

ADVISED ENDOWMENT FUND AGREEMENT
between
DOUGLAS COUNTY COMMUNITY FOUNDATION
and
[DONOR NAMES]

THIS AGREEMENT is made this ____ day of _____, 2014, by and between DOUGLAS COUNTY COMMUNITY FOUNDATION (“the Foundation”), a Kansas non-profit Corporation having its principal office in Lawrence, Douglas County, Kansas, and _____ AND _____ (“the Donors”), residing in Lawrence, Douglas County, Kansas, as follows:

WHEREAS, the Donors desire to create a charitable advised fund with the Foundation;
and

WHEREAS, the Foundation is a non-profit tax-exempt corporation under Internal Revenue Code (“Code”) § 501(c)(3) and a public charity under § 170(b)(1)(A)(vi) and, as such, the Foundation is an appropriate institution through which to establish a charitable advised fund;
and

WHEREAS, the Foundation has agreed to accept the Donors’ charitable advised fund subject to the following terms and conditions:

1. Name of the Fund. There is hereby established with the Foundation, and as a part thereof, a fund designated as the _____ **Fund** (“the Fund”) to receive and administer gifts in form acceptable to the Foundation.

2. Purpose. The primary purpose of the Fund shall be to provide charitable grants to such organizations and for such uses and purposes as may be designated by the Board of Directors of the Foundation or their designee, after receiving advice in writing from the Donors. In the event that the Donors are unable to give such advice, the Foundation may receive advice in writing from [children’s names].

3. Gift. The Donors have irrevocably transferred, and the Foundation accepts and acknowledges the receipt of \$_____ (_____ DOLLARS) to establish the Fund. Subject to the right of the Foundation to reject any particular gift, the Donors and others may make additional gifts to the Foundation for the purposes of the Fund by a transfer to the Foundation of property acceptable to the Foundation. All gifts, bequests and devises to this Fund shall be irrevocable, once accepted by the Foundation.

4. Distribution. The Donors, or, upon the Donors’ inability or failure to so act, the Donors’ designated successors, may recommend distributions or expenditures from the Fund, subject to the final approval of the Foundation’s Board of Directors and subject to the following restrictions. The principal of the Fund shall not be distributable to the extent that such distribution would reduce the principal balance of the Fund below \$[Endowed amount of at least

10,000] (“the Endowed Amount”). The amount of the principal of the Fund above the Endowed Amount and the income of the Fund, net of the fees and expenses set forth in paragraph 11, may be committed, granted, or expended only for purposes described in Code § 170(c)(1) or (2)(B) that are consistent with the exempt status and purposes of the Foundation. Any additions to the principal of the Fund above the Endowed Amount may be designated as endowed or as distributable, at the option of the donor, and if no designation is made, they shall be accepted as endowed. If any gifts to the Foundation for the purposes of the Fund are received and accepted subject to a condition or restriction as to the use of the gift or income therefrom, such condition or restriction will be honored, subject, however, to the authority of the Foundation’s Board of Directors to vary the terms of any gift if continued adherence to any condition or restriction is in the judgment of the Board unnecessary, incapable of fulfillment, or inconsistent with the charitable or other exempt purposes of the Foundation or the needs of the community served by the Foundation. No distribution shall be made from the Fund to any individual or entity if such distribution will, in the judgment of the Board of Directors of the Foundation, endanger the Foundation’s status as an organization qualifying under Code § 501(c)(3).

5. Administrative Provisions. Notwithstanding anything herein to the contrary, the Foundation shall hold the Fund, and all contributions to the Fund, subject to the provisions of the applicable Kansas laws and the Foundations’ Articles of Incorporation and Bylaws, the Supplemental Instructions, if any, attached hereto as APPENDIX I, and the Statement of Administrative provisions attached hereto as APPENDIX II. The Foundation shall monitor the distribution of the Fund to ensure it is used exclusively for charitable or other exempt purposes (within the meaning of Code §§ 170(c)(1) or (1)(B)), and shall have all powers of modification and removal specified in United States Treasury Regulations Section 1.170A-9(e)(11)(v)(B). All actions of the Foundation’s Board of Directors hereunder shall require the affirmative vote of a majority of a quorum of the duly assembled Board of Directors of the Foundation. The Foundation agrees to provide the Donors a copy of the annual report of the finances of the Foundation as reported to the Internal Revenue Service.

6. Conditions for Acceptance of Funds. The Donors and the Foundation agree and acknowledge that the establishment of the Fund is made with awareness of, and subject to, the rules and regulations of the Internal Revenue Service and the state of Kansas applicable to Community Foundations, as the same may be amended from time to time.

7. Continuity. The Fund shall continue so long as assets are available in the Fund and the purposes of the Fund can be served by its continuation. If the Fund is terminated, the Foundation shall devote any remaining assets in the Fund exclusively for charitable or other exempt purposes that (a) are within the scope of the charitable or other exempt purposes of the Foundation’s Articles of Incorporation and (b) most nearly approximate, in the good faith opinion of the Board, the original purpose of the Fund.

8. Not a Separate Trust. The Fund shall be a component part of the Foundation. All money and property in the Fund shall be held as general assets of the Foundation and not segregated as a separate trust; provided that for purposes of determining the share of the Foundation’s earnings allocable to the Fund and the value of the principal of the Fund, the interest of the Fund in the general assets of the Foundation shall be a percentage determined by

dividing the gift to the Fund by the then value of the total assets of the Foundation. This percentage interest will be adjusted at the time of each addition to or reduction of the assets of the Foundation.

9. Accounting. The receipts and disbursements of this Fund shall be accounted for separately and apart from those of other gifts to the Foundation.

10. Investment of Funds. The Foundation shall have all powers necessary, or in its sole discretion desirable, to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest, and reinvest the Fund and the power to commingle the assets of the Fund with those of other funds for investment purposes.

11. Costs of the Fund. It is understood and agreed that the Fund shall share a fair portion of the total investment and administrative costs of the Foundation. Those costs annually charged against the Fund shall be determined in accordance with the then current fee schedule identified by the Foundation as applicable to funds of this type. Any costs to the Foundation in accepting, transferring, or managing property donated to the Foundation for the Fund shall also be paid from the Fund.

The Donors have executed this Agreement and the Foundation has accepted it as indicated by the signatures below.

DONORS:

Date: _____

Date: _____

**DOUGLAS COUNTY COMMUNITY
FOUNDATION:**

Date: _____

By: _____

Charles F. Blaser

Title: Executive Director

APPENDIX I
Supplemental Instructions

None to be added as of November 25, 2014.

APPENDIX II
Administrative Provisions

The Douglas County Community Foundation establishes the following administrative provisions for the operation of funds to carry out its mission:

The mission of the Douglas County Community Foundation is to enrich the quality of life in the communities of Douglas County by:

- ◆ Building philanthropic resources and relationships
- ◆ Providing attractive options for donors to make philanthropic contributions
- ◆ Being a catalyst for the betterment of the lives of the citizens of Douglas County

1. Types of Donors and Funds

Donors who wish to establish one or more charitable Funds with the Community Foundation may specify the charitable purposes they care about and advise the community foundation on charitable distributions.

The Community Foundation welcomes contributions and bequests whether by outright gift or bequest, or by deferred arrangements whether in trust or otherwise, from the following types of Donors:

Individuals and family members
Concerned Citizens and Associations
Business Entities
Non-Profit Organizations
Private Foundations or
Governmental Entities

Appendix II Administrative Provisions (cont'd)

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Funds are categorized by their “charitable purpose,” which may be educational, scientific, literary, public, religious or other purpose permitted in Section 170 (c)(2) of the Internal Revenue Code and include the following:

Unrestricted Fund

This is the most flexible gift a donor makes to the Foundation. The Foundation’s Board of Directors is given discretion to make grants from annual earnings for a broad range of community needs.

Unrestricted gifts enable the Foundation to respond to changing community needs from year to year while perpetuating donor generosity. The fund may be named after a donor or become a part of a common pool of similar gifts.

Field of Interest Fund

Donors who would like to direct the Foundation to make distributions in a specific area of charitable interest, such as the arts, education, environment, health, youth programs or historic preservation may consider a Field of Interest Fund. The Foundation directs the distributions for purposes within the designated field of interest.

Donor Advised Endowment Fund

Donors or their designees make recommendations to the Foundation’s Board of Directors regarding grant distributions to specific organizations or programs. The Foundation assists donors by providing information on community needs and final grant making decisions remain with the Board. Donors’ recommendations are honored if they are consistent with the Foundation’s mission and are for purposes described in Code § 170(c)(1) or (2)(B) that are consistent with the exempt status and purposes of the Foundation.

Donor Designated Fund

The donor designates one or more organizations or programs to receive distributions. The fund may be named for the donor or another person, or for the organization.

Organization Endowment Fund

A nonprofit organization may place funds with the community foundation for management and investment to establish a permanent, stable source of funding. The Foundation regularly distributes earnings to the organization for its general operations or specific program use. Bequests, charitable remainder trusts or a previously established endowment frequently are considered in establishing this type of fund and relieve the organization of administrative burdens, allowing non-profits to focus on their mission.

Special Project Non-Permanent Fund

The Foundation will accept and manage temporary funds designated for a specific non-profit or charitable purpose that benefits the community under certain circumstances. Donors actively

Appendix II Administrative Provisions (cont'd)

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participate in these funds just as they do in Donor Advised Funds. The principal is distributed over time rather than held permanently as an endowment. Special Project Funds may be converted to endowments at any time.

Scholarship Fund

Scholarship funds are frequently established in honor or memory of an individual. They can be established to benefit students at any age or grade level and can benefit students graduating from a particular school or schools or to benefit students who are pursuing a particular course of study.

Memorial Fund

To honor a loved one's memory, a donor may establish a Memorial Fund to support the causes important to that person. This type of fund can be an advised, designated, field of interest or scholarship fund.

2. Name of the Fund May Be Chosen by Donor

Funds established at the Community Foundation may be named by the donor. The Foundation's Board of Directors reserves the right to reject names that would be considered offensive or intolerable.

3. Donor's Advisory Committee

A donor may appoint an Advisory Committee to make recommendations to the Foundation's Board of Directors concerning grants from the Fund and other matters. One person should be identified from the committee to serve as the key representative to the Community Foundation for the purpose of communicating and making grants. The recommendations of the Fund Advisory Committee shall be submitted in writing to the Board of Directors of the Foundation, who is legally vested with final responsibility to determine what grants are to be made from this advised fund as it seeks to fulfill its primary purpose of meeting the charitable needs of Douglas County, Kansas.

Members of the Fund Advisory Committee shall serve terms subject to reappointment by the Donor. Upon the death or incapacity of the Donor or at any earlier time upon written direction of the Donor, the Foundation's Board of Directors may allow members of the Fund Advisory Committee to assume responsibility for reappointment or replacement of members of the Committee upon the expiration of their term or in the event of their death, incapacity, or resignation.

4. Charitable Purpose

The Donor/Advisory Committee may identify specific charitable needs and organizations for support. For the purposes of these Instructions, charitable purpose includes educational, religious, scientific, literary, public and other purposes permitted to be carried on by organizations described in Sections 170(c)(1) and 170(c)(2)(B) of the Internal Revenue Code of 1986, as amended.

Funds are categorized by their charitable purpose and by how the assets are administered.

5. Form of Gifts

Contributions of cash, real estate, and marketable securities such as publicly traded stocks, bonds and mutual funds, are subject to the review and approval of the Community Foundation prior to acceptance. Private securities and other hard-to-value assets will include a description of the gift without assigning a dollar value. A qualified independent appraisal will be required with such contributions.

The minimum amount to establish a named Fund is \$10,000. Charitable Gift Annuities, Charitable Remainder Annuity Trusts and Charitable Remainder Unitrusts require larger gifts and will be mutually agreed upon by the Board of Directors and the Donor/Advisory Committee.

Additions to the Fund may be made in any amount at any time.

Contributions, once accepted, are irrevocable and not refundable.

According to the IRS, Donors to the Community Foundation may not impose any “material restriction” which prevents the Foundation from furthering its charitable purposes. Any restriction sought by the Donor is subject to review and approval by the Community Foundation.

See *DCCF Gift Acceptance Policy* for details regarding the timing and sale of contributed assets, as well as costs incurred by the Foundation in the disposition of securities and other assets (i.e., legal and appraisal fees). Exceptions are subject to the prior approval of the Board of Directors.

6. Tax Deductions and Timing

According to the IRS, a contribution is deductible in the year that the property is donated to the Community Foundation. However, excess contributions above adjusted gross income percentage limitations may be carried forward for up to five additional years.

Gifts to the Community Foundation are deductible at the highest “public charity” level allowed by law. The donor can deduct the amount of cash contributions or the fair market value of long-term capital gain property. Gifts of appreciated long-term capital gain stock and real estate generally provide donors with the best tax deductions.

Contributions made subject to compliance with certain conditions are not effective until the Community Foundation agrees to comply.

Delivery to the Community Foundation will be complete upon receipt by the Foundation’s Authorized Representative or agent authorized by the Chairman of the Board.

7. Legal and Tax Counsel

Donors should consult their professional tax advisor and/or legal counsel before making a charitable gift to the Community Foundation. It is the donor’s responsibility to defend against challenges to claims of tax benefits.

8. Acknowledgement of Contributions

Contributions will be acknowledged in writing as soon as practical and will include the dollar amount of the contribution. Gifts of private securities and hard to value assets will not acknowledge a dollar value. These gifts will be acknowledged only with a description of the gift. Donors should obtain a qualified independent appraisal before making such a gift to determine the appropriate value for tax deduction purposes.

Contributions not accepted will be returned as soon as practical.

9. Confidentiality

Agreements with Donors are held in strict confidence by the Community Foundation. Requests for information concerning a donor will be honored or allowed only if permission is obtained from the donor prior to release of such information.

10. Distributions

Distributions are made consistent with the instructions of the Donor and established by fund agreement. If the donor requests a distribution inconsistent with rules or laws established by the IRS or the State of Kansas, which would endanger the Foundation's 501 (c) (3) status, the Donor's instructions will be modified to the extent necessary for compliance with these rules and laws. According to the IRS, the Board of Directors of the Community Foundation has the ultimate authority and control over the principal and income of each fund. Donors and/or Donor Advisors may make written recommendations of grants to 501 (c)(3) tax exempt charitable organizations.

The Board of Directors may designate a minimum grant amount for Donor Advised Funds.

Donors may designate successors throughout the lifetime of the Donor or his/her spouse for the privilege of making recommendations for distributions. Donors may designate additional and/or alternative advisors at any time during the Donors' lifetime.

11. Administrative Provisions/Monitoring and Variance Power

According to the IRS, the Community Foundation's Board of Directors must have the power to modify the distribution of funds. If a restriction or condition on a distribution becomes impossible, inconsistent with the stated purpose, illegal, or if the charitable activity is no longer in existence, variance power will be exercised. The Community Foundation recognizes that an exercise of the variance power would be very controversial and that such an action would probably be reviewed by a state or judicial authority.

The Community Foundation may divide the Donor Advised Fund into multiple Donor Advised Funds with the consent of the advisors, if the successors' charitable interests become too diverse to reconcile.

Donor Advised Funds are converted to Field of Interest Funds or to an Unrestricted Fund upon expiration or termination of the advisory privilege. In the distribution of charitable grants from such a converted Fund, the Board of Directors will follow as closely as possible the Donor's stated purpose in the establishment of the fund.

12. Accounting/Costs of the Fund

All Funds are accounted for separately and charged an equitable share of the Community Foundation's expenses according to the Administrative Fee Schedule adopted by the Board of Directors. Unusual, or one-time expenses associated with a specific Fund will generally be directly charged to the applicable fund.

13. Investment of Funds

The Community Foundation's *Statement of Investment Philosophy* is available upon request. The Finance Committee and the Board of Directors oversee the investment of funds with the direct assistance of financial institutions and managers charged to ensure the safety of principal, a reasonable level of return and continuity of income.

Donors/Donor Advisory Committees may make recommendations to the Finance Committee or the Board of Directors in keeping with the Community Foundation's recommended investment portfolio mix. Recommendations are advisory only.

Segregated asset accounts are permitted with approval at the time the Fund is established, but may include additional administrative costs.

14. Authorized Representatives

The Donor should designate one individual who will have the authority to deliver grant recommendations to the Community Foundation.

15. Administrative Fee Schedule

Standard Fee Schedule

1%	up to 1 million
.80	on next million
.65	from 2 to 5 million
.55	above 5 million.

A minimum gift of \$10,000 will apply. A minimum annual administrative fee of \$500 will apply. If a donor qualifies to and chooses to advise the Foundation to utilize a particular investment manager, the administrative fee schedule for that fund will be determined.

Pass Through Gifts

For all advised pass through gifts, an annual administrative fee of 2.5% of the pass through gift will be assessed, but subject to a minimum annual administrative fee of \$250.

Other

The Foundation reserves the right to negotiate a separate fee or fees in connection with any gift that requires extra administrative supervision or expense.