



Instruction Regarding the Creation and Restructuring of Parish Endowments and Cemetery Perpetual Care Funds

Pastors and other administrators of ecclesiastical goods, as stewards of the gifts of God mediated through the generosity of the Christian faithful, have a solemn obligation to protect those goods, to invest them responsibly, and to ensure that their use is consistent with the intentions of donors. Endowments and cemetery perpetual care funds can be excellent means of fulfilling those obligations, but only if they are structured prudently and in conformity with canon and civil law.

Therefore, in order to ensure that such funds are structured in a way that achieves conformity with canon and civil law, optimizes the protection of the assets, safeguards the intent of donors, and ensures a certain uniformity with the structure of other funds within the diocese, now, after having consulted with the Diocesan Finance Council and the Presbyteral Council, I hereby give this binding instruction to pastors and other administrators of parochial goods in the Diocese of Madison.

1. For parishes whose own approved canonical statutes do not define the limits of ordinary administration, the act of creating a new endowment or cemetery perpetual care fund and the act of restructuring an existing endowment or cemetery perpetual care fund are hereby defined as acts of extraordinary administration. At present, this definition applies to all parishes in the diocese, since no parishes currently have canonical statutes that define the limits of ordinary administration.
2. Accordingly, the prior written faculty of the diocesan bishop is required for the creation of a new endowment or cemetery perpetual care fund, or for the restructuring of an existing endowment, or cemetery perpetual care fund.
3. Pastors of parishes with existing endowments or cemetery perpetual care funds are strongly urged to restructure these endowments to bring them in line with the values mentioned above.
4. Before creating or restructuring an endowment, pastors are strongly encouraged to consider, in consultation with their finance councils, whether the fund in question should be managed by The Catholic Diocese of Madison Foundation, Inc. It is not foreseen that cemetery perpetual care funds would be managed by The Catholic Diocese of Madison Foundation, Inc.
5. Pastors who elect to create or restructure an endowment outside of The Catholic Diocese of Madison Foundation, Inc., as well as any pastors who create or restructure a cemetery perpetual care fund, are required to use the agreement templates provided for them by the

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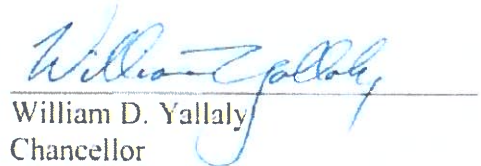
Office of Finance. For a just cause, and with the approval of the diocesan finance officer or his delegate, the template may be modified. Such modifications are normally to be made in the form of a derogating addendum or appendix, with the original text of the template left unaltered.

6. What is said in this instruction with respect to endowments and cemetery perpetual care funds applies in full to any endowment, foundation, trust, perpetual care fund, or similar arrangement under which money and/or property has been contributed to support a parish or any of its programs or services, including a parish school, whether part of the parish civil corporation or separately incorporated. To ensure that the arrangement accomplishes its intended purpose and conforms to current canon and civil law, the documentation creating the arrangement should be submitted to the Office of Finance, which will review the arrangement and determine whether it is satisfactory or whether it should be restructured as described in this instruction. Any doubts as to whether a given fund falls under the provisions of this instruction should be resolved by the local ordinary.

Given at Madison this 26th day of October, in the year of our Lord 2017, to take effect immediately.



Most Rev. Robert C. Morlino
Bishop of Madison



William D. Yallaly
Chancellor

_____ CONGREGATION, _____, WI

PARISH CEMETERY PERPETUAL CARE FUND AGREEMENT

Recitals

A. This Parish Cemetery Perpetual Care Fund Agreement ("Agreement") is dated _____, 20____, and is executed by the Board of Directors ("Board") (a/k/a Congregation or Parish Trustees) of the _____ Congregation, a religious corporation organized under Section 187.19 of the Wisconsin Statutes.

B. The Congregation owns one or more cemeteries (each, a "Cemetery"). Each Cemetery does not operate independently of the Congregation (e.g. the parish corporation). This Agreement pertains to the cemetery or cemeteries located at: _____.

C. The Board desires to establish a fund ("Fund") for the perpetual care of each Cemetery and, with respect to the Congregation's operations of each Cemetery, comply with all Wisconsin Statutes applicable to cemeteries owned by religious societies. Notwithstanding the foregoing, the Board may elect to establish a single common Fund for the perpetual care of all cemeteries under its control.

D. The Fund is intended to generate sufficient investment income to cover all or a portion of expenses incurred by the Congregation in the management, care, repair, maintenance and/or improvements of each Cemetery.

E. Because the Congregation accounts for the Fund separate from the Congregation's other financial accounts, the Fund is also intended to attract charitable contributions, including bequests and other planned gifts.

F. In general, with regard to each Cemetery burial lot that is sold by the Congregation, the Congregation intends to deposit 15% of the gross sale price in the Fund as a perpetual-care allocation ("Cemetery Lot Perpetual Care Allocation") and deposit the remaining 85% in the operating account of the Cemetery as general revenue. In the case where the sales price is net and the perpetual care fee is separately identified, that amount designated for perpetual care shall also be deposited to the Fund.

G. The Board of Directors therefore agrees as follows:

Agreement

1. **Establishment of Fund as Quasi-Endowment.** The Congregation hereby establishes the Fund as a quasi-endowment for the perpetual care of each Cemetery owned by the Congregation. The Congregation will periodically deposit Cemetery Lot Perpetual Care Allocations to the Fund. The Congregation may voluntarily contribute additional amounts to the Fund from time to time.

2. **Donations to Fund.** The Congregation may solicit, accept, and deposit in the Fund charitable contributions from third parties that are intended to provide perpetual care of a Cemetery.

3. **Commingling with True Endowment Funds.** If the Congregation receives a donation that is clearly intended to be a true endowment for the perpetual care of a Cemetery (i.e., the donation is specified not to be wholly expendable by the Congregation on a current basis), the Congregation may deposit the donated funds to the Fund and commingle them with other Fund assets for investment purposes, but, with respect to each such true endowment, the Congregation will separately account for the true endowment and comply with Section 112.11 of the Wisconsin Statutes (Uniform Prudent Management of Institutional Funds Act) and any laws that succeed or replace that statute.

4. **Distributions.** The Congregation may periodically withdraw from the Fund and transfer to the Cemetery operating account, exclusively for the management, care, repair, maintenance and/or improvements of a Cemetery, and not for other general parish non-cemetery operations, up to 100% of the Fund income, and to the extent not inconsistent with any true endowment and only with the unanimous consent of the Board, a reasonable amount of Fund principal.

5. **Separate Accounting and Investment.** The Congregation will account for the Fund separate from the Congregation's other financial accounts. The Congregation will also invest the Funds separate from the Congregation's other investments or funds. The Fund account shall be designated as the "Perpetual Care Fund." The Congregation's financial records for the Fund shall be kept on a cash basis and on a fiscal year coinciding with the Congregation's fiscal year.

6. **Fund Management and Administration.** The Congregation shall manage and administer the Fund in a prudent manner consistent with its purposes. The Board shall designate an individual ("Administrator") to be primarily responsible for management and administration of the Fund on behalf of the Congregation. The Administrator shall not be liable for any action taken or omitted hereunder by the Administrator except in the case of willful misconduct.

7. **Advisory Committee.** The Board may establish and maintain a cemetery advisory committee ("Advisory Committee") comprised of parishioners with knowledge in cemetery operations, business, and/or investments. The Advisory Committee shall have at least three, but not more than nine, members. The Board shall appoint the chair of the Advisory Committee. The Advisory Committee shall determine the time and frequency of its meetings, but at least one meeting shall be held generally each year. Meetings shall be called by the Advisory Committee chair.

8. **Investment Policy.** The Board, with the advice and assistance of the Advisory Committee, shall adopt an investment policy to guide the investment of the Fund assets.

9. **Management and Administration Powers.** The Congregation (and the Administrator, on behalf and in the name of the Congregation) shall have the power to do all things necessary or convenient to manage and administer the Fund, including without limitation the following:

- a. Collect, receive, and provide receipts for any and all items of principal or income placed under the terms of this Agreement and to allocate same either to principal or income,

or partly to one and partly to the other, in accordance with usual and customary accounting practices.

b. Invest and reinvest the assets of the Fund pursuant to the provisions of this Agreement and applicable law.

c. Treat stock dividends, stock splits and dividends payable in the securities of another company, extraordinary cash or non-cash dividends, liquidating dividends, stock purchase rights, warrants and options of all kinds, and all similar property and the right to property, as income or as principal, or partly one and partly the other, in accordance with usual and customary accounting practices.

d. Acquire and hold any stock, securities, real estate or any other property, real or personal, in the name of the Fund.

e. Vote all shares of stock in the Fund, regardless of how the certificates for such stock are prepared, on all matters, and to give special or general proxies to any person, or persons, with or without the power of substitution.

f. Execute, acknowledge, deliver and accept any and all deeds, deeds of trust, releases, mortgages, certificates, documents, affidavits, declarations, and any and all other papers and instruments whatsoever deemed by the Administrator necessary or appropriate to carrying out the powers and authorities herein granted.

g. Exercise any option or privilege to buy, sell, exchange, or convert bonds, notes, stock or real, personal or mixed property, of any kind.

h. Distribute amounts from the Fund pursuant to the terms and conditions of this Agreement, and consistent with the Congregation's overall 'plan of operation' of each Cemetery.

10. **Custodian.** The Congregation may engage a bank or other suitable financial institution to be custodian of the assets of the Fund.

11. **Investment Advisor.** The Congregation may engage an investment advisor to provide advice to the Congregation and the Advisory Committee regarding investment of the Fund and preparation of the investment policy.

12. **Fund Records and Reports.** The Administrator shall maintain appropriate financial records for the Fund, evidencing the amounts received, the amounts disbursed, the total amount of the Fund held, and the location, description, and character of the investments of the Fund. The Administrator shall periodically report to the Board on his/her actions regarding management and administration of the Fund. A financial report detailing the Fund's assets and performance shall be printed in the Congregation's parish bulletin to coincide with the Congregation's fiscal year.

13. **Perpetuity.** The Fund shall exist so long as the Congregation (or its successor or assignee) operates a Cemetery. If it becomes impossible or harmful to use the Fund for the purposes for which it was established, whether because the Congregation (or its successor or assignee) no longer operates a Cemetery, or for some other reason, then either the Fund shall be

used for the purpose which, in the judgment of the Bishop of Madison, most closely corresponds to its original purpose in accordance with canon 1310 of the 1983 Code of Canon Law. If the Congregation (or its successor or assignee) ceases to exist, the remaining assets of the Fund shall be distributed in accordance with canon 123 of the 1983 Code of Canon Law and related canonical norms, for use in a manner which, in the judgment of the Bishop of Madison, most closely corresponds to its original purpose, provided that the assets are not distributed to any society or organization that does not qualify as tax exempt under Section 501 (c)(3) of the Internal Revenue Code of 1986 as amended (or the corresponding provision of any future United States Internal Revenue Law). No part of the receipts of the Fund shall inure to the benefit of or be distributed to members of the Congregation, its directors or other private persons, except that payments may be authorized for reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in this Agreement.

14. **Amendment.** The Board may amend this Agreement from time to time, but no such amendment may change the purposes of the Fund or change the terms of any true endowment that may be held within the Fund.

The undersigned executed this Parish Cemetery Perpetual Care Fund Agreement as of the date set forth in the introductory clause.

Pastor/Director

Director

Secretary/Director

Director

Treasurer/Director