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OFFICE OF  
THE CITY ATTORNEY  
CITY OF SAN DIEGO

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Michael J. Aguirre  
CITY ATTORNEY

July 23, 2007

REPORT TO THE CITY COUNCIL

CREATION OF A CONFLICT OF INTEREST CODE FOR THE INDEPENDENT RATES  
OVERSIGHT COMMITTEE

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.

The Independent Rates Oversight Committee ["IROC"] was created by ordinance, O-19607, effective April 18, 2007. The IROC will replace the City's existing Public Utilities Advisory Commission, assuming its duties related to the review of policy, proposals and advice sought by the water and wastewater systems. The 11-member IROC will be charged with, among other things, reviewing reports on the expenditure of rate and bond proceeds; reviewing independent performance audits on the City's water and wastewater systems; advising about the efficiency and performance of both systems; overseeing department savings efforts; and providing an annual public report to the Mayor and City Council.

The ordinance creating IROC requires the creation of a conflict of interest code for the panel, subject to City Council approval, and requires IROC members to file statements of economic interest 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 IROC and bringing them to the City Council for consideration. If the code is enacted now, the new committee members can file their "assuming office" statements at the outset of their service.

Respectfully submitted,

  
MICHAEL J. AGUIRRE  
City Attorney

MJA:sbs  
RC-2007-9

000269

**REQUEST FOR COUNCIL ACTION**  
CITY OF SAN DIEGO

1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE ONLY)

TO: CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):  
CITY ATTORNEY

3. DATE:  
July 23, 2007

4. SUBJECT:  
**CREATION OF CONFLICT OF INTEREST CODE FOR INDEPENDENT RATES OVERSIGHT COMMITTEE**

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)

Sharon Spivak  
236-6220 M.S. 59

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)

Catherine Bradley  
236-6220 M.S. 59

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED

X

**8. COMPLETE FOR ACCOUNTING PURPOSES**

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
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	<i>Karen Neumann</i>	7/25/07	8	DEPUTY CHIEF		
2				9	COO	<i>[Signature]</i>	7/26/07
3				10	CITY ATTORNEY	<i>Sharon Spivak</i>	7/23/07
4	LIAISON OFFICE			11	ORIG. DEPT	<i>Karen Neumann</i>	7/25/07
5					DOCKET COORD:	<i>[Signature]</i>	COUNCIL LIAISON <i>[Signature]</i>
6				✓	COUNCIL PRESIDENT	<input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> ADOPTION	
7					REFER TO:		COUNCIL DATE: 7/11/07

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

Adopting a new Conflict of Interest Code for the Independent Rates Oversight Committee.

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

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INDEPENDENT RATES OVERSIGHT COMMITTEE  
CONFLICT OF INTEREST CODE

APPENDIX A  
DESIGNATED POSITIONS, DUTIES AND CATEGORIES

<u>POSITION</u>	<u>DUTIES</u>	<u>CATEGORY</u>
Member, Independent Rates Oversight Committee	Serve on IROC Panel. Duties include reviewing reports on expenditure of rate and bond proceeds; reviewing independent performance audits on City water and wastewater systems; advising Mayor and City Council about efficiency and performance of City water and wastewater systems; overseeing department savings efforts; providing annual report to Mayor and City Council.	1
Consultant to IROC	As specified in contract.	2

**INDEPENDENT RATES OVERSIGHT COMMITTEE**  
**Statement of Economic Interest**  
**Disclosure Categories**

Category	Description
1	<p>Investments and business positions in any firm or business entity that supplies goods or services to the City, that is a tenant of the City, that is an adverse party to the City in a legal proceeding, that is granted authority by the City to use City facilities, or whose rates or charges for services are subject to approval by the City, or which is regulated by the California Public Utilities Commission or any of the federal regulatory agencies.</p> <p>Interests in real property owned or used by any person or business entity that supplies goods or services to the City, that is a tenant of the City, that is an adverse party to the City in a legal proceeding, or is granted authority by the City to use City facilities, or whose rates or charges for services are subject to approval by the City, or which is regulated by the California Public Utilities Commission or any of the federal regulatory agencies.</p> <p>Income and gifts from any person or business entity that supplies goods or services to the City, that is a tenant of the City, that is adverse party to the City in a legal proceeding, or is granted authority by the City to use City facilities, or whose rates or charges for services are subject to approval by the City, or which is regulated by the California Public Utilities Commission or any of the federal regulatory agencies.</p>
2	<p>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:</p> <p>The Mayor, Chief Operating Officer or Assistant Chief Operating Officer 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 on that description, a statement of the extent of disclosure requirements. The Mayor's, Chief Operating Officer's or Assistant Chief Operating Officer'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.</p>

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

RESOLUTION ADOPTING A CONFLICT OF INTEREST  
CODE FOR THE INDEPENDENT RATES OVERSIGHT  
COMMITTEE

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, a new Independent Rates Oversight Committee [IROC] was created by ordinance, O-19607, effective April 18, 2007, as part of a comprehensive safeguard plan for a new rate structure adopted for the City's water and wastewater systems; and

WHEREAS, eleven volunteers will serve on the IROC to assist the City to track and review the use of rate proceeds intended to fund capital improvement projects for the water and wastewater systems; and

WHEREAS, the IROC will replace the City's existing Public Utilities Advisory Commission, assuming its duties related to the review of policy, proposals and advice sought by the water and wastewater systems, and will also take on expanded duties; and

WHEREAS, the IROC will be charged with, among other things, reviewing reports on the expenditure of rate and bond proceeds; reviewing independent performance audits on the City's water and wastewater systems; advising about the efficiency and performance of both systems; overseeing department savings efforts; and providing an annual public report to the Mayor and City Council; and

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

WHEREAS, the City Council and the City Attorney concur 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 Independent Rates Advisory Committee 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 Independent Rates Advisory Committee 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 Independent Rates Advisory Committee 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 Independent Rates Advisory Committee becomes effective upon the date of final passage of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Sharon B. Spivak  
Sharon B. Spivak  
Deputy City Attorney

SBS:als  
06/20/07  
Or.Dept: City Attorney

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