

# Donor Advised Fund Agreement

## Helping Passionate Donors Leave Permanent Legacies

**Welcome to the Community Foundation!** Thank you for choosing the Athens Area Community Foundation. Our staff is available to assist you with a wide variety of services, from fund creation to ongoing grant making and charitable giving services.

### 1 Donor Advisor Information

All correspondence will be sent to both advisors unless otherwise noted.

Quarterly Fund Statements will be mailed to the address listed and posted to the online Donor Portal.

#### Donor Advisor 1

_____	_____	_____	_____
First Name	MI	Last Name	Suffix
_____			
Preferred Salutation (e.g. Mr. James L. Smith or Jim Smith)			
_____		_____	_____
Home Address	City	State	Zip
_____		_____	
Work Organization	Work Title		
_____			
Date of Birth			
_____		_____	
Preferred Email	Preferred Phone		

#### Donor Advisor 2

_____	_____	_____	_____
First Name	MI	Last Name	Suffix
_____			
Preferred Salutation (e.g. Mr. James L. Smith or Jim Smith)			
_____		_____	_____
Home Address	City	State	Zip
_____		_____	
Work Organization	Work Title		
_____			
Date of Birth			
_____		_____	
Preferred Email	Preferred Phone		



## 2 Fund Name

Please choose a name for your fund. Grants made to charities are accompanied by a letter which includes the fund name and the name and address of the donor. However, you may recommend that specific grants be sent anonymously. Your fund name will appear in Foundation materials, including our annual report and on our website. If you wish your fund to be anonymous, please name it accordingly.

Fund Name: \_\_\_\_\_

Check here if you would like all grants to be sent anonymously.

## 3 Contributions to the Fund

I/We intend to initially assign, convey, transfer, and deliver to the Athens Area Community Foundation the following property. I/We understand that this is an irrevocable gift, which will be used to establish and maintain a charitable fund of the Foundation, subject to the Foundation's governing documents and bylaws.

### Estimated Value of Initial Gift:

Check for \_\_\_\_\_ *(Please make payable to the Athens Area Community Foundation, identifying your fund in the memo line)*

Securities valued at \_\_\_\_\_ Publicly Traded      Privately Held

Other \_\_\_\_\_

You and others may contribute additional funds of cash and/or securities as well as cash and/or marketable securities from trusts, wills, private foundations, or other donor advised funds. All contributions must be acceptable to the Foundation, and the Foundation may elect in its sole discretion whether to accept or refuse any asset. Gifts of real estate and certain other tangible assets can only be accepted with prior approval of the Foundation's Board of Directors.

### Please select one of the two options:

Allow third party contributions to fund via Foundation website

Do not allow third party contributions to fund via Foundation website

## 4 Distributions

The fund is available for current grant recommendations. All recommendations are advisory in nature and are subject to the Foundation's variance power described in the Donor Handbook. Please describe the nature of the fund's distributions below:

The fund is intended to be used for current charitable giving with no restrictions on the amount of distributions.

No distributions shall be made until the fund reaches \$ \_\_\_\_\_ at which time the distributions shall be made in a manner that will ensure permanent endowment.

Other: \_\_\_\_\_





**6**

**Investment Allocation**

The assets of the fund shall be invested according to the Foundation's investment policy, as it may be amended from time to time by the Foundation's Investment Committee. Please select your preferred investment allocation.

95% Invested and 5% Cash (*Default*)

100% Invested

100% Cash

Other: \_\_\_\_\_

**7**

**Referral**

How did you learn about the Athens Area Community Foundation?

Advisor

Family/Friend

Existing Donor

Website / Media

Foundation Presentation

Other: \_\_\_\_\_

**8**

**Charitable Interests**

Please provide us with information about the causes and/or organizations you care most about:

Civic/Community \_\_\_\_\_

Education \_\_\_\_\_

Health & Human Services \_\_\_\_\_

Arts & Culture \_\_\_\_\_

Affordable Housing & Transportation \_\_\_\_\_

Economic & Workforce Development \_\_\_\_\_

Environment \_\_\_\_\_

Animal Welfare \_\_\_\_\_

Religious/Faith Based \_\_\_\_\_

Other \_\_\_\_\_

I/We would like to learn about / be contacted about funding opportunities in my area of interest.



Donors establishing a Donor Advised Fund have the option to determine a future plan for the fund in any or all of the following ways upon death, resignation, or incapacity of the fund's last surviving donor advisor. Please select one or more of the following succession options.

*\*The total of these percentages must equal 100%.*

Transfer advisory privileges of this fund to Successor Advisor(s), listed later in this agreement.  
\_\_\_\_\_ % of fund value

Transfer the fund's assets to a planned gift fund at the Athens Area Community Foundation.  
\_\_\_\_\_ % of fund value

My planned gift is currently on file with the Foundation:  
Existing Fund (name): \_\_\_\_\_

My planned gift is not currently on file with the Foundation.

Create a Designated Fund for the benefit of the nonprofit organization(s) named below.  
\_\_\_\_\_ % of fund value

Organization: \_\_\_\_\_ %  
Organization: \_\_\_\_\_ %  
Organization: \_\_\_\_\_ %

Transfer the fund's assets to the Athens Area Community Foundation's Community Grantmaking Program, allowing the foundation to identify opportunities and target dollars where they will be most effective.  
\_\_\_\_\_ % of fund value

Create a Field of Interest Fund to help meet the greatest needs of the community.  
\_\_\_\_\_ % of fund value      Field: \_\_\_\_\_





## 10 Legacy Society

Your values today can reflect your giving forever. Your planned gift (Bequest, IRA/Retirement Plan, Life Insurance, Property) is invested with us, growing over time to make an even greater difference in organizations you support and bestowed at timing you control through your planned gift. Our experts can help you and your financial advisors identify the best way to reduce estate and income taxes or produce retirement income.

I/we have named the Athens Area Community Foundation in my/our will or trust.

I would like to learn more about the Legacy Society and how to create a Planned Gift.

## 11 Acknowledgement and Signatures

### **POLICIES AND PROCEDURES**

The undersigned have received and reviewed the Guidelines for Donor Advised Funds and agree to its terms and conditions described therein. The undersigned understand that any contribution represents an irrevocable gift to the Foundation and is not refundable. All persons and organizations making contributions to this fund shall be bound by the terms of this agreement. The undersigned hereby certify that all information presented in connection with this agreement is accurate, and the undersigned will promptly notify the Foundation in writing of any changes. It is understood that as and when the Guidelines for Donor Advised Funds change from time to time, they are automatically deemed to be amendments to this fund agreement.

### **FEES AND EXPENSES**

The Foundation charges an administrative fee as outlined in its published fee schedule. A copy of the most current fee schedule is provided with this agreement. This fee may be changed from time to time with 60 days advance notice to the donor advisor. In addition to these administrative fees, an investment management fee will be assessed on your fund to pay the investment managers for related services. Investment management fees vary depending upon your fund's investment pool and will be allocated across all funds in the pool. All fees and expenses will be charged directly to your fund.

### **INVESTMENTS**

The undersigned understand that investments will be administered in accordance with the policies of the Foundation. The undersigned acknowledge that investments are subject to market and interest rate fluctuation risks, and that any gain or loss generated by the investments described in this agreement will be credited or charged to the fund.



## VARIANCE POWER

Distributions from all funds are subject to the Foundation's variance power which gives the Foundation the power to modify any restriction or condition on the distribution from a fund for any specified charitable purpose or to any specified charitable organization if, in the sole judgement of the Foundation, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

**DONOR  
ADVISOR 1**

\_\_\_\_\_  
Name (*please print*)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DONOR  
ADVISOR 2**

\_\_\_\_\_  
Name (*please print*)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**The Athens Area  
Community  
Foundation**

\_\_\_\_\_  
Name (*please print*)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title





## **ADDENDUM A: Procedures for Establishing Donor Advised Funds**

### **Incorporation of Governing Instruments of the Athens Area Community Foundation**

The Athens Area Community Foundation, Inc. (the “Foundation”) is a Section 501(c)(3) public charity. The Foundation’s governing instruments include its Articles of Incorporation and Bylaws as amended from time to time, as well as any resolutions and procedures adopted from time to time. All the provisions of such governing instruments and procedures are incorporated in this Agreement and by this reference made part hereof.

### **Nature & Terms of Establishing Funds**

To create a Donor Advised Fund, you sign a Fund Agreement – a document that conveys your gift to the Athens Area Community Foundation. A donor is the person who establishes the fund and a donor advisor(s) is designated by the donor in the Fund Agreement as the only person(s) who can recommend disbursements from the fund. In the agreement, you may name yourself as an advisor, either to act alone or with another individual(s). Each fund shall be the property of the Foundation, owned by it in its normal corporate capacity. In such capacity, the Foundation shall have the ultimate authority and control of all property in the fund, and the income derived therefrom, for the charitable purposes of the Foundation. Contributions to the Foundation’s funds are treated for tax purposes as gifts to a Section 501(c)(3) public charity and are generally tax deductible, subject to individual and corporate limitations. Each fund may be recorded on the books and records of the Foundation as identifiable and separate. Funds will be a component part of the Foundation and shall be subject to the governing instruments of the Foundation, including the Articles of Incorporation and Bylaws, as amended from time to time. Restrictions may not be imposed that prevent the Foundation from effectively employing the contributed assets, or the income generated, to further the charitable purpose of the Foundation.

### **Additional Advisors**

The privilege of making recommendations shall be extended to donors, their spouses, and their designees. All requests to appoint additional advisors and successor advisors must be communicated to the Foundation in writing by the donor(s) establishing the fund. A donor advisor may change this designation.

### **Investment of Assets**

The funds of the Athens Area Community Foundation are managed by professional investment managers under the supervision of the Finance Committee of our Board of Directors in accordance with our Investment Policy, which may be modified at any time by the Foundation. The Foundation has the responsibility and authority for the investment of the assets of each donor advised fund. Although the assets may be commingled with other assets of the Foundation in investment pools, the fund’s separate identity and value will be maintained.

The Foundation does not guarantee that the fund will earn any particular or minimum rate of return with respect to the investment of assets. All income and capital gains or losses of the investment pool(s) in which the assets are invested shall be allocated to the fund on a periodic and pro rata basis, upon the ratio that the value of assets related to the fund invested in the investment pool bears to the aggregate value of all assets in the invested in said pool(s). Regular reviews are conducted to monitor investment performance and activity.

Any decisions with respect to the retention, investment, or reinvestment of assets and with respect to the commingling of assets, shall be made by the Foundation’s board of directors, in accordance with its regular procedures in accordance with prudent investment standards.

### **Inactive Funds**

If there are no gifts to a fund for 24 consecutive months and the Foundation has not received a grant recommendation from the advisor during the same 24 month period, the Foundation will attempt to contact the advisor to determine their desired level of involvement with the Fund. If the advisor or successor advisor does not respond after three attempts by the Foundation to contact the advisor (and, if one has been named, a successor advisor) at the most recent address or phone number in the Foundation’s records, then the fund shall be transferred into the Athens Area Community Foundation’s community grantmaking fund.



## Distributions

All distributions from funds are subject to the Foundation's variance power and must be ratified by the Foundation's Board of Directors. The donor advisor(s) recognized in the Fund Agreement may submit grant recommendations to one or more publicly supported 501(c)(3) charitable organizations, schools, churches, or government entities. Grants may not be made to or for the benefit of specific individuals.

Grant requests must be made in writing and may be submitted by mail, via email, or through our online Donor Portal. Minimum recommendations of \$200 are encouraged in order to make the most efficient use of the Foundation's resources. Grants may be for undesignated support or you may designate the grant to be used for a particular purpose. If no designation is stated, we will assume that the grant is to be used for general support. With the support of our grantmaking staff, the Foundation reviews the recommendations using criteria established by our Board of Directors in accordance with IRS guidelines. Foundation staff will research and document the charitable status of the proposed recipient organizations and the charitable nature of their activities, when necessary. The Foundation's primary interest is the support of nonprofit institutions in Athens-Clarke, Oconee, Oglethorpe, Madison, Jackson, and Barrow counties. The Foundation recognizes there may be charitable organizations outside of this geographical area that are also of special interest to you and are deserving of support. Grants to these institutions will also be considered.

## Restrictions on Distributions

The Foundation honors the charitable intentions of donors consistent with community needs and applicable laws and regulations. Grants may not result in benefits, goods, or services to the donor or advisor, members of their families, and businesses they control. Failure to observe this restriction can subject the donor to tax penalties. Benefits include the payment of pledges, event tickets, meals, sponsorships, registration fees, discounted merchandise, preferred parking and/or seating, and memberships unless the membership confers nothing of value.

## Expenses Payable from Donor Advised Funds

No expenses (including expenses for travel, meals, lodging, and the like) incurred by donors or advisors may be paid or reimbursed from donor advised funds, except for the costs of meals provided during occasional group meetings at which persons who are neither donors nor advisors are present. However, donor advised funds will pay or reimburse expenses for transportation, meals, lodging, and other similar expenses paid or incurred by staff of the Foundation when providing donor advised fund-related services outside of the Foundation's service area.

## Variance Power

It is understood that all assets contributed to the fund become irrevocable gifts to the Foundation, and the ultimate authority and control of all property in the fund rests with the Foundation. All funds established at the Foundation are subject to the Foundation's variance power, required by Treasury Regulations for the Foundation and its donors to enjoy the more favorable income tax treatment of a community foundation as opposed to the less favorable income tax treatment of a private foundation. Treasury Regulations section 1.170A-9(f)(11)(v)(B)(1) specifically states that the governing body of a community foundation must have the power "to modify any restriction or condition on the distributions of funds for any specified charitable purpose or to specified organizations if, in the sole judgment of the governing body (without the necessity of approval by any participating trustee, custodian or agent), such restriction becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served."

## Conflict of Terms

In the event of an inconsistency between these procedures and any procedures, terms, or conditions appearing elsewhere in connection with any fund, these procedures, as interpreted by the Foundation, shall govern, and the Foundation reserves the right to take any actions at any time which, in its discretion, it deems reasonably necessary or desirable for the proper administration of any fund of the Foundation.