and Provisions Governing Expendable Funds of the Community Foundation. These documents are attached to and constitute part of this fund agreement.

Any materials designed to raise money for the Fund or to otherwise publicize this Fund must be submitted in writing for review and approval of the Community Foundation.

5. GRANTS

The Community Foundation's Board of Directors will approve grants from this Fund to support the charitable purposes described in Section 1, subject to the provisions of Documents 1 and 3.

Grants to the Agency will be used at the discretion of its board of directors. All grants made are intended to further the Fund's stated charitable purposes.

Upon dissolution of the Agency, or if the Agency no longer carries out the charitable purposes described above in Section 1, the Community Foundation shall make grants from the Fund to such organizations as in the opinion of the Community Foundation's Board of Directors most nearly serve the purposes and objectives stated above in Section 1.

All grants must be approved by the Community Foundation's Board of Directors.

AGENCY AUTHORIZED SIGNATORS

By: _____ Date _____

By: _____ Date _____

EL DORADO COMMUNITY FOUNDATION

By: William J. Roby, Executive Director Date _____

DRAFT PROPOSAL

Description of Property

Initial Deposit:

Mailing Address for Fund Statements:

DRAFT PROPOSAL

TERMS AND CONDITIONS

DOCUMENT 1

PROVISIONS GOVERNING ALL FUNDS OF THE EL DORADO COMMUNITY FOUNDATION

The following terms and conditions of this “Document 1” govern all funds of the El Dorado Community Foundation, regardless of their nature (Geographical, Scholarship, Special Project, Committee, Donor-Advised, Agency, Field of Interest, or Designated Agency), or designation (Permanently Endowed or Expendable).

1. Funds as Component Parts of the Community Foundation

All funds created under the terms and conditions described in this document are intended to be, and will be administered as, funds of El Dorado Community Foundation under *Treasury Regulations*, “Section 1.170A-9(f)(11)”. As these Treasury regulations require, and as the articles of incorporation and the bylaws of the Community Foundation set forth, all component funds are specifically subject to the powers of the Community Foundation’s Board of Directors as the governing body of a community trust. Such powers include the power to modify any restriction or condition of any component fund in the event that this restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the needs of the community served by the Community Foundation.

2. Criteria Governing All Funds

All parties to a fund agreement will ensure that the fund being established meets the following criteria. The fund is (a) compatible with the Community Foundation’s purposes and approaches; (b) consistent with the Community Foundation’s tax-exempt status; (c) established with gift instruments acceptable to the Community Foundation’s Board of Directors; and (d) contributions to it and distributions from it can be managed cost-effectively.

3. Additional Contributions to Funds

Anyone may make additional contributions to any fund, subject to the Community Foundation’s approval. The Community Foundation’s Board of Directors may, at its sole discretion, refuse any additional contributions that it finds unacceptable. Additional contributions accepted by the Board of Directors will be subject to the terms and conditions detailed in this and any other relevant document(s).

4. Holding Assets of Funds

For the purposes of investment, the Community Foundation does not need to segregate the assets of any single fund from the assets of the Community Foundation's other component funds but may choose to do so.

However, if a fund's assets are pooled with those of other funds for investment purposes, the Community Foundation's Board of Directors will keep a separate account of that fund's assets, and all investment earnings on its assets (including interest, capital appreciation, and dividends-net of investment fees) will be credited to that fund. All earnings are automatically reinvested unless specifically addressed in another section of the fund agreement.

5. Administrative Fees

"Document 2," which details the terms and conditions specifically governing permanent, endowed funds, and "Document 3," which specifically governs expendable funds, discuss the fees for endowed and expendable fund respectively. This fee is applied to the general operating costs of the Community Foundation, and covers the following expenses associated with the administration of the fund:

- ✓ Customized fund design
- ✓ Investment/asset management services (quarterly fund statements, monitoring investment performance, setting and reviewing investment policies)
- ✓ Administrative services (IRS reporting, acknowledgement of gifts for tax purposes)
- ✓ Donor Services including:
 - One-on-one (or family) sessions to help donors create a social investment strategy or further refine their giving approach for maximum impact
 - Ability to give anonymously
 - Due diligence on all grant recommendation
- ✓ Periodic, detailed accountings to Donors, itemizing contributions, grants, and net earnings/loss
- ✓ As appropriate, addressing pressing community needs or important civic issues through convening community leaders and targeted initiatives
- ✓ Attracting funds from larger private foundations and other outside sources

If the Community Foundation determines that the actual costs of administering any given fund exceed the fee set forth by the terms of its fund agreement, then the Community Foundation may modify the administrative fee based on such actual costs. This modification would be done in consultation with the fund's donor(s). Examples of such exceptional costs for administering funds could be legal fees incurred by the Community Foundation related to a particular fund, costs related to the sale of donated assets, a high volume of receipts to a fund, a high volume of disbursements from a fund, designing a special grants program, an exceptional amount of research before making grants, or intensive tracking and evaluation of grantees after making grants.

Except for such special cases involving exceptional costs, the fees charged to all funds will be equitable* -- i.e., the fee charged to any one fund will be equivalent to the fee charged to other, similar funds of the Community Foundation.

Fees for management of each fund's assets by outside investment managers and custodians will be deducted at cost from the fund's gross earnings, before the earnings are credited to the fund's account.

Donors are responsible for payment of all fees to their professional advisors (attorney, accountant, financial advisor, etc.) involved in the set-up of their fund.

6. Inactive Funds

A fund is deemed inactive if no recommendations are made with respect to grants from the fund for a period of three years and, during such period, the advisor or successor advisor does not reply to the Foundation's attempts to contact them.

The fund will also be deemed inactive if after three years either of the following occurs: a) the fund advisor dies or resigns or evidence of his or her incapacity is provided to the Foundation, and if no successor advisor has been named; or b) all named successor advisors are unable or unwilling to serve as such.

If the fund becomes inactive, the Foundation will deem the advisory period to have ended and will initiate distributions from the fund in accordance with the provisions of the fund agreement.

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TERMS AND CONDITIONS

DOCUMENT 3

PROVISIONS GOVERNING EXPENDABLE FUNDS OF THE EL DORADO COMMUNITY FOUNDATION

In addition to the terms and conditions governing all funds of the El Dorado Community Foundation (Document 1), the following terms and conditions specifically apply to Expendable funds:

1. Distributions

The Community Foundation's Board of Directors may, with the advice of an expendable fund's donor(s), expend down a fund consistent with the donor's charitable intent.

2. Investment Policy and Administrative Fees

The Community Foundation will invest the assets of an expendable fund and determine administrative fees to that fund based on an assessment of the nature of the fund and amount of time an expendable fund is expected to be open. Because expendable funds are established for a wide variety of donors, including both individuals and organizations, and because they may be short-term or longer-term, the Community Foundation has adopted a policy of investing the assets of these funds in two ways, depending on the amount of time the expendable fund is expected to be open.

1) For shorter-term funds (less than 12 months), or in cases where monies will be contributed and re-granted within a short period of time, the Community Foundation may deposit the assets of the fund in a money-market account to maximize their liquidity and to protect the fund balance. The Community Foundation's staff will review this and other options with the donor at the time the fund is established and based on the goals of the fund, jointly determine the most appropriate investment vehicle.

2) For longer-term funds (more than 12 months), or in cases where monies will be contributed and re-granted over a long period of time, the Community Foundation may invest expendable fund assets along with endowment (or permanent) fund assets.

The Community Foundation assesses an administrative fee on each expendable fund.