

**POLICY FOR NONPROFIT ENDOWMENT FUNDS
OF
EAST TEXAS COMMUNITIES FOUNDATION**

The East Texas Communities Foundation ("Foundation") encourages donors to create Nonprofit Endowment Funds for support of the charitable purposes of various nonprofit organizations ("Nonprofits"). However, in order to protect its status as a public charity and the corresponding tax deductions of its donors, the Foundation has adopted the following policy governing nonprofit endowment funds:

1. **Agreement** - All Nonprofit Endowment Funds shall be established pursuant to a written agreement between the Foundation and the donor, and all Nonprofit Endowment Funds shall be subject to the Foundation's articles of incorporation, bylaws and this policy, as amended from time to time.
2. **Board Approval** - Without further approval by the Board of Directors, the President/Executive Director of the Foundation is authorized to act on behalf of the Foundation in establishing Nonprofit Endowment Funds according to the terms set forth in the policies adopted by the Board of Directors. In the event the conditions of a Nonprofit Endowment Fund vary from the forms maintained in the policies governing Nonprofit Endowment Funds, the President/Executive Director is authorized to act on behalf of the Foundation in establishing such Nonprofit Endowment Funds with the prior approval of a majority of the members of the Policy Committee of the Board of Directors.
3. **Ownership** - All Nonprofit Endowment Funds shall be component funds of the Foundation. The Foundation shall own all Nonprofit Endowment Funds and have sole and absolute discretion over the investment of all Nonprofit Endowment Funds.
4. **Variance Power** - In accordance with IRS regulations and the policies and Bylaws of the Foundation, the Board of Directors of the Foundation shall have the power to modify any restriction or condition imposed by a donor on the investment or distribution of assets if, in the sole judgment of the Board of Directors, such restriction or condition becomes illegal, unnecessary, uneconomical, impossible to perform, or inconsistent with the charitable needs of the community or area served, and such modification would more effectively serve the charitable purposes of the Foundation taking into consideration the wishes of the donor.
5. **Distributions** - Distributions from a Nonprofit Endowment Fund shall be made only to the Nonprofit for which it was established, or its successor. Ordinary distributions to the Nonprofit shall be made from its Nonprofit Endowment Fund once per calendar year in the amount requested by the Nonprofit up to a limit of 5 % of the value of the Nonprofit Endowment Fund determined as of the preceding December 31. Any portion of the amount available for distribution that is not requested by the Nonprofit in one year may be requested in a subsequent year.
6. **Approval of Distributions** - Without further approval by the Board of Directors, the President/Executive Director of the Foundation is authorized to make distributions from a nonprofit endowment fund to the designated nonprofit, if the nonprofit is included in the Foundation's preapproved grantee list; provided such distributions are consistent with terms of the nonprofit endowment agreement. Except as provided in the preceding sentence, authority to make normal distributions from nonprofit endowment funds has been delegated by the Board of Directors to the Foundation's Grants Committee. Extraordinary distributions from Nonprofit

Endowment Funds can only be approved by the full board of directors as provided in each Nonprofit Endowment Fund agreement.

7. **Endowment Fund Definition** - The Foundation offers two types of Nonprofit Endowment Funds – Sustaining and Permanent.
 - A. **Sustaining Endowment Fund** - A Sustaining Endowment Fund is intended to be for the long term (but not necessarily permanent) support of the Nonprofit. Therefore, extraordinary distributions to the Nonprofit may be made from its Sustaining Endowment Fund at any time in any amount if requested by a 2/3 vote of the total number of directors or trustees of the Nonprofit and approved by a majority vote of the board of directors of the Foundation at a meeting at which a quorum was present.
 - B. **Permanent Endowment Fund** - A Permanent Endowment Fund is intended to be for the permanent support of the Nonprofit. Therefore, no extraordinary distributions to the Nonprofit may be made from its Permanent Endowment Fund under any circumstances.

If a donor does not designate clearly whether a contribution to an endowment fund is to a Sustaining or Permanent Endowment Fund, the contribution shall be allocated to the Permanent Endowment Fund, unless the nonprofit has only a Sustaining Endowment Fund at the Foundation, in which case the contribution shall be added to the Sustaining Endowment Fund.

8. **Recommendations** - The Nonprofit shall be an advisor to the Foundation to make recommendations regarding the investment of its Nonprofit Endowment Fund. The Foundation shall consider investment recommendations from the Nonprofit, but such recommendations shall be advisory only, and the Foundation shall not be bound by such recommendations. All recommendations and requests by the Nonprofit with respect to its Nonprofit Endowment Fund shall be made by the Nonprofit's board of directors or trustees, or its designee.
9. **Statements** - The Foundation shall provide the Nonprofit with a financial statement for the Nonprofit Endowment Fund at least annually.
10. **Minimum** - There shall be no minimum amount necessary to establish a Nonprofit Endowment Fund.

11. **Fees** –

- A. **Administrative** - In order to contribute to its administrative costs and permanent endowment, the Foundation shall (in monthly increments) transfer to its unrestricted fund a percentage of the Nonprofit Endowment Fund equal to the following:

1.00% annually of the first \$500,000
0.75% annually of the next \$500,000
0.50% annually of the next \$2,000,000
0.25% annually of any remaining balance

If a donor establishes more than one fund with the same administrative fee schedule, then the

balance of the funds shall be combined for administrative fee calculation purposes.

- B. **Investment** - In addition to the amount transferred annually to the unrestricted fund of the Foundation, each Nonprofit Endowment Fund shall be charged for any out-of-pocket expenses (such as sales commissions, third party investment management fees, or other handling fees) incurred directly by that Nonprofit Endowment Fund.
 - C. **Other Expenses:** A fund may require additional professional services and administrative support from time to time which are over and above normal administrative costs. Each fund shall be charged for any out-of-pocket expenses incurred directly by that fund. Such additional costs may include consulting, legal, accounting, marketing and other fees for professional services incurred to support a specific charitable fund, or the processing of an unusually large number of disbursements or gifts.
12. **Grantees** -Nonprofit Endowment Funds may be established only for the benefit of Nonprofits which are public charities as defined in Section 170(b)(1)(A) of the Internal Revenue Code (i.e., churches, schools, hospitals, government entities, and publicly supported 501(c)(3) organizations).
13. **Succession** - In order to qualify as a Nonprofit's successor, the board of directors or trustees of the Nonprofit must name the successor in writing to the Foundation, and the successor must be a public charity as defined in Section 170(b)(1)(A) of the Internal Revenue Code.
14. **Pledges and Benefits** - No distribution shall be made to satisfy a written pledge or legal obligation of the donor or any other person, or in return for any benefit or privilege (such as gifts or tickets to events) to the donor or any other person.
15. **Remainder**
- A. **Nonprofit Termination** - If a Nonprofit ceases to exist with no successor, or if a Nonprofit ceases to qualify as a public charity as defined in Section 170(b)(1)(A) of the Internal Revenue Code, and such condition is not cured within 30 days following written notice delivered by the Foundation to the Nonprofit at its last known address, then its Nonprofit Endowment Fund shall terminate and those assets shall become unrestricted assets of the Foundation.
 - B. **Foundation Termination** - If the Foundation ceases to exist with no successor, or if the Foundation ceases to qualify as a public charity as defined in Section 170(b)(1)(A) of the Internal Revenue Code, and such condition is not cured within 30 days, then the assets of each Nonprofit Endowment Fund shall be transferred to the Nonprofit for which that fund was established to be used as an endowment fund.

Board approved: May 20, 2011