

Fund Terms and Conditions

- 1) Status and Purpose of Foundation: The Greater Everett Community Foundation (the “Community Foundation” or “GECF”) is a publicly supported charitable organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code. All fund agreements must be interpreted in a manner consistent with this status. The mission of the Greater Everett Community Foundation is to partner with donors and organizations to strengthen Snohomish County communities. Because the Foundation expects to operate in perpetuity, wise stewardship of the funds entrusted to it is essential to the Foundation’s mission.
- 2) Tax Status of Funds: Funds established at the Community Foundation are component funds of the Greater Everett Community Foundation and are tax deductible to the extent allowed by law, subject to individual and corporate limitations.
- 3) Fees: Funds established at the Community Foundation are subject to administrative and investment fees. A list of fees is available on request. The Community Foundation reserves the right to change its fee structure at any time.
- 4) Variance Power: GECF is committed to carrying out donors’ charitable interests in perpetuity. As funds are created, GECF staff adds notes both in the fund file and in the FIMS database regarding donor intent. Should a Fund’s purpose become outdated (for example, if a recipient organization ceases to exist), the Board of Directors exercises its “variance power” to redirect the fund to the most closely related use, thereby assuring donors that their original intent will be honored in perpetuity despite changing societal circumstances. The Community Foundation may modify any recommendation or condition or distribution from a fund for any specified charitable purpose or to any specified charitable organization if, in the sole judgment of the Community Foundation, such recommendation or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community. Whenever possible, the Community Foundation will confer with the donor or the donor’s representative before the fund is modified and stay as close as possible to the original intent of the donor.
- 5) Inactive Funds: In order to carry out its policy of consistently distributing charitable dollars to the community, the Community Foundation will review periodically the grant making activity of every fund. If a fund has failed to make distributions commensurate in size with the Foundation’s spending policy over a two-year period, the Community Foundation will contact the advisor(s) to discuss this situation and come up with a plan for distributing grant funds. In the event that the advisor(s) cannot be located or is unresponsive, the Community Foundation will adhere to the future planning section of the fund agreement to distribute grant funds.
- 6) Grant Distribution: Donors may, at the time they create a fund, recommend that the fund be managed as a permanent endowment, quasi endowment, or a non-endowed fund. Donors may also recommend a payout percentage or follow the GECF spending policy. Donors may also specify that no grants be made until the fund reaches a certain dollar amount. All grants from donor funds are subject to the Community Foundation’s variance power as noted above. The grant allocation will be made each January once the fund has achieved a minimum balance of \$25,000 and achieved four quarters of earnings. The amount of the grant allocation will be the average of the prior 3-years ending fund balances, or the number of years that the fund has been in existence if less than 3 years, multiplied by the spending policy that is specified in the fund agreement. In the event of a decline of fund values due to market downturn or other factors, subsequent earnings will first be applied to restore the principal of the fund.

- 7) Reporting: GECF staff sends quarterly fund statements to fund holders. In addition, GECF staff issue an annual report to all donors and to the community at large.
- 8) Investment of Assets: All assets contributed to funds established at the Community Foundation will be managed in the Community Foundation's general fund. Assets may be managed by an independent trustee, custodian, investment advisor or other fiduciary (an "outside investment manager") apart from the Community Foundation's general funds, provided that all such assets are managed in accordance with the Community Foundation's investment policy. All outside investment managers shall be provided with a copy of and must agree to adhere to the Community Foundation's investment policy as a condition of continued service in such capacity, and the Community Foundation reserves the right to replace any outside investment manager in its sole discretion. Minimum fund values are required for investment of assets outside of the general fund. For more information about the requirements for using an outside investment manager, contact the Community Foundation.
- 9) Solicitation Policy: Donors who wish to solicit contributions for a fund at the Community Foundation must submit a written proposal, review the "Donor-Initiated Fundraising Policies" below and attain advance approval from the Community Foundation.
- 10) Donor-Initiated Fundraising Policies: The Greater Everett Community Foundation applauds efforts of fund holders and donors that result in gifts to GECF Funds. However, a number of significant tax and accounting issues arise and need to be addressed prior to any public fundraising for any component funds of the Foundation. Failure to understand these issues can result in unintended tax consequences for donors and penalties or the possible loss of non-profit status for the Foundation. It is imperative that the following regulations are followed.

Before undertaking public fundraising events, the fund holder should submit a written proposal and attain advance approval from the Foundation for each program, event or other effort to raise money for the Fund. The fund holder can then proceed according to the guidelines offered herein. All uses of the Foundation's name in advertising and promotion must be approved in advance by the Foundation. All fundraising materials should make clear, where applicable, that funds are being raised *on behalf of* rather than *by* the Greater Everett Community Foundation. An administrative fee may be charged if extra administrative services will need to be expended by the Foundation; whenever it is determined that GECF staff will be required to spend extra time processing large numbers of gifts for a fund, the Foundation will charge a 10% fee on all gifts generated through a fundraising event.

The Foundation will be responsible for:

- the management of such money and property accepted into the component fund from Donors, other contributors and sources;
- the application of income and principal to charitable uses, if applicable; and
- providing appropriate acknowledgments to Donors.

The fund holder will retain responsibility for all public fundraising events and matters related to them including:

- payment of all costs and expenses;
- compliance with laws; and
- reporting and other requirements of every kind such as licensing, tax payment, and liability insurance covering the Foundation.
- The Foundation will not be responsible for any debts incurred by the fund holder, nor will it release any funds in amounts greater than the current balance of the fund at any time.

The fund holder will be responsible for all expenses and maintain appropriate financial controls and records related to fundraising events. The fund holder will establish a budget and submit it to the Foundation prior to all events. Arrangements for payment of expenses associated with the event must be discussed prior to the event. Regardless of the arrangements, invoices and/or original receipts must be provided to the Greater Everett Community Foundation for our record keeping. Donor Advised fund holders may NOT use their Fund to pay expenses associated with fundraising events.

Checks related to the event must be made payable to the component Fund of the Foundation. Cash receipts are to be deposited intact. That is, cash receipts are not to be used to pay expenses, and then the net cash amount deposited. All proceeds, checks and cash, must be delivered to the Foundation along with an accounting of all monies received within one week after the fundraising event.

The IRS has imposed strict requirements which impact any fundraising. If the steps outlined below are not taken, Donors will be denied a tax deduction; the Fund holder(s) might find themselves unexpectedly subjected to tax on the funds they raise; and either the Community Foundation or the fund holder(s) might be subjected to penalty. All donors will need a written acknowledgement from the Foundation in order to claim a tax deduction for the contribution. GEFCF will provide the appropriate acknowledgement to the Donors, but we require certain detailed information in order to do so. Specifically, the fund holder must provide the Foundation with:

- 1) The Donor's complete name and address;
- 2) The date and amount of the contribution;
- 3) Whether the contribution was in cash or property;
- 4) If property, a description of the type of property and a good faith estimate of the fair market value; and a detailed description of any goods and services provided in exchange for the contribution. Contribution of services, while appreciated, is not generally deductible.

If the fund holder provides goods or services in exchange for a donation, certain disclosures are required to be made upon solicitation. For example, if the group is sponsoring a dinner, the donor can only deduct the excess of the ticket price above the fair market value of the dinner. This limitation on the deduction, known as a "quid pro quo disclosure", must be disclosed at the time of solicitation. Disclosure on the ticket of the event is a typical method for making this disclosure.

The Greater Everett Community Foundation will assist the fund holder(s) in determining the fair market value amounts and the appropriate disclosure language for the event. However, Foundation staff will have to work with the fund holder(s) prior to the solicitation activity, and will need information pertaining to the event such as the ticket prices, and values of the goods or services donors are to receive. The fund holder(s) need to see that the required quid pro quo disclosures are made.

Raffle tickets and rummage sale purchases are not tax-deductible. This must be stated clearly on the face of distributed tickets.

Legal counsel for the Foundation shall review, on a case-by-case basis, any proposed ideas for an auction. At that time, tax deductibility of items will be determined.

The fund holder will contact the Foundation prior to having a fundraising event to assess the need to secure liability insurance for them and for the Foundation. Insurance coverage must be reviewed and approved by the Foundation. The fund holder will be responsible for all losses incurred by events. The Foundation will not be held responsible for such losses. The Foundation may require the fund holder(s) to purchase a letter of credit or provide a written personal guarantee.

11) Terms & Conditions specific to Donor Advised Funds

The IRS imposes restrictions on grants from donor advised funds as follows:

- Grants to individuals are prohibited from a donor advised fund.
- Grants cannot be made to a nonprofit organization to retire or reduce a pledge previously made by the donor, advisor or related party.
- Grants cannot be made to a nonprofit organization, which in turn provides benefits to the same donor. For example, a donor cannot claim a tax deduction for a gift to his or her donor advised fund held by the Greater Everett Community Foundation and also receive an additional tax deduction from the grant recipient organization.

- A donor advisor or related party cannot receive more than an incidental benefit from a grant recipient organization. For example, event tickets, patron recognition or special privileges would be considered more than an incidental benefit; while token gifts, such as key chains or coffee mugs are considered incidental benefits.
- Donor advisors or related parties are prohibited from receiving grants, loans, compensation or similar payments (including expense reimbursements) from a donor advised fund.

Each grantee must be able to satisfy the Community Foundation’s due diligence requirements in order to obtain the approval of the Board of Directors.

Final approval of these recommendations rests in the hands of the Board of Directors of the Greater Everett Community Foundation.

Donor advised funds can carry the name of the donor, family, company, or someone the donor wishes to honor. All grants from the fund are made in the name of the fund. Donors who prefer anonymity can choose names that reflect their funds’ charitable purposes.

In all cases of two or more advisors, the advisors shall appoint a chairperson and all communications concerning grant recommendations to and from the Greater Everett Community Foundation will be through the chairperson. In any case where multiple advisors make conflicting recommendations regarding distributions from the fund that cannot be promptly resolved, the Greater Everett Community Foundation may independently initiate distributions from the fund. In addition, if the advisor(s) fails to make a grant distribution recommendation for two consecutive years, the Community Foundation will contact the advisor(s) to discuss the situation (see “Inactive Funds” section for more details).

All requests to appoint additional advisors and successor advisors to an advised fund must be communicated to the Community Foundation in writing by the donor(s) establishing the fund or by the authorized successor advisor(s). If upon the death, resignation or incapacity of an advised fund’s donor(s), the Community Foundation has not received in writing the names of an additional advisor(s) or successor advisor(s) to the fund and a recommended future plan for the fund, the Community Foundation will use the fund’s balance to support The Greater Everett Community Foundation grantmaking program.

12) Terms & Conditions specific to Agency Endowment Funds

A nonprofit agency that starts an endowment fund with the Community Foundation may choose to include an emergency clause in their agreement in case they needed to access part of their fund for an unexpected need.

Emergency Clause- If the XYZ non-profit Board of Directors (“Directors”), by an affirmative vote of two-thirds of the Directors, deems unusual circumstances of need or opportunity exist, said Directors may recommend and request distribution to the XYZ non-profit, of all or any portion of the assets of the Fund. The Greater Everett Community Foundation Board may grant such request if it concludes upon independent review, to be completed within 60 days of receipt of the request, that such distribution is neither unreasonable nor inconsistent with the charitable purpose of the Agency, the Fund and the Community Foundation; however, the Community Foundation shall have the ultimate authority over and control of all property in the Fund and all distributions from the Fund. Distributable assets do not include the amounts contributed by third parties to the endowment funds. Distributable amounts do include the amounts contributed by the Agency as long as the Agency did not acquire funds from a donor with the express intent that these funds are to be held in perpetuity and only the earnings thereon could be expended (i.e. not an endowment).

Process for independent review:

- a. Nonprofit needs to submit minutes from their Board meeting that clearly shows that 2/3rds of their entire board has agreed to this request.

- b. Nonprofit must fill out a grant recommendation form and submit it.
- c. GECF staff will verify that the nonprofit agency's 501c3 hasn't been revoked and that the agency has not had any documented findings of fraud. GECF retains the right to hold the money if the agency's 501c3 has been revoked or if there are documented findings of fraud.
- d. Information is submitted to Finance Committee for their review and for their decision on how the money will be distributed.
- e. GECF retains the right to hold the money until the end of the quarter following the completion of the independent review so earnings & fees can be reconciled.
- f. Agency signs an indemnification clause as follows:

By signing below, XYZ non-profit (may be referred to as "Agency") agrees to defend, indemnify, and hold harmless the Greater Everett Community Foundation ("Community Foundation"), including its Board of Directors, its officers, committee members, volunteers, agents or employees, from any and all cost, expense, liability and claims arising out of any acts or omissions of XYZ non-profit related to the Community Foundation's distribution of the Agency's Endowment Fund back to XYZ non-profit, per the request of XYZ non-profit. The duty of XYZ non-profit to indemnify shall include, but not be limited to, the duty to reimburse the Community Foundation for all reasonable costs, including attorney's fees, incurred by the Community Foundation in defending against any such claims.

13) Terms & Conditions specific to Scholarship Funds

Foundation Staff will work with the donor to develop objective and non-discriminatory scholarship award procedures and appoint a committee to make scholarship award selections. The procedures and the committee will be reviewed and approved annually by the Foundation's Board.

The Pension Protection Act of 2006 prohibits grants to individuals from donor-advised funds. However, the law provides that funds meeting certain conditions will not be considered donor advised funds, and can therefore continue to make grants to individuals. A fund will not be considered a donor-advised fund if all of the following are true:

1. The community foundation appoints all of the members of the committee and the donor's advice is given solely as a member of the committee;
2. Neither the donor nor parties related to the donor control the committee directly or indirectly; and
3. All grants are awarded on an objective and nondiscriminatory basis using a procedure that has been approved in advance by the Board of Directors of the Community Foundation and that has been designed to ensure that all grants meet requirements spelled out in IRS regulations, specifically:
 - a. Grants are Scholarship Awards, paid to or for the benefit of degree/certificate candidates and are earmarked for tuition, books or living expenses;
 - b. Grants are Individual Achievement Awards, with the recipients chosen from the general public and awards are given without restriction on how they are to be spent;
 - c. Grants are Awards and Prizes to Achieve a Specific Objective, such as producing a report or other similar product, or improving or enhancing a literary, artistic, musical, scientific or other similar capacity, skill, or talent of the grantee.

14) Right to Amend Policies: The Foundation reserves the right to revise or rescind these policies at any time, with or without notice to the donor. All funds held by GECF are component funds of the Foundation and as such are subject to the terms and conditions of GECF's By-laws and Articles of Incorporation.