

ATTACHMENT
Conflict of Interest Code
Appendix B

Appendix B

See Form 700 attached hereto.

2016 Santa Barbara Metropolitan Transit District

Conflict of Interest Code

Sec. 1 Purpose and Applicability.

As a governmental institution, the Santa Barbara Metropolitan Transit District ("District") must be vigilant in its protection of the public trust. Public officials are bound to observe the highest standards of performance and to discharge faithfully the duties of their office, regardless of personal considerations. The members of the Board of Directors hold office for the benefit of the public and their offices must not be used for the purpose of private gain. This Conflict of Interest Code ("Code") is intended to prescribe standards of conduct designed to ensure the honesty and integrity of those persons governing the operation of the District.

The Political Reform Act, Government Code section 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, California Code of Regulations, title 2, section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of California Code of Regulations, title 2, section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Santa Barbara Metropolitan Transit District. Nothing set forth herein is intended to be inconsistent with the regulations adopted by the Fair Political Practices Commission.

Sec. 2 Definitions.

Unless expressly defined herein or in Appendix A, 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 Code. Terms defined in Appendix A hereto are printed in bold type in this Code.

Sec. 3 Public Official.

As used herein "public official" means members and alternates of the Board of Directors, designated employees of District, and consultants to and contractors of District required to file disclosure statements pursuant to this Code.

Sec. 4 Statements of Economic Interests.

- Sec. 4.1 **Designated Employees.** The persons holding positions of General Manager, Assistant General Manager, and Procurement Officer are **designated employees**. All such employees have senior management positions. It has been determined that these individuals make or participate in decisions which may foreseeably have a material effect on **financial interests**.
- Sec. 4.2 **Place of Filing.** All members of the Board of Directors and all **designated employees** shall file statements of economic interests with the Secretary of the Board of Directors. The Secretary shall review all statements and, after consultation with **District General Counsel**, report to the Board of Directors any potential conflicts noted in the statements.
- Sec. 4.3 **Time of Filing.** Statements shall be filed according to the following schedule:
- Sec. 4.3.1 **Initial Statements.** All members of the Board of Directors and all **designated employees** employed by **District** on the effective date of this Code shall file statements within 30 days of that effective date. Thereafter, each person already in a position subsequently designated by an amendment to this Code shall file an initial statement within 30 days after the effective date of the amendment.
- Sec. 4.3.2 **Assuming Office Statements.** All persons assuming **designated employee** positions after the effective date of this Code shall file statements within 30 days after assuming the designated position.
- Sec. 4.3.3 **Annual Statements.** All **designated employees** shall file statements no later than April 1st of each calendar year.
- Sec. 4.3.4 **Leaving Office Statements.** All persons who leave **designated employee** positions shall file statements within 30 days after leaving office.

Sec 4.4 **Statements for Persons Who Resign Prior to Assuming Office**

- Sec. 4.4.1 Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming officer statement, is not deemed to have assumed office of left office, provided he or she did not make or participate in the making of, or use his or her position to influence

and 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.

Sec. 4.4.2 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, or receive, or become entitled to receive, and form of payment by virtue of being appointed to the position.

Sec. 4.5 Contents of Statements.

Sec. 4.5.1 Contents of Initial Statements. Initial statements shall disclose any reportable investments, interest in real property, income 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.

Sec. 4.5.2 Contents of Assuming Office Statements. Assuming office statements shall disclose any reportable investments, interest in real property, income and business positions held on the date of assuming office, and income received during the 12 months prior to the date of assuming office.

Sec. 4.5.3 Contents of Annual Statements. Annual Statements shall disclose any reportable investments, interest 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.

Sec. 4.5.4 Contents of Leaving Office Statements. Leaving office statements shall disclose reportable investments, interest 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.

Sec. 5 Manner of Reporting.

Statements of economic interests shall be made on Form 700, attached hereto as Appendix B, and shall contain the following information:

- Sec. 5.1 **Investment and Real Property Disclosure.** When an investment or an interest in real property is required to be reported, the statement shall contain the following:
- Sec. 5.1.1 A statement of the nature of the investment or interest.
 - Sec. 5.1.2 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.
 - Sec. 5.1.3 The address or other precise location of the real property.
 - Sec. 5.1.4 A statement whether the fair market value of the investment or interest in real property equals or exceeds Two Thousand Dollars (\$2,000.00), exceeds Ten Thousand Dollars (\$10,000.00), exceeds One Hundred Thousand Dollars (\$100,000.00), or exceeds One Million Dollars (\$1,000,000.00).
- Sec. 5.2 **Personal Income Disclosure.** When personal income is required to be reported, the statement shall contain:
- Sec. 5.2.1 The name and address of each source of income aggregating Five Hundred Dollars (\$500.00) or more in value, or Fifty Dollars (\$50.00) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.
 - Sec. 5.2.2 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 (\$1,000.00) or less, greater than One Thousand Dollars (\$1,000.00), greater than Ten Thousand Dollars (\$10,000.00), or greater than One Hundred Thousand Dollars (\$100,000.00).
 - Sec. 5.2.3 A description of the consideration, if any, for which the income was received.
 - Sec. 5.2.4 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; the travel

destination for purposes of a gift that is a travel payment, advance, or reimbursement and the date on which the gift was received.

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Sec. 5.2.5 In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

Sec. 5.3 Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

(1) The name, address and a general description of the business activity of the business entity; and

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of the gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000.00).

Sec. 5.4 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.

Sec. 5.5 Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment of 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.

Sec. 6 Standards Of Conduct for Public Officials.

There are numerous laws and regulations which govern the conduct of public officials and which are applicable to District. When in doubt as to the applicability of any law or regulation or provision of this Code to any particular situation, the potentially affected person should request an advisory opinion from counsel to District. All persons subject to this Code shall be familiar with its provisions, including the following provisions which govern the conduct of all public officials:

Sec. 6.1 Public officials shall disqualify themselves from making, or participating in the making of, or in any way attempting to use their official position to influence, a governmental decision which they know or have 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:

- Sec. 6.1.1 Any business entity in which the public official has a direct or indirect investment worth Two Thousand Dollars (\$2,000.00) or more.
- Sec. 6.1.2 Any interest in real property in which the public official has a direct or indirect interest worth Two Thousand Dollars (\$2,000.00) or more.
- Sec. 6.1.3 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 Five Hundred Dollars (\$500.00) or more in value provided to, received by or promised to the public official within 12 months prior to the time the decision is made.
- Sec. 6.1.4 Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.
- Sec. 6.1.5 Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating Four Hundred Twenty Dollars (\$420.00) or more provided to, received by, or promised to the designated employee within twelve months prior to the time when the decision is made.
- Sec. 6.2 Public officials shall not be financially interested in any contract made by them in their official capacity. They shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity. A contract made in violation of provision within Section 6 of this Code may be voided by the Board of Directors.
- Sec. 6.3 Public officials shall not engage in any employment or activity for compensation which is inconsistent or incompatible or in conflict with his or her duties as a Board member or employee (that is, which would interfere with the official's ability to carry out official duties or exercise independent judgment on behalf of the public interest). Public officials shall not engage in outside employment or provide services for compensation where any part of those efforts will be subject to approval by the Board of Directors, or any other board, officer or employee acting on behalf of District.
- Sec. 6.4 No public official shall participate in a governmental decision in which he or she has a close personal interest which would tend to impair the

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(\$360.00)

exercise of independent judgment in the public interest.

- Sec. 6.5 No public official shall hold another public office where the two offices are incompatible.
- Sec. 6.6 No public official of the District may solicit or accept, either directly or indirectly, any gift, gratuity, loan, or other item or service of value if either the discharge of his or her official duties would be influenced or he or she has been, is presently, or may in the near future be involved in any official act or action directly affecting the donor or lender.
- Sec. 6.7 Invitations, received from bidders or other parties involved in a pending procurement, for business lunches, parties, or similar functions shall be declined. This is intended to avoid any situation which may give an appearance of improper influence in District procurement activities.
- Sec. 6.8 No public official shall accept any honorarium from any source, if the public official 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 limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.
- Sec. 6.8.1 No public official shall accept gifts with a total value of more than ~~\$360~~ \$420 in a calendar year from any single source, if the public official would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.
- Sec. 6.9 Notwithstanding the above, this section shall not apply to the following:
- Sec. 6.9.1 An occasional non-pecuniary gift of nominal value accepted in the ordinary course of a business meeting.
- Sec. 6.9.2 Unsolicited advertising or promotional material of nominal intrinsic value.
- Sec. 6.9.3 A gift, gratuity, favor, loan, or other thing of value when circumstances make it clear that an obvious long-standing social or family relationship, rather than a business relationship, is the motivating factor.
- Sec. 6.10 No public official or designated employee shall disclose or otherwise use confidential information acquired by virtue of his or her position or employment with the District for his or her or another person's private

gain. No Board member shall reveal information received in a lawful closed session unless such information is required by law to be disclosed.

Sec. 7 Legally Required Participation.

No public official of District 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.

Sec. 8 Prohibitions Against the Use of Public Office for Personal Gain.

No public official of District shall use for personal gain or advantage, District facilities, equipment, supplies, personnel or other things of value or his or her position or office to secure, for personal benefit, gifts, special privileges or exemptions.

Sec. 9 Conduct When There May Be a Financial Interest.

Public officials shall conduct themselves as follows whenever the Board member, employee or consultant has, or may have, a financial interest in making or participating in the making of, any governmental decision:

Sec. 9.1 Board of Directors' member: Unless his or her participation is legally required, when the matter comes up on the agenda, the Director shall disclose his or her interest, refrain from participating in any way in the decision making process, and withdraw from the room if the subject is being discussed in a closed session.

Sec. 9.2 During any contract formation, a Director may not have any financial interest in any contract made by the District. Board of Directors are conclusively presumed to be involved in the making of all contracts under their Board's jurisdiction. Any contract made when a Director has a financial interest will be void. Disclosure of any financial interest and disqualification of the Director from contract formation will not prevent the creation of a void contract. Directors may engage in contract formation only when: (1) they have no financial interest; (2) they have a remote interest, (3) they have a noninterest; and/or (4) the contract involves a necessity.

Sec 9.3 If designated employee has a remote interest, that employee shall not be deemed to be to have a financial interest in a contract entered into by the District if the fact of that interest is disclosed to the body of the Board of Directors, and is noted in the official records, and thereafter the Board of

Directors authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote of the designated employee with the remote interest.

Sec. 9.4 Employees: The employee shall immediately report the nature of the matter and the existence of a conflict to his or her superior so that the work may be assigned to another employee.

Sec. 9.5 Consultants: The consultant shall immediately report the nature of the matter and the existence of the conflict to the General Manager, who shall determine the action to be taken.

Sec. 10 Contact with Vendors, Bidders, and Proposers.

Prior to the issuance of a procurement solicitation, informational and research contacts with prospective vendors may be made for the purpose of gathering needed data. However, in making such contacts, District employees, officers, and agents shall avoid any commitment, or implication thereof, of a possible future contract.

Accordingly, requests for substantial complimentary services or supplies which may imply an obligation on the part of District shall be avoided. Also to be avoided are requests for testing services, product samples or demonstrations, and free trips to examine vendor products. Whenever a procurement is in process, e.g., during the solicitation, evaluation, negotiation, and award phases, all contacts with potential contractors or vendors shall be made through the Procurement Officer.

Sec. 11 Incompatible Uncompensated Activities.

Sec. 11.1 Public officials may participate in outside activities for which they are not compensated, but are discouraged from participating in such non-compensated activities when any of the following subsections applies:

Sec. 11.1.1 The activity involves a substantial commitment of time that interferes with the public official's ability to timely discharge his or her official duties.

Sec. 11.1.2 The activity involves matters which come regularly before the Board and would create a substantial conflict between private interest and the exercise of Board authority in the public interest.

Sec. 11.2 A director may disqualify himself or herself in matters coming before the Board where the director concludes that participation would create the appearance of a conflict of interest.

Sec. 12 Penalties for Violation.

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 81000-91015. In addition, failure to adhere to the provisions of this Code shall constitute a violation of District policy and shall subject the violator to disciplinary action up to and including termination as deemed appropriate by the District General Manager and/or Board of Directors. Any decision affected by a violation of the disqualification provisions of this Code has occurred may be set aside as void.

Sec. 13 Transportation Passes and Discounts.

Other than indicated below, the District may not grant, and Directors and/or designated employees may not receive, free passes or discounts for transit. The acceptance of a pass or discount by a public official, other than a Public Utilities Commissioner, shall work a forfeiture of that office. The Board of Directors or other employees may receive passes or discounts if such passes or discounts are provided to assist or enable them to perform a part of their official duties.

Sec. 14 Post Employment Restrictions.

Sec. 14.1 Post Employment Restriction for Board Members. The District shall not employ or retain under contract for compensation any individual who has served as a Board member within the previous two years. No Board member who leaves his or her office and accepts a position of employment with, or as a contractor or consultant for, a current or future District contractor/consultant may participate in a project or provide any goods or services to the District, through the contractor or consultant, for a period of two years.

Sec. 14.2 Post Employment Restrictions for Employees. No employee who leaves his or her District position and accepts a position of employment with, or as a contractor or consultant for, a current or future District contractor (consultant, vendor, developer, etc.) may participate in a project or provide any goods or services to the District through the contractor, for a period of two years. The General Manager may, when it is in the overall best interests of the District, make exceptions in the case of employees who have retired.

Appendix A

DEFINITIONS

1. **CONTRACT FORMATION:** The following actions constitute involvement in contract formation: (1) Any involvement in preliminary discussions, reasoning, negotiations, planning, drawing or plans or specifications and solicitations of bids relating to a contract; or (2) participation in decisions to modify, extend or renegotiate an existing contract, including exercise of an option.
2. **CONSULTANT:** Consultant shall be defined pursuant to 2 Cal. Code Regs. § 18700(a)(2) for purposes of this code. A consultant is an individual who, pursuant to contract with a state or local agency:
 - (A) Makes a governmental decision whether to:
 - (i) Approve a rate, rule, or regulation;
 - (ii) Adopt or enforce a law;
 - (iii) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
 - (iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
 - (v) Grant agency approval to a contract which requires agency approval and in which the agency is a party or the specification for such a contract;
 - (vi) Grant approval to a plan, design, report, study or similar item;
 - (vii) Adopt, or grant agency approval or, policies, standards, or guidelines for the agency, or for any subdivision thereof;
 - or
 - (B) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

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 Executive Director 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 Executive Director'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.

3. **DESIGNATED EMPLOYEE:** Any official of the District whose position is designated in this Code.
4. **DISTRICT:** The Santa Barbara Metropolitan Transit District.
5. **FINANCIAL INTEREST:** For the purposes of Article IV of this Code, a **designated employee** has a **financial interest** in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, or on any significant segment thereof, within the jurisdiction, on:
 - (a) Any business entity in which the **designated employee** has a direct or indirect investment worth more than Two Thousand Dollars (\$2,000.00).
 - (b) Any real property in which the **designated employee** has a direct or indirect interest worth more than Two Thousand Dollars (\$2,000.00).
 - (c) Any source of income, other than loans by a commercial lending institution in the regular course of business, aggregating Five Hundred Dollars (\$500.00) or more in value received by or promised to the **designated employee** within twelve (12) months prior to the time when the decision is made; or
 - (d) Any business entity in which the **designated employee** is a director, officer, partner, trustee, employee or holds any position of management.
 - (e) Indirect investment or interest, as used to define **financial interest**, means any investment or interest owned by the spouse or dependent child of the **designated employee**, by any business entity controlled by the **designated employee** or by a trust in which the business entity is controlled by a **designated employee** if the **designated employee** has a substantial interest. A business entity is controlled by a **designated employee** if the **designated employee**, his or her agents, spouse and dependent children hold more than Fifty Percent (50%) of the ownership interest in the entity. A **designated employee** has a substantial interest in a trust when the **designated employee**, his or her spouse and dependent children have a present or future interest worth more than Two Thousand Dollars (\$2,000.00).

6. **GIFT:** Any payment to the extent that the consideration of equal or greater value is not received. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value. The term "gift" does not include informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursements for any expenses shall be deemed "informational material."
7. **INCOME:**
- (a) **Income** means, except as provided in subsection (b), income of any nature from any source, including but not limited to any salary, wage, advance, payment, dividend, interest, rent, capital gain, return of capital, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness, discount in the price of anything of value unless the discount is available to members of the public without regard to official status, rebate, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in income of a spouse. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a Ten Percent (10%) interest or greater.
- (b) **Income** does not include:
- (1) **Income**, other than a gift, from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this Code.
 - (2) Campaign contribution required to be reported under Chapter 4 of the Political Reform Act of 1974.
 - (3) Salary and reimbursement for expenses or per diem received from a state or local government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization.
 - (4) Gifts of informational material, such as books, pamphlets, reports, calendars or periodicals.
 - (5) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor or delivered to a charitable organization without

being claimed as a charitable contribution for income tax purposes.

- (6) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered income if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
 - (7) Any devise or inheritance.
 - (8) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, interest credited on employees' contributions to public retirement plans, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.
 - (9) Dividends, interest or any other return on a security which is registered with the Securities & Exchange Commission of the United States Government.
 - (10) The value of gifts of hospitality including food, beverages or lodging provided to any person filing a statement of economic interest if such hospitality has been reciprocated within the filing period. "Reciprocity" as used in this paragraph includes the providing by the filer to the host of any consideration, including entertainment or a household gift of a reasonably similar benefit or value.
 - (11) Income from a source which is a former employer if all income from the employer was received by or accrued to the designated employee prior to the time he or she became a designated employee; the income was received in the normal course of the previous employment; and there was no expectation by the designated employee at the time he or she assumed a designated position or resumed employment with the former employer.
8. **INTEREST IN REAL PROPERTY** includes any leasehold, beneficial or ownership interest or option to acquire such an interest in real property within the jurisdiction if the fair market value of the interest is equal to or greater than Two Thousand Dollars (\$2,000.00). Interests in real property of an individual include a pro rata share of interests in real property of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a Ten Percent (10%) interest or greater. For the purposes of Articles II and III of this Code, "Interest in Real Property" does not include the principal residence of the filer.
9. **INVESTMENT:** Any financial interest in or security issued by a business entity,

including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property within the jurisdiction, or does business or plans to do business within the jurisdiction of the District, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this Code. No asset shall be deemed an investment unless its fair market value exceeds Two Thousand Dollars (\$2,000.00). Investment does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, any employee's contribution to a public retirement plan or any bond or other debt instrument issued by any government or government agency. Investments of an individual include a pro rata share of investments of any business entity or trust in which the individual or spouse owns, directly or beneficially, a Ten Percent (10%) interest or greater.

10. **LEGALLY REQUIRED PARTICIPATION:**

- (a) A designated employee is not legally required to make or to participate in the making of a governmental decision within the meaning of paragraph 4.5 of this Code unless there exists no alternative source of decision consistent with the purposes and terms of the statute authorizing the decision.
- (b) Whenever a designated employee who has a financial interest in a decision is legally required to make or to participate in making such a decision, he or she shall:
 - (1) Disclose as a matter of official public record the existence of the financial interest.
 - (2) Describe with particularity the nature of the financial interest before he or she makes or participates in making the decision.
 - (3) Attempt in no way to use his or her official position to influence any other public official with respect to the matter.
 - (4) State the reason there is no alternative source of decision-making authority.
 - (5) Participate in making the decision only to the extent that such participation is legally required.
- (c) This regulation shall be construed narrowly, and shall not be construed to permit voting to break a tie.

11. **MAKING GOVERNMENTAL DECISIONS:** A designated employee makes

governmental decisions, except as provided in subsection (f)(1) herein, when he or she, acting within the authority of his or her duties:

- (a) Votes on a matter.
- (b) Appoints a person.
- (c) Obligates or commits the District to any course of action.
- (d) Enters into any contractual agreement on behalf of the District.
- (e) Determines not to act, within the meaning of subparagraphs (a) through (d) above, unless such determination is made because of his or her financial interest. When the determination not to act occurs because of his or her financial interest, the designated employee's determination not to act must be accompanied by disclosure of the financial interest in the manner prescribed in Section 4.3 of the Article IV of this Code.
- (f) The making of a governmental decision shall not include:
 - (1) Actions of designated employees which are solely ministerial, secretarial, manual or clerical.
 - (2) Appearances by a designated employee as a member of the general public before an agency in the course of its prescribed governmental function to represent himself on matters related solely to his or her personal interests.
 - (3) Actions by designated employees or their representatives relating to their compensation or the terms or conditions of their employment or contract.

12. **NONINTEREST:**

- (a) An officer or employee of the District shall not be deemed to be interested in a contract if his other interest is any of the following:
 - (1) The ownership of less than 3 percent of the shares of a corporation for profit, provided the total annual income to him or her from dividends, including the value of stock dividends, from the corporation does not exceed 5 percent of his or her total annual income, and any other payments made to him or her by the corporation do not exceed 5 percent of his or her total annual income.
 - (2) That of an officer in being reimbursed for his or her actual and necessary expenses incurred in the performance of official duty.

- (3) That of a recipient of public services generally provided by the public body or board of which he or she is a member, on the same terms and conditions as if he or she were not a member of the board.
- (4) That of a landlord or tenant of the contracting party if such contracting party is the federal government or any federal department or agency, this state or an adjoining state, any department of agency of this state or an adjoining state, any county or city of this state or an adjoining state, or any public corporation or special, judicial, or other public district of this state or an adjoining state unless the subject matter of such contract is the property in which such officer or employee as such interest as landlord or tenant in which event his or her interest shall be deemed a remote interest within the meaning of, and subject to, the provisions of Section 1091.
- (5) That of a tenant in a public housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code in which he or she serves as a member of the board of commissioners of the authority or of a community development commission created pursuant to Part 1.7 (commencing with Section 34100) of Division 24 of the Health and Safety Code.
- (6) That of a spouse or an officer or employee of a public agency in his or her spouse's employment or officeholding if his or her spouse's employment or officeholding has existed for at least one year prior to his or her election or appointment.
- (7) That of a nonsalaried member of a nonprofit corporation, provided that such interest is disclosed to the body or board at the time of the first consideration of the contract, and provided further that such interest is noted in its official records.
- (8) That of a noncompensated officer of a nonprofit, tax-exempt corporation, which, as one of its primary purposes, supports the functions of the body or board or to which the body or board has a legal obligation to give particular consideration, and provided further that such interest is noted in its official records. For purposes of this paragraph an officer is "noncompensated" even though he or she receives reimbursement from the nonprofit, tax-exempt corporation for necessary travel and other actual expenses incurred in performing duties for his or her office.
- (9) That of compensation for employment with a governmental agency, other than the governmental agency that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of

consideration of the contract, and provided further that the interest is noted in its official record.

- (10) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not received remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of less than 10 percent in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.
 - (11) Except as provided in subdivision (b), that of an officer or employee of or a person having less than a 10 percent ownership interest in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor, or creditor.
 - (b) An officer or employee shall not be deemed to be interested in a contract made pursuant to competitive bidding under a procedure established by law if his or her sole interest is that of an officer, director, or employee of a bank or savings and loan association with which a party to the contract has the relationship of borrower or depositor, debtor or creditor.
13. **PERSON:** An individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, associations, committee and any other organization or group of persons acting in concert.
14. **PUBLIC OFFICIAL:** As used herein, public official means members and alternates of the Board of Directors, designated employees of District, and consultants to and contracts of District required to file disclosure statements pursuant to this Code.
15. **REMOTE INTEREST:** As used in this article, remote interest means any of the following:
 - (a) That of an officer or employee of a nonprofit corporation, except as provided in paragraph (8) of subdivision (a) of Government Code section 1091.5.
 - (b) That of an employee or agent of the contracting party, if the contracting party has 10 or more other employees and if the officer was an employee or agent of that contracting party for at least three years prior to the officer initially accepting his or her office. For purposes of this paragraph, time of employment with the contracting party by the officer shall be counted in computing the three-year period specified in this paragraph even though the contracting party has been

converted from one form of business organization to a different form of business organization within three years of the initial taking of office by the officer. Time of employment in that case shall be counted only if, after the transfer or change in organization, the real or ultimate ownership of the contracting party is the same or substantially similar to that which existed before the transfer or change in organization. For purposes of this paragraph, stockholders, bondholders, partners, or other persons holding an interest in the contracting party are regarded as having the "real or ultimate ownership" of the contracting party.

- (c) That of an employee or agent of the contracting party, if all of the following conditions are met:
 - (1) The agency of which the person is an officer is a local public agency located in a county with a population of less than 4,000,000.
 - (2) The contract is competitively bid and is not for personal services.
 - (3) The employee or agent is not in a primary management capacity with the contracting party, is not an officer or director of the contracting party, and holds no ownership interest in the contracting party.
 - (4) The contracting party has 10 or more other employees.
 - (5) The employee or agent did not directly participate in formulating the bid of the contracting party.
 - (6) The contracting party is the lowest responsible bidder.
- (d) That of a parent in the earnings of his or her minor child for personal services.
- (e) That of a landlord or tenant of the contracting party.
- (f) That of an attorney of the contracting party or that of an owner, officer, employee, or agent of a firm which renders, or has rendered, service to the contracting party in the capacity of stockbroker, insurance agent, insurance broker, real estate agent, or real estate broker, if these individuals have not received and will not receive remuneration, consideration, or a commission as a result of the contract and if these individuals have an ownership interest of 10 percent or more in the law practice or firm, stock brokerage firm, insurance firm, or real estate firm.
- (g) That of a member of a nonprofit corporation formed under the Food and Agricultural Code or a nonprofit corporation formed under the Corporations Code for the sole purpose of engaging in the merchandising of agricultural products or the supplying of water.

- (h) That of a supplier of goods or services when those goods or services have been supplied to the contracting party by the officer for at least five years prior to his or her election or appointment to office.
- (i) That of a person subject to the provisions of Section 1090 in any contract or agreement entered into pursuant to the provisions of the California Land Conservation Act of 1965.
- (j) Except as provided in subdivision (b) of Section 1091.5, that of a director of or a person having an ownership interest of 10 percent or more in a bank, bank holding company, or savings and loan association with which a party to the contract has a relationship of borrower or depositor, debtor or creditor.
- (k) That of an engineer, geologist, or architect employed by a consulting engineering or architectural firm. This paragraph applies only to an employee of a consulting firm who does not serve in a primary management capacity, and does not apply to an officer or director of a consulting firm.
- (l) That of an elected officer otherwise subject to Section 1090, in any housing assistance payment contract entered into pursuant to Section 8 of the United States Housing Act of 1927 (42 U.S.C. Sec. 1437f) as amended, provided that the housing assistance payment contract was in existence before Section 1090 became applicable to the officer and will be renewed or extended only as to the existing tenant, or, in a jurisdiction in which the rental vacancy rate is less than 5 percent, as to new tenants in a unit previously under a Section 8 contract. This section applies to any person who became a public official on or after November 1, 1986.

16. **SOURCE OF INCOME:** Source of income, as used in subparagraph c of paragraph No. 3 of this Appendix "A" shall not include a former employer if all income from the employer was received by or accrued to the designated employee prior to the time he or she became a designated employee, the income was received in the normal course of the previous employment, and there was no expectation by the designated employee at the time he or she began employment or assumed office or renewed employment with the former employee.

Appendix B

See Form 700 attached hereto.