

OFFICE OF
THE CITY ATTORNEY
CITY OF SAN DIEGO

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

Jan I. Goldsmith
CITY ATTORNEY

December 18, 2008

REPORT TO THE CITY COUNCIL

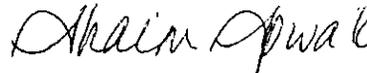
PROPOSAL TO ADOPT A CONFLICT OF INTEREST CODE FOR THE CITY'S AUDIT COMMITTEE

On June 3, 2008, voters approved Proposition C, providing that Article V, section 39.1, would be added to the San Diego City Charter to create an Audit Committee. The Audit Committee will have oversight responsibility regarding the City's auditing, internal controls and any other financial or business practices required of the Committee by the Charter. Among its other responsibilities, the Committee will direct and review the work of the City Auditor, recommend to the City Council the retention of the City's outside audit firm, and monitor the audit firm's engagement.

The Audit Committee is an independent body consisting of five members, including two members of the City Council and three members of the public. On December 16, 2008, the Council appointed two Councilmembers to the Audit Committee. The appointments of the three public members are expected to be made by the Council in early January 2009. The first meeting of the Audit Committee is scheduled for January 12, 2009.

Because of the nature of the work that the Audit Committee will perform, the City Attorney recommends that a Conflict of Interest Code be adopted for the committee. California 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. The Audit Committee's responsibilities are those requiring a conflict of interest code. The proposed code will require members of the Audit Committee to file an annual Statement of Economic Interests (Form 700 of the Fair Political Practices Commission) and disclose those interests detailed in Appendix B of the code.

Respectfully submitted,



Sharon B. Spivak
Deputy City Attorney

CAB:SBS
RC-2008-28

000049

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:
December 17, 2008

4. SUBJECT:
Adopting a Conflict of Interest Code for the Audit Committee

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)
Sharon Spivak x35889

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)
Catherine Bradley x35832

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED



8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				
DEPT.				
ORGANIZATION				
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NUMBER				
AMOUNT				

9. ADDITIONAL INFORMATION / ESTIMATED COST:

None.

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>[Signature]</i>	12/18/08	8			
2				9			
3				10	CITY ATTORNEY	<i>[Signature]</i>	12/18/08
4				11	ORIG. DEPT	<i>[Signature]</i>	12/18/08
5					DOCKET COORD:	COUNCIL LIAISON	
6					<input checked="" type="checkbox"/> COUNCIL PRESIDENT	<input type="checkbox"/> SPOB	<input type="checkbox"/> CONSENT
7					<input type="checkbox"/> REFER TO:	<input checked="" type="checkbox"/> ADOPTION	COUNCIL DATE: 1/5/09

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

Adopting a Conflict of Interest Code for the Audit Committee and appendices as submitted.

11A. STAFF RECOMMENDATIONS:

Approve the Conflict of Interest Code and appendices as submitted.

12. SPECIAL CONDITIONS

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): ALL

ENVIRONMENTAL IMPACT: NONE.

HOUSING IMPACT: NONE.

OTHER ISSUES: NONE.

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION ADOPTING A CONFLICT OF INTEREST
CODE FOR THE CITY'S AUDIT COMMITTEE

WHEREAS, voters approved Proposition C on the June 3, 2008 ballot, providing that Article V, section 39.1, would be added to the San Diego City Charter to create an Audit Committee; and

WHEREAS, Charter section 39.1 now provides that the Audit Committee shall have oversight responsibility regarding the City's auditing, internal controls and any other financial or business practices required of this Committee by this Charter; and

WHEREAS, the Charter also provides for additional Audit Committee responsibilities, including but not limited to its responsibility for directing and reviewing the work of the City Auditor, recommending to the City Council the retention of the City's outside audit firm, and monitoring the audit firm's engagement; and

WHEREAS, Charter section 39.1 provides that the Audit Committee shall be an independent body consisting of five members, including two members of the City Council and three members of the public; 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 Audit Committee's responsibilities are those requiring a conflict of interest code; and

WHEREAS, the City Attorney recommends that a conflict of interest code be adopted, subject to City Council approval, thus requiring members of the Audit Committee to file Statements of Economic Interests (Form 700 of the Fair Political Practices Commission); and

WHEREAS, as the City's code-reviewing body, the City Council finds it in the public interest to adopt the standard conflict of interest code promulgated by the California Fair Political Practices Commission [FPPC] in Regulation 18730, and hereby declares its intention to incorporate by reference the terms of FPPC Regulation 18730 and any amendments to that regulation duly adopted by the FPPC as part of each conflict of interest code for which the City Council has responsibility; and

WHEREAS, the City Council concurs that a Conflict of Interest Code be adopted for the Audit Committee; and

WHEREAS, Government Code section 87303 provides that when a proposed conflict of interest code or amendment is approved by the code-reviewing body, it shall be deemed adopted, and, accordingly, this resolution is not subject to veto by the Mayor; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a Conflict of Interest Code for the Audit 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.

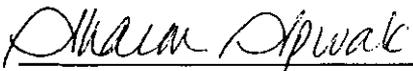
BE IT FURTHER RESOLVED, that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Audit Committee as adopted be placed on file in the Office of the City Clerk as Document No. RR-_____.

BE IT FURTHER RESOLVED, that the persons whose positions are designated in the Conflict of Interest Code for the Audit Committee shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements.

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 Audit Committee becomes effective upon the date of adoption of this resolution.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Sharon B. Spivak
Deputy City Attorney

SBS:als
12/17/08
Or.Dept:City Atty.
R-2009-743

**AUDIT COMMITTEE
CONFLICT OF INTEREST CODE**

**APPENDIX A
DESIGNATED POSITIONS, DUTIES AND CATEGORIES**

Audit Committee Members

Category 1

Specified in City Charter Section 39.1. Provide oversight responsibility regarding City's auditing, internal controls and any other financial or business practices required of the Committee by Charter; direct and review work of City Auditor; recommend and monitor retention of City's outside audit firm; other duties as specified by ordinance.

Consultant

The City Auditor shall determine in writing whether a consultant to the Audit Committee shall be required to disclose economic interests in one or more categories listed on Appendix B. The City Auditor 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 categories. The City Auditor's written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. The City Auditor'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.

202
1/5/2009

**AUDIT COMMITTEE
CONFLICT OF INTEREST CODE**

**APPENDIX B
DISCLOSURE CATEGORIES**

As used in this Appendix, the City of San Diego includes all entities for which the Office of the City Auditor provides auditing-related services.

CATEGORY 1:

1. Investments and business positions in any business entity located in or doing business with the City of San Diego.
2. Income and gifts from sources located in or doing business with the City of San Diego.
3. Interests in real property located in the City, including property located within a two-mile radius of any property owned or used by the City of San Diego.
4. Income, investments and business positions in any firm or entity that is planning to provide auditing, accounting, or related consulting services in or with the City of San Diego.