Doe "Give-it-Twice" Estate Plan

When Surviving Spouse Passes Away:

117% to Family: $10,557,844
94% to Charities: $8,490,855
Total to Taxes: Zero

Life Insurance and/or Cash → $500,000 to each child → **$1.5M to Heirs for Immediate Use**

Non-IRD Assets $3M → Transfer at death stocks, etc. and/or sell to fund CLAT → **$3M Charitable Lead Annuity Trust (CLAT)** → 5% annual payments to 6 charities over 20 years = $3M → **$4,103,568 to Heirs in Year #21**

"Residue"; incl. IRD Assets Approx. $4.5M → Tax-free funding from IRA's and bonds, plus proceeds from rest of estate → **$4.5M Charitable Remainder Trust (CRUT)** → 5% annual payments to heirs over 20 years = $4,954,276 approx. to heirs → **$5,490,855 to SDSU in Year #21**

- Charitable Estate Tax Deduction
- No income tax on IRA's, etc. funding Charitable Remainder Trust

- CLAT & CRUT both assume annual 6% return and 5% payouts
- CRUT is net-income trust, so that principal cannot be depleted unless earnings dip below 0.0%

- After payment of CRUT income to heirs and CLAT income to charities for 20 years, CRUT remainder to charity and CRAT principal to heirs.

SYLVAN CIRCLE SDSU

SOUTH DAKOTA STATE UNIVERSITY® FOUNDATION

IMPACT Greatness

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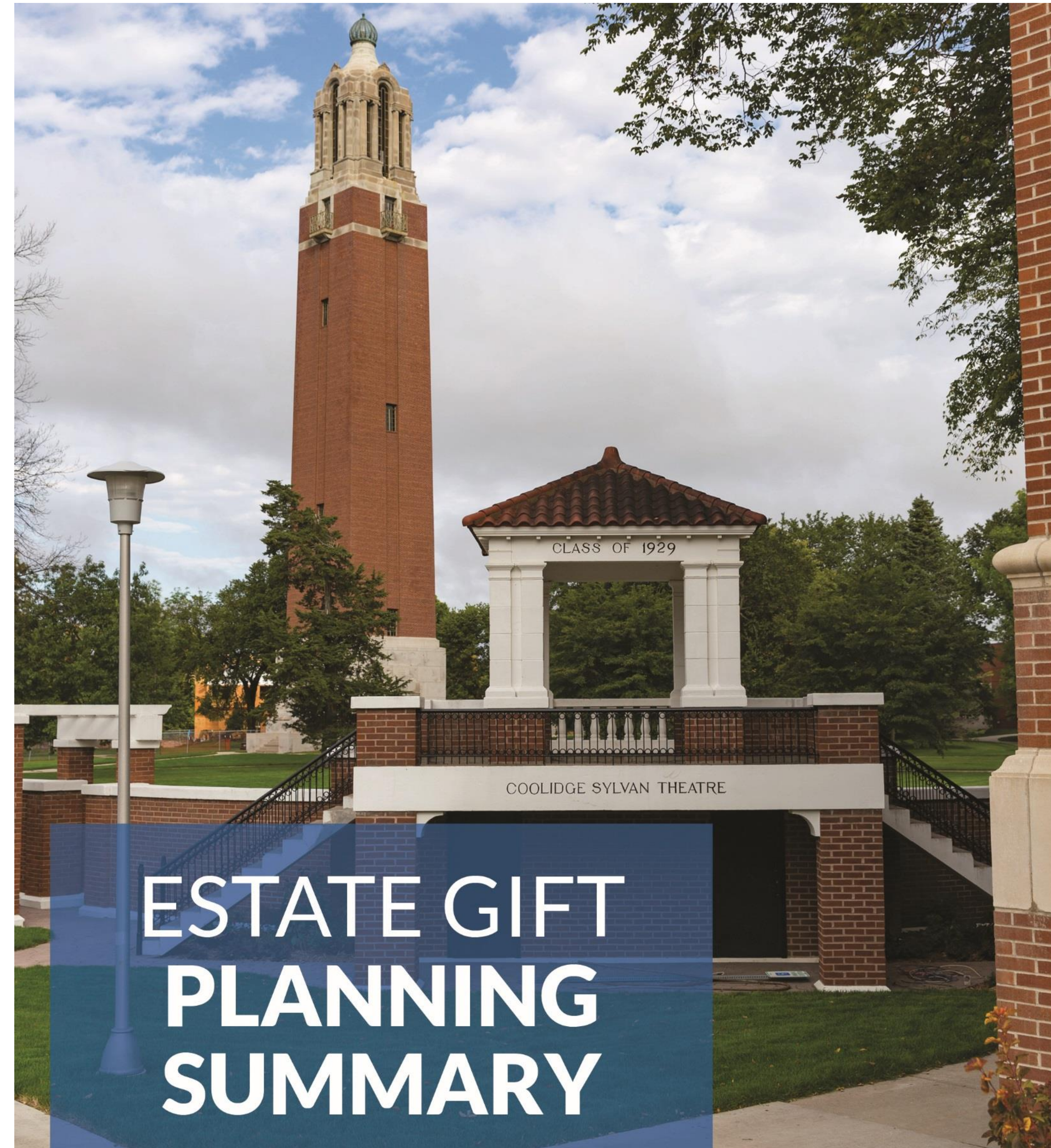

ESTATE GIFT PLANNING SUMMARY

Discovery Agreement Memorandum

Prepared for

John and Jane Doe

January 2, 2018

SOUTH DAKOTA STATE UNIVERSITY® FOUNDATION

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GOALS AND OBJECTIVES

A. CHARITABLE

1. **Make gifts through…to impact**
   a. *Citywide Church to the General Endowment*
   b. *SDSU Foundation*
      1) Doe 1st Generation Scholarship Endowment
      2) SDSU Foundation General Endowment
   c. *Citywide Habitat for Humanity to the Doe Land Acquisition Quasi-Endowment*
2. **Make % or Pecuniary Gifts to**
   a. *South Dakota State University*
      1) McCrory Gardens Operating Fund
      2) Jackrabbit Forever Fund
   b. *Citywide Boys and Girls Club*
   c. *CASA*
   d. *Citywide Outdoors*

B. FAMILY

1. **Surviving Spouse**
2. **Children**
   a. *Son – Johnny Doe (34)*
   b. *Son – Jimmy Doe (30)*
   c. *Daughter – Jan Doe (22)*

CURRENT SITUATION

A. PRESENT ESTATE PLAN

1. **The Does' are leaving all their estate to their three children except for:**
   a. *John – 10% to Citywide Habitat for Humanity*
   b. *Jane – $50k to SDSU McCrory Gardens Operating Fund and 10% to Citywide Church*
2. **The Does have the following legal and financial documents in place:**
   a. *Living Will*
   b. *Durable Power of Attorney*
   c. *Retirement Income Plan*
   d. *Itemized list of personal property*
   e. *Social Security information*
   f. *Current Last Will and Testament – not reciprocal*
   g. *Living Trusts – not reciprocal*

B. PROPERTY – SEE INVENTORY

1. **Overall Estate Value – est. $8,947,998**
   a. *For the purpose of this document, estate value is rounded-up to $9M*
2. **Taxable "Bad" Assets – est. $546k**
   a. *IRA's (non-roth) - $535,528*
   b. *Bonds – Thrivent Municipal Bond Fund - $11,234*
   c. *HSA's – zero*
   d. *Annuities – zero*
3. **Professional Advisors**
   a. *Accountant: Dan Smith - Citywide Accountants LLP*
   b. *Attorney: Eric Richard – Richard & Richard LLP*
   c. *Financial Advisor: Rob Johnson, Ameriprise Financial*

ISSUES AND CONSIDERATIONS

A. GIVE-IT-TWICE PLANNING CONCEPT

1. **John and Jane both wish to leave most of their estate (roughly $9M) to their three children, just not all in one lump sum.**
2. **John and Jane wish to give as much as possible to their favorite three charities without necessarily reducing the amounts they plan to leave to their children.**
   a. *They would like these charities gifts to be dispersed in three ways:*
      1) Immediately after the second spouse deceases
      2) Over the course of a 20-year term of years (annual charitable disbursements)
      3) At the end of a 20-year term of years

SUMMARY OF PROPOSED GIFT & ESTATE PLAN

A. OVERVIEW

1. **Upon the death of the second spouse bequeath:**
   a. *A pecuniary $500,000 to each surviving child, or their issue.*
   b. *A pecuniary $3,000,000 to fund a testamentary Charitable Lead Annuity Trust (CLAT), to be trusteed by Rob Johnson, with contingent trustee to be ________.*
      1) CLAT to make annual 5% payments ($150,000) over 20 years (term-certain) to be divided amongst the named charities as follows:
         a) 33.33% Citywide Church - General Endowment (est. $1M)
         b) 33.33% Citywide Habitat for Humanity - Doe Land Acquisition Quasi-Endowment (est. $1M)
         c) 2.78% CASA (est. $83.4K)
         d) 2.78% Citywide Outdoors (est. $83.4K)
         e) 2.78% Citywide Boys & Girls Club (est. $83.4K)
         f) 25% SDSU Foundation per *Notification of Estate Gift Intention* form (est. $750K)
   c. *"The residue" (approximately $4,500,000) to fund a testamentary, Net-Income with Make-Up Charitable Remainder Unitrust (NIMCRUT), to be trusteed by Rob Johnson, with contingent trustee to be ________.*
      1) Quarterly NIMCRUT payments based on a 5% annual valuation to benefit surviving children, or their issue, for 20 years, term-certain.
      2) Remainder (est. $5.5M) to be distributed to the SDSU Foundation per *Notification of Estate Gift Intention* form

MECHANICS OF IMPLEMENTATION AFTER SECOND SPOUSE' DEMISE

1. **The successor trustee and/or executor will first need to liquidate and/or transfer the assets of the estate to the trustee(s) of the two charitable trusts.**
2. **Both the NIMCRUT and the CLAT will have to be funded separately**
3. **The CLAT will have to be funded and "born" on the same business day.**
   a. After the CLAT's "birthday", no secondary or follow-up contributions to the CLAT are allowed by law; therefore, the full pecuniary amount will have to be transferred from an escrow account (likely funded by the second estate) to fund the CLAT when the time comes to do so.
   b. The Doe's successor-trustee to their RLT should be aware that (under current 2017 tax law) it is not wise to use taxable IRD assets to fund a testamentary CLAT, as this may be considered a taxable distribution since the CLAT is not a tax-exempt trust (unlike the NIMCRUT). On the other hand, the NIMCRUT should receive all the taxable IRD assets when the second estate is realized. Accordingly, consideration should be given to create language to be incorporated into the Doe's Revocable Living Trust to allow a similar pecuniary amount to fund the CLAT should there be less than the stipulated funds ($3M) available to whomever will be funding the CLAT on its "birthday".

NEXT STEPS

A. AFTER CLARIFICATION OF THESE GOALS IS ESTABLISHED, TAKE THE PLAN/PROPOSAL TO ATTORNEY ERIC RICHARD.