



**COMMUNITY  
FOUNDATION**  
OF NORTHEAST IOWA

## **GIFT ACCEPTANCE POLICY**

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## **PURPOSE**

The purpose of this policy of the Community Foundation and its Geographic Affiliates (collectively referred to herein as the “Foundation”) is to serve the best interests of the Foundation, its donors, and a healthy, caring community by providing guidelines for negotiating and accepting various types of gifts for various types of funds. Given the increasing complexity of IRS regulations, the volume of real estate and other property gifts, and state and federal environmental laws, the Foundation recognizes the value in carefully screening proposed gifts.

The purposes of the gift must fall within the broad charitable purpose of the Foundation. In addition, the Board of the Foundation and staff must be able to assure that gifts accepted by the Foundation do not place other assets of the Foundation at risk, and that they can be easily converted into assets that fall within the Foundation’s investment guidelines. The Foundation must also assure that it can administer the terms of the gift in accordance with the donor’s wishes.

To facilitate this purpose, the Foundation follows the *Model Standards of Practice for the Charitable Gift Planner* (**See Appendix A**) adopted by the National Committee on Planned Giving and the American Council on Gift Annuities.

## **FOUNDATION RESPONSIBILITIES**

Foundation staff should disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor’s decision to make a gift to the Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. In particular, donors should be made aware of:

- The irrevocability of a gift
- Prohibitions on donor restrictions
- Items subject to variability (market value, investment return, and income yield)

Staff should maintain a written record of discussions with donors. The role of Foundation staff shall be to inform, guide and assist a donor in fulfilling his or her philanthropic wishes, but never to pressure or unduly influence a donor’s decision.

## **AUTHORITY TO ACCEPT GIFTS**

In circumstances where a clear determination cannot be made by the President/CEO, advice will be sought from the Professional Advisory Committee, legal counsel or other professionals or the matter will be addressed by the Board of Directors. The Professional Advisory Committee is comprised of attorneys, accountants, real estate professionals, and financial planners. The Chair of the Committee is a member of the Foundation’s Board of Directors. The Committee meetings include the President/CEO, Vice President of Finance and Operation’s and Chair of the Board of Directors of the Foundation.

### **Gifts That Should Be Reviewed by the Professional Advisory Committee**

- Tangible personal property that is not readily marketable
- Closely-held stock (S Corporation & C Corporation)
- Partnership interests
- Accounts receivable (gifts of loans, notes, mortgages, etc.)
- Gifts of intellectual property, mineral reserves, precious metals, and other types of assets carrying their own challenges
- Gifts whose structure fall outside the ordinary purposes, bylaws, and procedures of the Foundation
- Gifts of Real Estate: All transactions for gifts of real estate are handled through the Foundation's supporting corporation, Community Foundation Realty Holdings. Proceeds from the sale of the real estate are then deposited into the appropriate Fund of the Foundation. (See policy in **Appendix E** for acceptance of real estate by the supporting corporation, Community Foundation Realty Holdings.)

### **Gifts Not Requiring Committee Review**

- Cash or cash equivalents
- Checks
- Marketable securities
- Gifts of personal property for use in Foundation offices or programs
- Life insurance policies except as noted above

See **Appendix B** for detail on each gift category

### **AUTHORITY TO NEGOTIATE AND SIGN GIFT AGREEMENTS**

Subject to the Professional Advisory Committee's review and approval authority, the Foundation's President/CEO will have the authority to handle inquires, negotiate with donors, assemble documentation, retain expert and technical consultants, and execute agreements on the Foundation's behalf.

### **GIFTS DECLINED**

The Foundation reserves the right to refuse any gift it believes is not in the best interests of promoting a healthy, caring community and will not knowingly accept a charitable gift from a donor who:

- A. Has insufficient income and assets remaining after making a gift to provide for his/her needs such as personal support and healthcare;
- B. Has insufficient income and assets remaining after the gift to provide for his/her heirs for whom he/she desires to support financially;
- C. Has an apparent insufficient mental capacity to make a rational decision;
- D. Has insufficient input from competent financial, legal, and/or personal counsel.

## **GIFT AND FUND MINIMUMS**

Subject to the policies set forth in this document, the Foundation may accept gifts to existing funds of any size. The minimum to establish a fund, endowed or non-endowed, hereafter referred to as “expendable”, is \$10,000 except for scholarship funds. The Foundation has set a fund minimum of \$25,000 for scholarship funds. Quasi-endowment funds agree to maintain a minimum balance of \$10,000, until such time that the fund balance is recommended and approved by the Foundation’s Board of Directors for granting and the fund is closed. Special project funds do not require a fund minimum and will be closed when the fund balance reaches \$0 balance.

A new fund may be established with a lower minimum if the donor arranges to bring the fund to the minimum level within a reasonable time frame. No grants may be made from any fund until the minimum is reached, in accordance with the Foundation’s spending policy. Exceptions are subject to the approval of the Foundation’s President/CEO.

## **TYPES OF FUNDS**

The Foundation offers a continuum of funds designed to be responsive to donor needs. While all philanthropy adds value to the community, each type of Foundation fund can provide added value to philanthropy in the community.

It is the primary purpose of the Community Foundation to established endowed funds but to meet the philanthropic goals of the many donors to the Foundation, however, some types of funds may be expendable as well. All funds are component funds of the Foundation and are under the legal and absolute control of the Foundation. A standard letter of direction/agreement is required to establish a fund with the Foundation.

**Advised Field of Interest Funds** (endowed or expendable) are those from which grants are distributed for charitable purposes or to charities which provide services in any specified field or fields of charitable activity specified by the donor(s) at the time the fund is established. The donor(s) retain an advisory capacity in making grants from the fund.

**Affiliate Funds** (endowed or expendable) are those established within or by the Foundation, serving a defined geographic region and under a common governing committee. The Affiliate operates under the legal control and oversight of the Board of the Foundation.

**Agency Funds** (endowed or expendable) are those established by, or on behalf of, a charitable agency from which income and/or principal is distributed by the Board for the particular organization’s own charitable purposes.

**Designated Funds** (endowed or expendable) are those from which grants are distributed by the Board to charities named or specified by the Donor(s) at the time the fund is established.

**Discretionary Funds** (endowed or expendable) are those from which the Foundation has complete discretion in grant making for charitable causes. If the Foundation receives an unrestricted gift through

an estate gift and the Foundation had no previous knowledge that such an impending estate plan had been made, the Foundation will follow its internal procedure as approved by the Board for proper handling of such a gift.

**Donor Advised Funds** (endowed or expendable) are those in which the donor retains an advisory capacity in making grants from the fund. The minimum level of individual grant distribution shall be \$250. All grants made from advised funds will be distributed to other charitable entities provided they meet the qualifications set forth by sections 501(c)(3) and 170(b)(1)(A) of the Internal Revenue Code or are a government agency. A grant from an advised fund cannot be used to satisfy an irrevocable personal or corporate pledge or obligation of the donor, or to provide a benefit to the donor such as paying membership dues.

**Field of Interest Funds** (endowed or expendable) are those from which grants are distributed for charitable purposes or to charities which provide services in any specified field or fields of charitable activity specified by the donor(s) at the time the fund is established. The Board shall exercise complete discretion in identifying funding opportunities and selecting grantees within the specified field of interest.

**Scholarship Funds** (endowed or expendable) are those in which funds provide financial assistance to students attending post-secondary education. Donors recommend eligibility criteria and may represent a minority of the selection committee.

**Special Project Funds** (expendable) are accepted and administered by the Foundation on a case by case basis. The Foundation will review the Special Project Fund application prior to signing a fund agreement to assess the appropriate fee, in accordance with the Foundation's fee schedule.

**Other Funds** The Board or the Executive Committee may establish other types of funds at its discretion.

## **VARIENCE POWER**

As the Fund is a component fund of the Foundation and its assets are assets of the Foundation and subject to the Foundation's governing instruments, the Board of the Foundation shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if, in the sole judgment of the Board of the Foundation (without the necessity of the approval of any participating trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served.

## **ACKNOWLEDGMENT**

Donors shall receive an expression of sincere thanks and gratitude from the Foundation and an acknowledgement of the gift in accordance with federal regulations.

## **PUBLICITY**

No public media exposure with respect to a donor's gift will be generated without the consent of the donor.

## **RESTRICTIONS**

In conformance with Treasury Department regulations governing community foundations, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.

## **ACTING AS TRUSTEE**

The Foundation does not currently serve as a trustee. Industry best practices currently discourage this relationship due to foreseen potential conflicts of interest. The intent is to encourage donors to utilize the existing organizations with experts in this field.

## **INVESTMENT OF GIFTS**

It is the policy of the Foundation to convert all gifts to cash as soon as possible. The Foundation reserves the right to make any or all investment decisions regarding gifts in accordance with its investment policy.

In making a gift to the Foundation, donors give up all right, title, and interest to the assets contributed. In particular, donors give up the right to choose investments and investment managers, brokers, or to veto investment choices for their gifts.

However, when the size of a fund warrants separate investment consideration, the Foundation will endeavor to accommodate requests from donors for separate investment of fund assets, or use of a particular investment manager, broker or agent in accordance with the Foundation's investment policy.

## **COSTS OF ACCEPTING AND ADMINISTERING GIFTS**

Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees as well as other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor.

The direct costs of administering outright and planned gifts of the Foundation will be borne from the assets of the individual funds, except for those special circumstances as determined by the President/CEO. Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the Foundation's guidelines and fee schedules.

## **CONFIDENTIALITY**

Foundation staff shall maintain strict control over files and information received from or about donors or prospective donors so as to maintain confidentiality of such information.

## **FUNDRAISING**

Fundraising undertaken by donors in connection with funds of the Foundation require special consideration. (**See Appendix C**)

## APPENDIX A

### Model Standards of Practice for the Charitable Gift Planner

#### Preamble

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as “Gift Planners”), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning, and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

#### I. Primacy of Philanthropic Motivation

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

#### II. Explanation of Tax Implications

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

#### III. Full Disclosure

It is essential to the gift planning process that the role and the relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

#### IV. Compensation

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders’ fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift is never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

#### V. Competence and Professionalism

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their

knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact, and mutual respect.

#### **VI. Consultation with Independent Advisors**

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

#### **VII. Consultation with Charities**

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planner, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planner shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

#### **VIII. Description and Representation of Gift**

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

#### **IX. Full Compliance**

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

#### **X. Public Trust**

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

## **APPENDIX B**

### **Forms of Gifts to the Foundation**

Gifts to the Foundation take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon a donor's death or other forms of deferred gifts.

If the value of a gift other than cash, gifts of grain, or marketable securities exceeds \$5,000, a donor is required to have a qualified appraisal performed and submitted to the IRS on form 8283. If such gifts are sold within two years of receipt at a price other than the appraised value, Form 8282 must be filed by the Foundation.

The Foundation reserves the right to accept or reject any gift as it sees fit. It is the policy of the Foundation to convert all gifts to cash as soon as possible.

#### **Cash**

The Foundation accepts cash, checks, or money orders made payable to the Foundation or any of its funds.

#### **Marketable Securities**

The Foundation will add the net proceeds of a marketable securities contribution to a fund of the Foundation. The Foundation will govern the disposition of securities, and will make all decisions regarding the sale or retention of securities.

#### **Stock in Privately Owned Companies and Partnerships**

All privately owned stock gifts are reviewed by the Professional Advisory Committee. Donors wishing to make this type of gift must have it valued by a qualified independent accounting or appraisal company in order for the Foundation to make a decision on acceptance of the gift. If accepted, it will be immediately sold.

Generally, the Foundation does not accept gifts of general partnership interests due to potentially unlimited liability. The acceptability of a gift of closely-held stock or a partnership interest will depend on the ultimate financial liability of the Foundation, the amount of management attention required, whether the gift provides minority or majority control, or whether the donor requires that such interest not be sold.

Consideration will be given to whether the closely held stock or partnership interest generates unrelated business taxable income, if there is corresponding revenue to pay such taxes, the nature of the business, recordkeeping and accounting requirements, and how quickly the gift can be converted to cash. (See **Appendix D**)

## **Limitation on Accepting Gifts of Assets to Donor Advised Funds**

In compliance with federal legislation adopted in the fall of 2006 under the Pension and Protection Act (H.R. 4), the holdings of a donor advised fund, together with the holdings of persons who are disqualified persons\* with respect to that fund, in a business enterprise may not exceed:

- Twenty percent (20%) of the voting stock of an incorporated business; or
- Twenty percent (20%) of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity
- Can't own a sole proprietorship

Donor advised funds (DAF) receiving gifts of interests in a business enterprise after the date of enactment will have five years to divest holdings that are above the permitted amount with the possibility of an additional five years if approved by the Secretary of the Treasury. Funds that currently hold such assets will have a much longer period to divest under the same complicated transition relief given to private foundations in 1969.

\*Donors and persons appointed or designated by donors are disqualified persons if they have or reasonably expect to have advisory privileges with respect to the DAF by virtue of their status as donors. Members of donors and advisors families are also disqualified.

## **Life Insurance Policies**

The Foundation will accept gifts of permanent life insurance policies if the Foundation is named as owner and beneficiary of, or is assigned ownership in such policies. Policies continuing on a premium-paying basis will be maintained as such by the Foundation so long as gifts are made to the Foundation in the amount of the premiums due. Premiums can be of a reducing amount if dividends are directed toward future premiums. Should such premium gifts not be forthcoming, the Foundation may elect:

- To have the Foundation continue the premium payments.
- To surrender the policy in exchange for its cash surrender value.
- To invoke procedures under which the existing policy values can sustain the policy without further outlay of Foundation funds for premium. This can take on any of the following forms:
  - Change the dividends to Net (Have the dividends pay future premiums)
  - Use the Automatic Premium Loan feature (Borrow against the cash value to pay future premiums)
  - Use a combination of the two previous options (Have the dividends pay as much of the premium as possible and borrow against the cash value for the remainder amount)
  - Change the policy to Paid-Up in which case, no more premiums will be due

The Foundation cannot accept encumbered life insurance policies or split dollar policies.

## **Gifts Naming Multiple Beneficiaries**

From time-to-time, donors may wish to designate multiple beneficiaries of the proceeds from their life insurance policies, IRA's, other qualified retirement plans, pooled income funds, gift annuities, or other forms of gifts to the Foundation. It will be encouraged that other charitable organizations be named as beneficiaries on the contract. However, if the foundation is selected as sole beneficiary and then requested to distribute funds to other organizations, the following guidelines shall apply:

- A. The Committee will take into consideration the amount of the total gift, the amount designated for the Foundation both discretionary and restricted, the added value to the community, and in the case of life insurance policies, whether or not the premiums are paid up.
- B. In the case where the Foundation becomes the sole owner of a donor's gifted asset, the Foundation subsequently has the exclusive right to change the beneficiary/distributee designations. It can then name the Foundation or other charitable organizations as beneficiaries. These other charitable organizations must qualify as such under Section 501 (c) (3) and which are described under section 170(b)(1)(A) of the Internal Revenue Code.

If a policy beneficiary/distributee designation is to be changed to a charitable organization other than the Foundation, the Foundation shall consider the charitable intentions of the donor. It is understood, however, that a donor's recommendations in this regard are advisory and that the Foundation, as owner of the policy, retains exclusive authority to direct the death benefits, maturity, and surrender proceeds of the policy.

## **Real Property**

All transactions for gifts of real estate are through the supporting corporation of the Foundation's Community Foundation Realty Holdings. No title of real estate property is transferred directly to the Foundation. Proceeds from the sale of the real estate are then deposited into the appropriate Fund of the Foundation. Please see the Foundation's Community Foundation Realty Holdings Real Estate Gift Policy in **Appendix E**.

## **Tangible Personal Property**

The donor will be advised whether the gift will be retained and used by the Foundation or disposed of immediately.

## **Gifts of Grain**

The Foundation can accept gifts of grain directly from the grain elevator to benefit a fund of the Foundation. Gifts of grain are non-deductible on taxes, however they may be eligible for Endow Iowa state tax credit, and the grain would not be counted as income for the donor(s).

## **Accounts Receivable**

The Foundation will consider gifts of loans, notes, and mortgages, subject to review by the Professional Advisory Committee.

## **Deferred Gifts and Planned Giving**

Gifts whose benefit does not fully accrue to the Foundation until some future time, or whose benefits are split with non-charitable beneficiaries. Foundation representatives are authorized to solicit direct charitable gifts through wills, as well as contributions to establish gift annuities or charitable trusts. The Foundation will work closely with donors and confer with financial advisors, at the request of the donors, to realize these gifts. In cases where the gifts are complex, the President/ CEO may request review by the Professional Advisory Committee.

### Bequests

The Foundation accepts bequests from donors who have directed in their wills that certain assets be transferred to the Foundation and honors the wishes of the donor as expressed, but reserves the right of refusal as necessary and appropriate. Sample bequest language for restricted and unrestricted gifts is available from the Foundation, to donors and/or advisors, upon request. The Foundation may not be named as Executor for a donor in his/her will and will not serve if named. If the Foundation receives an unrestricted gift through an estate gift and the Foundation had no previous knowledge that such an impending estate plan had been made, the Foundation will follow its internal procedure as approved by its Board for proper handling of such a gift.

### Retirement Plans or IRA Accounts

Donors may make lifetime gifts of retirement assets or name the Foundation as the beneficiary of their plan. Retirement plans include, but are not limited to, Individual Retirement Accounts (IRA), 401(k), 403(b), and defined contribution plans.

### Life Income Gifts

The Foundation will work closely with donors to implement planned giving options that provide income to a donor or his/her designees, as well as financial benefit to the Foundation (split-interest gifts).

Options include:

Charitable Remainder Trusts (CRT): This trust makes payments to one or more beneficiaries for their lifetimes, or for a fixed term, or a combination of both. Income beneficiaries are limited to two and must be at least 50 years old when entering into the contract. Assets are put in a trust, beneficiaries are paid, and when the trust term ends, the remainder in the trust passes to the Foundation for its charitable purposes. The charitable remainder interest must be designated for an existing or new endowed fund at the Foundation. The Donor names a Trustee to manage the trust and determines whether the payout will be fixed (charitable remainder annuity trust (CRAT)) or variable (charitable remainder unitrust

(CRUT)). Trusts can be setup during the donor's lifetime or by will. The Foundation encourages donors to consult with their own legal counsel and tax advisors to create a charitable remainder trust. At the donor's request, the Foundation will confer with his/her advisors to assist in establishing the trust from which it will ultimately benefit. The Foundation will not serve as Trustee of the trust.

Charitable Lead Trust (CLT): This trust first makes distributions to the Foundation for a specified period, with the remainder reverting to the donor or another beneficiary at the end of the period. Income beneficiaries are limited to two and must be at least 50 years old when entering into the contract. It may be set up during one's lifetime or in a will. The Foundation will work closely with the donor and/or his/her advisors to create the trust, but will not serve as Trustee.

Charitable Gift Annuity (CGA): This planned gift is based on a gift of cash or securities in exchange for lifetime income, either immediate or deferred, to the donor. It is a contract between the donor and Foundation and is backed by our total assets. The gift is in part a charitable gift and in part the purchase of an annuity. **The minimum amount of a Charitable Gift Annuity that the Foundation will accept is \$50,000.00.** (See Appendix C)

## APPENDIX C

### Fundraising Policy

The Community Foundation of Northeast Iowa (herein referred to as “Foundation”) is staffed to develop endowment and other funds through the acquisition of major and planned gifts and to cultivate new and existing relationships with donors. The Foundation is not equipped to operate public fundraising events for its component funds. In general, the Foundation will administer a public fundraising event in association with a fund only under extenuating circumstances.

**Definition of Public Fundraising:** Public fundraising events refer to those special events that are intended to raise dollars for any of the Foundation’s component funds. For example, a golf outing, fundraising dinner, or other special event would be considered a public fundraising event. The Foundation does not have a gambling license and cannot have a component fund directly engaged in raffles or other gambling events.

**Legal Regulations of Fundraising:** Legislation and IRS regulations have made significant changes in what fundraising activities the Foundation can and cannot support. The Foundation carefully reviews, revises and updates these guidelines to keep them consistent with federal guidelines. Because there may be additional changes in these guidelines, the Designated Fund Contact should check with the Foundation before beginning any fundraising activity that benefits a component fund.

In order to ensure compliance with all legal, accounting, insurance and other regulations, the Foundation must have a clear understanding before any fundraising activity is undertaken for any fund about what fundraising activity is being contemplated and who is sponsoring or implementing the activity. The answers to these questions are not necessarily obvious and must be determined in conjunction with the Foundation. The answers will also determine what activities can be undertaken, what guidelines need to be followed, and whether and how expenses can be paid. Designated Fund Contacts contemplating any activity to raise money for a fund at the Foundation should contact the Foundation before beginning any activity.

If anyone connected to the fund such as the donor, including an agency/organization with a fund at the Foundation, wishes to undertake public fundraising to build a fund, the fundraiser must first be approved by the Foundation. At this time, fundraising for funds at the Foundation can happen in two ways: (1) Fundraising activity under the control of the Foundation and (2) Fundraising activity done independently of the Foundation.

**Guidelines for Fundraising Activity Under the Control of the Foundation:**

Fundraising activity under the control of the Foundation is any activity where participants make their checks payable to the Foundation or to a specific fund at the Foundation and where a charitable deduction is anticipated for the contribution.

**Note:** The Foundation does not have a gambling license and cannot have a component fund directly engaged in raffles or other gambling events.

1. **Obtaining Approval of a Fundraiser:** Before undertaking public fundraising events, applying for grants for the component fund, or doing any donor solicitations for the fund, the Designated Fund Contact must define for the Foundation each program, event, or other effort to raise money and seek approval from the Foundation. Before approving the event, the Foundation must take into account its responsibility as it relates to budget and payment of expenses, compliance with laws, liability covering the Foundation, appropriate acknowledgement of gifts, management of money and property received from the event, and application of the donations for the charitable purpose for which the event is advertised. The donor/Designated Fund Contact has no authority to and shall not assume any obligation or responsibility, implied or expressed, on behalf of or in the name of the Foundation and shall not bind itself or the Foundation in any matter whatsoever, except as authorized in writing by the Foundation. (e.g. No contracts shall be entered into without the approval and signature of the Foundation on the contract).
2. **Payment of Expenses:** The donor/Designated Fund Contact must present a budget of expected income and expenses and will be expected to adhere to the budget. Careful consideration for accepting the budget will be related to the percentage of expenses as it relates to income to comply with the Foundation's fiduciary responsibility. The Foundation may assess a special administration fee for extra services rendered as part of the budget planning and implementation.

The Designated Fund Contact or designee will work with the Foundation in regard to submission of requests for the granting from the fund. For expenses to be paid, the Foundation requires documentation of the expense and alignment with the budget. Please note that individuals and non-charitable entities cannot be reimbursed from donor advised funds. All requests for granting from the fund must be made on the grant request forms provided by the Foundation and will be based on the assets of the fund. Obviously, expenses cannot be paid until sufficient assets are in the Fund.

**Special Note on Reimbursing Expenses:** Legislation passed in 2006 makes significant changes in how fundraising expenses may be paid. If the fund that will receive the money is legally defined as a "donor-advised" fund, the Foundation CANNOT reimburse any individual, including the donor-advisor(s), or any non-charitable entity (e.g. vendors) for expenses incurred. Note that funds established and advised by companies, professional groups, and/or alumni may be legally considered "donor-advised" under the new legislation. Other types of funds may be able to pay expenses; those expenses are paid from the fund's income. We continue to seek guidance on the application of this legislation and will continue to revise and update these guidelines to ensure their consistency with federal guidelines. Contact the Foundation office with any questions.

3. **Use of Foundation's Name in Advertising and Promotion:** All uses of the Foundation's name in advertising and promotion, including letters and pledge forms, must be approved in advance by the Foundation. A minimum lead time of three weeks is required to obtain Foundation approval. The Foundation will assist in developing templates for flyers and pledge forms for the fund that include a description of the fund's purpose, how to give to the fund, etc. When fundraising activities or solicitations use the Foundation name or the name of the component fund, the IRS views the fundraiser as being done by the Foundation since the Foundation "owns"

the fund. In this case, the Foundation is legally responsible for the fundraising activity, and it as well as the donor can face serious penalties and liabilities if careful procedures are not followed: donors may be denied a tax deduction; the fundraising group may be unexpectedly subjected to tax on the funds raised; and both the Foundation and the fundraising group may be subject to penalties. Additional fees to cover the costs of administering fundraising activities may be charged by the Foundation depending on the level of administrative support required.

4. **Required Permits, Licenses, Insurance, etc:** Certain fundraising efforts connected with the Foundation may require proof of insurance for liability purposes. The Foundation may be able to secure a certificate of insurance or a separate rider for your effort or event. The cost of such rider will be considered an event expense and will be paid from the proceeds or from the fund balance. Lead-time of at least 4-6 weeks is required to obtain this coverage.

The fundraising organizer must coordinate with the Foundation to obtain all required permits, licenses and/or approvals and to ensure compliance with all laws related to the effort. Legal expenses and/or costs related to obtaining permits are the responsibility of the fundraising organizers but can be budgeted and considered an event expense, depending on the type of fund.

Because of complex state regulations, the Foundation does not sponsor traditional raffles, drawings, or other games of chance.

5. **Acknowledgement:** The Designated Fund Contact must provide the donor's complete name, address, date, contribution type and amount of contribution. Any contribution received that represents at least a partial charitable deduction will be acknowledged by the Foundation. If applicable, the Foundation will include, with the acknowledgement, the state tax credit application available to donors for gifts to endowment funds at the Foundations in Iowa that meet National Standards for U.S. Community Foundations.
6. **Designation of Checks:** All checks related to the event should be made payable to the fund of the Foundation. Contributions of cash shall be accounted for by the donor/fund contact and listed on the donation receipt form available from the Foundation. All proceeds, checks and cash should be delivered to the Foundation along with an accounting of all monies received and delivered.
7. **Management of all Money and Property the Foundation Accepts into the Fund:** The Foundation is responsible for all money and property it may accept into the fund from the initial donor and other contributors as well as the administration of expenses related to public fundraising events, keeping in mind donor intent and limitation of percentage of fundraising costs (fiduciary oversight). All grantmaking from its funds are made for charitable purposes in accordance with the governing documents of the Foundation.
8. **Designated Fund Contact:** The Donor, including an agency/organization will designate one individual to receive financial information on the fund from the Foundation and to ensure coordination between the donor/group and the Foundation. Should the individual named as the Designated Fund Contact no longer wish to receive the information or is no longer able to fill the

duties as contact, the Foundation should be notified immediately with the name and contact information for the new person to serve as the Designated Fund Contact.

9. **Tax Deductibility:** If members of the public are to pay a fee and in return receive entertainment, food or any other benefit, the donor or fundraising person/group cannot, by law, represent to the public that this is an allowable charitable tax deduction. The Foundation and the Designated Fund Contact will mutually determine the value of the benefits received by the public. The Foundation may require the Designated Fund Contact to provide the value of the benefit being provided to the contributors to the fundraiser. The charitable deduction shall be equal to the excess of the contribution beyond the benefits received and must be stated clearly in any written materials. The Foundation will send receipts to the donors for contributions that are tax deductible. At the fund's expense, legal counsel may be asked to review, on a case-by-case basis, as determined by the Foundation, any proposed ideas for specific fundraising events and tax deductibility of items.
  
10. **Liability for Losses:** The donor/Designated Fund Contact will be responsible for all losses incurred by events. The Foundation will not be held responsible for such losses. The Foundation may require the donor/ Designated Fund Contact to purchase a letter of credit or provide a personal guarantee.

**Guidelines for Independent Fundraising for Funds of the Foundation:**

Fundraising activity done independently of the Foundation is any activity where participants make their checks payable to an entity other than the Foundation or a component fund of the Foundation, which will then pay expenses and can make a contribution of the proceeds to a fund at the Foundation, and where a charitable deduction is available only if the sponsoring entity is a nonprofit organization that accepts and receipts the contribution.

This is the simplest method for conducting fundraising activities. Fundraising is conducted by an individual, a group of people, or another organization without the involvement or mention of the Foundation or the fund. Generally, the person or group plans and executes the fundraising activity (for example: dinners; golf tournaments; walk-a-thons; auctions; sales of products or services; requests for money from individuals or organizations through mailings, advertisements, or oral solicitations) and then makes one lump sum donation of the proceeds to the fund. Neither the Foundation nor the name of the fund may be used in connection with the event or activity unless the event is sponsored by another nonprofit organization which accepts and acknowledges the contributions, individual donations are not tax deductible to the donor, and acknowledgements will not be sent by the Foundation. Before embarking on independent fundraising activities that may benefit a fund at the Foundation, contact the Foundation.

**Note on Tax Deductibility:** Contributions to a fundraiser are only tax deductible when they are received and acknowledged directly by a qualified nonprofit organization and used for charitable purposes. Depending on the event, tax deductibility may or may not be a motivating reason for donors to participate. Often donors who participate in fundraising events are not doing so to receive a tax deduction. Donors typically believe in the purpose of the fundraiser and will make a contribution regardless of the tax benefits to themselves.

1. After conferring with the Foundation, a person or group plans and executes a fundraising event in compliance with these guidelines for independent fundraising. That person or group becomes the sponsor of the activity and must understand and be willing to accept the responsibility and liability associated with the activity.
2. Event materials may state that proceeds benefit the general purpose of the fund, but may not use the Foundation name, logo, tax exempt number, or legal name of the fund in connection with the event. Unless the event is being sponsored by another nonprofit organization, materials may not state that contributions are eligible for charitable deductions, and no quid pro quo information should be provided.
3. The planning group is responsible for determining, obtaining, and paying for any necessary insurance, permits, licenses, approvals, etc. Be aware that events or activities that include raffles or other games of chance are regulated by state and local governments and must be specifically reviewed, authorized and registered by the appropriate branch of government. Note that there are specific regulations regarding raffles and drawings and that there is no charitable deduction for raffles. Also, auctions and rummage sales typically do not have a charitable component.
4. Fundraising events often require certificates of insurance or signed contracts. When the event is administered by a person, group, or other organization, the name of the Foundation or the fund must not appear on any contract or agreement. The signatory must understand and agree to their responsibility and liability for the event. Note: volunteers must not sign contracts obligating the Foundation.
5. Individual participants in the event (ticket purchasers, sponsors, golf players, etc.) make their payments to the organizing person or group, not to the Foundation or the fund. The organizers may record the contributors' names and addresses and may provide a courtesy acknowledgement. The acknowledgement letter must not include any language stating that the letter serves as an official receipt for IRS purposes or include any reference to tax deductibility or to the contribution being made to the Foundation or to the fund.
6. The planning group pays all expenses directly and sends the net proceeds from the fundraiser (cash or check only) to Foundation for addition to the fund. The Foundation records the gift as coming from unnamed "third party donors."
7. It is possible for a donor to make a direct, tax-deductible gift to the fund without participating in the fundraising activity. In that instance, he/she makes the check payable directly to the "Fund Name" at the Foundation, marks the check "direct contribution/no benefits received," and sends it directly to the Foundation. If the donor has not received any goods or services (dinner, raffle tickets, round of golf, etc.) in exchange for the donation, he/she will receive an individual gift acknowledgement letter from the Foundation indicating that the gift is tax deductible and if applicable, eligible to apply for the state tax credit if applicable.

## APPENDIX D

### Procedures for Review of Business Interest Gifts

**Information for Gift Acceptance Committee.** In order to consider business interests, Foundation staff may request information regarding the asset to be contributed. The Foundation's staff may request the following information from the donor or professional advisor:

- Description of the asset
- Intended use of the gift
- Appraisal of the asset's fair market value
- Any special arrangements regarding sale (e.g., price considerations, investment management, potential interested purchasers)
- Articles of incorporation, bylaws or shareholder agreements
- A written explanation of the line of business and prospects for profitability
- Information about the potential market for the business interest
- Estimated period for disposition of the interest
- Prior-year tax returns to identify historical accounting income and cash flows
- Projected timing of distributions from the business entity
- Donor's adjusted tax basis for the gift property
- Estimated cash flow to the Foundation

**Criteria for Review.** The Foundation generally will consider the value of the gift and ease of administration. In addition, the Foundation will consider:

- **Market Value and Marketability.** The Foundation will review a reasonably current appraisal of the fair market value of the asset, its potential income stream, capital gain and any other relevant financial information. IRS rules may require that a qualified appraisal of the property be made not more than 60 days before the contribution of the property and not later than the due date of the tax return on which a deduction for the contribution is claimed. This appraisal must be filed in order for the donor to claim a charitable tax deduction. If the asset is disposed of within two years of the date of its contribution, IRS rules require the Foundation to file an information return.
- **Corporate or Partnership Governance.** The Foundation will consider information relating to the management of the business entity and the duties, background, experience, stability, and other attributes of the entity's managers.
- **Debt.** In addition to normal business concerns regarding debt load, the Foundation also must consider the effect of debt to determine if the Foundation also must consider the effect of debt to determine if the Foundation may be required to pay UBIT.

- **Existing and Contingent Liabilities/Contracts.** The Foundation will review information about the nature of the business for the proposed gift so that the Foundation may consider whether there are any potential tax or other liabilities that it may incur.
- **Unrelated Business Income Tax.** Certain assets, including mortgaged real estate and interests in S Corporations, limited partnerships, and limited liability companies can subject the Foundation to Unrelated Business Income Tax (UBIT). The Foundation may incur additional costs for accounting services to determine the amount of any UBIT and to report it to the IRS. The gift fund donor or Supporting Organization will be responsible for paying any UBIT and any administrative expenses associated with legal or accounting issues.
- **Rights and Obligations of Shareholders or Partners.** The Foundation will review its rights and obligations as a partial owner of the business entity.
- **Material Restrictions.** A gift of a business interest may not be subject to a “material restriction” as defined by IRS rules. Such restrictions guard against:
  - Selling the contributed assets
  - Granting oneself a right of first refusal to purchase the contributed property or assume leases affecting the property
  - Contractual obligations, pledges, or other liabilities
  - Establishing irrevocable relationships for the maintenance or management of assets transferred to the Foundation

## APPENDIX E

### Community Foundation Realty Holdings Real Estate Gifting Policy

*All transactions for gifts of real estate are through the supporting corporation of the Community Foundation of Northeast Iowa- Community Foundation Realty Holdings. Proceeds from the sale of the real estate are then deposited into the appropriate Fund of the Community Foundation of Northeast Iowa.*

Adopted by Board 12-5-07

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## **POLICY**

### **AUTHORITY TO NEGOTIATE**

The Board of Directors of Community Foundation Realty Holdings Corporation (hereinafter referred to as the “Corporation”) establishes all policies relating to gifts of real estate to the holdings company and will approve all gifts of real estate. Community Foundation Realty Holdings is a supporting organization of the Community Foundation of Northeast Iowa (hereinafter referred to as the “Foundation”). This supporting organization was formed to accept gifts of real property for the benefit of the Foundation. The Board of the Corporation will have full authority to accept gifts of real estate.

### **RESPONSIBILITIES OF THE DONOR**

- a. The Donor will be responsible for obtaining an independent, qualified appraisal and complying with IRS regulations for the purposes of establishing the value of the gift for federal income tax purposes, including the preparation of Form 8283 (“Non cash Charitable Contributions”) See Treas. Reg 1.170A-13(a).
- b. The donor must obtain, at the donor’s expense, an environmental audit satisfactory to the Corporation. No property will be accepted if there is a liability that could attach to the Corporation or Foundation as a result of its taking title to the property.
- c. The donor must furnish the Corporation an abstract of title, which shows that the title to the property is free and clear of any encumbrance not acceptable to the Corporation.
- d. The donor cannot donate property to the Corporation with a pre-existing sales contract. The Corporation must be free to sell the property to the highest bidder.
- e. It is the responsibility of the donor, at the donor’s expense, to prepare the deed and other instruments that are necessary to transfer the property to the Corporation. All proposed transfer instruments must be approved by the Corporation’s legal counsel prior to the acceptance by the Corporation.
- f. Prior to the acceptance of the property, the Corporation and the donor must agree in writing on arrangements for paying expenses associated with the property, such as commissions, real estate taxes, utilities, insurance, and maintenance costs. The Corporation will not advance funds for the payment of such expenses.

## PROCEDURE

### EVALUATION OF POTENTIAL GIFTS

- a. **Property and Report Form:** Upon initial inquiry, potential donors will be asked to complete a property inquiry form and return it to the Corporation with the appropriate maps and documents.
- b. **Liens, Mortgages and Encumbrances:** Property which is subject to liens, unpaid mortgages, deeds of trust, judgment liens, unpaid taxes or assessments, mechanics' liens or other encumbrances will be accepted only in exceptional circumstances and upon advice from the Corporation's legal counsel. If accepted, property which is subject to encumbrances will be evaluated as a "bargain sale" (a bargain sale is an arrangement whereby a donor offers property to the Corporation for an amount less than its current fair market value).
- c. **Field Evaluation:** Following an offer of a gift of real estate, a member of the Corporation's staff or an authorized representative will visit the property. A representative may be a local realtor or a person the President/CEO may deem appropriate. The purpose of the visit will be to determine the nature and type of property and to identify any potential problems not evident from initially supplied information that would hinder or prevent the Corporation's sale of property.
- d. **Marketability:** As a general rule, the Corporation will accept real estate only if it is readily marketable, and there is reasonable certainty that it can be sold within a reasonable period of time. Whenever practical, the Corporation will make arrangements to have a realtor analyze the property to evaluate the existence of a market for the property. The President/CEO may request that the donor provide such an evaluation from a realtor acceptable to the President/CEO.

If the property is not readily marketable, the Corporation must consider whether it has the desire and ability to manage the property for the length of time necessary to consummate the sale. The Corporation will also evaluate the cost of holding and/or improving the property against the cost of liquidating the property immediately. A financial analysis detailing all projected costs involved in accepting and holding the property will be prepared.

- e. **Environmental Hazards:** Due to currently applicable federal and state laws, the Corporation recognizes risks and potential liability for environmental cleanup and toxic and hazardous waste issues related to ownership of property. Because of potential liability, it is important that the Corporation take the appropriate measures to protect itself and its assets from that liability.

The Corporation will not accept a property if there is any risk of liability for environmental problems that could attach to the Corporation as a result of taking title. To ensure that the property is free of environmental hazards, the Corporation

reserves the right to, in all cases, require the donor to obtain (at the donor's expense) a Phase 1 Environmental Impact Audit addressed to the Corporation as well as written certification from the donor regarding the environmental status of the property and provide reasonable indemnification. The Corporation will require such other environmental assessments as deemed appropriate in particular circumstances at the donor's expense.

f. **Survey:** If the Corporation has any questions regarding the boundaries of the property, a survey will be ordered at the expense of the donor.

g. **Expense Budget:** A budget will be prepared, outlining all projected expenses associated with the acceptance of all proposed real estate gifts.

### **PROCEDURES FOR ACCEPTING REAL ESTATE**

a. The Corporation may refuse any offered gift of real property that is judged not to be in the best interests of the Corporation or in accordance with the Foundation's mission. The Foundation, to meet National Standards, operates primarily to build permanent endowments for the long-term benefit of the citizens and entities within the state of Iowa, with particular focus on Northern and Eastern portions of Iowa.

b. As a general rule the Corporation will not accept property with a Fair Market Value of less than \$ 100,000.00.

c. Prior to, or upon transfer of title to the Corporation, the donor and the Corporation will sign an agreement (approved by legal counsel) stating the terms of the gift, which shall specify that there are no restrictions on the Corporation's right to use or convey the property. The Corporation will purchase title insurance for all property received.

### **DISPOSITION OF PROPERTY**

All parties must agree that the intent is for the donated property to be liquidated by the Corporation and the proceeds to be transferred to the Foundation. The Corporation has sole discretion regarding the sale of property.

### **REAL ESTATE GIFTS BY BEQUESTS**

a. Donors will be encouraged to discuss with the Corporation any contemplated bequests or other deferred gifts of real estate prior to finalizing their wills or trusts. Real property that is bequeathed to the Corporation or the Foundation will be evaluated prior to its acceptance in accordance with these policies and procedures in the same manner as an inter-vivos gift.

b. Upon notice that the Corporation or Foundation has been named beneficiary of a gift under any Will that has been admitted to probate or any trust arrangement, the President/CEO or appointed staff member, will contact the executor, trustee, or other

legal representative of the estate, and determine if the gift consists of land or, if the Corporation/Foundation is a residuary beneficiary of the estate, whether the residue passing to the Corporation/Foundation will contain any land.

- c. If the Foundation will or may receive land in satisfaction of the gift, the President/CEO will ask the executor, trustee, or other legal representative to conduct an environmental study similar to the one that the Corporation would require if it were to receive an inter-vivos gift. If the executor, trustee, or other legal representative has not made the study and if it does not do so, the Corporation may contract for an environmental study on its own or decline to accept a gift of real estate.

**Community Foundation Realty Holdings (CFRH) Donor Checklist**

<b>DOCUMENTS TO OBTAIN</b>	<b>ENCLOSED</b>	<b>DATE RECEIVED</b>
<b>Inquiry Form:</b> Questionnaire to provide in depth information regarding property	_____	_____
<b>Appraisal:</b> Must be ordered, paid for, and submitted within 60 days of deed delivery	_____	_____
<b>Deed:</b> Shows how title is vested and is used to prepare the title transfer	_____	_____
<b>Property Tax Bill:</b> Shows assessed value of land, improvements, actual tax, and any assessments	_____	_____
<b>Income/Expense Pro Forma for Three-Year Period:</b> If a commercial income-producing property	_____	_____
<b>Association Agreement:</b> Ownership rights and responsibilities of some properties, primarily residential or condominiums, are governed by an owners association. The agreement should include fees or assessments, together with a statement showing the condition of any reserve fund for deferred maintenance.	_____	_____
<b>Conditions, Covenants and Restrictions:</b> Required for some subdivisions – a copy of these will show how the property may be used and what restrictions apply.	_____	_____
<b>Lease or Rental Agreements:</b> If the property is leased or rented to others, a copy of each rental agreement should be obtained showing the terms of the agreements, term of rental, deposits, etc.	_____	_____
<b>Current Mortgage Statements:</b> Will show the status of a loan and will be helpful in identifying and discussing the loan with the lender.	_____	_____
<b>Insurance Policy:</b> Will verify cost of insurance and provide information for the Foundation to transfer insurance, if desired after gift is made.	_____	_____
<b>Plot Map/Property Line:</b> This indicates location of property and is an important step in acquiring much of the information for gift analysis.	_____	_____
<b>Acquisition Form:</b> Document of sale	_____	_____
<b>Inspection Reports:</b> Where inspection reports are available from previous activity related to property, such as Code Officers, inspection reports or structural	_____	_____

assessment reports by engineer.

**Environment Reports:** Minimum of Phase I Environmental Impact Audit to ensure that property falls within the state and federal environmental regulations. Additional assessments may be necessary

**Donor/Donee Transfer Agreement:** Must use the Foundation's approved agreement form. The agreement should be drafted with legal counsel.

\_\_\_\_\_  
\_\_\_\_\_

**Community Foundation Realty Holdings (CFRH) Inquiry Form**

1. Legal Name and Social Security Number/FEIN of Property Owner

\_\_\_\_\_  
\_\_\_\_\_

2. Owner Home Address and phone number

\_\_\_\_\_  
\_\_\_\_\_

3. Property Location

\_\_\_\_\_  
\_\_\_\_\_

3a. Description of Property

\_\_\_\_\_  
\_\_\_\_\_

3b. Is Property readily marketable? No, please explain

\_\_\_\_\_  
\_\_\_\_\_

3c. Description of any building or other structures located on the land  
*(Attach site plan if available)*

\_\_\_\_\_  
\_\_\_\_\_

3d. Description of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property *(attach document if necessary)*

\_\_\_\_\_  
\_\_\_\_\_

4. Is the property currently occupied? If yes please explain:

\_\_\_\_\_  
\_\_\_\_\_

4a. Attach specimen of proposed Seller's Affidavit disclosing any and all tenants, leases, security, instruments, graves or cemetery parcels, etc.

5. Has the Property been listed for sale? If yes, please describe:

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6. Land Area (acres or square footage)

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6a. Attach boundary Survey of property with location of all structures, easements and encumbrances appearing on face of survey

6b. Attach relevant information on all ingress/egress for the property

7. Is there any impending litigation with regard to the property? If yes, explain:

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8. Building Area (square footage on each floor)

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9. Information regarding zoning status

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10. Replacement cost of the building

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11. Current property insurance coverage

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11a. Attach a specimen of title insurance commitment or schedule describing any liens, encumbrances or title matters affecting the property

12. Date of Acquisition by donor

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12a. Attach document of purchase by donor (if available)

12b. Description of prior use of the property

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13. Current cost basis (includes improvements)

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13a. Attach disclosure of any contemplated or anticipated condemnations, rights-of-way or other actions by municipalities that may affect the subject property.

14. Principal balance of mortgage(s)

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14a. Attach most recent mortgage statement(s)

15. Current fair market value

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16. Has the Property been appraised in the last six (6) months? If yes, appraised value?

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16a. If yes, attach appraisal

17. Assessed value for real estate taxes

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17a. Attach most recent property tax statement

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**Owner, Print**

---

**Owner, Signature**

---

**Date**

STATE OF IOWA

)

)

**INDEMNITY AGREEMENT**

COUNTY OF BLACK HAWK

)

FOR VALUE RECEIVED, the undersigned \_\_\_\_\_ shall indemnify and hold harmless Community Foundation Realty Holdings, LLC ("Realty"), its successors and assigns, from and against any and all liability, loss, claims, demands, costs, damages, attorneys' fees, and expenses of whatever kind or nature, together with interest thereon at the maximum rate allowed by law, which Realty may sustain by reason of or in consequence of Realty accepting the transfer and ownership of a \_\_\_\_\_ (\_\_\_\_%) Percent interest in the real property known as

\_\_\_\_\_.

In the event of any asserted claim, Realty shall provide the undersigned reasonably timely written notice of same, and thereafter the undersigned shall at its own expense defend, protect, and save harmless Realty against said claim or any loss or liability there under.

In the further event the undersigned shall fail to so defend and/or indemnify and save harmless, then in such instance Realty shall have full rights to defend, pay or settle said claim on its behalf without notice to the undersigned and with full rights to recourse against the undersigned for all fees, costs, expenses and payments made or agreed to be paid to discharge said claim.

Upon default, the undersigned further agrees to pay all reasonable attorneys' fees necessary to enforce this agreement.

This Agreement shall be unlimited as to amount or duration.

This Agreement shall be binding upon and inure to the benefit of the parties, their successors, assigns and personal representatives.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Property Owner

Witnessed:

\_\_\_\_\_  
Witness

\_\_\_\_\_

\_\_\_\_\_  
Witness

\_\_\_\_\_