

# Sample Memorandum of Charitable Intent with Related Scenario

## SCENARIO

John and Jane Smith have been long time donors of Community Foundation Santa Cruz County. They have asked their estate planning attorney to direct 10% of their estate to the Foundation. They estimate that this will result in a gift of about \$100,000, but of course that could change.

- In 1990 they had established an endowed fund at the Foundation for health services called the Smith Family Health Fund. The Foundation oversees grants from this fund.
- John and Jane also care about programs for children and are active volunteers with CASA-Court Appointed Special Advocates. CASA has an endowed fund at the Foundation that benefits their organization.
- The Smiths are very impressed with the work of Doctors Without Borders.
- Jane has a life-long interest in the arts and is an excellent watercolorist.
- John's mother, Betty Smith, passed away last year from cancer. She received wonderful support during her illness from Holistic Healing Arts. They wanted to honor the memory of Betty Smith with an endowed fund here in Santa Cruz County where she grew up.

Let's see what their Memorandum of Charitable Intent might look like...

## SAMPLE Memorandum of Charitable Intent regarding charitable distributions from the estate of John and Jane Smith to Community Foundation Santa Cruz County

The purpose of this Memorandum of Charitable Intent is to serve as a guide to Community Foundation Santa Cruz County (Community Foundation) in carrying out the philanthropic objectives of John and Jane Smith (Donors). Donors have stated that assets directed from their estate to the Foundation be used for the following charitable purposes:

**I. Pass Through Gifts:** Donors wish the following amounts to be distributed by the Foundation to the following organizations.

\$5,000 to American Cancer Society, Sonoma County Chapter

\$10,000 to Doctors Without Borders

\$10,000 to Holistic Healing Arts, Sebastopol, CA

\$5,000 to Boys and Girls Club, Santa Cruz County

\$5,000 to Pajaro Valley Arts Council

In the event that an organization listed above is not in existence at the time funds are distributed, then Donors wish that organization's gift to be added to the *Smith Family Health Fund* at the Community Foundation.

**2. Additions to Existing Community Foundation Funds:** After pass through gifts are made, Donors wish the following percentages of the remaining balance be added to the following existing funds:

10% to the *Court Appointed Special Advocates (CASA) Endowment Fund*

10% to the *Smith Family Health Fund*

**3. New Fund(s) to be Created at the Community Foundation:** The following percentages from the remaining balance will be used to create the following new funds:

40% to create *Jane's Art Fund, an endowed fund to support arts programs and projects in Santa Cruz County.*

40% to create the *Betty Smith Memorial Fund, an endowed fund for greatest needs in the community.*

In the event that the allocations for new funds do not meet the Community Foundation's minimum for new funds at the time of distribution, the allocations will be added to the *Smith Family Health Fund*.

**Disclosures:**

**Variance Power:** This Memorandum is subject to the Community Foundation's authority to vary the terms of the gift. As stated in Article III, Section I (B) (4) of the Bylaws, the Foundation adheres to Treasury Regulation 1.170A-9(e)(1)(v)(B)(1), commonly known as the Variance Power. This allows the Foundation to "modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified charitable purposes or to specified agencies if, in the sole judgment of the governing body (without the necessity of the approval of any participating 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."

**Gift Acceptance:** All gifts are subject to Community Foundation Gift Acceptance Policies.

**Donors' Review and Confirmation**

We have reviewed this Memorandum of Charitable Intent and confirm that it reflects our wishes. We understand that I/we have the right to update this Memorandum at any time.

\_\_\_\_\_  
John Smith, Donor

\_\_\_\_\_  
Jane Smith, Donor

Date: \_\_\_\_\_