



A Legacy Fund is a charitable tool that allows you to set-up a bequest to your community and directs the contributions to the nonprofits that are aligned with your interests and passions. A Legacy Fund is a designated endowment fund. The annual gifts are made from the investment earnings of the fund. When you set-up a Legacy Fund you select the nonprofits that will receive annual distributions from your named fund in perpetuity. It is a wonderful way for you to leave a legacy to your community and be remembered for it. Rather than making a lump sum gift to a nonprofit(s) your Legacy Fund will annually make a gift to the designated nonprofits in your name.

LEGACY FUND

INDEX

1. Legacy Fund Agreement
2. Exhibit B: Guidelines
3. Exhibit C: Initial Advisor/Reporting Information
4. Disclosure Statement



LEGACY ENDOWMENT FUND AGREEMENT

This Agreement is made and entered into on the _____ day of _____, 20____, by and between the Whitefish Community Foundation, Inc. (“Community Foundation”) a nonprofit Montana corporation and _____ (“Donor”) to create a Legacy Endowment Fund. All contributions to this fund shall be governed by the terms of this Agreement.

WHEREAS, the Donor, in the furtherance of the Donor’s charitable purposes, deems it to be in the Donor’s best interest to create a Legacy Endowment Fund with the Community Foundation;

WHEREAS, the Community Foundation is a nonprofit Montana corporation exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, and is an appropriate entity within which to establish such Legacy Endowment Fund; and

WHEREAS, the Community Foundation is willing and able to create such Legacy Endowment Fund subject to the terms and conditions hereof.

NOW, THEREFORE, the parties agree to the following terms:

- 1. Name of Fund.** There is hereby established with the Community Foundation a fund designated as the _____ Legacy Endowment Fund (hereinafter referred to as the “Fund”).
- 2. Purpose of Fund.** The primary purpose of the Fund is to benefit certain qualified charitable organizations. The term “qualified charitable organization” as used herein shall mean an organization described in Section 501(c)(3) of the Internal Revenue Code, which is also described in Sections 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code (except for an organization that is Type III and not functionally integrated; and that primarily (more than 50%) benefits Montana communities and citizens. The Fund is intended to further or carry out the nonprofit purposes of the qualified charitable organizations to the extent that those purposes are consistent with the general nonprofit purposes of the Community Foundation. This Fund is a permanent irrevocable fund, as defined by M.C.A. Section 15-30-2327 and the Administrative Rules thereunder, as amended (an “irrevocable fund”). It is intended that gifts to the Fund will qualify for the Montana Charitable Endowment Tax Credit to the extent the donor so elects. Accordingly, all provisions of this Agreement shall be interpreted and applied in a manner that is consistent with this intention. All powers or discretions granted herein shall not be exercised or exercisable except in a manner consistent with this intent. The qualified charitable organizations selected to benefit from the Fund

are identified in Exhibit A (referred to collectively as the “Designated Agencies”). The list of Designated Agencies is irrevocable once the initial gift to the Fund is made.

- 3. Initial Gift.** The Donor intends to make an irrevocable donation, bequest, or devise in cash or other assets to initiate the Fund. The initial gift shall be equal to or greater than the fund minimum specified in the Legacy Endowment Fund Guidelines (the “Guidelines”) attached hereto as Exhibit B. Prior to the time that amounts are contributed to the Fund, the fund minimum shall not apply.
- 4. Additional Gifts.** Any individual, corporation, trust, estate, or other legally recognized entity may make a gift, bequest, devise or other transfer to the Community Foundation for the purposes of the Fund by a transfer to the Community Foundation of cash or other assets acceptable to the Community Foundation for the benefit of the Fund. All additional gifts, bequests, and devises made to the Community Foundation for the benefit of the Fund shall be irrevocable and subject to the terms and conditions of this Agreement. All additional gifts of cash shall be by check, certified check, or money order, payable to the Whitefish Community Foundation, Inc., and shall reference the Fund name on the check memo line. Except as provided herein, the Community Foundation does not solicit contributions to or otherwise provide marketing or fundraising services for the Fund.
- 5. Administrative Authority.** The Community Foundation shall have full power to administer and carry out the purpose of the Fund, in its sole and absolute discretion, including, but not limited to, the powers to retain, manage, sell, invest and reinvest the Fund assets and its income in any manner as authorized by law, and the power to co-mingle the assets of the Fund with those of other funds for investment purposes.
- 6. Distributions.** The amount, manner, and frequency of distributions from the Fund to Designated Agencies will be determined by the Community Foundation’s Board of Directors (“Board”) in compliance with the Guidelines in effect at the time of the proposed distribution. No distribution shall be made to any one of the Designated Agencies if such Designated Agency is dissolved or otherwise fails to be a qualified charitable organization. If any Designated Agency is dissolved or otherwise fails to be a qualified charitable organization Donor does/does not (**circle one**) authorize the Community Foundation to, at its sole discretion, substitute a qualified charitable organization with a mission that is similar to the mission of the dissolved or unqualified organization. If the Donor does not authorize such a substitution, the distribution intended for that Designated Agency shall be made to the other Designated Agencies that are not dissolved and that are qualified charitable organizations.

If there are no Designated Agencies that are not dissolved and that are qualified charitable organizations, the Fund shall terminate and any funds remaining in the Fund shall be added to the permanent endowment fund of the Community Foundation.

- 7. Separate Accounting and Reporting.** The Fund shall be accounted for separately and apart from other funds of the Community Foundation, but may be co-mingled with other assets of the Community Foundation for investment and banking purposes. The Community Foundation shall provide the Donor at least annually with a written report showing the Fund’s contributions, earnings, distributions, and fees.

- 8. Substantiation and Acknowledgment:** Upon accepting transfers of cash or other assets to the Fund, the Community Foundation will send a letter to the donor acknowledging the contribution. The letter serves as a receipt for tax purposes.
- 9. Other Reports:** The Community Foundation issues an Annual Report. The Report lists all Legacy Endowment Funds held by the Community Foundation. Copies of the Annual Report and information returns (IRS Form 990) are available upon request or on the web site at www.whitefishcommunityfoundation.org. The Annual Report includes the names of donors to the Community Foundation and the names of the Legacy Endowment Funds at the Community Foundation, but the report does not specifically identify the donors that contributed to each Legacy Endowment Fund. The Report may in the future, but does not currently list distributions from the Legacy Endowment Funds.
- 10. Community Foundation as Owner of the Fund.** The Fund shall be the property of the Community Foundation and owned by it in its corporate capacity. In such capacity, the Community Foundation shall have the ultimate authority and control of all assets in the Fund, and the income from the Fund for the charitable purposes of the Community Foundation. The assets in the Fund, whether cash or other property, are not held in trust for the Donor.
- 11. Compensation to Community Foundation and Other Expenses.** The Community Foundation carries out the distribution and financial reporting responsibilities necessary to maintain the Fund and shall charge the Fund an administrative management fee. The fee is specified in the Guidelines, and the fee may be periodically modified by an amendment to the Guidelines adopted by the Board of Directors of the Community Foundation. Said fee shall be reasonable and in keeping with the fees that community foundations customarily charge.
- 12. Variance Power.** The Fund is subject to the variance power described in Treas. Reg. Sec. 1.170A-9(f)(11)(v)(B)(1), as amended from time to time. Pursuant to the variance power, the Board shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to specified organizations, if in their sole judgment (without the approval of any donor, advisor, trustee, custodian or agent) such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community or area served by the Community Foundation.
- 13. Continuity of the Fund.** Following receipt of the initial gift, it is intended that the Fund continue in perpetuity, or until such time as the value of the assets in the Fund are depleted below the Fund Minimum as set forth in the Guidelines, or distributed to another fund pursuant to Section 6 or Section 15.
- 14. Legal Compliance.** The Donor agrees and acknowledges that the establishment of the Fund is made subject to the terms and conditions of the Articles of Incorporation and Bylaws of the Community Foundation, as from time to time amended, and the Guidelines as have been adopted by the Board and thereafter amended from time to time. Notwithstanding anything herein to the contrary, the Community Foundation is

subject to and shall hold and administer the Fund and all contributions to the Fund pursuant to the laws of the state of Montana including the Montana Nonprofit Corporation Act and the Montana Uniform Prudent Management of Institutional Funds Act, and shall further be subject to all federal law, including, but not limited to the United States Treasury Department Regulations and the Internal Revenue Code.

- 15. Dissolution.** If the Community Foundation ceases to be a qualified charitable organization, or if the Community Foundation dissolves, then the assets of the Fund, after payment or making provision for payment of any liabilities properly chargeable to the Fund, shall be distributed to the irrevocable funds of the Designated Agencies; provided, however, that if any Designated Agency is not then a qualified charitable organization or does not have an irrevocable fund, then said assets shall be distributed to the irrevocable fund of any other Designated Agencies, and if none, to the irrevocable funds of such qualified charitable organization or organizations as the Board of Directors of the Community Foundation in its sole discretion determines serves purposes similar to those of the Designated Agencies.
- 16. Privacy Policy.** This Agreement is subject to the Privacy Policy of the Community Foundation, a copy of which is available at the Community Foundation office.
- 17. Liability.** The Community Foundation, its officers, directors, employees and agents shall not be liable to the Donor, their successors, heirs, or devisees, for any loss or damage to the Fund, including, but not limited to any depreciation in the value of the Fund.
- 18. Entire Agreement.** This Agreement and the Exhibits attached hereto are the entire Agreement between the parties, and supersede all previous negotiations, commitments, and writings.
- 19. Applicable Law.** This Agreement shall be governed by and construed under the laws of the State of Montana.
- 20. Binding Effect.** This Agreement shall be binding upon the parties, their successors and assigns.
- 21. Severability.** If any term or provision of this Agreement shall be held to be invalid or unenforceable for any reason, that term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating the remaining terms and provisions, and this Agreement shall be construed as if such invalid or unenforceable term or provisions had not been included. In the event that any term or provision is held to be valid or unenforceable, or in the event that any term or provision shall be found to be inconsistent with any policy of the Community Foundation, the Donor and the Community Foundation shall promptly meet to negotiate substitute terms and provisions for those found to be invalid, unenforceable or inconsistent.

IN WITNESS WHEREOF, this Agreement is signed this _____ day of _____,
2014,

DONOR

BY: _____
PRINT NAME: _____
ADDRESS: _____

BY: _____
PRINT NAME: _____
ADDRESS: _____

WHITEFISH COMMUNITY FOUNDATION, INC.

BY: _____
PRINT NAME: _____
TITLE: _____



Legacy Endowment Fund Guidelines

These Guidelines are incorporated by reference in the Whitefish Community Foundation Legacy Endowment Fund Agreement, and they apply to all Legacy Endowment Funds established as a permanent irrevocable fund pursuant to M.C.A. Section 15-30-2327.

Any Legacy Endowment Fund (“Fund”) established with the Whitefish Community Foundation (“the Community Foundation”) shall be subject to the following terms and conditions:

1. ***Administrative Fees*** – The Community Foundation shall receive a fee for services based on the average quarterly balance in the Fund during each calendar year. Fees are charged quarterly.
 - For a Fund with a \$0 balance, no fee is charged
 - For a Fund with a value up to and including \$1,000,000, the annual fee is 1% of the average ending quarterly balance, with a minimum fee of \$250 per year.
 - For a Fund with a value over \$1,000,000 the annual fee is .5%.
 - If a Donor has more than one fund established with the Community Foundation the annual fee shall be established based on the aggregate value of all of the Donor’s funds
2. ***Distributions*** – Distributions from the Fund will be made as follows:

The amount of the distribution shall be determined by Community Foundation based on the following factors:

- (a) the duration and preservation of the Fund;
 - (b) the purposes of the Community Foundation and the Fund;
 - (c) general economic conditions;
 - (d) the possible effect of inflation or deflation;
 - (e) the expected total return from income and the appreciation of investments;
 - (f) other resources of the Community Foundation;
 - (g) the investment policy of the Community Foundation; and
 - (h) any other factors deemed relevant by the Community Foundation.
- No expenditure shall be made in any year of an amount greater than 6% of the fair market value of the Fund, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than 5 years immediately preceding the year in which the appropriation for expenditure is made. For a Fund in existence for fewer than 5 years, the fair market value of the Fund must be calculated for the period the Fund has been in existence



3. ***Fund Minimum*** – A Fund may be opened with a \$15,000 minimum. A minimum balance of \$15,000 must be maintained. If the Fund balance at any time is less than \$15,000, the Community Foundation shall terminate the Fund and assets of the Fund shall be distributed to the permanent endowment fund of the Community Foundation. Prior to the time that amounts are contributed to the Fund pursuant to Section 3a or 3b of the Fund Agreement, the fund minimum shall not apply.
4. **Amendment** - THESE GUIDELINES MAY BE SUPERSEDED, MODIFIED, REVOKED, REVISED, SUSPENDED OR TERMINATED AT THE SOLE DISCRETION OF THE BOARD OF DIRECTORS OF THE COMMUNITY FOUNDATION AT ANY TIME WITH OR WITHOUT NOTICE.



Initial Advisor Information and Reporting Form

Reports will be sent at least annually to the Fund Advisors. Reports will be sent to the advisor(s) at the following address(s). Advisor(s) of the Fund will notify the Foundation of any changes.

NAME OF FUND:

Advisor Name:

Address:

City, State, Zip:

Telephone

Business: **Home:**

Email:

Advisor Name:

Address:

City, State, Zip:

Telephone

Business: **Home:**

Email:

If two advisors (*Initial one*) _____ *Acting jointly* _____ *Acting jointly or individually*

Additional Reports:

Name:

Address:

City, State, Zip:

Signature:
(Advisor) (Advisor)

Date **Date**



2018 DISCLOSURE STATEMENT

Foundation Staff

Linda Engh-Grady, President
Daria Perez, Vice President of Finance and Operations
Lynnette Donaldson, Donor Relations
Kayla Nickells, Marketing and Events Coordinator

Foundation Board of Directors

Committee designations are indicated in parentheses: Executive Committee (EC), Governance (GV), Grants (GR), Investment (IV), Audit (AD), Foundation Development (FD)

| | |
|---|--------------------------------|
| Kenneth Wessels, Chair (EC, GV, IV) | Joe Gregory (GV) |
| Linda Maetzold, Vice Chair (EC, AD, GR) | Sherry Lesar (GR) |
| Jay Latimer, Secretary/Treasurer (EC, IV) | Ellen Moran (GR) |
| Jeff Allen (IV) | Monica Pastor (GR) |
| Carol B. Atkinson (GR) | Doug Reed (GR) |
| Betsy Bayne (EC, GR) | Jamie Shennan (EC, GV, IV, FD) |
| John Collins (EC, IV) | Shawn Watts (GR) |
| Diane Conradi (GV, IV) | John Witt (IV) |

The following non-board members also serve on the Foundation Committees:

Lori Miller (GV)
Thomas Quinn (GR)
Dave Stewart (IV)
Kristin Tabor (GR)

Investment Managers

Mason Investment Advisory Services, Inc. 1130 Sunrise Valley Drive, Suite 200, Reston, VA 20191

Auditor

Tony Vanorny, JCCS, CPA's Kalispell, MT

Accountant

Sallie Foley, JCCS, CPA's PC, Whitefish, MT

Administrative Fees

Whitefish Community Foundation charges a fee for services based on the average quarterly balance in the Fund during any given calendar year. Fees are charged quarterly.

- Donor Advised Funds: Fee starts at .60% or \$100, whichever is higher. For funds over \$500,000 the fee is based on a sliding scale
- Designated, Endowment, Annuity, and Agency Funds: Fee starts at 1% or \$250. For funds over \$1M, the fee is .50%.
- If any donor has more than one fund established with the Community Foundation, the annual fee shall be established based on the aggregate value of all of the Donor's Funds.
- Additional investment fees are charged for invested assets.