



## **(Endowment) Fund Agreement**

THIS AGREEMENT is made as of the 12th day of December, 2012, at 206 East Main, Round Rock, Texas, between The Hutto Education Foundation (HEF), a corporation established under the nonprofit corporation law of the State of Texas with its principal office located at PO Box 363, Hutto, TX 78634, and The Greater Round Rock Community Foundation, Inc. (GRRCF), a corporation organized under the nonprofit corporation law of Texas, with its principal office located at 206 East Main, Round Rock, Texas 78664.

WHEREAS, the Parties to this Agreement have a common interest in the welfare of students enrolled and attending public schools in Hutto, Texas, and in serving charitable, or educational purposes for the benefit of Hutto ISD students;

WHEREAS, HEF has recently received certain assets from Williamson County, Texas (WILCO) pursuant to the terms of an agreement by and between WILCO and HEF and in the future may receive additional assets from WILCO pursuant to such agreement or otherwise;

WHEREAS, each Party is a qualified charitable organization, and;

WHEREAS, GRRCF has been established with a principal purpose to receive and administer funds as endowments for various charitable, scientific, or educational purposes and organizations in the greater Round Rock, Texas area, various interested persons have expressed a desire to establish a fund in GRRCF in the nature of an endowment to be used for higher education of high school students, which shall include but is not limited to two year, four year, and technical education programs, and HEF wishes to have the benefits of such a fund.

NOW, THEREFORE, the Parties agree as follows:

1. *Establishment of the Fund.* A fund shall be established on the books of GRRCF and shall be known as The Hutto Education Foundation Endowment Fund (the "HEF-E Fund").
2. *Property of the Fund.* The HEF-E Fund shall include the property received or to be received with the execution of this Agreement, such additional property as may from time to time be transferred to GRRCF by HEF for inclusion in the fund, and all undistributed income from the foregoing property. The HEF-E Fund shall be the exclusive property of GRRCF, held by it in its corporate capacity, and shall not be deemed a trust fund held by it in a trustee capacity. GRRCF shall have the ultimate authority and control over all property in the HEF-E Fund, and the income derived from it in accordance with the Articles of Incorporation and Bylaws of the GRRCF (as they may be amended from time to time), and the terms of this Agreement, applied in a manner not inconsistent with said Articles and Bylaws.
3. *Designation of Purpose.* The HEF-E Fund shall be used for higher education of high school students, which shall include but is not limited to two year, four year, and technical education programs in the continuance of the HEF mission to enrich, enhance, and maximize the quality of education for Hutto ISD students.
4. *Distributions of Income.* In no event shall the principal balance of the Endowment Fund be reduced to an amount that is less than Five Hundred Thousand Dollars (\$500,000) once the balance of the HEF-E Fund is built up to Five Hundred Thousand Dollars (\$500,000) (the "Minimum Fund Balance"). Once the Minimum Fund Balance (\$500,000) is attained, any principal that is in excess of the Minimum Fund

Balance (\$500,000) and any earnings on such fund may be used for higher education of high school students, which shall include, but not be limited to two year, four year and technical education programs. Any principal exceeding the Minimum Fund Balance (\$500,000) and any earnings on such funds are intended for the sole purpose of providing higher education opportunities for Hutto ISD students. Notwithstanding anything to the contrary, if GRRCF determines that it is necessary to establish and maintain a separate, non-endowed fund in order to give effect to the foregoing and to treat those funds in excess of the Minimum Fund Balance (\$500,000) differently than funds received and held for the purpose of attaining the Minimum Fund Balance (\$500,000), then GRRCF may do so and in such event shall notify HEF that such a separate, non-endowed fund has been established by GRRCF and that such fund shall be subject to a separate agreement or in the absence thereof the applicable provisions of this agreement.

5. *Other Distributions.* In transferring its property to the HEF-E Fund, HEF intends to create a permanent endowment. Distributions may be made from time to time from the earnings of the HEF-E Fund only, once the Minimum Fund Balance (\$500,000) has been attained. Recommendations for such distributions may be made from time to time to GRRCF by the Executive Committee of the Hutto Education Foundation.

6. *Exercise of Variance Power.*

(a) This Agreement is subject to the GRRCF's authority to vary the terms of the gift. It is understood that the fund to be established pursuant to this agreement will be subject to the provisions of the Charter and Bylaws of GRRCF, including the power reserved by the Board of Governors 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 needs of the area served by the GRRCF.

(b) The GRRCF shall promptly notify HEF of any decision made to exercise the variance power. Notification of the exercise of the variance power shall be delivered in writing to the last known address of HEF within 10 days following the Board's decision. The GRRCF shall also notify HEF if it becomes aware of any other action instituted or proposed by any person to vary the purposes, uses, or method of administration of the HEF-E Fund.

(c) If the GRRCF ceases to be a qualified charitable organization or if GRRCF proposes to dissolve, the assets of the HEF-E Fund shall, after payment or making provision for payment of any liabilities properly chargeable to the HEF-E Fund, be distributed to HEF or to a qualified charitable organization designated by HEF which in the determination of the trustees or directors of HEF is able to maintain and distribute such assets in a manner substantially consistent with the terms of this Agreement. If HEF is not then a qualified charitable organization, then said assets shall be distributed in such manner and to such organization or organizations in Williamson County, Texas, as satisfies the requirements of a required charitable organization and serves purposes similar to those of HEF. To the extent permitted by applicable law and the Internal Revenue Code, WILCO shall have the right and option to distribute such assets to a qualified charitable organization which in the determination of WILCO is able to maintain and distribute such assets in a manner substantially consistent with the terms of this Agreement.

7. *Investment of Assets*

GRRCF has the responsibility and authority for the investment of the assets of each Fund. The assets of any Fund may be separately invested or may be commingled with those of other Funds, endowment funds of GRRCF, or may be invested in units of a common investment fund which may be established or utilized by GRRCF. However, GRRCF shall have no obligation either to invest separately or to commingle the assets for investment purposes. Any decisions with respect to the retention, investment or reinvestment of assets and with respect to commingling of assets shall be made by the Board of Governors, in accordance with regular procedures. GRRCF will provide HEF with customary financial reports relating to invested assets on a monthly basis.



8. *Definitions and Construction.*

(a) As used in this Agreement:

(1) "Qualified charitable organization" means all organizations described in section 501(c)(3), which is other than a private foundation under section 509(a) of the Internal Revenue Code.

(2) References to any provision of the Internal Revenue Code shall be deemed references to the U.S. Internal Revenue Code of 1986, as the same may be amended from time to time, and the corresponding provision of any future U.S. Internal Revenue Code.

(b) It is intended that the HEF-E Fund shall be a component part of GRRCF, and that nothing in this agreement shall affect the status of GRRCF as an entity that is a qualified charitable organization. This Agreement shall be interpreted in a manner consistent with this intention and so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant therein applicable to the intended status of the Foundation.

9. *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 GRRCF, shall govern, and GRRCF 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 GRRCF.

10. *Fees*

Funds are subject to an administrative fee of 1% and reasonable variable investment fees of third parties incurred by the GRRCF. The administrative fee will be calculated by taking the average of the invested asset values for each month as of the 1<sup>st</sup> day of the month, the 15<sup>th</sup> day of the month, the day before the last day of the month, and the last day of the month. Such average will be billed 1/12<sup>th</sup> of 1% each month. The undersigned understand that investments will be administered in accordance with the policies of GRRCF.

IN WITNESS WHEREOF, each Party has executed this Agreement by its duly authorized officers effective as of the day and year first above written.

By: 

Printed Name: Kamali Barron

Title: Executive Director

(The Greater Round Rock Community Foundation, Inc. Authorized Signature)

By: 

Printed Name: Denise Carrington

Title: Past President, Hutto Education Foundation

(The Hutto Education Foundation Authorized Signature)

By: 

Printed Name: Melanie Rios

Title: President, Hutto Education Foundation

(The Hutto Education Foundation Authorized Signature)

Schedule A

(List of property transferred to community foundation to establish the fund)