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GOLETA, CALIFORNIA 93110-1999
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November 20, 2013

Michael Allen, Chief Deputy Clerk of the Board
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101

RE: Goleta Water District Amendment of Conflict of Interest Code

Dear Mr. Allen:

Pursuant to California Government Code Section 87303, the Goleta Water District respectfully requests that the Board of Supervisors approve the proposed District conflict of interest code revisions that are reflected in Attachment 1 to this letter. These requested changes reflect recently adopted proposed modifications to the Goleta Water District Code as well as two code revisions made in a prior year that were inadvertently omitted from the District's prior bi-annual submission to the County.

The principal modification adds three positions to the District's list of designated employees due to these positions involving the exercise of discretion in the making of District contracts. The other proposed revisions update the District Code to more clearly track relevant portions of the California Government Code (Cal. Government Code Sections 87100 et seq. and Cal. Gov't Code Section 1090 et seq.)

Please feel free to contact the District General Manager, John McInnes, if you require additional information.

Sincerely,

BILL ROSEN
Board President

Attachments:

1. Redline and Strikeout showing proposed changes to Goleta Water District Chapter 2.04
2. Resolution of the Goleta Water District Board of Directors 2010-04
3. Resolution of the Goleta Water District Board of Directors 2010-08
4. Goleta Water District Ordinance 2013-04
5. Goleta Water District Ordinance 2013-04~~3~~

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COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Title 2

ADMINISTRATION

Chapters:

- 2.04 Conflict of Interest Code**
- 2.08 District Records**
- 2.12 Contracts and Dedications**
- 2.20 Claims**

Chapter 2.04

CONFLICT OF INTEREST CODE

Sections:

- 2.04.010 Purpose and citation.
- 2.04.020 Statement of economic interests.
- 2.04.030 Designated positions.
- 2.04.040 Conflicts of interest; governmental decisions.
- 2.04.050 Determination of conflict of interest; governmental decisions.
- 2.04.110 Conflicts of interest; contracts.
- ~~2.04.120 Remote Interests; contracts.~~
- 2.04.210 Employees.
- 2.04.215 Copies of statutes and regulations
- 2.04.220 Penalties

2.04.010 Purpose and citation.

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 (FPPC) has adopted 2 Cal. Code of Regs. 18730, which contains the terms of a standard conflict of interest code. Section 18730, together with any amendments hereinafter adopted by the FPPC, are hereby incorporated by reference.

2.04.020 Statement of economic interests.

District directors and designated employees shall file statements of economic interest with the Goleta Water District upon the forms provided by the FPPC in accordance with the regulations herein referred to. Designated employees are persons holding positions listed in Section 2.04.030 who make or participate in the making of decisions which may foreseeably have a material effect on economic interests. Upon receipt of the statements filed by persons holding designated positions as defined in section 2.04.030, the Secretary shall forward a copy of

each such statement to Santa Barbara clerk-recorder.

2.04.030 Designated positions.

A. Persons occupying the following designated positions must file Statements of Economic Interests on forms of the FPPC, and make those disclosures consistent with 2 Cal Code of Regs. 18730, et seq.

District Directors
General Manager
Assistant General Manager
Secretary
Treasurer
Attorney
Administrative Manager
Operations Manager
Engineering Manager
Water Supply & Conservation
Manager
Chief / Civil Engineer
Controller

Each of the above positions must make a Statement of Economic Interests for each of the Categories of Disclosure set forth in Appendix D to this Code. The Board may require different levels of disclosure for consultants and other persons employed by the District.

B. Additional positions may be designated by the Board of Directors by resolution or ordinance when it has been determined that persons in these additional positions make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

2.04.040 Conflicts of Interest; governmental decisions.

[THE LANGUAGE SET FORTH BELOW IS IN EFFECT UNTIL PROPOSED CHANGES HAVE BEEN APPROVED BY THE SANTA BARBARA COUNTY BOARD OF SUPERVISORS]

Persons holding designated positions shall not make, participate in making or in any way use or attempt to use his/her official position to influence

a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests unless the public official can establish either (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required.

[THE LANGUAGE SET FORTH BELOW HAS BEEN ADOPTED BY THE BOARD OF DIRECTORS AND WILL BE EFFECTIVE UPON APPROVAL BY THE SANTA BARBARA COUNTY BOARD OF SUPERVISORS]

No District Director or persons holding a designated positions shall make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests unless the public official can establish either (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required.

2.04.050 Determination of conflict of interest; governmental decisions.

For Sections 2.040.040 and 2.04.210, a determination of whether a conflict of interest exists shall be made through ~~Persons holding designated positions shall determine if a conflict of interest shall exist by making~~ an analysis of the facts and circumstances in accordance with the provisions of 2 Cal. Code of Regs. 18700-18709, ~~which regulations~~ together with any amendments hereinafter adopted ~~which are hereby incorporated by reference.~~

2.04.110 Conflicts of interest; contracts.

District directors, officers and employees shall comply with California Government Code Sections 1090 et seq. ~~Except as hereinafter provided, directors, officers or employees shall not be financially interested in any contract made by them in their official capacity or by any board of which they are members. Such persons shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.~~

2.04.120 Remote Interests; contracts.

~~Participation in a decision shall not be prohibited if such interest is a "remote interest" as determined pursuant to Government Code 1091-1099, the provisions of which are incorporated herein by reference. Such remote interest must be disclosed and the vote taken by the board which 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 officer or member with the remote interest. Nothing herein shall prohibit a director or officer with a remote interest from reusing himself or herself from any decision to be made.~~

~~This exception shall not apply if the officer interested in any such contract shall influence or attempt to influence another member of the body or board of which he or she is a member to enter into the contract.¹~~

2.04.210 Employees and consultants.

No employee or consultant of the district shall make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests unless the public official can establish either (1) that the

¹ Government Code 1091-(e)

effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required. ~~Employees of the district other than directors and officers who have authority to make purchases or enter into contracts for and on behalf of the district shall be advised of the rules related to contracts and such employee shall disclose any interest which such employee has in said contract and the employee's supervisor shall determine if such employee shall be permitted to make such purchases or enter into such contracts.~~

2.04.215 Copies of statutes and regulations.

Copies of regulations and provisions of applicable statutes which are incorporated by reference shall be filed with the Secretary of the District and be maintained as an appendix to such Code available on request.

If published on the District website, an appropriate link to the applicable statute or regulation shall be provided in the text of the applicable provision but there shall be no requirement to provide a link for every such reference.

2.04.220 Penalties.

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate the provisions of this Code may be fined, suspended, reprimanded or removed from office or employment.
(Ord. 2011-02)

RESOLUTION NO. 2010 - 04

**A RESOLUTION OF THE GOLETA WATER DISTRICT BOARD OF DIRECTORS
AMENDING CHAPTERS 2.04, 8.08 AND REPEALING CHAPTER 8.12 OF THE
GOLETA WATER DISTRICT CODE PROVIDING FOR ETHICS, DISCLOSURE AND
A CODE OF CONDUCT**

WHEREAS, the provisions of Chapter 2.04 relating to a conflict of interest code are inconsistent with the provisions of various state statutes related to threshold amounts to be disclosed and the descriptions categories that are to be disclosed creating confusion and doubt about what constitutes a complete and adequate disclosure; and

WHEREAS, Chapter 8.08 is entitled Code of Ethics when in reality it should be entitled a Code of Conduct and the Code of Conduct does not define what is or is not permissible behavior on the part of directors, officers and employees and is in need of amendment; and

WHEREAS, the provisions of Chapter 8.12 related to contract disclosure of interests create confusion about allowable interests that are not disqualifying interests and fails to mention remote interests and those interests that are not within the scope of Government Code 1090; and

WHEREAS, the disclosure, disqualification and ethics provisions create a confusing patchwork of provisions that do not provide clear and concise guidance for the directors, officers and employees of the district and such provisions should be clearly and concisely described and stated.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Goleta Water District that the Goleta Water District Code be and hereby is amended as follows:

1. Chapter 2.04 of the Goleta Water Code be amended as follows:

“2.04.010 Purpose and citation.

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 (FPPC) has adopted 2 Cal. Code of Regs. 18730, which contains the terms of a standard conflict of interest code. Section 18730, together with any amendments hereinafter adopted by the FPPC, is hereby incorporated by reference.

2.04.020 Statement of Economic Interests.

District directors and designated employees shall file statements of economic interest with the Goleta Water District upon the forms provided by the FPPC in accordance with the regulations herein referred to. Designated employees are persons holding positions listed in Section 2.04.030 who make or participate in the making of decisions which may foreseeably have a material effect on economic interests. Upon receipt of the statements filed by persons holding designated positions as defined in section 2.04.030, the Secretary shall forward a copy of each such statement to Santa Barbara clerk-recorder.

2.04.030 Designated positions.

Persons occupying the following designated positions must file Statements of Economic Interests on forms of the FPPC, and make those disclosures consistent with 2 Cal Code of Regs.18730 et seq.

- District Directors
- General Manager
- Assistant General Manager
- Secretary
- Treasurer
- Attorney
- Administrative Manager
- Operations Manager
- Engineering Manager

Additional positions may be designated by the Board of Director by resolution or ordinance when it has been determined that persons in these additional positions make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

2.04.040 Conflicts of Interest; governmental decisions.

Persons holding designated positions shall not make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests unless the public official can establish either (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required.

2.04.050 Determination of conflict of interest; governmental decisions.

Persons holding designated positions shall determine if a conflict of interest shall exist by making an analysis of the facts and circumstances in accordance with the provisions of 2 Cal. Code of Regs. 18700-18709, together with any amendments hereinafter adopted which are hereby incorporated by reference.

2.04.110 Conflicts of interest; contracts.

Except as hereinafter provided, directors, officers or employees shall not be financially interested in any contract made by them in their official capacity or by any board of which they are members. Such persons shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

2.04.120 Remote Interests; contracts.

Participation in a decision shall not be prohibited if such interest is a "remote interest" as determined pursuant to Government Code 1091-1099, as hereinafter amended, the provisions of which are incorporated herein by reference. Such remote interest must be disclosed and the vote taken by the board which 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 officer or member with the remote interest. Nothing herein shall prohibit a director or officer with a remote interest from recusing himself or herself from any decision to be made.

The provisions of this section 2.04.120 shall not apply if the officer interested in a contract influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract.¹

2.04.210 Employees

Employees of the district other than directors and officers who have authority to make purchases or enter into contracts for and on behalf of the district shall be advised of the rules related to contracts and such employee shall disclose any interest which such employee has in said contract and the

¹ Government Code 1091 (c)

employee's supervisor shall determine if such employee shall be permitted to make such purchases or enter into such contracts.

2.04.215 Copies of statutes and regulations.

Copies of regulations and provisions of applicable statutes which are incorporated by reference shall be filed with the Secretary of the District.

2.04.220 Penalties

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate the provisions of this Code may be fined, suspended, reprimanded or removed from office or employment."

2. Chapter 8.12 is hereby repealed.
3. Chapter 2.04 is repealed and replaced by the provisions of section 1 of this resolution.
4. Chapter 8.08 is renamed Code of Conduct.
5. Chapter 8.08 is amended to add Section 8.08.050 to read as follows:

"8.08.050 Specific Rules of Conduct.

- A. Prohibitions. Except as may otherwise be provided by Chapter 2.04, no district officer or employee shall participate in consideration of, vote on or directly supervise a matter in which he or she has a material financial interest other than that which affects a broad class of the public generally.
- B. Business Transactions. No district officer or employee shall engage in a business transaction with the district or have a material interest prohibited by this code or law when dealing with the district.
- C. Appearance before Board, Disclosure. Every district employee shall disclose publicly, in writing, to the Board of Directors any interest which such employee has in any matter pending before the Board where such employee is by virtue of his or her duties presenting such matter to the Board.

- D. No officer or employee shall receive or enter into any agreement express or implied for compensation for service to be rendered in relation to any matter before the Board of Directors or any official of the district.
- E. Post Employment Restrictions. Unless a longer period is required by law, no former officer or employee shall, within a period of six months after the termination of such service or employment, appear before any district official or receive any compensation for services rendered on behalf of any person (other than for himself or herself or the district), firm, corporation or association in relation to any case, proceeding or application with respect to which such person was directly concerned or in which he or she personally participated during the period of his or her service or employment or which was under his or her act or consideration.
- F. Use of public property. No officer or employee of the district shall use or permit the use of district property (including land, vehicles, equipment, materials and/or any other property) for personal convenience or profit except when such use is available to district residents generally or is provided as a condition of district employment or as a matter of district policy.
- G. Confidential information. No officer or employee of the district shall disclose confidential information acquired by him or her in the course of official duties or use such information to further his or her personal interest, or use for profit of himself or herself or others information about the property, affairs, finances or government of the district that is not generally available to the public, exclusive of information available to the public under the Public Records Act.
- H. No officer or employee of the district shall decline or refuse to answer any questions specifically or directly related to the performance of his or her official duties before any official, board or agency authorized or empowered to so inquire into the performance of such duties. This section shall not be construed

so as to bar any district officer or employee from exercising his constitutional privileges against self incrimination; however, when such body or agency is wholly civil in nature, failure to cooperate with and diligently answer the inquiries of such board or agency shall constitute grounds for discipline of said district officer or employee."

BE IT FURTHER RESOLVED that the amendment shall take effect immediately.

PASSED AND ADOPTED by the Board of Directors of the Goleta Water District this 12th day of January, 2010 by the following roll call vote:

AYE: Directors Cunningham, Hanson, Mills, Rosen

NAY: Director Bertrando

ABSENT: None

ABSTAIN: None

ATTEST:



JOHN D. MCINNES
DISTRICT SECRETARY



WILLIAM C. ROSEN, PRESIDENT
BOARD OF DIRECTORS

RESOLUTION NO. 2010 - 08

**A RESOLUTION OF THE GOLETA WATER DISTRICT BOARD OF DIRECTORS
AMENDING SECTION 2.04.215 OF THE GOLETA WATER DISTRICT CODE
REGARDING COPIES OF STATUTES AND REGULATIONS**

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Goleta Water District that the Goleta Water District Code be and hereby is amended as follows:

1. Section 2.04.215 of the Goleta Water Code is amended to read as follows:

“2.04.215 Copies of statutes and regulations.

Copies of regulations and provisions of applicable statutes which are incorporated by reference shall be filed with the Secretary of the District and be maintained as an appendix to such Code available on request. If published on the District website, an appropriate link to the applicable statute or regulation shall be provided in the text of the applicable provision but there shall be no requirement to provide a link for every such reference.”

BE IT FURTHER RESOLVED that the amendment shall take effect immediately.

PASSED AND ADOPTED by the Board of Directors of the Goleta Water District this 9th day of February 2010 by the following roll call vote:

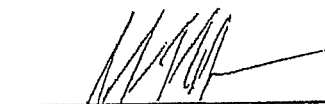
AYE: Directors Bertrando, Cunningham, Hanson, Mills, Rosen

NAY: None

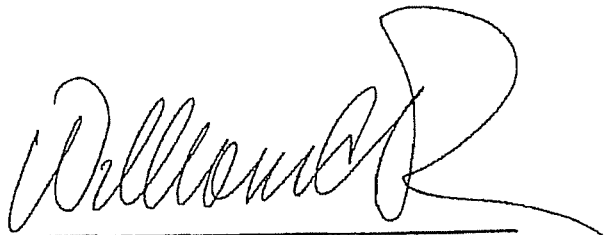
ABSENT: None

ABSTAIN: None

ATTEST:



**JOHN D. MCINNES, GENERAL MANAGER
AND DISTRICT SECRETARY**



**WILLIAM C. ROSEN, PRESIDENT
BOARD OF DIRECTORS**

ORDINANCE NO. 2013 – 04

**AN ORDINANCE OF THE GOLETA WATER DISTRICT BOARD OF DIRECTORS
AMENDING SECTIONS 2.04.040, 2.04.050, 2.04.110, 2.04.210 AND REPEALING
SECTION 2.04.120 OF CHAPTER 2.04 OF THE GOLETA WATER DISTRICT CODE**

**BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE GOLETA WATER
DISTRICT AS FOLLOWS:**

Section 1.

The first sentence of Section 2.04.040 of Chapter 2.04 of the Goleta Water District Code is amended to read as follows:

“2.04.040 Conflicts of Interest; governmental decisions.

No district director or person holding a designated position shall make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest.”

Section 2.

Section 2.04.050 is amended to read as follows:

“2.04.050 Determination of Conflict of Interest; governmental decisions.

For Sections 2.04.040 and 2.04.210, a determination of whether a conflict of interest exists shall be made through an analysis of the facts and circumstances in accordance with the provisions of 2 Cal. Code of Regs. 18700-18709, together with any amendments hereinafter adopted.”

Section 3.

Section 2.04.110 is amended to read as follows:

“2.04.110 Conflicts of Interest; contracts.

District directors, officers and employees shall comply with California Government Code Sections 1090 et seq.”

Section 4.

Section 2.04.120 of Chapter 2.04 of the Goleta Water District Code is repealed.

Section 5.

Section 2.04.210 of Chapter 2.04 of the Goleta Water District Code is amended to read as follows:

“2.04.210 Employees and consultants.

No employee or consultant of the district shall make, participate in making or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. A public official has a conflict of interest if the decision will have a reasonably foreseeable material financial effect on one or more of his/her economic interests unless the public official can establish either (1) that the effect is indistinguishable from the effect on the public generally, or (2) a public official's participation is legally required.”

Section 6.

If any subdivision, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance or of any other provisions of the Goleta Water District Code. It is the District's express intent that each portion of this Ordinance would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

Section 7.

The adoption of this ordinance is not a project under the California Environmental Quality Act.

Section 8. Pursuant to Government Code Sections 87303 and 87306 this ordinance shall be submitted to the Santa Barbara County Board of Supervisors for its review and approval.

Section 9.

This Ordinance shall be effective as of the date of its approval by the Santa Barbara County Board of Supervisors.

PASSED AND ADOPTED by the Board of Directors of the Goleta Water District this 12th day of November 2013 by the following roll call vote:

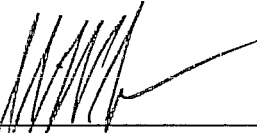
AYE: Directors Bertrando, Cunningham, Hanson, Merrifield, Rosen

NAY: None

ABSENT: None

ABSTAIN: None

ATTEST:



JOHN D. MCINNES
DISTRICT SECRETARY



WILLIAM C. ROSEN, PRESIDENT
BOARD OF DIRECTORS

ORDINANCE NO. 2013 – 03

**AN ORDINANCE OF THE GOLETA WATER DISTRICT BOARD OF DIRECTORS
AMENDING CHAPTER 2.04.030A OF THE GOLETA WATER DISTRICT CODE**

FINDINGS

1. Chapter 2.04.020 of the Goleta Water District Code (Code) identifies Designated Employees as those who make or participate in the making of decisions which may foreseeably have a material effect on economic interests.
2. Chapter 2.04.030A sets forth a list of Designated Employees who are required to file a Statement of Economic Interests.
3. The Board of Directors desires to amend the District Code to update this list by adding additional District positions that participate in decision-making activities that may have a material effect on economic interests.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE
GOLETA WATER DISTRICT:**

Section 1:

Chapter 2.04.030A of the Goleta Water District Code is amended to add the following positions to the existing list of Designated Positions:

Water Supply & Conservation Manager
Chief / Civil Engineer
Controller

Section 2:

This Ordinance shall be effective as of the date of adoption by the Board of Directors.

Section 3:

If any subdivision, sentence, clause, or phrase of this Ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this Ordinance or of any other provisions of the Goleta Water District Code. It is the District's express intent that each portion of this Ordinance would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

PASSED AND ADOPTED by the Board of Directors of the Goleta Water District this 8th day of October 2013 by the following roll call vote:

AYE: Directors Bertrando, Cunningham, Hanson, Merrifield, Rosen

NAY: None

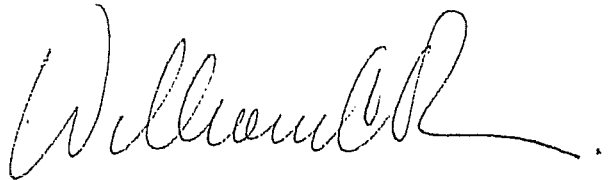
ABSENT: None

ABSTAIN: None

ATTEST:



JOHN D. MCINNES
DISTRICT SECRETARY



WILLIAM C. ROSEN, PRESIDENT
BOARD OF DIRECTORS