

AGENCY ENDOWMENT AGREEMENT

THE STATE OF TEXAS

COUNTY OF HOWARD

This Agreement is made as of the ____ day of _____, 200__, at _____, _____ between the _____ ("Agency"), a corporation established under the nonprofit corporation law of the State of Texas, with its principal office located at Big Spring, Texas, and the **Big Spring Area Community Foundation** ("Foundation"), a corporation organized under the nonprofit corporation law of Texas with its principal office located in Big Spring, Texas;

WHEREAS, the Parties to this Agreement have a common interest in the welfare of the Big Spring community and in serving charitable and educational purposes for the benefit of the Big Spring area;

WHEREAS, each Party is a qualified charitable organization (as defined herein); and

WHEREAS, Foundation has been established with a principal purpose to receive and administer funds as endowments for various charitable and educational purposes and organizations in the Big Spring community; and

WHEREAS, Agency desires to establish a fund in the Foundation in the nature of an endowment to provide current income and long-term protection for the operations of Agency, and Agency is desirous of having the benefits of such a fund;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties agree as follows:

1. Establishment of Fund. A fund shall be established on the books of Foundation which shall be known as the _____ **Fund** ("Fund"). Foundation acknowledges receipt of the property listed in Schedule "A" attached hereto and made a part hereof as the initial property of the Fund.

2. Property of the Fund. The Fund shall include the property received herewith, such property as may from time to time be transferred to Foundation by Agency for inclusion in the Fund, such property as may from time to time be transferred from any other source for inclusion in the Fund and accepted by Foundation, and all undistributed income from the foregoing property. The Fund shall be the property of Foundation held by it in its corporate capacity and shall not be deemed a trust fund held by it in a trustee capacity. Foundation shall have the ultimate authority and control over all property in the Fund, and the income derived therefrom, in accordance with the Articles of Incorporation and Bylaws of Foundation (as they may be amended from time to time), and the terms of this Agreement applied in a manner not

inconsistent with said Articles and Bylaws.

All property comprising the Fund shall be held by the Foundation in the name of the Fund and the income and principal of the Fund may, in the discretion of the Foundation, be either commingled with other Foundation assets or segregated and administered as a separate account; provided, however, that if the assets of the Fund are commingled with other Foundation assets, the Foundation shall maintain at all times separate records and books of account so as to specifically identify the assets and interests of the Fund from time to time.

3. Designation of Purposes. The Fund shall be used for support of the charitable or educational purposes of Agency.

4. Distributions. Generally, distributions from the Fund will be made in accordance with a payout/distribution rate established by the Trustees of Foundation from time to time.

5. Other Distributions. Distributions in excess of the amount authorized under Paragraph 4 hereinabove, may be made to Agency in any year as determined by the Trustees of Foundation.

6. Variance.

(a) Foundation agrees that if the Trustees propose to exercise the variance power under Article IX of Foundation's Articles of Incorporation, the exercise of such power shall not be effective earlier than at least thirty (30) days after Foundation notifies Agency in writing of (1) its intent to exercise such power and (2) the manner in which Foundation proposes to vary the purposes, uses or methods of administration of the Fund. During the notice period, Agency may advise Foundation of its views regarding the proposed exercise of the power and take such other action as it deems appropriate. If Foundation becomes aware of any other action instituted or proposed by any person to vary the purposes, uses or method of administration of the Fund, it will promptly notify Agency.

(b) If Foundation ceases to be a qualified charitable organization or if 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 Agency. If Agency is not then a qualified charitable organization, said assets shall be distributed in such manner and to such organization or organizations in the Big Spring community as satisfies the requirements of a qualified charitable organization and serves purposes similar to those of Agency.

(c) If the Agency ceases to exist or permanently ceases to perform its charitable functions or purpose, or should the Board of Trustees of the Foundation ever determine that the purpose for which any gift to or for the benefit of the Agency is no longer possible or practical of accomplishment, then the Foundation may distribute all or any part of the fund to any qualified charitable organization, as defined in Section 501(c)(3) of the Code, as amended, including distribution to the Foundation itself. In making any such distribution, the Foundation shall consider (i) the purposes and functions of the Agency, (ii) the purposes of the

gifts or other contributions made to the fund for the Agency's benefit, (iii) the individuals, groups and causes which the Agency sought to benefit, and (iv), if available, the recommendations of the governing body of the Agency itself.

7. Fees. The Fund will be assessed fees in accordance with the fee schedule set by the Board of Trustees of the Foundation. Fees and expenses incurred for the benefit of the Fund shall be paid by the Agency in accordance with the mutual agreement of the parties.

8. Definitions and Construction.

(a) As used in this Agreement:

(1) "Qualified charitable organization" means an organization described in Section 501(c)(3) and which is other than a private foundation under Section 509(a) of the Internal Revenue Code.

(2) References to any provision of the Internal Revenue Code shall be deemed references to the U.S. Internal Revenue Code of 1986 as the same may be amended from time to time and the corresponding provision of any future U.S. Internal Revenue Code.

(b) It is intended that the Fund shall be a component part of Foundation and that nothing in this Agreement shall affect the status of Foundation as an entity which is a qualified charitable organization. This Agreement shall be interpreted in a manner consistent with the foregoing intention and so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant thereto applicable to the intended status of Foundation.

IN WITNESS WHEREOF, each Party hereto has executed this Agreement by its duly authorized officers effective as of the day and year first above written.

Agency Board President

Community Foundation Board President

SCHEDULE A

(List property transferred to Community Foundation

to establish the Fund)