I GENERAL GUIDELINES:

A) Policy Objectives. After careful consideration, the Board of Trustees has determined that the purposes of the Community Foundation of Northeast Alabama (CFNEA) will be furthered by accepting some but not all gifts of real estate. These guidelines outline the various responsibilities for assessing proposed gifts of real estate, delegating decision making authority, summary of expenses, and necessary documentation.

B) Policy on Accepted Real Estate Gifts. It is the policy of CFNEA to accept three types of real estate gifts: 1) outright gifts; 2) gifts of residences/farms subject to a Retained Life Estate Agreement in favor of the donor; and 3) the gift component of a bargain sale transaction which are described in more detail later in these policies. Real estate gifts may include residences, vacation homes, farms/ranches, vacant land held for investment purposes, and commercial property.

C) Policy on Minimum Values. There are no minimum values for CFNEA to accept real estate contributions with the state of Alabama. The only minimum requirement is marketability unless CFNEA intends to keep the gift in support of its charitable mission. For property outside of Alabama, there would be additional evaluation expenses, which the donor would be responsible for paying.

D) Policy To Sell Gifted Real Estate. Since CFNEA is responsible for paying future property tax on the gifted real estate, it is the policy of CFNEA to sell donated real estate as soon as reasonably possible following receipt of the gift. The net proceeds from the property sale are then invested in accordance with the CFNEA’s investment policies and allocated to a designated fund.

E) Encumbered Real Estate. It is the policy of CFNEA not to accept gifts of real estate which are encumbered by any liens other than the lien for ad valorem taxes.

F) Policies on Donor Obligation.

1) The donor is responsible for complying with all applicable legal requirements to transfer the property to CFNEA as a gift.

2) The donor is responsible for obtaining, at donor’s cost, such appraisals as may be required for the purpose of establishing the value of the gift for income, gift, or estate tax purposes. CFNEA will not establish or corrobore the value of any property for the purpose of substantiating any charitable deduction claimed by the donor for income, gift or estate tax purposes.
3) The donor is responsible for obtaining independent counsel with respect to the proposed gift. CFNEA’s legal counsel will work with the donor and donor’s counsel but CFNEA legal counsel cannot represent the donor.
4) To avoid any undue influence or conflicts of interest, CFNEA will not pay for legal fees, appraisals, or other services required of the donor to gift real property to CFNEA.

II OUTRIGHT GIFTS:

A) General. An outright gift is one which involves the absolute transfer of 100% of the donor’s interest in the property to CFNEA without payment of any consideration to donor and without donor retaining any rights with respect to the gifted property.

B) Bargain Sale. In this type of transaction, the donor and CFNEA enter into a contract for the reciprocal sale/purchase of real estate at a price less than its fair market value. Generally, the donor is entitled to a charitable deduction equal to the difference between the fair market value of the property and the price paid by CFNEA. The donor’s basis in the property is allocated between the sale component and the gift component and, therefore, donor may realize some gain in a bargain sale transaction.

III GIFTS OF RESIDENTIAL AND FARM REAL ESTATE SUBJECT TO DONOR’S RETAINED LIFE ESTATE:

A) Approved Split Interest Gift. Here the donor transfers ownership of the property in which the donor lives to CFNEA but retains the right to use and occupy the property for the remainder of the donor’s lifetime. The donor’s charitable deduction depends upon the donor’s age and the remaining property interest that is given to CFNEA. The donor retains the right to the use of the property upon:

1) the death of the donor or
2) the transfer to CFNEA of the donor’s retained interest in the property.

During the donor’s life, the donor is responsible for all maintenance and occupancy costs, the payment of real property taxes, keeping the property insured, etc. There is a separate set of Retained Life Estate Guidelines to assist donors in understanding the appraisal and documentation requirements.

IV DELEGATION OF AUTHORITY BY THE BOARD OF TRUSTEES:

A) Board Delegated Authority To Accept/Sell Gifts Of Real Estate. By the adoption of these policies, CFNEA’s Board of Trustees delegates to the Vice President of Advancement and the President/CEO the authority to determine whether a gift of real property satisfies all of the gift acceptance criteria and is further delegated responsibilities to sell real property. The VPA or CEO may retain necessary professional advisors as appropriate to the gift and consult the Finance & Investment Committee for additional advice or guidance. The acceptance of any gift of real estate by the VPA or CEO shall be reported to the Finance & Investment Committee at its next regularly scheduled meeting following such acceptance.
V EVALUATION OF PROPOSED GIFTS/IMPLEMENTATION OF SUCH GIFTS:

A) General Procedures.

1) Meeting With Donor: CFNEA’s staff will meet with the prospective donor to visually evaluate the property and develop appropriate gift arrangements with the donor, subject to proper approval.

2) Realtor’s Market Analysis. Early in the process, a realtor’s market analysis of the property proposed to be gifted to CFNEA should be obtained. This will provide preliminary information regarding value and how long CFNEA may need to hold the property before it can be sold.

3) Financial Analysis. A financial analysis must be prepared by staff. The financial analysis should include a budget outlining all of the projected expenses associated with evaluating the proposed gift and with the acceptance of the proposed gift and a budget for CFNEA’s costs of holding and selling the property.

4) Ownership & Encumbrance. Following the initial meeting with the donor, CFNEA’s staff shall document from a title insurance company that the donor has ownership of the property and it is free of any encumbrance.

5) Field Evaluations. If, after preliminary discussions with the donor, completion of the realtor’s market analysis and the financial analysis it appears that the proposed gift is feasible, the following documents are to be obtained:

a) an appraisal by a qualified appraiser must be obtained by the donor and a copy provided to CFNEA. The appraiser must meet the requirements of applicable regulations issued by the Internal Revenue Service.

b) A “Phase One Environmental Audit” must be completed and a copy provided CFNEA if deemed necessary. In the event the Phase One Environmental Audit yields any negative information, a Phase Two Audit is required before the property can be considered for acceptance. A decision not to accept can be made based upon information contained in the Phase One Audit. The Phase One Audit should include the following:

i) Review of Regulatory Agency Records: EPA (RCRA) TSD Site List, EOA (ERNS List), and ADEM.


iii) Review of Owner History: Tax Assessor’s Records, Chain of Title Review, and interview with previous owners, if feasible.

iv) Review of Occupant History: Historical city directories, building department records, and interviews with previous occupants, if feasible.
v) Optional Testing Includes: Asbestos containing materials, radon gas, lead based paint, and lead in drinking water.

vi) A written building inspection report by a licensed contractor or structural specialist must be obtained and a copy provided CFNEA.

6) Title Insurance. Prior to final decision by CFNEA whether to accept the property, a title insurance commitment should be obtained and reviewed by CFNEA legal counsel. Donor is required to provide a title insurance policy, at donor’s cost, insuring the title to the property in an amount equal to the fair market value of the property.

VI MANAGEMENT OF GIFTED REAL ESTATE PENDING SALE.

A) Records Management and Reporting. Records of all gifted property will be prepared and maintained by the VPA or CEO. In addition, a summary report will be provided to the Finance & Investment Committee at each meeting reporting the status of all gifted real estate titled in the name of CFNEA.

B) Carrying Costs. The VPA or CEO will report at each Finance & Investment Committee all costs incurred by the CFNEA in connection with its holding of a gifted property or a pending sale. Such report must compare the actual holding costs against the anticipated holding costs developed in the budget required by Section V(A)(3) of these policies.

C) Authorization for Payments. The VPA or CEO is authorized to make payments of budgeted carrying costs for the acceptance or sale of real property with any unexpected or unusual costs reported to the Finance & Investment Committee. Significant expenses exceeding 25% of the gift value must be approved by the Finance & Investment Committee prior to CFNEA assuming the costs.

VII SALE OF PROPERTIES.

A) Cash Sales Only. It is the policy of CFNEA to sell real property for cash only. CFNEA will not finance a purchaser’s acquisition of any gifted or property holdings.

B) Listing Contract. The VPA or CEO is authorized to execute all documents necessary to list properties for sale.

C) Sales Contract. The VPA or CEO is authorized to execute sales contracts only upon review by CFNEA’s legal counsel.

D) Closing. The VPA or CEO is authorized to execute all documents required to complete the sale of properties.

E) IRS Documentation. The VPA or CEO must file a completed IRS Form 8283 (“Noncash Charitable Contributions”) upon the sale of real property.