

# YOUR GUIDE: DESIGNATED AND AGENCY FUNDS

## *Helping Passionate Donors Leave Permanent Legacies*

### Welcome!

Welcome to the Athens Area Community Foundation. On any given day, the Community Foundation works with an estate attorney and their client to grow their philanthropy for the community they love; the Foundation is asked by a donor (an individual or a corporation) to help identify organizations that align with their current interests; and the Foundation is asked by nonprofits and community groups to provide technical assistance as they strive for increased effectiveness and collaboration.

In each situation, the Athens Area Community Foundation is a **powerful ally and trusted partner**, providing **local expertise, personalized services and leadership**. We are committed to helping donors and charitable organizations sustainably meet the needs of their community.

Having a Designated or Agency Fund at the Athens Area Community Foundation provides a nonprofit with:

- professional, independent investment management
- professional accounting
- partnership/exposure in the broader community
- planned gift expertise
- a wider range of giving options for donors

We strive to assist donors and nonprofits maximize the impact of their charitable assets and hope that you make full use of the services we offer!

### History & Mission

With the creation of the Athens Area Community Foundation in 2008, the Athens area now has a public philanthropic organization dedicated to **supporting our thriving, just, and caring community**. As the local center for philanthropy, the AACF connects individuals, families, corporations, and private foundations in the Athens area to the critical issues facing our community. We advance sustainable solutions through collaboration with civic and charitable organizations.

The Athens Area Community Foundation, Inc. is a public charity that helps donors leave permanent legacies, serves as a well-informed grantmaker, and shapes effective responses to community needs through collaboration. As a public grantmaking foundation we partner with donors, nonprofits, and community institutions to build, distribute, and preserve philanthropic assets that will enhance quality of life in the Athens area for generations to come.



## Characteristics of Designated and Agency Funds

**Designated Funds** are earmarked for one or more charitable organizations, and all grants made from such funds will be to (or for the use of) the designated recipient organization. Such funds can be established by an outright gift during the donor's lifetime or through a planned gift such as a bequest, charitable gift annuity, remainder trust, etc.

**Agency Funds** are variations of the Designated Fund, only it is the nonprofit organization that establishes the fund (instead of an individual) as a means of providing a perpetual income stream for their own operations and programs. Nonprofit organizations can benefit from the Foundation's investment strategies to create endowments or quasi-endowments. Such funds are typically established with an agency placing all or part of its endowment (as distinct from its operating reserve) with the Foundation. Agency funds give participating nonprofits the opportunity to partner with the Foundation for endowment management, taking advantage of our investment pool's economy of scale and professional, endowment-oriented investment management approach.

### Benefits Include:

**Local Ties:** The Foundation is a local organization with deep roots and strong leadership in the community. The Foundation is more than an investment vehicle. It is a hub that connects donors, nonprofits, and community leaders to address needs. Organizations with funds at the Community Foundation are prominently included in all our promotional materials. By setting up a Fund, agencies show their commitment to endowment building and professional, independent Fund management.

**Agency Control & Flexibility:** For agency funds, the nonprofit establishes how it plans to use its Fund through the Fund Agreement. The Agency has flexibility to withdraw their funds at any time; make grants from their Fund; or to only draw a percentage of the earnings from their Fund. For Designated Funds, donors determine which nonprofit(s) they want to benefit from their gift in perpetuity. The Foundation's role is to steward the assets so that they support the charitable goals outlined by the Agency or Donor.

**Pooled Funds:** Our pooled Funds minimize risk, reduce investment charges, and maximize returns.

**Professional, Independent Investment Management:** Our Funds are professionally managed and under the fiduciary care of our Board of Directors. In addition, we have partnered with Merrill, a global investment firm, to serve as Trust Fiduciaries, the highest standard of care available.

Merrill's team of Advisors, based in Athens, have deep experience working with endowments and manage our long term portfolio on a discretionary basis. Our team at Merrill is guided by their Chief Investment Office (CIO), a dedicated team of portfolio strategists, economists, and PhDs with an average of 18 years of experience. CIO's institutional process uses Merrill's top-ranked research to build client-focused portfolios.

Our Balanced Pool is composed, primarily, of Vanguard and iShares exchange-traded funds (ETFs), and high quality, investment grade bonds. Merrill's management fee is 0.40%, with no commissions, mark-ups or loads. The passive index funds have some of the lowest expense ratios in the industry, including some as low as 0.04%. The bond portfolio has no internal expenses.

## Benefits Continued:



**Flexible Contributions and Planned Gift Expertise:** We make it easier for donors to give by accepting a wide variety of asset types as additions to your Fund such as cash, stocks, bonds, real estate, LLP and LLC shares, and other unusual assets. We also work with donors and their professional advisors to set up CRTs and more complex tools that will help them meet their own tax and income needs while benefiting your agency. If they so desire, donors may give anonymously to your Fund.

### Designated and Agency Funds are ideal for those who:

- **Want more efficient board focus for their organizations**  
- the agency's board can focus on the pursuit of its mission while the AACF manages investments
- **Endowment credibility** - the AACF's ownership of the asset provides a layer of separation and a "buffer of protection" from excessive spending from your Fund to meet short-term needs.
- **Clear spending and reporting** - the AACF will work with you to set up your Board Resolution and Spending Policy and will provide quarterly statements; in addition all funds are audited annually by Trinity Accounting Group's independent certified accountants.
- **Prompt, efficient donor communication** - the AACF thanks donors to the Fund on your behalf and provides donor receipts for tax purposes; you receive regular donor reports

**"One of the main advantages of using the Athens Area Community Foundation is in the economies of scale. The Athens Area Community Foundation has endowment credibility, stringent investment policies, and can handle complex donations which allows us to stay focused on our most important task: the pursuit of our mission."**

*Sally Kimel-Sheppard,  
Executive Director at The Cottage*

## Setting up a Designated or Agency Fund

Once your Agency has identified the opportunity/need to invest and grow assets long-term, our Community Foundation staff and Board will present our Agency Fund Program, Investment Policy and Returns so you have all the information you need to decide. To set up a Designated or Agency Fund, you will complete and sign a Fund Agreement - a document that describes the purpose of the Fund, whether it is a quasi-endowed or permanently endowed Fund, the amount of the initial contribution to the Fund, and who has the authority to access the Fund.

In order for an organization's current Board of Directors to be satisfied with this commitment, and in order for future Board members to understand this decision, the Community Foundation requires that the organization develop and pass a Board Resolution authorizing the establishment of the fund and a resolution regarding the Spending Policy for the Fund. A sample Board Resolution for the Establishment, Investment, and Spending Guidelines for an agency fund is attached.



## Assets Become the Property of the Athens Area Community Foundation

**The IRS requires assets invested through the Athens Area Community Foundation become the property of the Foundation - your Agency is making an "irrevocable gift" - however, you establish how the assets will be used in your Fund Agreement.**

This is required by IRS regulations to maintain the Community Foundation's status as a public charity; contributions to community foundation Funds that are not controlled by the Foundation can result in the loss of significant tax benefits for donors. Ultimate control of investments and disbursement is given to the Board of the Foundation. The agreement establishing the Fund clearly states that the Community Foundation can use the funds only for the purposes expressed in the agreement, i.e., for the benefit of the Agency or its successors. For example, in your Fund Agreement, your Board may outline that the Board of Directors may, at its discretion, distribute or draw down all of the income and principal of the Fund at any time.

## Variance Power

In the event that your agency ceases to exist, loses its nonprofit status, or the original purpose of the Fund becomes irrelevant or impossible to achieve, the Community Foundation's Board maintains "variance power" to change the beneficiary or purpose of the Fund. All funds established at the Foundation are subject to the Foundation's variance power, as set forth in the Foundation's bylaws. Variance power gives the Board of Directors of the Athens Area Community Foundation the power, without approval of any donor, trustee, custodian, agent or other person or entity, to modify any restriction or condition on the distribution or investment of funds for any specified charitable purpose or to any specified organization if, in the sole judgement of the Board of Directors, such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community served by the corporation or if, in the sole judgement of the Board of Directors, other circumstances warrant such modifications.

Variance power helps assure donors their gifts will remain relevant in perpetuity. In other words, if your agency ceases to exist, its Fund remains at the Community Foundation supporting purposes specified by your organization in the Fund Agreement or the next closest purpose. The Athens Area Community Foundation's goal is to steward your philanthropic assets in accordance with your donors' intent for the benefit of fulfilling your mission.

Because the circumstances under which the Foundation's Board of Directors would invoke variance power are so rare (it has never occurred before) and your Agency Fund is accessible to you at any time, your Fund is considered a liability on the Foundation's books and an asset on yours.

**“Our fund with the Athens Area Community Foundation is not simply a savings account. It’s a signal to stakeholders that we exercise care with our dollars. It is a bulwark against uncertainty and volatility. Most importantly, it is an entry point into conversations with other fund holders and community members about how we can leverage resources – together – for the betterment of our community.”**

*Leslie Williams Hale,  
Former Executive Director  
at Books for Keeps*



## Accounting Treatment for Agency Funds

The Financial Accounting Standards Board has issued Financial Accounting Standards #136, Transfers of Assets to a Not-for Profit Organization or Charitable Trust that Raises or Holds Contributions for Others. This standard outlines how community foundations that hold funds for other nonprofits should account for those assets. The assets can be treated in one of two ways depending on the facts and circumstances surrounding the transfer of the assets to the Community Foundation.

- If a not-for-profit organization (NPO) establishes with its own funds, a Fund at a Community Foundation for its own benefit, the transfer of assets to the Foundation is not a contribution revenue to the Foundation and should be accounted for as a liability. The Foundation reports the Fund as an asset of the Foundation but must also establish a liability for the market value, representing the present value of the future payments expected to be made to the NPO. Correspondingly, the NPO must continue to list the asset on its balance sheet, for example, as a beneficial interest in assets held by the Community Foundation. The NPO would also disclose in its financial statements the terms of the agency fund agreement with the Community Foundation. For example, if the NPO holds a fund or receives a bequest and the NPO Board approves the transfer of the fund or bequest to the Community Foundation, then the assets will be treated as a liability by the Foundation.
- If an NPO establishes a solicitation campaign for its fund at the Community Foundation and cites in the publications for the campaign that the donations should be given directly to the NPO Fund at the Foundation, then the NPO Fund is owned and held by the Community Foundation, and that Fund is subject to the articles of incorporation and by-laws of the Foundation all of which provisions are hereby incorporated by reference. The assets are contributions to the Foundation and are included in the Foundation's fund balance.

The FASB standard has no impact on the legal ownership of the assets. Once the assets have been transferred to the Community Foundation, they are the property of the Foundation and are reported as such on the IRS Form 990.

## Minimum Value

The Athens Area Community Foundation recommends a minimum of \$10,000 to start a Designated or Agency Fund but we are eager to work with you to accomplish your charitable goals and discuss your individual circumstances.

## Additional Contributions

Contributions such as cash and appreciated securities can be made at any time. Gifts of real estate and certain other tangible assets can only be accepted with prior approval of the Community Foundation's Board of Directors.

Gifts to public charity, unlike contributions to a private foundation, have the benefit of the maximum charitable deduction permitted under current laws. Charitable gifts your donors make to a Designated Fund, and any subsequent contributions to the fund, are fully deductible as gifts to a public charity. All gifts to the fund are acknowledged by a sanctioned IRS letter that may be used as evidence of the charitable contributions for tax purposes.



## Fundraising Policy

Some Designated Funds conduct fundraising events or solicitations to grow their fund. All solicitations on behalf of a Fund at the Community Foundation must meet our fundraising activity guidelines in advance of fundraising or solicitation. Staff will provide these guidelines upon request.

## Authority to Access Designated/Agency Fund

Your Board will receive quarterly statements and you can request distributions from the fund at any time, without penalty. Procedures for accessing agency funds will be outlined in the Designated/Agency Fund Agreement. All requests for distributions from the fund shall be requested by a representative designated in the Fund Agreement (for example - the Director and the President of the Board). You may choose several methods for distributions depending on the purpose of the Fund. Several options include, but are not limited to:

- Annual distributions of 4% market value of the Fund's corpus at June 30th of the preceding fiscal year
- Distribute any amount requested by the Agency
- Automatically distribute a specified amount to the Agency quarterly/annually/other
- Make no distributions until the corpus of the Endowment Fund balances reach specified value
- Set a spending limit above which a request must be approved by a majority vote of the full board of directors of the agency

The Agency Fund Disbursement/Grant Recommendation Form can be used to request disbursements at any time. Our staff reviews requests for disbursement using criteria established by our Board of Directors in accordance with IRS guidelines.

## Investments

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. Regular reviews are conducted to monitor investment performance and activity. The asset mix for the long-term portion of the Foundation's balanced pool is 65% equity, 35% fixed income, Your Board of Directors may recommend adjustments to this asset mix that may more closely facilitate the long or short term goals for use of the Fund. IRS regulations enable donors/agencies to designate investment preferences when the Fund is established but require that the Foundation retain final discretion regarding those preferences.

Investments are subject to market and interest rate fluctuation risks, and gain or loss generated by these investments will be credited or charged to the Fund. The total investment return of each mutual fund is net of its operating expenses. Your assets are invested not as an individual account, but as part of a pool. Therefore, this fund enjoys economies of scale in investment fees and returns, more so than if it were invested as a separate, individual fund. If you plan to draw down/grant significant portions of your Fund in a short period of time, the Foundation will invest these funds in an interest bearing account upon request.





## Fees

There is no initial charge to set up a fund. Once a fund is established, a Foundation Support Fee is assessed on a quarterly basis. Fees are based on the average daily balance of the fund for the quarter and vary by the size of each fund. The minimum annual fee is \$500. Foundation support fees provide for the operation of the Foundation, including the work of engaging philanthropists in local grantmaking; building local knowledge and expertise on community needs and opportunities; strengthening nonprofits through grants and guidance; participating in collaborative efforts to address community problems; and practicing organizational excellence in asset stewardship, grant review and processing, fund valuation, statement and activity reports, check preparation, mailing, data processing, management, bookkeeping and auditing.

## Online Donor Portal

You will gain access to our **secure, password protected online portal** to view your fund activity at any time. You will be able to check your balance and view quarterly fund statements, available to you via our online donor portal approximately the 20th of the month following the close of the quarter. These reports contain information on interest and dividends earned, realized/unrealized gains and losses, contributions, fees, and grants made during the quarter. Historical data of all your gift and grant-making as well as all contributions made to the fund via the online portal.

## Board Involvement

The Athens Area Community Foundation staff are available at any time to answer questions and discuss plans for your organization's long-range sustainability. We recommend you include a discussion of your Agency Fund's purpose and results with incoming Board Members and new staff. We are happy to help with this orientation process.

**We believe in helping grow vibrant, healthy communities. A fundamental part of our role as a community foundation is to provide community leadership. When you anchor your funds with the Athens Area Community Foundation, not only are you supporting issues you care deeply about, but you're also making a collective impact on the entire community. An impact that is bigger, more responsive, and longer-lasting than can be accomplished alone. As we like to say, we help you create a lasting legacy.**



## General Policies of the Athens Area Community Foundation

We look forward to helping you reach your charitable goals and always welcome your input and suggestions. The information contained in this handbook is intended to inform donors, agencies, and professional advisors about Designated and Agency Funds. We will make our best efforts to communicate any changes about funds in a timely manner.

## Confidentiality of Donor Information

Information about Community Foundation donors and agencies is confidential. We do not disclose names, financial information, individuals' ages or other personal information without the donor's consent.

We use your mailing information as a means to stay in touch, to keep you informed of your fund activity, and Community Foundation activities and opportunities.

## Information on Charitable Giving and Organizations

To assist donors in meeting their charitable goals, we are pleased to provide information on charitable-giving techniques, such as planned giving, as well as information about organizations and local needs. We want to learn more about your agency so that we can help match donors with your cause. In our relationship with you and with other donors and agencies, we also encourage the involvement of your professional advisors. We do suggest you solicit legal and other professional advice, as needed, to optimize the benefits of your relationship with us.

## Staff Contact

The Athens Area Community Foundation's staff is an excellent resource for donor advisors and is always available to assist you in accomplishing your philanthropic goals. Please contact us.

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## Attachment A - Developing a Board Resolution and Spending Policy

Many important topics must be discussed prior to establishing an Agency Fund with the Athens Area Community Foundation. In order for an organization's current Board of Directors to be satisfied with this commitment, and in order for future Board members to understand this decision, the Foundation requires that the organization develop and pass a Board Resolution authorizing the establishment of the fund and a resolution regarding the Spending Policy for the Fund. The following topics must be discussed and addressed in the minutes of your meeting and/or the resolution.

### Who can access what, and when?

- Will you allow future employees/BODs to access the Fund? If so, who is eligible? President of the organization? BOD Chairman? Will it take two signatures and/or documentation of an Executive Committee/BOD vote?
- How much can they access? The entire Fund balance, 5% annually, only the earnings, etc.?
- Will this Fund be permanently Endowed or Quasi-Endowed? How will the Agency ensure that donors understand this?
  - Endowed Funds are designed to preserve the gifts in perpetuity, so only the Available to Grant amount can be used for distribution.
  - A Quasi-Endowed Fund is treated like an endowment fund for investment purposes; however all of the income and principal of the fund are available for distribution.

On the next page is a sample Board Resolution and Spending Policy. You can use our Appendix A to fill in your own Board Resolution and Spending Policy, or you can create your own.



\_\_\_\_\_ **Agency Fund**  
**Establishment, Investment, and Spending Guidelines**

The \_\_\_\_\_ establishes an Agency Fund with the Athens Area Community Foundation with the following guidelines:

Name: The name of the Agency Fund is \_\_\_\_\_ (hereinafter referred to as the Agency Fund). \_\_\_\_\_ (Fund Name)

Purpose: The Fund will be used to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ establishes an Agency Fund at the Athens Area Community Foundation to access planned gift expertise; expand capacity to accept complex gifts; increase exposure to philanthropic community; and access professional, independent investment management to meet the purpose(s) above.  
(Agency Name)

Spending Objectives: Distributions from the Agency Fund shall be as follows:

Procedures for Accessing Agency Funds: All requests for distributions from the Agency Fund shall be requested by the President of the Board of the \_\_\_\_\_ upon approval by \_\_\_\_\_. \_\_\_\_\_ (Agency Name)  
(Person)

Distributions in excess of the determined spending amount that will invade the fund's corpus must be approved by a majority vote of the full board of directors of \_\_\_\_\_.  
(Agency Name)

Monitoring: \_\_\_\_\_ Board will monitor the performance of the endowment accounts on a quarterly basis and report the status to the entire board at least once annually. Issues to be addressed will include asset performance, calculation of payout, and administrative fees.

Changes: The guidelines may be changed at any time by a majority vote of the full board of directors of \_\_\_\_\_.  
(Agency Name)

These guidelines were herby submitted to the Executive Committee of \_\_\_\_\_, and was approved this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title: