



## FLORIDA STATE UNIVERSITY REAL ESTATE FOUNDATION, INCORPORATED

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### CONFLICT OF INTEREST AND CODE OF ETHICS POLICY

Effective Date: 05/30/2018

**SECTION A. PURPOSE.** The purpose of this policy is to protect the interest of The Florida State University Real Estate Foundation, Incorporated (the “Real Estate Foundation”) when it contemplates transactions and arrangements that may benefit the private interest of an “Interested Person” as hereinafter defined, or might otherwise result in a possible excess benefit transaction. This policy is intended to supplement but not replace any state and federal laws governing conflict of interest applicable to the Real Estate Foundation. The Real Estate Foundation Board of Directors (herein referred to as the “Board” collectively or “Directors” individually”), Officers<sup>1</sup>, and employees stand in a fiduciary relationship to the Florida State University (the “University”) and the Real Estate Foundation. Each shall act in good faith, with due regard to the interests of the University and the Real Estate Foundation, shall comply with the fiduciary principles and law set forth in the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes, specifically sections 112.313 and 112.3143(2), but with the exception of subsections 112.313(3) and (7), and comport themselves in accord with this Conflict of Interest and Code of Ethics Policy adopted by the Board as may be amended from time to time.

**SECTION B. DEFINITIONS.** For this policy the following definitions shall apply:

1. “Interested Person” means mean any director, officer, member of a committee with broad delegated powers, or key employee, who has a direct or indirect “Financial Interest”, as defined below, or any person who is an Interested Person with respect to any entity related to the Real Estate Foundation.
2. “Financial Interest”: A person has a “Financial Interest” if the person has, directly or indirectly, through a “Related Business Association”, investment or “Family Member”:
  - a. an ownership or investment interest in any entity with which the Real Estate Foundation has a transaction or arrangement; or
  - b. employment, contractual relationship, or a compensation arrangement with the Real Estate Foundation or with any entity or individual with which the Real Estate Foundation has a transaction or arrangement; or

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<sup>1</sup> All capitalized terms used in this policy without separate definition shall have the same meanings assigned to them in the Real Estate Foundation’s Bylaws.



- c. a reasonable expectation of a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Real Estate Foundation is negotiating a transaction or arrangement; or
  - d. An economic benefit or harm that would inure to a Director, Officer, member of a Committee with broad delegated powers, or a key employee, or to such person's "Related Business Association" or "Family Member" as a result of any vote.
3. "Compensation" shall mean direct and indirect remuneration as well as gifts or favors that are substantial in nature.
4. "Family Member" shall mean a spouse or domestic partner, ancestor, sibling, aunt, uncle, lineal descendant which includes adopted children, spouses of lineal descendants, father-in-law, mother-in-law, and any person residing in an Interested Person's household.
5. "Business Associate" shall mean any person or entity engaged in or carrying out a business enterprise with an "Interested Person" as a partner, joint venture, corporate shareholder where the shares are not listed on any national or regional stock exchange, or as a co-owner of property.
6. "Related Business Association" shall mean a principal by whom an Interested Person is retained, or a parent or subsidiary organization of a corporate principal by which an Interested Person is retained, other than an agency as defined in section 112.312(2), Florida Statutes, or a business associate of an Interested Person, organization, corporation, limited liability company, partnership, joint venture, proprietorship, trust, or any other entity or association with respect to which either the Interested Person or Interested Person's Family Member:
- a. Receives compensation or has any contractual right to future income (excluding compensation from the University), or any governmental source, investment or savings income, retirement or insurance benefits, dividends, distributions, rents, alimony, or non-financial consideration and benefits; provided, however, investment income from mutual funds, stocks and/or bonds of less than 5 percent ownership in a company shall not constitute a conflict;
  - b. Serves as an officer, director, partner or employee; or
  - c. Holds a reasonably foreseeable financial interest, which may result from the Interested Person's official authority over the Real Estate Foundation.



**SECTION C. CONFLICTS OF INTEREST.** An Interested Person may be considered to have a “Conflict of Interest” if:

1. The Interested Person has existing or reasonably foreseeable potential Financial Interest in a matter before the Board or committee; or

2. The Interested Person is aware that a Family Member or any Related Business Association has existing or reasonably foreseeable potential Financial Interest in a matter before the Board or committee.

*In determining whether or not a Conflict of Interest exists under this policy, due consideration and great weight shall be given to the interpretations of the Florida Commission on Ethics and state courts relating to Chapter 112, Florida Statutes. If there is a conflict between this policy and Chapter 112, Florida Statutes, the latter shall govern and control.*

**SECTION D. PROCEDURES FOR ADDRESSING CONFLICT OF INTEREST.** A Financial Interest is not necessarily a conflict of interest. An Interested Person has a conflict of interest if such a determination is made in accordance with this policy. The Real Estate Foundation outlines the following steps an Interested Person must take to handle a conflict of interest and fulfill his or her fiduciary duty with reasonable diligence and care.

1. **DUTY TO DISCLOSE.** An Interested Person shall immediately bring forward any actual or reasonably foreseeable potential conflicts of interest, or any uncertainty regarding whether a potential conflict of interest exists, along with all material facts, to the attention of the Real Estate Foundation Chair who will consult with the Real Estate Foundation Vice President, Treasurer, and legal counsel to determine whether a Conflict of Interest exists.

2. **DISINTERESTED REVIEW.** The Chair, in consultation with the Real Estate Foundation’s Vice President, Treasurer, and legal counsel, will make the final determination of whether a Conflict of Interest exists, or in the event the Chair has a reasonably foreseeable potential Conflict of Interest, the Real Estate Foundation President will make the final decision. Any actual Conflict of Interest must be presented to the Board to consider the proposed transaction or arrangement. After exercising due diligence, the Board shall determine whether the Real Estate Foundation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a Conflict of Interest. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a Conflict of Interest, the Board shall determine by a majority vote of the disinterested Directors whether the transaction or arrangement is in the Real Estate Foundation’s best interest and for its own benefit and whether the transaction is fair and reasonable to the Real Estate Foundation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.



3. **NONPARTICIPATION.** Other than making a disclosure as required by subsection D.1. above, an Interested Person shall not participate in any discussion, decision or vote in which he or she has a Conflict of Interest, or in any way use his or her personal influence to encourage the Real Estate Foundation to enter into the transaction.

4. **VOTING CONFLICT.** No Interested Person shall vote on any matter before the Board or committee with Board-delegated powers in which that Interested Person has a Conflict of Interest as determined by subsection D.2. above. Additionally, a Director shall not vote on any matter which would violate subsection E.8. of this policy, and in such an event, must also file with the Secretary the memorandum required for disclosure of voting conflicts under Section 112.3143(2), Florida Statutes (currently Commission on Ethics Form 8A).

5. **RECORDS OF PROCEEDINGS.** The minutes of the Board and all committees with Board-delegated powers shall contain:

- a. the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board or committee's decision as to whether a conflict of interest in fact existed, and
- b. the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record or any votes taken in connection therewith, and
- c. if applicable, the memorandum required by Section 112.3143(2), Florida Statutes (currently Commission on Ethics Form 8A), shall be filed with the Real Estate Foundation Secretary and incorporated into the minutes of the Board meeting.

6. **VIOLATIONS.** If the Board has reasonable cause to believe that an Interested Person has failed to disclose actual or possible conflicts of interest, it shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose. If, after hearing the Interested Person's response and after making further investigation as warranted by the circumstances, the Board determines the Interested Person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and/or corrective action.



7. **COMPENSATION MATTERS.** A Director or Officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a Director or Officer, as provided by law. A Family Member of such Director or Officer is also precluded from voting on that person's compensation.

8. **ANNUAL DISCLOSURE.** A DISCLOSURE SHALL BE SIGNED BY EACH DIRECTOR AND OFFICER UPON ACCEPTING SAID POSITION AND SHALL BE UPDATED AND RE-SIGNED EVERY YEAR SUCH POSITION IS HELD THEREAFTER. This Annual Disclosure will confirm each Director or Officer:

- a. Has received a copy of this Conflict of Interest and Code of Ethics Policy; and
- b. Has read and understands the policy; and
- c. Has agreed to comply with the policy; and
- d. Understands the Real Estate Foundation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

Further, each Annual Disclosure shall identify any relationships, positions, or circumstances in which the Real Estate Foundation Director or Officer is involved that he or she believes could cause a conflict of interest to arise. Specific information regarding business interests of a Real Estate Foundation Director, Officer, or their Family Members shall be treated as confidential and shall be made available only to the Real Estate Foundation Officers and legal counsel.

**SECTION E. CODE OF ETHICS.** The following standards of conduct are enumerated in Chapter 112, Florida Statutes, and, with the exception of subsections 112.313(3) and 112.313(7), are to be observed by Directors, Officers, and employees of the Real Estate Foundation as required by Section 112.3251, Florida Statutes.

1. **Prohibition of Solicitation or Acceptance of Gifts.** No Director, Officer, or Real Estate Foundation employee shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the Director, Officer, or employee would be influenced thereby.



2. **Prohibition on Accepting Compensation Given to Influence Vote.** No Director, Officer, or Real Estate Foundation employee shall accept any compensation, payment, or thing of value when the person knows, or, with reasonable care, should know that it was given to influence a vote or other action in which the Director, Officer, or Real Estate Foundation employee was expected to participate in his or her official capacity.

3. **Compensation Matters.** A Director or Officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a Director or Officer, as provided by law. A Family Member of such Director or Officer is also precluded from voting on that person's compensation.

4. **Prohibition on Misuse of Position.** A Director, Officer, or Real Estate Foundation employee shall not corruptly use or attempt to use one's official position or any property or resource which may be within one's trust, or perform official duties, to secure a special privilege, benefit, or exemption for oneself or others.

5. **Prohibition on Misuse of Privileged Information.** No Director, Officer, or Real Estate Foundation employee shall disclose or use information not available to members of the general public and gained by reason of one's official position for one's own personal gain or benefit or for the personal gain or benefit of any other person or business entity.

6. **Post-Office/Employment Restrictions.** A person who has been elected as Director or Officer or who is employed by the Real Estate Foundation may not personally represent another person or entity for compensation before the governing body of the Real Estate Foundation for a period of two years after he or she vacates that office or employment position.

7. **Prohibition of Employees Holding Office.** No person may be both a Real Estate Foundation employee and a Real Estate Foundation Director at the same time.

8. **Requirements to Abstain from Voting.** A Real Estate Foundation Director, committee member or Officer (hereinafter the "Member") shall not vote in official capacity upon any measure which would inure to his or her special private gain or loss, or which he or she knows would inure to the special gain of any principal by whom the Member is retained, or to the parent organization or subsidiary of a corporate principal by which the Member is retained other than an agency as defined in section 112.312(2), Florida Statutes, or which the Member knows would inure to the special private gain or loss of a Family Member or Related Business Association of the Member. When abstaining, the Member, prior to the vote being taken, shall make every reasonable effort to disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for the Member to file a



memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

9. **Failure to Observe Code of Ethics.** Failure of a Real Estate Foundation Director, Officer, or Real Estate Foundation employee to observe the Code of Ethics may result in the removal of that person from their position.

**SECTION F. REAL ESTATE PURCHASES.** Directors, Officers, and their Family Members are not permitted to purchase Real Estate Foundation held properties.

**SECTION G. PERIODIC REVIEWS.** To ensure that the Real Estate Foundation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, periodic reviews shall be conducted. The periodic reviews shall, at a minimum include the following subjects:

1. whether compensation arrangements and benefits are reasonable (for example, based on competent survey information) and are the result of arm's length bargaining; and
2. whether partnerships, joint ventures and arrangements with management organizations conform to written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further the Real Estate Foundation's charitable purposes and do not result in increment, impermissible private benefit or in an excess benefit transaction.

**SECTION K. USE OF OUTSIDE EXPERTS.** In conducting the periodic reviews provided for the above, the Real Estate Foundation may, but need not, use outside experts. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring that periodic reviews are conducted.



**ANNUAL ACKNOWLEDGEMENT AND DISCLOSURE FORM  
FOR CONFLICTS OF INTEREST AND CODE OF ETHICS POLICY**

Name: \_\_\_\_\_

Board Position: \_\_\_\_\_

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

I hereby acknowledge that I have received a copy of the Conflict of Interest and Code of Ethics Policy of The Florida State University Real Estate Foundation, Incorporated (referred to herein as the "Real Estate Foundation" or "corporation") and have read and understand the same. I also understand that the Real Estate Foundation is a charitable organization and that in order to maintain its federal tax- exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes and also must comply with this policy.

I hereby further acknowledge and agree to comply with all provisions of the Real Estate Foundation Conflicts of Interest and Code of Ethics Policy and understand that this policy applies to me and all committees with board-delegated powers.

1. Are you an officer or director of any business association with which the Real Estate Foundation conducts business? YES \_\_\_\_ NO \_\_\_\_

If the answer to the foregoing question is "YES", please list the names of such business associations, the office held, and the "approximate" dollar amount of business involved with the Real Estate Foundation during the past 12 months.

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2. Do you, or does any Family Member or Related Business Association, have a financial interest in, or receive any remuneration or income from, any business association with which the Real Estate Foundation conducts business?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to the foregoing is "YES", please supply the following information:

A. Names of the business associations in which such interest is held and the person(s) by whom such interest is held;

B. Nature and amount of each financial interest, remuneration or income.

3. Did you, or a Family Member, receive, in the past twelve months, any gifts or loans from any source with which the Real Estate Foundation conducts significant business?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to the foregoing is "YES", list such gifts or loans as follows:

<u>Name of Source</u>	<u>Item</u>	<u>Approximate Value</u>
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4. Are you an employee of or volunteer to any of the direct support organizations of Florida State University other than the Real Estate Foundation?

YES \_\_\_\_\_ NO \_\_\_\_\_

If the answer to the foregoing is "YES", list the employment or volunteer capacity and briefly explain your duties:

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5. The following are other matters not listed in one of the categories above, but which in the interest of avoiding either actual impropriety or the appearance of impropriety, I feel it appropriate to disclose.

Neither I, nor my Family Members, have any relationship or engage in any activities of which I am aware, that may place me in a position of having a conflict of interest with the Real Estate Foundation except as detailed herein. I hereby agree to report promptly to the Chair of the Board of Directors of the Real Estate Foundation any other interest situation of which I may become aware, subsequent to the date of this Disclosure.

*I hereby certify that the information set forth above is true and complete to the best of my knowledge. I have reviewed, understand, and agree to abide by the Conflict of Interest and Code of Ethics Policy of The Florida State University Real Estate Foundation that is currently in effect.*

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SIGNATURE

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PRINTED NAME

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DATE SIGNED