(R-91-387)

276981

RESOLUTION NUMBER R-

RESOLUTION AMENDING THE CONFLICT OF INTEREST CODE FOR THE CITY OF SAN DIEGO'S DEPARTMENT OF GENERAL SERVICES.

WHEREAS, by Resolution No. R-254322, adopted on June 1,

1981, the City Council adopted a Conflict of Interest Code for
the City's Department of General Services pursuant to the
Political Reform Act of 1974, as amended; and

WHEREAS, the Political Reform Act, Government Code section 81000, et seq., requires state and local government agencies to amend conflict of interest codes as needed to reflect current law and disclosure categories; and

WHEREAS, since the Department of General Services Conflict of Interest Code was adopted in 1981, the Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regulations section 18730, which contains the terms of a standard conflict of interest code and which reflects the current laws and regulations; and

WHEREAS, this standard code can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act; and

WHEREAS, the job titles and duties of various employees in the Department of General Services have changed since 1981, thereby causing the disclosure categories of the Department of General Services to change since the Department's Conflict of Interest Code was first adopted in 1981; and

WHEREAS, the conflict of interest laws and regulations have also changed since 1981; NOW, THEREFORE,

BE IT RESOLVED, that the terms of 2 Cal. Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference (Attachment A) and, along with the attached Appendices A and B in which employees and consultants are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the Department of General Services.

BE IT FURTHER RESOLVED, that pursuant to section 4(A) of the Conflict of Interest Code, designated employees shall file statements of economic interests (SEI's) with the City Clerk.

BE IT FURTHER RESOLVED, that this Conflict of Interest Code shall become effective immediately upon adoption by the City Council.

BE IT FURTHER RESOLVED, that the Conflict of Interest Code adopted by Resolution R-254322 on June 1, 1981, governing the Department of General Services is hereby superseded and Resolution No. 254322 is hereby rescinded.

JOHN W. WITT, City Attorney APPROVED:

Cristie C. McGuire

Deputy City Attorney

CCM: jrl 08/27/90

By

Or.Dept:Gen.Svcs.

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18730. Provisions of Conflict of Interest Codes

- Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, et seg. requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.
- (b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform

Act of 1974, regulations of the Fair Political Practices

Commission (2 Cal. Code of Regs. Sections 18100, et

seq.), and any amendments to the Act or regulations, are

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incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories.

This Ccode does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, et seq. 1 Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories

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Designated employees who are required to file statements of economic interests under any other agency's Conflict of Iinterest Code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) <u>Section 4</u>. <u>Statements of Economic Interests</u>:

Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

- (5) <u>Section 5</u>. <u>Statements of Economic Interests</u>:

 Time of Filing.
- (A) <u>Initial Statements</u>. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing

See Government Code Section 81010 and 2 Cal. Code of Regs. Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

- (B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.
- (C) <u>Annual Statements</u>. All designated employees shall file statements no later than April 1.
- (D) <u>Leaving Office Statements</u>. All persons who leave designated positions shall file statements within 30 days after leaving office.
- (5.5) <u>Section 5.5</u>. <u>Statements for Persons Who Resign</u>

 30 Days After Appointment.

Persons who resign within 30 days of initial appointment are not deemed to have assumed office or left office provided they did not make or participate in the making of, or use their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their

appointment. Such persons shall not file either an assuming or leaving office statement.

- (6) <u>Section 6</u>. <u>Contents of and Period Covered by</u>

 <u>Statements of Economic Interests</u>.
 - (A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

- (B) Contents of Assuming Office Statements.

 Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.
- (C) <u>Contents of Annual Statements</u>. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the

period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

- (D) <u>Contents of Leaving Office Statements</u>.

 Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.
- (7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices

Commission and supplied by the agency, and shall contain the following information:

(A) <u>Investments and Real Property Disclosure</u>. When an investment or an interest in real property is required to be reported, 4 the statement shall contain the following:

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For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

- 1. A statement of the nature of the
 investment or interest;
- 2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
- 3. The address or other precise location of the real property;
- 4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).
- (B) <u>Personal Income Disclosure</u>. When personal income is required to be reported, ⁵ the statement shall contain:
 - 1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value or fifty dollars (\$50) or more in value if the income

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A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

was a gift, and a general description of The business activity, if any, of each source;

- 2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000);
- 3. A description of the consideration, if any, for which the income was received;
- 4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
- 5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.
- (C) <u>Business Entity Income Disclosure</u>. When income of a business entity, including income of a sole proprietorship, is required to be reported, 6 the statement shall contain:

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Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

- The name, address, and a general description of the business activity of the business entity;
- 2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).
- (D) <u>Business Position Disclosure</u>. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.
- (E) Acquisition or Disposal During Reporting

 Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8: Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;
- (B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more in value provided to; received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(8.3) <u>Section 8.3</u>. <u>Legally Required</u> Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(8.5) <u>Section 8.5</u>. <u>Disqualification of State</u> <u>Officers and Employees</u>.

In addition to the general disqualification provisions of Section 8, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the

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state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

- (A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or
- (B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.
- (9) Section 9. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in

the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(10) <u>Section 10</u>. <u>Assistance of the Commission and Counsel</u>.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(11) Section 11. Violations.

This code has the force and effect of law.

Designated employees violating any provision of this

Ccode are subject to the administrative, criminal and

civil sanctions provided in the Political Reform Act,

Government Code Sections 81000 - 91014. In addition, a

decision in relation to which a violation of the

disqualification provisions of this code or of

Government Code Section 87100 or 87450 has occurred may

be set aside as void pursuant to Government Code Section

91003.

AUTHORITY: Section 83112, Gov. Code

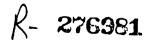
REFERENCE: Sections 87300, 87302, Gov. Code

APPENDIX A

DESIGNATED POSITIONS, DUTIES AND CATEGORIES

POSITION	DUTIES	CATEGORY
ADMINISTRATION		
General Services Director	Approves major (+\$2,500) purchases of equipment, vehicles, supplies or services relating to department needs, including consultants, as described in each division.	1
Assistant General Services Director	Approves major (+\$2,500) purchases of equipment, vehicles, supplies or services relating to department needs, including consultants, as described in each division.	1
Administrative Analyst	Analyzes needs for and recommends purchase of equipment, supplies or services relating to department needs, including consultants, as described in each division.	1
Consultants	The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section Such written determination shall include a description of the consultant's dutie and, based upon that description, a statement of the extent of disclosure requirements. The Department Director or Deputy Director's determination is a public record and shall be retained for public inspection in the same manner as location as this conflict of interest of	de es 's a

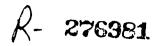
POSITION	DUTIES	CATEGORY
BUILDINGS DIVISION		
Deputy Director, Buildings Division	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Assistant Deputy Director, Buildings Division	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Senior Building Maintenance Supervisor	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Building Supervisor (Contracts)	Approves or recommends financial decisions concerning maintenance contracts, consultant services, and other purchases and service agreements for the division.	2
Contruction Estimator (3)	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Building Services Supervisor	Approves or recommends financial decisions concerning maintenance contracts, consultant services, and other purchases and service agreements for the division.	
Asbestos Program Manager	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2



POSITION	DUTIES	CATEGORY
BUILDINGS DIVISION (Cont'd.)		
Assistant Civil Engineer (General)	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Associate Engineer (Energy)	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Assistant Mechanical Engineer (Elevators)	Approves or recommends financial decisions concerning maintenance and building modification contracts, consultant services, and other purchases and service agreements for the division.	2
Consultants	The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section Such written determination shall include a description of the consultant's dutie and, based upon that description, a statement of the extent of disclosure requirements. The Department Director or Deputy Director's determination is a public record and shall be retained for public inspection in the same manner as location as this conflict of interest of	de es 's a r

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POSITION	DUTIES	CATEGORY
EQUIPMENT DIVISION		
Deputy Director, Equipment Division	Approves and makes recommendations regarding the purchase and lease of motive equipment, also recommends selection of consulting firms.	3
Assistant Deputy Director, Equipment Division	Approves and makes recommendations regarding the purchase and lease of motive equipment, also recommends selection of consulting firms.	3
Associate Mechanical Engineer	Makes recommendations on Equipment Division's needs, makes detail analysis of bids, writes bid specifications for purchase of all City motive equipment except police and fire.	3
Assistant Mechanical Engineer	Makes recommendations on Equipment Division's needs, makes detail analysis of bids, writes bid specifications for purchase of all City motive equipment except police and fire.	3 .
Senior Equipment Repair Supervisor (2)	Makes recommendations for suppliers (tires, batteries, shop tools, and equipment) for tool specifications and classes; recommends the approval or disapproval of bids.	3
Metal Fabrication Services Supervisor	Makes recommendations for suppliers (body and fender parts, auto glass, outside contracts, etc.); recommends approval or disapproval of bids.	
Auto Parts Buyer (2)	Purchases or places orders with a number of pre-approved suppliers for automotive, construction and mechanical equipment parts, selects appropriate vendor based on price, urgency of requirement and availability	3
Material Support Supervisor	Plans, assigns, and supervises work of auto buyers in the purchase of automotive supplies, parts and materials.	3



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POSITION DUTIES CATEGORY

EQUIPMENT DIVISION (Cont'd.)

Consultants

The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Department Director's or Deputy Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

AIRPORTS DIVISION

Deputy Director, General Services Department, Airports Division Manages and operates municipal airports, controls operations and maintenance of physical facilities and equipment.

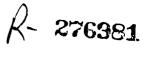
Consultants

The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Department Director's or Deputy Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

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POSITION	DUTIES	CATEGORY
STREET DIVISION		
Deputy Director, Street Division	Schedules, administers and manages division responsibilities in areas of repair, maintenance and operation of new and existing street improvements including expenditure of budgeted and nonbudgeted funds.	5
General Utility Supervisor (3)	Performs supervisorial duties of City forces and support services; reviews, approves and expends funds; purchases materials, supplies and items necessary in day-to-day operations of the Street Division.	5
Consultants	The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this sectio Such written determination shall inclu a description of the consultant's duti and, based upon that description, a statement of the extent of disclosure requirements. The Department Director or Deputy Director's determination is public record and shall be retained fo public inspection in the same manner a location as this conflict of interest	n. de es 's a r

POSITION	DUTIES	CATEGORY
COMMUNICATION & ELECTRICAL DIVISION		
Deputy Director, Communication & Electrical Division	Manages and administers the division. Responsible for maintenance, repair and improvement of City communication systems, street lighting systems and traffic signal systems. Has overall responsibility for purchase of supplies and services for the division.	6
Senior Communications Engineer (2)	Assists the Communications & Electrical Division Deputy Director and acts on his behalf when necessary. Recommends and approves specifications for major purchases of communications equipment for all City departments. Administers Division Capital Improvements Program.	L 6
Senior Electrical Supervisor	Performs supervisorial duties of City forces and support services; reviews, approves and expends funds; purchases materials, supplies and items necessary in day-to-day operations in the electrical field (signal lights, etc.).	6
Senior Communications Technician Supervisor	Performs supervisorial duties of City forces and support services; reviews, materials, supplies and items necessary in day-to-day operations in the communications field.	6
Associate Communications Engineer	Recommends and approves specifications for major purchases of communications equipment for all City departments. Assists in the administration of Division Capital Improvements Program.	6
Consultants	The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section Such written determination shall include a description of the consultant's dutie and, based upon that description, a statement of the extent of disclosure requirements. The Department Director or Deputy Director's determination is a public record and shall be retained for public inspection in the same manner ar location as this conflict of interest of	de es 's a c



APPENDIX B -

DISCLOSURE CATEGORIES

- CATEGORY 1: All reportable interests in the real property owned or used by and all reportable investments in or income from any person, firm, or entity of vehicle and equipment dealers or suppliers; custodial or building equipment and material manufacturers or suppliers; public utilities; maintenance and industrial service companies; oil and gas suppliers; and management consultants for services required by the department.
- CATEGORY 2: All reportable investments in or income from any person, firm or entity of custodial or building equipment and materials manufacturers or suppliers; building maintenance and industrial services companies; craft tool manufacturers or suppliers; and consultants for services required by the division.
- CATEGORY 3: All reportable investments in or income from any person, firm or entity of vehicle equipment manufacturers, dealers or suppliers; oil companies; craft tool and parts manufacturers or suppliers; lubrication companies; and consulting firms providing services required by the division.
- CATEGORY 4: All reportable real property interests and all interests in or income from firms contracting for airport services or supplies with the City of San Diego.
- CATEGORY 5: All reportable real property interests and all interests in or income from firms contracting for Street Division services or supplies with the City of San Diego.
- CATEGORY 6: All reportable real property interests and all interests in or income from firms contracting for Communication and Electrical Division services or supplies with the City of San Diego.
- CATEGORY 7: The Department Director or Deputy Director may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Department Director's or Deputy Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

DEC 1 0 1990 Passed and adopted by the Council of The City of San Diego on..... by the following vote: **Council Members** Yeas Nays Not Present Ineligible Abbe Wolfsheimer Ron Roberts John Hartley H. Wes Pratt Linda Bernhardt J. Bruce Henderson Judy McCarty **Bob Filner** Mayor Maureen O'Connor MAUREEN O'CONNOR **AUTHENTICATED BY:** Mayor of The City of San Diego, California. CHARLES G. ABDELNOUR (Seal) City Clerk of The City of San Diego, California. By Maydell L. Fortum Office of the City Clerk, San Diego, California Adopted DEC 10 1990

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