



Providing Advocacy and Capital for the Advancement of Architecture in Minnesota

## Conflict of Interest Policy

*(Adopted June 2016)*

### Article I Purpose

The purpose of this conflict of interest policy is to establish the procedures applicable to the identification and resolution of conflicts of interest in the context of transactions or arrangements entered into by Minnesota Architectural Foundation (MAF) where an Interested Person (defined below) may have a Financial Interest (defined below) in or Fiduciary Responsibility (defined below) towards an individual or entity with which MAF is negotiating a transaction or arrangement. The determination that a conflict of interest exists does not prohibit the MAF from entering into the proposed transaction or arrangement provided that the procedures set forth in Article III below are followed. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

### Article II Definitions

#### 1. Interested Person

Any director, principal officer, or member of a committee with board-delegated powers who has either (a) a direct or indirect financial interest, as defined below (“Financial Interest”); or (b) a fiduciary responsibility to another organization, as defined below (“Fiduciary Responsibility”), is an interested person.

#### 2. Financial Interest

A person has a Financial Interest if the person has, directly or indirectly, through business, investment or family (which are spouse, children and step children, and other relatives of such person):

- A. an ownership or investment interest in any entity with which MAF has a transaction or arrangement (including but not limited to grants); or
- B. a current or prospective compensation arrangement with MAF or with any entity or individual with which MAF has a transaction or arrangement (including but not limited to grants);

- C. other than an arm's-length relationship with prospective or actual grantees relative to specific projects, preparation of specific proposals and review and oversight of funded projects, and MAF-related activities.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature. Gifts and favors include any gratuitous service, loan, discount, money or article of value, but does not include loans from financial institutions on customary terms, articles of nominal value ordinarily used for sales promotion, ordinary "business lunches" or reasonable entertainment consistent with local social or business customs.

A Financial Interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a Financial Interest may have a conflict of interest only if the board or appropriate committee decides that a conflict of interest exists.

### **3. Fiduciary Responsibility**

A person has a Fiduciary Responsibility towards an organization or individual if he or she:

- A. occupies a position of special confidence towards such organization or individual;
- B. holds in trust property in which another person has the beneficial title of interest, or who receives and controls the income of another; or
- C. has a duty of loyalty or duty of care to an organization (by virtue of serving as an officer or director of an organization or other position with similar responsibilities). A duty of loyalty requires the person to refrain from dealing with the organization on behalf of a party having an interest adverse to the organization and refrain from competing with the organization. A duty of care requires the person to discharge his or her duties in good faith and in a manner he or she reasonably believes to be in the best interests of the organization.

A Fiduciary Responsibility is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a Fiduciary Responsibility may have a conflict of interest only if the board or appropriate committee decides that a conflict of interest exists.

## **Article III Procedures**

### **1. Duty to Disclose**

In connection with any actual or possible conflicts of interest, an interested person must disclose the existence and nature of his or her Financial Interest or Fiduciary Responsibility and all material facts to the directors and members of committees with board-delegated powers considering the proposed transaction or arrangements.

## **2. Determining Whether a Conflict of Interest Exists**

After disclosure of the Financial Interest or Fiduciary Responsibility and all material facts, and after any discussion with the interested person, he or she shall leave the board or committee meeting while the final determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

## **3. Procedures for Addressing the Conflict of Interest**

- A. An interested person may make a factual presentation at the board or committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest. An interested person shall not actively participate in the discussion of, or vote on, the transaction or arrangement that results in the conflict of interest, either formally at a board or committee meeting or informally through contact with individual board or committee members. In addition, the interested person should not be counted in determining whether a quorum is present for the board or committee meeting at which the transaction or arrangement that results in the conflict of interest is to be voted upon.
- B. The presiding officers of the board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- C. After exercising due diligence, the board or committee shall determine whether MAF 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.
- D. 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 or committee shall determine by a majority vote (or other voting requirement, as provided in the Bylaws of MAF) of the disinterested directors whether the transaction or arrangement is in MAF's interest and for its own benefit and whether the transaction is fair and reasonable to MAF and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

## **4. Violations of the Conflict of Interest Policy**

- A. If the board or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- B. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the board or committee determines that the member has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective actions.

## **Article IV**

### **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 or a Fiduciary Responsibility in connection with an actual or possible conflict of interest, the nature of the Financial Interest or Fiduciary Responsibility, any action taken to determine whether a conflict of interest was present, and the board's 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 names of the persons who recused themselves from such discussion and votes, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

## **Article V**

### **Compensation Committees**

A voting member of any committee with board-delegated powers whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from MAF for services is precluded from voting on matters pertaining to that member's compensation.

## **Article VI**

### **Annual Statements**

Each director, principal officer, and member of a committee with board-delegated powers annually shall sign an acknowledgement and disclosure form that:

- A. Affirms that such person has received and reviewed a copy of the conflict of interest policy and agreed to comply with its terms;
- B. Requires that such person disclose any Financial Interest in or Fiduciary Responsibility towards any entity such person believes may enter into a proposed transaction with MAF in the upcoming year.

## **Article VII**

### **Periodic Reviews**

To ensure that MAF 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:

- A. Whether compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining.
- B. Whether any grants are made to disqualified persons, or otherwise result in an excess benefit transaction.
- C. Whether arrangements with other organizations conform to MAF's applicable written policies, are properly recorded, reflect reasonable payments for goods and services, if any, further MAF's charitable purposes and do not result in inurement or impermissible private benefit.

## **Article VIII**

### **Use of Outside Experts**

In conducting the periodic reviews provided for in Article VII, MAF 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 Conflict of Interest Acknowledgement/Disclosure Form for Minnesota Architectural Foundation

## CONFLICTING ORGANIZATIONS

I am a director, trustee, officer, representative of, or have a Financial Interest in the following organizations that have or may have a conflict with the interests of the MAF  
**Organization and Title or Interest:**

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## CONFLICTING ACTIVITIES/OBLIGATIONS

I am involved in no activity or transaction, nor am I a party to any contract involving interests that are or could be found to be adverse to the MAF except for the following:

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## CONFLICTING BUSINESS OPPORTUNITIES/COMMITMENTS

I have not committed to, nor am I pursuing, any business opportunity that does or might adversely affect the MAF except for the following:

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## CONFLICTING RELATIONSHIPS

I do not have a Fiduciary Relationship with any person with whom MAF is pursuing a business opportunity except for the following:

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## OTHER POTENTIAL CONFLICTS

Any other concerns I may have regarding actual or potential conflicts of interest are listed below:

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*I have received and reviewed MAF Conflict of Interest Policy, and to the best of my knowledge, I have accurately answered the above questions.*

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Signature

Date

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Printed Name