OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO
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November 20, 2007

REPORT TO THE CITY COUNCIL

CREATION OF A CONFLICT OF INTEREST CODE FOR THE MANAGED COMPETITION INDEPENDENT REVIEW BOARD

The California Government Code requires that local agencies adopt conflict of interest codes designating positions that involve the making of decisions, or participation in the making of decisions, that may foreseeably have a material effect on one's financial interests.

Proposition C, approved by voters on the November 7, 2006 ballot, provided that the City Manager [presently the Mayor under the Strong Mayor form of governance] create the Managed Competition Independent Review Board [MCIRB]. The MCIRB is to advise whether City employees or an independent contractor may provide certain public services more economically and efficiently while maintaining service quality and protecting the public interest. The MCIRB was created by ordinance and is now part of the Municipal Code, with the MCIRB established in section 22.3706.

The ordinance creating the MCIRB requires a Conflict of Interest Code to be adopted, subject to City Council approval, and that MCIRB members file an annual Statement of Economic Interests (Form 700 of the Fair Political Practices Commission) in compliance with that code.

The accompanying documents include a proposed conflict of interest code. The committee has yet to meet, but approval of the code is timely because the Mayor is in the process of making appointments to the MCIRB and bringing them to the City Council for consideration. If the code is enacted now, the new committee members will be able to file their "assuming office" statements at the outset of their service.

Respectfully submitted,

MICHAEL J. AGUIRRE
City Attorney

MJA:sbs
RC-2008-19

000799

REQUEST FOR COUNCIL ACTION
CITY OF SAN DIEGO

1. CERTIFICATE N (FOR AUDITOR): 114 12/4

TO:	2. FROM (ORIGINATING DEPARTMENT):	3. DATE:
CITY ATTORNEY	CITY ATTORNEY	November 20, 2007

4. SUBJECT:
CREATION OF CONFLICT OF INTEREST CODE FOR MANAGED COMPETITION INDEPENDENT REVIEW BOARD

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)	6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)	7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED
Sharon Spivak 236-6220 M.S. 59	Catherine Bradley 236-6220 M.S. 59	X

8.COMPLETE FOR ACCOUNTING PURPOSES

					9. ADDITIONAL INFORMATION / ESTIMATED COST:
FUND					
DEPT.					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT		11/20/07	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY		11/20/07
4	LIAISON OFFICE			11	ORIG. DEPT		
5							
6							
7							

✓ DOCKET COORD: _____ COUNCIL LIAISON _____

COUNCIL PRESIDENT ☐ SPOB ☒ CONSENT ☐ ADOPTION

☐ REFER TO: _____ COUNCIL DATE: 12/4/07

11. PREPARATION OF: ☒ RESOLUTIONS ☐ ORDINANCE(S) ☐ AGREEMENT(S) ☐ DEED(S)

Adopting a new Conflict of Interest Code for the Managed Competition Independent Review Board.

11A. STAFF RECOMMENDATIONS: Approve the new Conflict of Interest Code and appendices as submitted.

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): **All**

COMMUNITY AREA(S): **Citywide**

ENVIRONMENTAL IMPACT: This action is not a "project" for purposes of CEQA.

HOUSING IMPACT: N/A

OTHER ISSUES: None

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION ADOPTING A CONFLICT OF INTEREST CODE FOR THE MANAGED COMPETITION INDEPENDENT REVIEW BOARD

WHEREAS, voters approved Proposition C on the November 7, 2006 ballot, providing that Article VIII, section 117 of the San Diego City Charter would be amended to allow the City to contract services traditionally performed by City civil service employees, if determined to be more economical and efficient while maintaining the quality of services and protecting the public interest; and

WHEREAS, Proposition C provided that the City Manager (presently the Mayor under the Strong Mayor form of governance) create the Managed Competition Independent Review Board [MCIRB] to advise whether City employees or an independent contractor may provide certain public services more economically and efficiently while maintaining service quality and protecting the public interest; and

WHEREAS, the MCIRB was created by ordinance and is now part of the San Diego Municipal Code, with the MCIRB established in section 22.3706; and

WHEREAS, Government Code sections 87300 and 87302 require local agencies to adopt conflict of interest codes designating positions that involve the making or participation in making of decisions which may foreseeably have a material effect on financial interests, and for each position, the financial interests which are reportable; and

WHEREAS, the ordinance creating the MCIRB requires a Conflict of Interest Code to be adopted, subject to City Council approval, and that members of the MCIRB file an annual Statement of Economic Interests (Form 700 of the Fair Political Practices Commission); and

WHEREAS, the City Council concurs that the Conflict of Interest Code should be adopted at this time; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a Conflict of Interest Code for the MCIRB is hereby adopted, consisting of standard language embodied in title 2, section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories.

BE IT FURTHER RESOLVED, that a copy of the Conflict of Interest Code for the MCIRB as adopted be placed on file with the Office of the City Clerk as Document No. RR-_____.

BE IT FURTHER RESOLVED, that the persons whose positions are designated in the Conflict of Interest Code for the MCIRB shall file their statements of economic interest with the City Clerk.

BE IT FURTHER RESOLVED, that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction.

BE IT FURTHER RESOLVED, that the Conflict of Interest Code for the MCIRB becomes effective upon the date of final passage of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____
Sharon B. Spivak
Deputy City Attorney

SBS:als
11/19/07
Or.Dept: City Attorney
R-2008-457

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By_____
Deputy City Clerk

Approved: _____ _____
(date) JERRY SANDERS, Mayor

Vetoed: _____ _____
(date) JERRY SANDERS, Mayor

MANAGED COMPETITION INDEPENDENT REVIEW BOARD
CONFLICT OF INTEREST CODE

APPENDIX A
DESIGNATED POSITIONS, DUTIES AND CATEGORIES

POSITION	*DUTIES*	*CATEGORY*
Member, Managed Competition Independent Review Board	Serve on MCIRB Panel. Duties include reviewing proposals to determine whether City employees or independent contractors may provide public services more economically and efficiently while maintaining service quality and protecting the public interest; making recommendations to decisionmakers.	1
Consultant to MCIRB	As specified in contract.	2

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MANAGED COMPETITION INDEPENDENT REVIEW BOARD
CONFLICT OF INTEREST CODE

APPENDIX B
DISCLOSURE CATEGORIES

CATEGORY 1:

a. All reportable investments and business positions in any firm or business entity that supplies goods or services to the City of San Diego, or is granted authority by the City of San Diego to use City facilities.

b. All reportable investments, business positions, and income from sources located in or doing business in the City of San Diego.

c. All reportable interests in real property located in the City of San Diego, including property located within a two-mile radius of any property owned or used by the City.

d. All reportable interests in real property owned or used by any person or business entity that supplies goods or services to the City of San Diego, that is a tenant of the City of San Diego, or is granted authority by the City of San Diego to use City facilities.

e. All reportable income, including gifts, from any person or business entity that supplies goods or services to the City of San Diego, that is a tenant of the City of San Diego, or is granted authority by the City of San Diego to use City facilities.

CATEGORY 2: Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

> The Mayor, or designated authority, 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 described 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 Mayor's, or designated authority'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.