

(R-92-318)

RESOLUTION NUMBER R- 278670

ADOPTED ON SEP 23 1991

RESOLUTION APPROVING THE CONFLICT  
OF INTEREST CODE FOR THE HORTON  
PLAZA THEATRES FOUNDATION BOARD OF  
DIRECTORS.

WHEREAS, by Resolution No. 259448, adopted on October 17, 1983, the City Council of The City of San Diego approved the Articles of Incorporation and Bylaws for the Horton Plaza Theatres Foundation; and

WHEREAS, the Horton Plaza Theatres Foundation is a California nonprofit public benefit corporation whose purpose is to establish, operate, and maintain one or more legitimate theatres in The City of San Diego, State of California, for the production and presentation of dramatic, musical, and artistic works and for the promotion either alone or in cooperation with other nonprofit organizations or governmental entities, of theatre and fine arts in The City of San Diego, through educational, cultural and artistic programs; and

WHEREAS, by Resolution No. R-259449, adopted on October 17, 1983, the City Council confirmed the appointment process of the Horton Plaza Theatres Foundation Board of Directors ("Board"); and

WHEREAS, the Political Reform Act, Government Code section 81000, et seq., requires state and local government agencies to adopt and promulgate conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission ("FPPC") has adopted a regulation, 2 Cal. Code of Regulations section 18730, which contains the terms of a standard conflict of interest code; and

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

WHEREAS, by Resolution No. R-91-1 the Board adopted a conflict of interest code on July 18, 1991, copy attached; and

WHEREAS, the City Council of The City of San Diego is the code reviewing body for the Board's conflict of interest code, and in that capacity must approve the conflict of interest code before it becomes effective; 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 FPPC are attached hereto and are hereby incorporated by reference (Exhibit A) and, along with the attached Appendix A in which officials and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of the Horton Plaza Theatres Foundation Board of Directors.

BE IT FURTHER RESOLVED, that pursuant to section 4(A) of the standard code, designated officials and employees shall file statements of economic interest (SEI's) with the Secretary of the Board.

BE IT FURTHER RESOLVED, that upon receipt of the SEI's of the Board's members, the Secretary of the Board shall make and retain a copy and forward the original of these SEI's to the office of the City Clerk.

BE IT FURTHER RESOLVED, that this conflict of interest code shall become effective upon the date of approval by the City Council and that the designated persons of the Board shall file their SEI's within thirty (30) days of the effective date of this code.

APPROVED: JOHN W. WITT, City Attorney

By *Cristie C. McGuire*  
Cristie C. McGuire  
Deputy City Attorney

CCM:jrl  
09/10/91  
Or.Dept:Clerk  
R-92-318  
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EXHIBIT A

CONFLICT OF INTEREST CODE  
OF  
HORTON PLAZA THEATRES FOUNDATION

1. Standard Code of FPPC

The Political Reform Act of 1974 (Government Code section 81000, et seq.) requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference as an agency's code. After public notice and hearing the regulation may be amended by the FPPC to conform to amendments in the Political Reform Act.

2. Adoption of Standard Code of FPPC

The terms of 2 California Code of Regulations section 18730 and any future amendments to it duly adopted by the FPPC are hereby incorporated by reference. This regulation and the Appendix attached hereto designating officials and employees and establishing disclosure categories shall constitute the Conflict of Interest Code of Horton Plaza Theatres Foundation. This code shall take effect when approved by the City of San Diego.

3. Filing of Statements of Economic Interests

Pursuant to Section 4 of the standard code, designated employees set forth in the Appendix shall file statements of economic interests with the Secretary of Horton Plaza Theatres Foundation. Upon receipt of the statements of the members of the board of directors and of the Managing Director, the secretary shall make and retain copies and forward the originals of these statements to the City of San Diego. Statements for all other designated employees shall be retained by Horton Plaza Theatres Foundation.

Adopted by the Board of Directors of Horton Plaza Theatres Foundation on the 12 day of July, 1991.

Theresa Coz  
Secretary

(Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Code of Regulations)

Section 18730. Provisions of Conflict of Interest Codes

(a) 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 87307 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 seq. The 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 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 Code 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. Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories 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) Section 4. Statements of Economic Interests: 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.

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this Code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within thirty days

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1. Designated employees who are required to file statements of economic interests under any other agency's Conflict of Interest 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.

2. 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.

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 thirty 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 thirty days after assuming the designated positions, or if subject to State Senate confirmation, thirty days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within thirty days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign 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) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(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.

(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.

(C) Contents of Annual Statements. 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) Contents of Leaving Office Statements. 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) Investments and Real Property Disclosure. When an investment or an interest in real property is required to be reported, the statement shall contain the following:

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;

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

4. 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.

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) Personal Income Disclosure. When personal income is required to be reported, <sup>5</sup> 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 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 of 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) Business Entity Income Disclosure. When income of a business entity, including income of a

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5. 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.

sole proprietorship, is required to be reported,<sup>6</sup>  
the statement shall contain:

1. 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) Business Position Disclosure. 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:

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6. 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.

(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 twelve (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 Two Hundred Fifty Dollars (\$250) or more in value provided to; received by, or promised to the designated employee with twelve (12) months prior to the time when the decision is made.

(8.3) Section 8.3. Legally Required 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) Section 8.5. Disqualification of State Officers and Employees.

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 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 twelve (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) Section 10. Assistance of the Commission and Counsel.

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 Code 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.

(Gov. Code sections 87300 and 87302)

- History:
- (1) New section filed 4/2/80 as an emergency; effective upon filing.
  - (2) Editorial correction.
  - (3) Amendment filed 1/9/81; effective 2/8/81.
  - (4) Amendment filed 1/26/83; effective 2/25/83.
  - (5) Amendment filed 11/10/83; effective 12/12/83.
  - (6) Amendment filed 4/13/87; effective 5/13/87.
  - (7) Amendment filed 10/21/88; effective 11/20/88.

APPENDIX A

Column I	Column II
PUBLIC OFFICIAL'S FUNCTION OR TITLE	TYPE OF BUSINESS ENTITY, INVESTMENT, SOURCE OF INCOME, OR REAL PROPERTY DISCLOSABLE
President Vice President Secretary Chief Financial Officer (Treasurer) Directors  Managing Director Corporation Counsel	1. Office equipment and supplies 2. Financial audit services 3. Insurance, including brokers and agencies 4. Public relations and advertising 5. Theatrical supplies, equipment and services 6. Consulting (including each of the consultant categories listed on page A2)

The officials listed below are also "designated employees" who are subject to the provisions of this Code. Each such designated employee is required to disclose interests only in those categories set forth above which are identified by the numbers listed opposite his or her title.

Column I	Column II
PUBLIC OFFICIAL'S FUNCTION OR TITLE	TYPE OF BUSINESS ENTITY, INVESTMENT, SOURCE OF INCOME, OR REAL PROPERTY DISCLOSABLE

Consultants \*

Financial	2, 3
Architectural	1, 5
Legal	1-5
Engineering	1, 5
Management & Administration	1-5
Economic	2, 3
Theatrical	5

\* Because the list of Consultants with whom the Corporation contracts is subject to change from time to time, this Schedule sets forth only the general categories of consulting services retained by the Corporation, with the Corporation Board delegating to the Managing Director the authority to determine on a case-by-case basis, in consultation with the Corporation Counsel and each of the Consultants concerned, which of the Consultants to be retained by contract in any one of the categories listed herein shall be considered as being "designated employees" pursuant to this Code because their positions entail the making or participation in the making of decisions which may foreseeable have a material effect on any financial interest, and what degree of disclosure shall be required.

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May 7, 1991

SEP 23 1991

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	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *Blonda L. Burns*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-278670 Adopted SEP 23 1991