

ATTACHMENT
Conflict of Interest Code
Appendix A

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 issues 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, 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.