

RESOLUTION NUMBER R- 287049

ADOPTED ON MAR 18 1996

ADOPTING CONFLICT OF INTEREST CODE
FOR THE PUBLIC FACILITIES FINANCING
AUTHORITY OF THE CITY OF SAN DIEGO.

WHEREAS, on May 14, 1991, The City of San Diego ("City") and the Redevelopment Agency ("Agency") of The City of San Diego entered a joint exercise of powers agreement creating the Public Facilities Financing Authority of The City of San Diego ("Authority"); and

WHEREAS, the Authority has the power to jointly exercise any powers common to the City and the Agency; and

WHEREAS, the Authority is authorized to issue bonds, expend bond proceeds, and borrow and loan money for any of its purposes; and

WHEREAS, the Authority is administered by a Commission, which consists of the City Manager, City Auditor and Comptroller, and City Attorney, or their alternates who have full voting powers; and

WHEREAS, in their capacity as the Conflict of Interest Code reviewing body, the City Council has determined that the Authority is an agency that is required under Government Code section 87300 to have a conflict of interest code; and

WHEREAS, the City Council has further determined that the Authority's Commissioners, their alternates, and the General Counsel to the Authority are all persons who manage public investments within the meaning of Government Code section 87200;

NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the Conflict of Interest Code of the Public Facilities Financing Authority of The City of San Diego, including Appendix A in which positions are designated and Appendix B in which disclosure categories are set forth, is hereby approved. A copy of the Conflict of Interest Code is attached hereto and is on file in the office of the City Clerk as Document No. R- 287049

BE IT FURTHER RESOLVED, that pursuant to section (b)(4) of the Conflict of Interest Code, designated positions shall file their Statements of Economic Interest ("SEI's") with the Chair of the Commission and upon receipt of the statements, the Chair shall make and retain a copy and forward the original of these statements to the City Clerk.

BE IT FURTHER RESOLVED, that the Conflict of Interest Code shall become effective upon the date of adoption of this resolution.

APPROVED: JOHN W. WITT, City Attorney

By Cristie C McGuire
Cristie C. McGuire
Deputy City Attorney

CCM:jrl
03/05/96
Or.Dept:Fin.Tech.Svcs.
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CONFLICT OF INTEREST CODE FOR
THE PUBLIC FACILITIES FINANCING AUTHORITY
OF THE CITY OF SAN DIEGO

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

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 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 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.

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SAN DIEGO, CALIFORNIA

(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.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

B) The disclosure assigned in the code of the other agency is the same as that required under Article 2 of Chapter 7 of the Political Reform Act, Government Code Section 87200; and

C) The filing officer is the same for both agencies.¹

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

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.

conflict of interest code.²

(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 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) 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 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office. Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice

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.

provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(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 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) 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 property³ is required to be

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

reported,⁴ 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;
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,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 was a gift, and

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.

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.

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) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ 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

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.

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. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (b), (c), (d), and (e) of Government Code Section 89502 shall apply to the prohibitions in this section.

(B) No member of the governing board of a special district or designated employee of a local government agency shall accept any honorarium.

Subdivisions (b), (c), and (e) of Government Code Section 89502 shall apply to the prohibitions in this section. This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code Section 89506.

(8.1) Section 8.1 Prohibition on Receipt of Gifts of \$280 or More.

(A) No member of a state board or commission, and no designated employee of a state agency, shall accept gifts with a total value of more than two hundred eighty dollars (\$280) in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (b), (c), (d), and (e) of Government Code Section 89504 shall apply to the prohibitions in this section.

(B) No member of the governing board of a special district, or designated employee of a local government agency shall accept any gifts with a total value of more than two hundred

eighty dollars (\$280) in a calendar year from any single source.

Subdivision (d) of Government Code Section 89504 shall apply to this section.

(9) Section 9. 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 two hundred and eighty dollars (\$280) 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.

(9.3) Section 9.3. 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.

(9.5) Section 9.5. Disqualification of State Officers and Employees. In addition to the general disqualification provisions of Section 9, 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 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.

(10) Section 10. 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.

(11) Section 11. 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.

(12) Section 12. 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.

Note: Authority: Section 83112, Gov. Code
Reference: Sections 87300-87302, 89501, 89502, 89503,
and 89504, Gov. Code

History

- (1) New section filed 4-2-80 as an emergency; effective upon filing. Certificate of Compliance included.
- (2) Editorial correction.
- (3) Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter.
- (4) Amendment of subsection (b) (7) (B) 1. filed 1-26-83; effective thirtieth day thereafter.
- (5) Amendment of subsection (b) (7) (A) filed 11-10-83; effective thirtieth day thereafter.
- (6) Amendment filed 4-13-87; effective thirtieth day thereafter.
- (7) Amendment of subsection (b) filed 10-21-88; effective thirtieth day thereafter.
- (8) Amendment filed 8-28-90; effective thirtieth day thereafter.
- (9) Amendment filed 8-7-92; effective thirtieth day thereafter.
- (10) Amendment filed 2-5-93; effective upon filing.
- (11) Amendment filed 3-14-95; effective upon filing.

Public Facilities Financing Authority of
the City of San Diego's
Conflict of Interest Code

Appendix A

<u>Position</u>	<u>Duties</u>	<u>Category</u>
Chair* (City Manager)	The Chair presides over all meetings of the Public Facilities Financing Authority of the City of San Diego ("PFFA") pursuant to Section 3.C. of Joint Exercise of Powers Agreement by and between the City of San Diego and the Redevelopment Agency of the City of San Diego, Document No. 1826, (JPA Agreement) and signs all contracts and documents relating to the PFFA.	Files 721 Form
Vice Chair* (City Attorney)	In the absence of the Chair, the Vice Chair assumes all duties and responsibilities of the Chair pursuant to the JPA Agreement.	Files 721 Form
Secretary/ Treasurer* (City Auditor and Comptroller)	The Secretary is responsible for ensuring minutes of all meetings of the PFFA are taken. The Treasurer has the powers, duties and responsibilities specified in Section 6505.5 of the Joint Exercise of Powers Act (the Act) and is designated as the depository of the PFFA to have custody of all money of the PFFA, from whatever source derived, is designated as the public officer or person who has charge of, handles, or has access to any property of the PFFA.	Files 721 Form

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Officials Who Manage Public Investments: It has been determined that those positions marked with an asterisk manage public investments within the meaning of Government Code section 87200 and, therefore, persons holding those positions should file a 721 Form.

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Alternate Chair* (Assistant City Manager)	The alternate Chair may act as a member of the Commission of the PFFA in place of and during the absence or disability of the Chair pursuant to Section 3.B. of the JPA Agreement.	Files 721 Form
Alternate Vice Chair* (Assistant City Attorney)	The alternate Vice Chair may act as a member of the Commission of the PFFA in place of and during the absence or disability of the Vice Chair pursuant to Section 3.B. of the JPA Agreement.	Files 721 Form
Alternate Secretary/ Treasurer* (Assistant City Auditor and Comptroller)	The alternate Secretary/ Treasurer may act as a member of the Commission in place of and during the absence or disability of the Secretary/ Treasurer pursuant to Section 3.B. of the JPA Agreement.	Files 721 Form
General Counsel* (City Attorney)	Acts as chief legal advisor of and attorney for the PFFA	Files 721 Form
Deputy General Counsel (Deputy City Attorney)	Performs duties as assigned by the General Counsel	Files 730 Form Categories 1, 2, 3, 4

*

Officials Who Manage Public Investments: It has been determined that those positions marked with an asterisk manage public investments within the meaning of Government Code section 87200 and, therefore, persons holding those positions should file a 721 Form.

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APPENDIX B

PUBLIC FACILITIES FINANCING AUTHORITY
OF THE CITY OF SAN DIEGO
CONFLICT OF INTEREST CODE

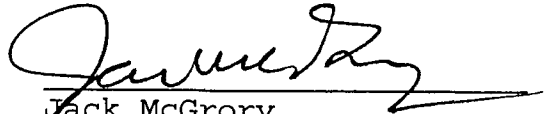
DISCLOSURE CATEGORIES

<u>CATEGORY</u>	<u>SCHEDULE</u>	<u>DESCRIPTION</u>
1	*	All investments and business positions in any firm or entity which supplies goods or services to the Public Facilities Financing Authority of the City of San Diego (PFFA).
2	*	All interests in real property owned or used by or in any firm or entity which supplies goods or services to PFFA.
3	*	(a) Investments and business positions in, and sources of income from, business entities that engage in land development, construction or the acquisition or sale of real property, (b) and all interests in real property.
4	*	All sources of income from any person, firm, or entity which supplies goods or services to PFFA.
5	*	The Chair shall determine in writing whether a consultant shall be required to disclose economic interests in one or more categories listed in Appendix B. The Chair may determine that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus will be required to disclose economic interests in fewer than all four categories. The Chair's written determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of the consultant's disclosure requirements. The Chair's determination is a public record and shall be retained for public inspection in the same manner and location as the conflict of interest code.

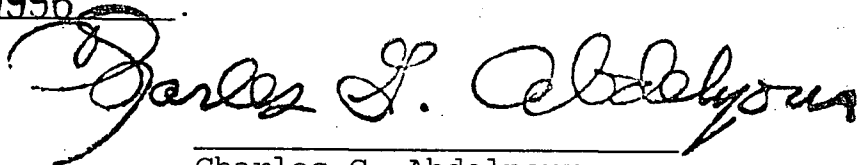
Appropriate schedules from FPPC Form 730 will be used.

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The foregoing Conflict of Interest Code was prepared by the Public Facilities Financing Authority of the City of San Diego (PFFA) after a fair opportunity was offered to all affected persons of the PFFA to present their views. The Code is submitted to the City Council this 12 day of August, 1996.


Jack McGrory
Chair

The above Conflict of Interest Code was approved by the Council of the City of San Diego, acting as the code reviewing body pursuant to the Political Reform Act of 1974, as amended, by Resolution No. R- 287049, on MAR 18 1996.


Charles G. Abdelnour
City Clerk

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