



DONOR ADVISED FUND AGREEMENT

Welcome to Park City Community Foundation.

Thank you for choosing the Community Foundation. We are committed to connecting you with your community and to the causes important to you. Our staff is available to assist you at any time with a wide variety of services from creating your fund to ongoing grantmaking and charitable giving services.

Attached to this Agreement, you will find our Donor Advised Fund Procedures for establishing and operating Donor Advised Funds. If you have any questions about this agreement or the attached Procedures, please call our office at 435.214.7476.

Donor Advisor Information

Donor Advisor 1* (*all correspondence will be sent to Donor 1 unless otherwise specified)

Name (First, Middle, Last)

Mailing Address

Date of Birth

Send mailings to my: Home ☐ Office ☐

Business or Organization Name

Position

Business Address

Phone

Business Phone

Email (Preferred)

How would you like to be addressed?

(e.g. Mr. and Mrs. John H. Smith; John and Jane Smith)

Please indicate below if you would prefer to be contacted via traditional mail.

We make more possible.

PO Box 681499, Park City UT 84068
435.731.4250 · parkcitycf.org



Donor Advisor 2

Name (First, Middle, Last)

Mailing Address

Date of Birth

Send mailings to my: Home ☐ Office ☐

Business or Organization Name

Position

Business Address

Phone

Business Phone

Email (Preferred)

How would you like to be addressed?

(e.g., Mr. and Mrs. John H. Smith; John and Jane Smith)

Donor Advisor 3

Name (First, Middle, Last)

Mailing Address

Date of Birth

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Position

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Donor Advisor 4

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Mailing Address

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Send mailings to my: Home ☒ Office ☐

Business or Organization Name

Position

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Name the Fund

Please choose a name for the fund. Grants made to charities are accompanied by a letter that includes the name of the fund (e.g., The Smith Family Fund, Park City Leadership Fund) and the Donor Advisor's name and address. However, you may recommend that specific grants be sent anonymously.

The fund name will appear in the Community Foundation materials including our annual report and on our website. If you wish to be anonymous, please name it accordingly (e.g., ABC Fund).

Fund Name: _____

Contribution:

The minimum initial contribution is \$25,000. Additional gifts can be made in any amount.

- ☐ Check for \$ _____
- ☐ Wire Transfer for \$ _____
- ☐ Publicly Traded Securities _____ shares of _____
- ☐ Real Estate (attach detail of property)
- ☐ Retirement Plan/Life Insurance (attach copy of your beneficiary designation form)
- ☐ Closely held stock, Partnership or LLC interest, etc. (attach detail of asset)
- ☐ Bequest or other deferred gift
- ☐ Other _____

Fund Structure

Fund holders may request that a fund be structured and managed as fully expendable or endowed

How do you intend to operate your fund?

- ☐ Current use fund – all spendable
- ☐ Long-term fund – all spendable and managed for the long-term
- ☐ Endowed fund

Investment Pool

Please select one of these investment pools for your Fund:

- ☐ Short-Term Pool: The Short-Term Pool is invested in a savings account.
- ☐ Mid-Term Pool: The Mid-Term Pool is invested in fixed income and cash.
- ☐ Long-Term Pool: The Long-Term Pool is designed for funds that can tolerate a moderate amount of volatility in short-term returns. The emphasis is to earn higher long-term rates of return by investing a majority of the assets in equity investments.

Support Fees

The annual administrative fee for your funds is:

- ☐ Fee on Incoming Gifts: 2 % (\$250.00 per year minimum).
- Or
- ☐ Tiered Fee based on the average daily balance of the fund (\$250 per year minimum). Tiered Fee annual rates are listed on the Fee Schedule posted on our website.

Succession Plan

You may request that portions of your fund be administered in any or all of the following ways upon the death or incapacity of the fund's last surviving Donor Advisor. Total percentages should equal 100%.

- ☐ Transfer advisory privileges of this fund to Successor Advisor(s) as listed later in this agreement _____% of the fund
- ☐ Transfer the fund's assets to the Community Foundation's unrestricted endowment fund (to help fund future operating costs of the Community Foundation) _____% of the fund
- ☐ Create a designated fund for the benefit of the organization(s) named below (\$50,000 minimum requirement) _____% of fund; Organization name(s): _____

- ☐ Transfer the fund's assets to the Community Fund (the Community Foundation's unrestricted pool) to help meet the pressing needs of the greater Park City region _____% of the fund
- ☐ Transfer the fund's assets to available Field of Interest Funds _____% of fund. Please specify which Field of Interest _____



Successor Advisor Information

Successor Advisor(s) have privileges to make recommendations appropriate for the fund. All fund correspondence will be sent to Successor Advisor 1 unless otherwise specified. It is the responsibility of the designated Successor Advisor(s) to contact the Community Foundation at such time as they become Advisor(s) to the fund. If we do not hear from the Successor Advisor(s) and are not able to locate them within six months of becoming Advisor(s) to the fund, then the fund shall revert to a named fund within the Community Foundation's unrestricted pool ("The Community Fund").

Successor Advisor 1

Name (First, Middle, Last)

Mailing Address

Date of Birth

Send mailings to my: Home ☐ Office ☐

Business or Organization Name	Position
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Business Address

Phone	Business Phone	Email (Preferred)
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Successor Advisor 2

Name (First, Middle, Last)

Mailing Address

Date of Birth

Send mailings to my: Home ☐ Office ☐



Business or Organization Name

Position

Business Address

Phone

Business Phone

Email (Preferred)

Successor Advisor 3

Name (First, Middle, Last)

Mailing Address

Date of Birth

Send mailings to my: Home ☐ Office ☐

Business or Organization Name

Position

Business Address

Phone

Business Phone

Email (Preferred)

I/We, as the donor(s), request that the Successor Advisor(s) named assume this responsibility on the following date: _____ or _____ (check here) upon the death of the present Advisor(s).

Signatures

Donor Advisor(s) listed in section 1 must sign below:



Donor Advised Fund Procedures

The undersigned have received and reviewed the *Donor Advised Fund Procedures* and agree to the terms and conditions described therein. The undersigned understand that any contribution, once accepted by the Community Foundation, represents an irrevocable gift to the Community Foundation and is not refundable. The undersigned hereby certify that all information presented in connection with this application is accurate, and the undersigned will promptly notify the Community Foundation in writing of any changes.

Investments

The undersigned understand that investments will be administered in accordance with the policies of the Community Foundation. The undersigned acknowledge that investments are subject to market and interest rate fluctuation risks and that any gain or loss generated by the above investments will be credited or charged to the fund. The total investment return of each investment vehicle is net of its operating expenses.

Indemnity

In consideration of the Community Foundation's creating a fund at the request of the individual(s) or entity named and for other good and valuable consideration, the undersigned hereby agrees to indemnify and hold harmless the Community Foundation, its directors, officers, and other representatives, against any liability, cost, or expense which the Community Foundation may incur because it acts upon recommendations given to the Community Foundation by any of the authorized persons named.

Donor Advisor

Signature

Name (please print)

Date

Park City Community Foundation

Signature

Name (please print)

Title

Date

DONOR ADVISED FUND POLICY & PROCEDURES

Authorization

The Park City Community Foundation (hereinafter the “Community Foundation”) has authorized the establishment of Donor Advised Funds by a resolution of the Board of Directors. These procedures may be amended from time to time when deemed necessary or appropriate by the Board of Directors.

Characteristics of Donor Advised Funds

Donor Advised Funds may be established by the donation or transfer by any person to, and acceptance by, the Community Foundation, of money or property, whether by contribution, gift, bequest or devise, or by transfer from a charitable or other organization to further or carry out the charitable purposes of the Community Foundation, as set forth in its Articles of Incorporation and Bylaws. Contributions to Donor Advised Funds represent irrevocable gifts subject to the legal and fiduciary ownership and control of the Community Foundation’s Board of Directors. A donor may not impose any material restriction or condition that prevents the Community Foundation from freely and effectively employing the contributed assets or the income derived therefrom, in furtherance of a charitable purpose of the Community Foundation.

Nature and Terms of Donor Advised Funds

Each Donor Advised Fund shall be the property of the Community Foundation, owned by it in its normal capacity. In such capacity, the Community 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 Community Foundation. Each Fund may be recorded on the books and records of the Community Foundation as an identifiable and separate fund and may be given a name or other appropriate designation as requested by the donor. Anything herein or in the deed of gift or other instrument of transfer creating a Donor Advised Fund to the contrary notwithstanding, each Fund shall be a component fund of the Community Foundation and shall be subject to the governing instruments of the Community Foundation, including the Articles of Incorporation and Bylaws, as amended from time to time.

Value

The minimum amount to establish a Donor Advised Fund is \$25,000. The Community Foundation will not advise donors on the value of contributed property.

The Donor Advisor’s Role

The Community Foundation welcomes the involvement and recommendations of its donors with respect to distributions from Donor Advised Funds, but such recommendations are advisory only and are in no way binding upon the Community Foundation. The Community Foundation honors the charitable intentions of its Donor Advisors consistent with community needs and applicable laws and regulations. Donor advice will be considered if offered in writing, by fax, email, and telephone, or through the Community Foundation’s online fund management system.

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Evaluation of Donor Recommendations

In evaluating recommendations for distributions from Donor Advised Funds, the Community Foundation staff investigates all prospective grant recipients to ensure that they are organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code or that the grant will be used for a charitable purpose. All distributions from Donor Advised Funds must be ratified by the Community Foundation's Board of Directors.

Additionally, the Community Foundation reserves the right to deny grant recommendations from donor advised fund advisors to organizations that explicitly attack malign, or espouse poor treatment of, or reduce the legitimacy of, individuals or groups of individuals, on the basis of their having certain perceived or physiological characteristics, including, but not limited to, race, color, religion, sex, age (over 40), national origin (including membership in a Native American tribe), disability, sexual orientation, gender identity, pregnancy, childbirth or pregnancy-related conditions, and/or organizations with policies or practices that do not align with the Foundation's mission, core values, and commitment to equity, diversity, and inclusion.

Additional Advisors

The privilege of making recommendations shall be extended to the donor(s), their spouses, and their designees. The initial Donor Advisor is able to name up to two generations of Successor Advisors. After this time, the remaining fund balances are transferred according to the last advisor's recommendations or the Community Foundation's unrestricted endowment fund. All requests to appoint additional advisors and successor advisors must be communicated to the Community Foundation in writing by the donor(s) establishing the fund. A Donor Advisor may change this designation at any time by completing the Successor Advisor Form available from the Community Foundation. If after six months from the death, resignation, or incapacity of a Donor Advised Fund's Donor(s), the Community Foundation has not received in writing the names of an additional advisor or successor advisor to the fund, the Fund shall continue as part of the unrestricted endowment funds of the Community Foundation.

Gift Acceptance

Gift acceptance is governed by the Community Foundation's Board of Directors. The Board of Directors may refuse any offered gift that is not judged in the best interests of the Community Foundation. The Community Foundation and any prospective donor considering a gift should be fully advised of the legal and tax implications of the transaction. Prior to making any gift, prospective donors are strongly urged to review the transaction with trusted legal or financial advisors. Likewise, the Community Foundation will rely on the advice and opinions of its legal and financial counsel, particularly when significant legal or tax considerations are involved. The Community Foundation's provisions governing Excess Business Holdings are set forth in the Gift Acceptance Policy.

Investment of Assets

The Community Foundation has the responsibility and authority the investment the assets of each Donor Advised Fund. The funds are invested according to the Community Foundation's established Investment Policy Statement and the advice and counsel of the Community Foundation's Investment Committee. The Community Foundation

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is committed to smart, sophisticated investing. To learn more, please visit our website to review the Community Foundation's Financial Information.

Variance Power

Donor Advised Funds will be subject to the provisions of the articles of incorporation and bylaws of the Community Foundation, including the power vested in the Board of Directors to modify any condition or restriction on the distribution of funds if in its sole judgment (without the approval of any trustee, custodian or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable purposes and functions of the Community Foundation. Treas. Reg 170A-9(f)(11)(v)(B)(1).

Acceptable Types of Fund Activity

A fund is considered active when there is regular communication between a donor (or named successor(s)) and the Community Foundation regarding the existence and purpose of that fund and distributions are made in accordance with those communications. Examples of some of the activities that would deem a fund active include, but are not limited to:

- Regular Grant Recommendations. A Donor Advisor generally recommends grants at least annually to qualified charitable organizations. The amount of grantmaking can vary from year to year.
- Developing a Philanthropic Program. A Donor Advisor makes a substantial contribution to the Donor Advised Fund, for example, upon the sale of their business, and refrains from recommending grants for a given initial period while the fund advisor consults with the sponsoring charity and/or does their own research to determine what types of grants will best meet the community needs and/or the donor's philanthropic goals.
- Long-term Giving Plan. A Donor Advisor deliberately reduces the frequency or size of grant recommendations from the fund, for example:
 1. During the donor's working years with the intention of increasing the Donor Advised Fund balance to support grantmaking during their retirement, when the advisor expects their income to change.
 2. A donor may want to build a fund over time, so the donor's children can make grants later (the idea being the donor is leaving a charitable legacy for the next generation to administer).
 3. A Donor Advisor refrains from recommending grants for a given period because the fund is invested in an illiquid or undervalued investment. A Donor Advisor intends to begin making grant recommendations when the investment can be sold at a reasonable price.
- Project Grants. A Donor Advisor makes a substantial contribution to a Donor Advised Fund and determines to recommend grants to a specific qualified charitable organization over a period of 20 years so that the donor can monitor how the charitable organization performs and consider whether another organization would better achieve the donor's charitable objectives.

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- Starter Fund: A Donor Advised Fund may need time to build the fund balance to make substantial grants to the community. Therefore, there may be no distributions made until the fund balance reaches an amount stated in the Donor Advised Fund file.
- Specific Occasion Grant: A Donor Advisor refrains from recommending grants for a number of years with the specific charitable goal of recommending a grant upon a specific occasion.

Examples may include:

1. A donor is incapacitated with no successor advisor(s) named so the Community Foundation waits until the donor's death to distribute the fund according to the donor's original intent.
2. A fund has transitioned to the named successor advisor(s), but they are minors, and no adult representative is named to represent them (so grants resume when successor advisors are adults).
3. Founders of a fund who are also the Donor Advisors are getting divorced so that grants are suspended until both spouses agree on grants, which may include splitting the fund into two separate funds, one for each spouse to advise, or eventually dissolving the fund by the making of charitable grants.
4. Grants are suspended during litigation involving a fund (e.g., the donor has left the estate to a fund, but the donor's children are disputing the bequest, so the Community Foundation does not allow grants until the litigation is resolved).
5. A donor leaves a bequest to a fund and distributions are made periodically to the fund during the estate settlement process, but grants are not made until the estate is fully settled.

Spending Policy

The Board of Directors, with the assistance of the President & CEO, may determine specific charitable needs for which distributions from Donor Advised Funds may be made. In determining the distribution amount, the Board of Directors may consider the expected total return on the investments of the Community Foundation's permanent funds, the desirability of maintaining the value of the Community Foundation's permanent funds, and other factors that the Board of Directors deems relevant. The Community Foundation strives for a sustainable philanthropic community lasting in perpetuity. To this end, we encourage the growth of funds and the granting of interest only.

Distributions

All distributions from Donor Advised Funds are subject to the Community Foundation's variance power and must be ratified by the Community Foundation's Board of Directors. The Community Foundation requires distributions of at least \$100 from any Donor Advised Fund. Unless otherwise requested by the donor of the Fund, any distribution from a Donor Advised Fund shall identify to the grantee organization the name of the Fund from which the distribution is made.

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Restrictions on Distributions

Distributions from Donor Advised Funds established at the Community Foundation will be made only if they are consistent with the Community Foundation's charitable purposes and satisfy community needs identified by the Community Foundation as deserving of its support. Fund distributions will not be made for any purpose or to any organizations that would provide a tangible benefit to the donor, advisors, or related parties recommending the distribution (grants may not be made to individuals or for special events, sponsorships, or tickets).

It is the Community Foundation's policy that distributions from Donor Advised Funds may not be made to organizations that are not qualified section 501(c)(3) public charities without sufficient due diligence to establish that such distribution fulfills a charitable purpose. If the Community Foundation elects to make an expenditure responsibility grant or distribution from a Donor Advised Fund, the Community Foundation will make a determination and document that the funds are to be used exclusively for a charitable purpose that aligns with the philanthropic goals of the Community Foundation, the donor(s), and the advisors. This protocol is set forth in detail in the Community Foundation's Grantmaking Due Diligence Policy under the section entitled "Grants from Donor Advised Funds."

Distributions may not be made to individuals. Distributions may not be used to directly or indirectly support or oppose candidates for public office. Distributions may not be used to fulfill the pledges of donors, advisors, or other related parties. Donors, advisors, or related parties may not receive grants, loans, compensation, or similar payments from Donor Advised Funds.

Communication

The Community Foundation reviews grant activity on an annual basis. After one year of inactivity, the foundation will contact the donor in writing to alert the donor that there has been a 12-month period of inactivity. As part of that communication, the Community Foundation may distribute a list of community projects to the donor as suggested recommendations. After two years of inactivity, the Community Foundation will contact the donor in writing to alert the donor that there has been a 24-month period of inactivity. As part of this communication, the donor will be reminded of the Community Foundation's Donor Advised Fund Policy, Procedures, and Agreement.

When a donor advised fund has not distributed a grant in more than a three-year period, the Community Foundation will take steps to activate the fund, such as:

- Final attempts to contact the donor/fund advisor,
- Distributing grants to qualified grant recipients that align with donor intent demonstrated in previous grant distributions,
- Distribution or asset transfer to a grantmaking fund of the Community Foundation, or
- Any other distribution in accordance with the fund agreement and Community Foundation's policies. This may include termination of the Fund. If those provisions are incomplete, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served the Foundation may exercise its variance power to direct these resources to meet the needs of the community.

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Inactive Funds

A fund is deemed inactive if:

- The fund advisor dies or resigns or evidence of his or her incapacity is provided to the Foundation, and if no successor advisor has been named.
- All named successor advisors are unable or unwilling to serve as such.
- No recommendations are made with respect to grants from the fund for a period of two years and, during such period, the advisor or successor advisor does not reply to the Foundation's attempts to contact them.

If the fund becomes inactive, the Foundation will deem the advisory period to have ended and will initiate distributions from the fund in accordance with the provisions of the fund agreement.

Board Initiated Activation of Grantmaking

Should grant activity stop for more than a 3-year period, steps will be taken by the Community Foundation staff or the Board of Directors to activate that fund. These steps may include such activities as:

- Notifying the fund advisor regularly and periodically (for example, four times over a period of two years) to encourage the fund advisor to activate the fund.
- Distributing grants from the fund to qualified grant recipients that align with donor intent, but if the Community Foundation determines such intent is obsolete, incapable of being fulfilled, impractical, or inconsistent with the community's charitable needs, then the exercise of the Community Foundation's overriding variance power to enable the Community Foundation to continue to use its resources to meet the needs of the community and to address the charitable purposes for which the funds were committed.

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 Community Foundation, shall govern and the Community 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 or the Community Foundation. If this policy ever conflicts with federal law or state law (including UPMIFA), the relevant law controls.

Definition of Terms for Qualified Charitable Organizations

Donors may deduct charitable contributions in accordance with Federal and Utah Tax Codes only if donations are made to a Qualified Organization as designated by the IRS. The Community Foundation's Grantmaking Due Diligence Policy contains additional information on its grantmaking protocol.

Sponsoring Organization

An organization, like a community foundation, that owns and controls Donor Advised Funds.

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Donor Advisor

A donor or person appointed or designated by the donor who has or reasonably expects to have advisory privileges with respect to the fund's distributions or investments. The donor retains the privilege to recommend grants from the charitable fund for which they have been designated as fund advisors.

Donor Advised Fund

A fund may be classified as donor advised if it has at least three characteristics: (1) a donor or person appointed or designated by the donor has, or reasonably expects to have, advisory privileges with respect to the fund's distributions or investments, (2) the fund is separately identified by reference to contributions of the donor(s), and (3) the fund is owned and controlled by a sponsoring organization, such as a community foundation. A fund possessing these characteristics may be exempt from the Donor Advised Fund classification if it grants to one single public charity or government unit or if the fund meets certain requirements applicable to scholarship funds.

Disqualified Person

In this context, the term disqualified person includes (1) organization managers, (2) any other person who, within the past five years, was in a position to exercise substantial influence over the affairs of the organization, (3) donors and Donor Advisors with regard to transactions with a particular Donor Advised Fund, (4) investment advisors to assets of Donor Advised Funds, (5) disqualified persons of supporting organizations who are also disqualified persons of the supported organization, (6) family members of the above, and (7) businesses they control. Paying excessive benefits to a disqualified person will result in the imposition of penalty excise taxes on that person, and, under some circumstances, on the Community Foundation's Board of Directors.

Support Fees

Donor Advised Funds are subject to administrative support fees and investment expenses. The fee supports the Community Foundation as a steward of charitable resources and a provider of wide-ranging community services. The Community Foundation reserves the right to change its fee structure at any time. A donor shall keep their contracted fee schedule confidential.

Approved by the Board of Directors 03/26/2024.

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