POLICY

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EAU CLAIRE COMMUNITY FOUNDATION
POLICY & GUIDELINES FOR ACCEPTING FISCAL SPONSORSHIP FUNDS

The Eau Claire Community Foundation's Board of Trustees has adopted this Policy to assist the Foundation's director, officers, employees, agents, and fiduciaries (which include supporting organizations, affiliate funds, and volunteers) in fulfilling their obligations and commitments.

Background: The Eau Claire Community Foundation (ECCF) recognizes the importance, beyond its role as grant maker, of ECCF involvement in and support of community initiatives and other charitable endeavors. Fiscal sponsorships are common to community foundations. They are also essential to meeting the changing opportunities and needs of the Eau Claire community. The ECCF is eager to fulfill this role in appropriate circumstances consistent with its vision, mission and capacity.

Sponsorship services include the provision of non-profit status to a project (thus making contributions tax-deductible), the receipting and managing of contributions, and the authorization and payment of grants and expenses from the fund created for the project. Sponsorship services do not include extensive administrative or fundraising support, or financial support.

The primary beneficiaries of sponsorship services are typically new charities without 501(c)(3) status and community groups planning a specific, or a finite project that is clearly charitable in nature and in furtherance of the charitable purposes of ECCF.

Purpose: The purpose of this policy is to describe the manner in which ECCF will receive the various types of fiscal sponsorships that may be requested.

Eligibility: ECCF will first determine whether other more suitable fiscal sponsors exist and might be willing to serve in that capacity. If so, applicants will be directed to the appropriate organization. Barring any such alternatives, ECCF:

1. Accepts applications for fiscal sponsorship from groups fundraising for time limited:
    a. Capital projects that require a fiscal agent for one of the following reasons:
        i. The group does not have its 501(c)(3) determination and does not intend to pursue such,
        ii. The group has its 501(c)(3) determination but does not have the capacity to manage the amount of funds involved,
        iii. Two or more entities are involved and desire a third party to act as fiscal agent, or
        iv. A non-governmental fiscal sponsor is required to facilitate private sector support; and
    b. Non-capital projects that require a fiscal agent for one of the reasons described above;
2. Will consider applications from groups facing a specific time-sensitive opportunity or threat which cannot be resolved prior to obtaining their 501(c)(3) determination,

3. Discourages applications from groups in the process of seeking their 501(c)(3) determination from the Internal Revenue Service for which no special circumstance exists, and
4. Will not consider applications from individuals or from groups where an appearance of personal benefit exists.

All adopted fiscal sponsorships must:

1. Be consistent with the mission and priorities of the ECCF,
2. Have a significant community benefit,
3. Include:
   - A basic business plan, including anticipated timing and distribution of funds;
   - A signed Project Fiscal Sponsorship Fund Agreement including ECCF Services pricing that takes into account project duration (including any necessary modifications required for renewal options), processing needs, external grant applications, reporting requirements and other considerations, and will, at a minimum, cover all ECCF costs including staff time;
   - A risk assessment acceptable to the ECCF Board.
4. Involve public acknowledgement on the part of the applicant group of the Foundation's role;
5. Be approved by the Board.
6. Have a disclaimer on all project's fundraising communications and ECCF acknowledgement letter, which includes:
   - The ECCF is a 501(c)(3) non-profit organization.
   - All gifts made to the ECCF XYZ Fund are irrevocable and become the exclusive legal assets of the ECCF.
   - The ECCF Board reserves the right to modify any conditions of restrictions on the fund as required by Treasury Regulations applicable to community ECCFs if the project is terminated or not completed as planned.
   - The ECCF will use its best efforts to redirect any unused funds to support community organizations with similar charitable purposes.

Procedures/Guidelines: The ECCF will be guided by the following guidelines, which are designed to protect the interest(s) of both donors and the Foundation. The ECCF reserves the right to either accept or decline any fund. It also reserves the right to close out a fund. *The ECCF will consider each situation* individually. Exceptions to this policy may be made in extenuating circumstances and upon approval by the ECCF's Board.

1. ECCF requests that interested groups complete a detailed application form that includes (a) a description of the project; (b) its purpose, goals, and expected life span; (c) fundraising plans; (d) budget, bylaws, list of advisory group members and other organizational documentation; (e) and a concise statement of how the proposed fund meets the charitable purposes of the ECCF. The application should also explain if any feasible alternative is available for the fund, (i.e.) why does the donor believe it is necessary to use the ECCF as a fiscal sponsor, and what are the alternatives. Applicants are encouraged to discuss their projects and applications with ECCF staff prior to submittal.

2. ECCF Executive Committee will review the Fiscal Sponsorship application. After Executive review, the Fiscal Sponsor Agreement will be presented to the Board of Trustees at the next scheduled Board meeting for discussion and final approval. If the Board so decides, a fund

agreement between the applicant and the ECCF will be completed and a restricted fund bearing the project's name established. The project is then accounted for as "*The XYZ Fund, a project of The Eau Claire Community Foundation*" for IRS auditing, financial reporting, marketing, and fundraising purposes. It is required that groups credit the ECCF in publications and news releases or stories. Likewise, the ECCF may give the project mention in the ECCF's newsletter(s) and annual report.

3. Fiscal sponsor services may be extended by ECCF for up to 18 months and requires approval of the ECCF Board of Trustees. At the end of 18 months, the services may be renewed through a modified application and renewal process.

4. As fiscal sponsor, the fund will be deemed to be a fund of ECCF and the ECCF is legally responsible for the project's administration, management, and disbursement of funds. Typically, the Foundation assures programmatic oversight by authorizing an existing advisory group to fulfill that function. A roster of the group and minutes of meetings are to be forwarded to the ECCF.

5. Groups may apply to other funding sources under the auspices of the ECCF, but ECCF is not in any way responsible for actual fundraising or for providing financial support for the project. ECCF staff must review in advance all fundraising plans and requests for funding. In addition, all copy used in marketing or fundraising must be approved by ECCF staff.

6. ECCF's Policy for a Dependent Public Fundraising Event (Application is required 90 days in advance of the event.) and the Policy for Independent Event-Focused Fundraising will be provided before the Fiscal Sponsorship Fund Agreement is approved by the Board of Trustees and the Project.

7. When making grants to non-charities doing charitable work ECCF exercises appropriate oversight on these types of distributions if it's for a charitable purpose that supports the Project.

The Basic Legal Rules: When any donor makes a gift or grant to a secondary grantee (such as a charitable project), by first routing it through an intermediary grantee (such as the ECCF), the IRS, the Internal Revenue Code and the relevant Treasury regulations consistently apply a basic legal principle.

> If the gift or grant is "earmarked" and the intermediary grantee does not "exercise control" over the funds, then the gift or grant is treated as if it had been made directly by the donor to the secondary grantee.

A gift or grant is "earmarked" if it is subject to an agreement, either written or oral, whereby the donor binds the intermediary grantee to transfer the funds to the secondary grantee (or to use the funds to assist a specific individual). To say it another way: a donor cannot do indirectly what he or she cannot legally do directly. The intermediary grantee (ECCF) must, by law, be vigilant to confirm the charitable nature of the secondary grantee(s), and not simply a passive conduit for such funds.

Improper Use of Fiscal Sponsorship While this list is not exclusive**,** improper use of a fiscal sponsor, or intermediary grantee, includes making gifts or grants: to individuals; by a private foundation to a new charity without an IRS determination letter; to non-charities doing charitable work; to a foreign charity; from one private foundation to another, or designed to avoid the two percent limit on private foundations.

Misusing fiscal sponsors can result in: denial of donor's tax deduction; penalty tax on private foundations; loss of fiscal sponsor's public charity status; damage to public reputation of donor(s) and fiscal sponsor; and liability to directors and officers.

The remainder of the Fiscal Sponsorship Policy is stated in the attachment Exhibit A, Fiscal Sponsorship Fund Agreement, and Exhibit B Fiscal Sponsorship Application as it may be amended from time to time.