

The Corporation of the Township of Southgate

By-law Number 2020-037

**being a by-law to authorize an agreement between
Community Foundation Grey Bruce and the
Corporation of the Township of Southgate**

Whereas the Municipal Act, 2001, Chapter 25, as amended, Section 5 (3), states that municipal power, including a municipality's capacity, rights, powers and privileges, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise; and

Whereas Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the authority to govern its affairs as it considers appropriate and enables the municipality to respond to municipal issues; and

Whereas Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

Whereas it is deemed necessary and desirable that the Council of the Corporation of the Township of Southgate enact a by-law authorizing the Corporation to enter into an agreement with Community Foundation Grey Bruce,

Now therefore be it resolved that the Council of the Corporation of the Township of Southgate enacts as follows:

1. **That** the agreement between Community Foundation Grey Bruce and The Corporation of the Township of Southgate, attached hereto at Schedule A is hereby ratified and confirmed; and
2. **That** the Mayor and the Acting Clerk are authorized to sign the agreement on behalf of the Township of Southgate; and
3. **That** where the provisions of any other by-law, resolution or action of Council are inconsistent with the provisions of this by-law, the provisions of this by-law shall prevail.

Read a first, second and third time and finally passed this 8th day of April, 2020.

John Woodbury – Mayor

Lindsey Green – Acting Clerk



DONOR ADVISED COMMUNITY FUND

THIS AGREEMENT made this 18th day of March, 2020

BETWEEN;

COMMUNITY FOUNDATION GREY BRUCE

(hereinafter referred to as "Community Foundation")

- and -

THE CORPORATION OF THE TOWNSHIP OF SOUTHGATE

(hereinafter referred to as "Founder")

IN CONSIDERATION of the covenants and agreements herein set forth, and subject to the terms herein, the parties agree as follows:

1) In this Agreement:

- a) the "Community Foundation" is the Community Foundation Grey Bruce incorporated under the Canada Corporation Act as a not-for-profit organizations and is registered as a charity under the Income Tax Act #14103 6228 RR0001.
- b) "Donor" is a person, organization or corporation contributing monies to the Founder's fund;
- c) "Founder" is the Corporation of the Township of Southgate;
- d) "Fund" refers to the Township of Southgate Community Fund, and consists of donations made by donors establishing the fund, and will be recognized on all print material in the manner: Southgate Community Fund
- e) "Fund Management Committee" is a volunteer committee set up to oversee the management of the Fund and will consist of residents from within the Township of Southgate. The Founder will initiate the creation of the Fund Management Committee – see 5a)

2) The Founder will from time to time when possible, add further monies to the initial gift of monies to the Community Foundation which was the sum of \$30,000.00 (a contribution from the Township of Southgate) and, along with the Fund Management Committee, will encourage other individuals, organizations and corporations to make donations to help grow the fund.

- 3) The Founder directs that all gifts of monies to the Fund be retained, in perpetuity by the Community Foundation as invested capital which may be pooled with other capital funds for the purposes of investment.
 - a) The Community Foundation shall apply the net income earned from the Founder's Fund by making grant(s) to support charitable activities or qualified donees (as defined by the Income Tax Act (Canada)) whose activities are within the objects of the Foundation **within the Township of Southgate.**
 - b) In addition to meeting the requirements of falling within paragraph 4 (a) (b) or (c) hereof, all grants must otherwise qualify under the grant qualifications of the Community Foundation from time to time.
 - c) The Capital shall refer to the initial capital of the Fund plus the initial value of any additions plus all earnings retained by the Foundation in accordance with its Grant Distribution Policy (see schedule A).
 - d) The Founder further directs that all grants from the income of the Fund, when disbursed by the Community Foundation, shall be identified as coming from the Southgate Community Fund as set forth in clause 1 (d) hereof.
- 4) The Community Foundation agrees to:
 - a) maintain, in perpetuity, all gifts of monies to the Founder's Fund in the name of Township of Southgate Community Fund in the form of invested capital;
 - b) subject to paragraph 3 hereof, invest the Founder's Fund in accordance with the investment guidelines approved by its Board of Directors from time to time;
 - c) provide an official receipt for income tax purposes to a Donor for each gift of monies to the Township of Southgate Community Fund;
 - d) determine the Annual Distributable Earnings from the Fund based on the Foundation's Grant Distribution Policy;
 - e) provide the Nominees of the Founder with an annual accounting of the Fund's income and disbursements.
 - f) provide the above noted services in consideration of an annual administrative charged of 1.5% on the earned interest of the Founder's Fund on an equitable basis with other funds. Any increase in the administrative charge to be subject to variation in accordance with paragraph 7 hereof.
 - g) Prior to the final selection/approval of grants to be given for the Township of Southgate Community Fund by the Board of Directors of the Community Foundation, the Nominees of the Fund's Management Committee shall have the opportunity to review the applications for grant funding. The final decision with respect to grants shall be by the Board of Directors of the Community Foundation as presented by the Foundation's Grant Review Committee and would include recommendation from the Township of Southgate Community Fund's Management Committee, a recorded vote where majority shall rule following the guidelines of Community Foundations of Canada.

- h) subject to the approval of the Community Foundation, allow the Fund Management Committee to design and publish the initial material to promote the Township of Southgate Community Fund

5) The Founder shall

- a) appoint one or two Nominees to review the applications for grants, to receive copies of an annual accounting of the Founder's Fund income and disbursement, and to represent the Founder with respect to this Agreement. The Founder acknowledge that at this time the Nominees of the Founders are: Chair and Vice Chair of the Fund Management Committee. Additional members are encouraged on the committee.
- b) If the Founder wish to change their Nominees who have been appointed, they may do so provided written notice of such change is provided to the Community Foundation and the names, addresses and telephone numbers of the successor Nominees are provided.
- c) The Founders hereby irrevocably authorize their Nominees to negotiate and execute any amendments to this Agreement and to sign any documents required to give effect to or carry out the terms and intent of this Agreement or any Amendment to this Agreement. Any documents or amending Agreements executed by the Nominees on behalf of the Founder shall be binding on all of the Founders, their respective heirs, executors, successors and assigns.

- 6) This Agreement any be amended only by a further Agreement in writing duly executed by the parties or their authorized representative as provided in paragraph 6 (C) hereof.

IN WITNESS WHEREOF the parties hereto have set their hands and seals and the Corporation has affixed its corporate seal as attested by its proper officers duly authorized in that behalf.

COMMUNITY FOUNDATION GREY BRUCE

Date: _____
Chair, Board of Directors

Date _____ Witness _____

TOWNSHIP OF SOUTHGATE COMMUNITY FUND

Date: _____
Mayor: John Woodbury
Township of Southgate

Date _____
Clerk: Lindsey Green
Township of Southgate

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ISSUED BY: Finance & Investment	APPROVED: September 18, 2012
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	REVIEWED:

PREAMBLE:

Policy Objective

This policy is designed to allow for the funding of grants and operations while protecting original principal and ensuring fund growth to sustain purchasing power with the rate of inflation. This policy determines the amount of the annual distributions from the permanent endowment funds and addresses a number of requirements, objectives, and realities including:

- Canada Revenue Agency (CRA) disbursement quota (required - Income Tax Act)
- Preservation of the value of our endowment capital (required - Trustee Act, Ontario)
- Sustainable, predictable, and increasing grants year over year (desired)
- Organization sustainability (necessity)
- Variability of investment returns (reality)

The policy provides for a level of flexibility such that the Finance & Investment Committee can adjust the amount of undistributed income to capitalize each year and the amount to allocate to operations each year in light of the change in the consumer price index, current economic and investment market conditions, the CRA disbursement requirement, and the financial status of the Foundation.

POLICY:

A. Organization Sustainability

An administrative fee is charged each year to cover the operating costs of the Foundation. The fee is based on the previous year's ending balance of the Total Endowed Capital, which includes both undistributed income and any accumulated donations along with any amounts set aside for the preservation of capital. Where the funds are not with the Foundation for the entire year, the fee is prorated based on the number of calendar quarters the Foundation has the funds. The current administration fee is 1.5% per annum.

B. Preservation of Capital

Each year, the Finance & Investment Committee will determine and recommend to the Board of Directors a percentage of undistributed income to be capitalized in every

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endowment fund (restricted and unrestricted), factoring in:

- The change in the Consumer Price Index (CPI) and/or other relevant economic measures
- The amount capitalized in previous years compared to the change in the CPI
- The financial status of the Foundation
- Current and expected investment returns.

The percentage determined shall be applied to the ending undistributed income balance of every fund (balances as of December 31), and be transferred to the capital of each endowment fund from its undistributed income as of December 31, of the current year.

C. Disbursements

The Community Foundation Grey Bruce is a registered charity designated as a Public Foundation. As such, it must spend a specific amount each year on charitable activities or as gifts to qualified donees. This amount is called its disbursement quota.

If the average value of a registered charity's property not used directly in charitable activities or administration during the 24 months before the beginning of the fiscal period exceeds \$25,000, the charity's disbursement quota is:

- 3.5% of the average value of that property.

Funds that are held for endowments are not utilized for charitable activities based on CRA guidelines. Disbursement excesses can be carried forward for a period of five years or carried back one year. The purpose of the disbursement quota is:

- To ensure that most of a charity's funds are used to further its charitable purpose and activities;
- To discourage charities from accumulating excessive funds;
- To keep other expenses at a reasonable level.

In meeting the disbursement quota, one does not refer to the disbursements to qualified donees. In addition, operating expense related to charitable activities are included in the computation.

Unless there is a written undertaking between the Foundation and a particular fund to the

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contrary, any payment of a grant by a particular fund cannot exceed the amount of its undistributed income. Undistributed income includes accumulated investment income, less the accumulated administrative charge, allocation to capital related to an inflation adjustment and grants that have been made. Investment income includes any realized and unrealized gains and losses.

In order to meet the Disbursement quota, the various fund agreements will be reviewed to add the following qualification;

The Foundation shall determine the annual distributable earnings according to the Financial\management\policies of the Foundation in force from time to time. In years where current or accumulated income is not sufficient these amounts may be drawn from the capital of the fund. Should the amount of undistributed income be less than the CRA disbursement quota, the allowable disbursement shall be limited to this lesser amount in the year immediately following.