



## **FISCAL SPONSORSHIP AGREEMENT SAMPLE**

THIS FISCAL SPONSORSHIP AGREEMENT (the “Agreement”) is made to be effective as of the \_\_\_\_ day of February, 2020 (the “Effective Date”), by and between COMMUNITY FIRST FOUNDATION, a Colorado nonprofit corporation (the “Foundation”), and SAMPLE, a governmental unit and political subdivision of the State of Colorado (the “Sample”).

### ***Explanatory Statement***

A. The Foundation has been recognized by the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code.

B. The Sample is a political subdivision of the State of Colorado and is therefore eligible under Section 170(c)(1) of the Internal Revenue Code to receive certain contributions that are deductible for federal income tax purposes, so long as such contributions are used for public purposes, but it has neither applied for nor received recognition from the Internal Revenue Service as an organization described in Section 501(c)(3) of the Internal Revenue Code, nor is it required to do so.

C. The Sample desires to accept donated funds from the corporate and foundation communities and from members of the general public for the purpose of furthering its objectives, but it lacks the resources and expertise to solicit, in its own name and on its own behalf, contributions that are deductible for federal income tax purposes.

D. The Foundation desires to assist the Sample in raising funds for, and carrying out, the Sample’s objects and purposes.

### ***Terms of Agreement***

In consideration of the terms and representations set forth in the preceding Explanatory Statement, which shall be deemed a substantive part of this Agreement, and the mutual promises set forth below, the parties therefore agree as follows:

1. *Solicitation of Funds.* Solely under the terms and conditions set forth in this Agreement, the Sample and its authorized representatives shall be authorized to solicit gifts, grants, and contributions of cash in the name of and on behalf of the Foundation for the sole purpose of carrying out the programs and activities set forth in Section 2 of this Agreement. The Sample, for itself and each of its authorized representatives, agrees that all such solicitations shall be made in a manner consistent with the requirements of this Agreement.

2. *Permissible Programs and Activities.* The sole programs and activities for which the Sample may solicit funds under Section 1 of this Agreement are those that directly relate to the Sample's intention to \_\_\_\_\_, such other Sample programs and activities as the Foundation may approve in advance of the making of any such solicitations, and any other \_\_\_\_\_ purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code as may be consistent with the preceding objects and purposes. In the event that any question or dispute should arise between the Foundation and the Sample as to whether any program and activity is a permissible one for which the Sample may solicit funds under Section 1 and for which the Foundation may disburse funds under Section 5 of this Agreement, the judgment of the Foundation, exercised in its sole discretion, shall control. In the exercise of such discretion, however, the Foundation shall consider the extent to which such program or activity complies with the requirements of Section 501(c)(3) of the Internal Revenue Code and is consistent with the mission, goals, and objectives of the Foundation.

3. *Communications with Donors.* All prospective donors who may be solicited by the Sample and its authorized representatives, whose donations the Sample desires to be administered under this Agreement, shall be advised that any contributions made within the scope of this Agreement shall be made payable or delivered to the Foundation and that all such contributions shall preferably, to the greatest extent possible, be made by means of the Foundation's online charitable giving website, [www.coloradogives.org](http://www.coloradogives.org), to be held, administered, and disbursed in accordance with the terms and conditions of this Agreement. All such donors shall be further advised, preferably in writing, that all contributions made payable or delivered to the Foundation will become the property of the Foundation, over which the Foundation shall be entitled to exercise complete discretion and control, subject only to the Foundation's obligations set forth under this Agreement. The Foundation shall provide such receipts and acknowledgments to persons making contributions that are subject to this Agreement as shall be required by law and as may be consistent with the highest standards prevailing within the fundraising community in Colorado.

4. *Delivery and Custody of Funds.* All amounts of cash and all checks that the Sample may receive from donors and that the Sample desires to be administered under this Agreement shall be delivered to the Foundation. The Foundation shall promptly deposit such amounts of cash and such checks in its own account (the "Disbursement

Account”), which need not be physically segregated from the Foundation’s other funds, but which shall be treated as a discrete account on the Foundation’s books and records. The Foundation shall account periodically, but no more frequently than quarterly, to the Sample for its receipt of all moneys and other assets under this Section 4.

5. *Disbursement Procedures.* The Foundation shall consult with the Sample from time to time regarding the advisability of making disbursements from the Disbursement Account, as well as the nature and scope of such disbursements, and the Sample shall furnish to the Foundation such receipts, documentation, and other information as the Foundation may request in support of any contemplated disbursement from the Disbursement Account. The Foundation shall make such disbursements from the Disbursement Account as the Foundation may in its sole discretion determine to be necessary or desirable to carry out the programs and activities set forth in Section 2, after consultation with the Sample.

6. *Investment of the Disbursement Accounts.* The Foundation shall invest the Disbursement Account in accordance with such prudent investment policies and objectives governing such matters as its Board of Directors may adopt or establish from time to time and as are consistent with the reasonably anticipated liquidity needs and expected duration of the Disbursement Account. In the event that the Foundation should commingle the assets of the Disbursement Account with other assets of the Foundation for investment purposes, then the Foundation shall maintain accurate accounts of the Disbursement Account’s share of any such commingled investments, and the Disbursement Account shall share in and be credited or charged with a pro rata portion of all investment earnings, gains, and losses with all such other assets. All income, earnings, gains, appreciation, and increases in value relating to the Disbursement Account, whether realized or unrealized, together with all proceeds into which the Disbursement Account may be converted, shall be added to and become a part of the Disbursement Account. All losses, depreciation, and decreases in value relating to the Disbursement Account, whether realized or unrealized, together with all disbursements from and expenses attributable to the Disbursement Account, shall be charged to the Disbursement Account.

7. *Administration Fees and Expenses.* The Foundation may charge the Disbursement Account a fee for purposes of reimbursing the Foundation for its general administrative costs incurred under this Agreement. The Foundation’s fee shall be equal to three percent of the amount of all donations that the Foundation receives pursuant to this Agreement. In the event that the Foundation determines that its expense of administering this Agreement is significantly greater than expected, as a result of a need manually to process a greater than anticipated number of contributions made in the form of paper checks and to issue receipts for those contributions by U.S. mail, the need to supervise disbursements from the Disbursement Account more closely, or otherwise, the Foundation shall be entitled, after consultation with the Sample, either to terminate this Agreement without penalty or to increase its fee under this Section to an amount that will fairly and

adequately reimburse the Foundation for its general administrative costs incurred under this Agreement.

8. *Representations and Warranties of the Sample.* The Sample represents and warrants to the Foundation as follows:

- [a] The Sample is a political subdivision of the State of Colorado and has all necessary power and authority to enter into this Agreement and to perform its obligations under this Agreement.
- [b] The Sample is not in breach of, and the execution, delivery, and performance of this Agreement will not result in a breach or violation of, any applicable law governing its organization and operation, its rules or practices, or any other agreement to which it may be bound.
- [c] Each individual who executes this Agreement on behalf of the Sample has the full power and authority to do so, and the execution and delivery of this Agreement by each such individual has been duly and validly authorized by all necessary action by the Sample.
- [d] This Agreement has been duly executed and delivered by the Sample and is the legal, valid, and binding obligation of the Sample, enforceable against the Sample in accordance with its terms.

9. *Indemnification.* To the extent allowed by law, the Sample agrees to indemnify and hold the Foundation harmless from and against any and all claims, losses, liabilities, expenses, and costs (including attorneys' fees and litigation expenses), which the Foundation may incur as a result from any act or failure to act by the Sample or any of its members under this Agreement, including any breach or threatened breach of any of the representations and warranties made by the Sample under this Agreement, provided that nothing in this paragraph 9 shall be deemed to waive any of the immunities or limitations on liability contained in the Colorado Governmental Immunity Act (CRS §24-10-101, et seq.).

10. *Amendment; Further Assurances.* No provision of this Agreement may be amended, waived, or otherwise modified without the prior written consent of both the Foundation and the Sample. The Foundation and the Sample each agree to execute and deliver such further assurances, instruments, and documents, and to take such further actions, as the other may reasonably request in order to carry out the intent of this Agreement.

11. *Termination.* Either the Foundation or the Sample may terminate this Agreement with or without cause at any time upon giving 10 days' written notice to

the other. Upon termination, the Sample shall deliver to the Foundation such an accounting of its activities under this Agreement as the Foundation may reasonably request, and the Foundation shall deliver to the Sample an accounting of the Foundation's receipt and expenditure of funds in the Disbursement Account since the most recent accounting delivered to the Sample under Section 4. Also upon termination, neither the Sample nor any of its authorized representatives shall be further authorized to solicit any funds in the name of or on behalf of the Foundation without the Foundation's written consent. Upon termination, in the event that the Sample should desire that the Disbursement Account be administered by an organization described in Section 501(c)(3) of the Internal Revenue Code other than the Foundation, then the Sample shall deliver written instrument to the Foundation directing that the Disbursement Account be transferred to such other organization, which instrument shall identify such other organization and shall be accompanied by a written certification executed by such other organization that it is an organization described in Section 501(c)(3) of the Internal Revenue Code, accepting such transfer, and confirming that it will continue to administer the Disbursement Account for purposes substantially similar to those set forth in Section 2. Within 30 days of the Foundation's receipt of such written instrument and written certification, the Foundation shall transfer the Disbursement Account in its entirety to such other organization.

12. *Deviation from the Purposes of and Restrictions on the Fund.* The Board of Directors of the Foundation shall have the power to modify any restriction or condition on the distribution of the Disbursement Account if, in the sole judgment of such Board of Directors (without the necessity of the approval of any participating trustee, custodian, or agent) such restriction or condition becomes, in effect, unnecessary, undesirable, incapable of fulfillment, or fundamentally inconsistent with the charitable needs of the communities and areas that the Foundation serves.

13. *Tax Matters.* Nothing in this Agreement shall affect the status of the Foundation as an organization described in Section 501(c)(3) of the Code and as an organization that is not a private foundation within the meaning of Section 509(a) of the Code. This Agreement shall be interpreted in a manner consistent with the foregoing intention and so as to conform to the requirements of such provisions of the federal tax laws and any regulations issued pursuant thereto. The Foundation shall have all the powers provided in its Articles of Incorporation and Bylaws or otherwise by law in connection with its administration of the Disbursement Account. In addition, the Foundation shall have the power, acting alone, to amend this Agreement in any manner required for the purpose of carrying out the preceding provisions of this Section.

IN WITNESS WHEREOF, the Foundation and the Sample have caused this Agreement to be executed by their duly authorized representatives to be effective as of the Effective Date, notwithstanding the actual date of execution.

COMMUNITY FIRST FOUNDATION

Date: \_\_\_\_\_

By: \_\_\_\_\_  
its Chief Financial Officer

SAMPLE

Date: \_\_\_\_\_

By: \_\_\_\_\_  
its Superintendent