

Chapter 2.34

GOVERNMENTAL CONFLICT OF INTERESTS GUIDELINES

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2.34.010 Purpose and effect.

Pursuant to the Political Reform Act, Government Code Sections 81000 through 91015, the city adopts the following provisions to govern the requirements for its public officials, designated employees, and designated consultants to determine whether such persons have an economic interest or interests which are in substantial conflict with their official duties and powers. Nothing contained in this chapter is intended to modify or abridge the provisions of the Political Reform Act, statutes prohibiting conflicts of interest in contracts as set forth in Government Code Sections 1090 through 1097, or any other provisions of law, statutes or regulations pertaining to conflicts of interest. This chapter shall be interpreted in a manner consistent therewith. (Ord. 1114 § 2 (part), 2008)

2.34.020 Incorporation of 2 California Code of Regulations Section 18730.

The Fair Political Practices Commission has adopted a regulation, 2 California Code of Regulations Section 18730, which contains the terms of a standard conflict of interest code. This regulation can be incorporated by reference by a legislative body and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are incorporated by reference as if fully set forth in this chapter. An appendix in which officials, employees and consultants are designated and disclosure categories are set forth shall constitute the conflict of interest code of the city and shall be set by resolution. The city clerk shall maintain current copies of said regulations and is directed to make available to all interested persons copies of 2 California Code of Regulations Section 18730. (Ord. 1114 § 2 (part), 2008)

2.34.030 Designation of public officials, officials, employees and consultants.

A. Public Officials, Officials and Elected and Appointed Officers. The following public officials are subject to the disclosure and filing requirements set forth in Article 2 of the Political Reform Act, contained in Government Code Sections 87200 through 87210 and all regulations promulgated thereunder:

1. Mayor;
2. Council members;
3. Planning commissioners;
4. City manager;
5. City attorney;
6. City treasurer, finance director or other public officials managing public investments.

B. Public Officials, Officials, Employees and Consultants Not Subject to Article 2 of the Political Reform Act. Designated public officials, officials, employees and/or consultants that are not subject to Article 2 of the Political Reform Act are subject to city council resolution that establishes designated positions.

1. Designated Positions. The city council shall designate by resolution public officials, officials, employees and consultants as defined in Government Code Section 82019 et seq. who are deemed to make or participate in the making of decisions which may foreseeably have a material effect on any financial interest.

2. Consultants. A "consultant" for purposes of the conflict of interest code is a natural person (a) who provides, under contract, information, advice, recommendation or counsel to a local government agency; and (b) whose consulting position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. "Natural person" includes only the specific individual or individuals providing the consulting services, and does not include the corporate or other business entity which employs the individual. The term "consultant" excludes a person who (a) conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or any agency official, other than normal contract monitoring; and (b) possesses no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel. A person who provides consulting services, advice, information, recommendations or counsel on a regular basis is included within the meaning of the term "consultant." However, persons hired to produce a finished product or

study, construct a project, represent the city in a piece of litigation, or conduct similar activities on an ad hoc basis are not included within the meaning of "consultant."

a. Disclosure Requirements for Designated Consultants. If a natural person is a "consultant" as defined in subsection (B)(2) of this section and has not been designated as exempt from disclosure requirements pursuant to subsection (B)(2)(b) of this section, and such person has been deemed to make or participate in the making of decisions which may foreseeably have a material effect on any financial interest, such consultant shall provide such disclosures as the city manager deems appropriate in light of the services provided by said consultant.

b. Consultants Exempt from Disclosure Requirements. The city manager 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. Any such written determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of disclosure requirements, if any. The city manager may also determine whether a particular contract consultant constitutes a "consultant" as the term is defined in the Political Reform Act and regulations promulgated thereunder. The city manager's determination is a public record and shall be retained for public inspection in the same manner and in the same location as other filings required by the conflict of interest code. (Ord. 1114 § 2 (part), 2008)

statements, annual statements, and leaving-office statements as required by the Political Reform Act, Government Code Sections 87200 through 87205 and 87302(b) and 2 California Code of Regulations Section 18730(5). (Ord. 1114 § 2 (part), 2008)

2.34.040 Filing requirements.

All public officials, officials, elected and appointed officers, persons holding designated positions and consultants that are subject to the filing and disclosure requirements as set forth by resolution shall file statements of economic interests with the city clerk, who will make the statements available for public inspection and reproduction. Each designated filer shall report such information disclosing that filer's interest in investments, real property, and income as designated reportable under the category to which the filer's position is assigned in this conflict of interest code. Statements for all persons designated pursuant to this section will be retained by the city clerk. Upon adoption of this conflict of interest code, the city clerk shall advise all persons holding designated positions who have not previously been required to file disclosure statements that an initial statement must be filed within thirty days of the effective date of this conflict of interest code. Thereafter, all public officials, officials, elected and appointed officers, persons holding designated positions, and consultants shall file assuming-office

Appendix of Designated Positions (Continued)

Appointed Officials/Position Name	Disclosure Categories
<u>Parks and Recreation</u>	
Community and Cultural Services Manager	2
Director	1
Maintenance Supervisor	2
Park Planning Manager	2, 3, 4
Parks Maintenance Manager	2, 3, 4
Recreation Supervisor	2
Senior Management Analyst	2
Senior Maintenance Worker	2
Senior Park Planner	2, 3, 4
Senior Building Tradesworker	2
Recreation Manager	2
Zoo Manager	2
Zoo Supervisor	2
<u>Police</u>	
Chief	1
Captain	1
Lieutenant	2, 3
Technical Services Manager	2
<u>Public Works</u>	
Associate Civil Engineer	2, 3, 4
Assistant Director	1
Capital Project Manager	2, 3, 4
Construction Inspector II	2, 3, 4
Director	1
Senior Civil Engineer	2, 3, 4
Senior Management Analyst	2
Streets Operations Manager	2, 3, 4
Streets Operations Supervisor	2, 3, 4
Transit Chief	2, 3, 4, 5
Traffic Control and Lighting Supervisor	2, 3, 4

Appendix of Designated Positions (Continued)

Appointed Officials/Position Name	Disclosure Categories
<u>Utility Department</u>	
Assistant Director	1
Associate Civil Engineer	2, 3, 4, 8
Chief Distribution Operator	2
Director	1
Environmental Specialist Supervisor	2, 3, 4, 9
Fleet Maintenance Supervisor	2, 3
Fleet Manager	2, 3
Senior Civil Engineer	2, 3, 4, 8, 9
Senior Environmental Specialist	2, 3, 9
Senior Equipment Mechanic	2
Senior Water/Sewer Service Worker	2, 8
Senior Water Treatment Operator	2, 8
Solid Waste Manager	2, 3, 4, 9
Solid Waste Supervisor	2, 3, 4, 9
Utilities Manager	2, 3, 4, 8
Water Management Coordinator	2, 3, 8
Water/Sewer Service Supervisor	2, 3, 8
Utilities Technician	2, 8
Water Treatment Plant Supervisor	2, 3, 8

2. Consultants. A "consultant" for purposes of the conflict of interest code is a natural person (1) who provides, under contract, information, advice, recommendation or counsel to a local government agency; and (2) whose consulting position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. "Natural person" includes only the specific individual or individuals providing the consulting services, and does not include the corporate or other business entity which employs the individual. The term "consultant" excludes a person who (1) conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or any agency official, other than normal contract monitoring; and (2) possesses no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel. A person who provides consulting services, advice, information, recommendations or counsel on a regular basis is included within the meaning of the term "consultant." However, persons hired to produce a finished product or

study, construct a project, represent the city in a piece of litigation, or conduct similar activities on an ad hoc basis are not included within the meaning of "consultant."

a. Disclosure Requirements for Designated Consultants. If a natural person is a "consultant" as defined in subsection (B)(2) of this section and has not been designated as exempt from disclosure requirements pursuant to subsection (B)(2)(b) of this section, and such person has been deemed to make or participate in the making of decisions which may foreseeably have a material effect on any financial interest, such consultant shall provide such disclosures as the city manager deems appropriate in light of the services provided by said consultant.

b. Consultants Exempt From Disclosure Requirements. The city manager 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. Any such written determination shall include a description of the consultant's duties and, based upon the description, a statement of the extent of disclosure requirements, if any. The city manager may also determine whether a particular contract consultant constitutes a "consultant" as the term is defined in the Political Reform Act and regulations promulgated thereunder. The city manager's determination is a public record and shall be retained for public inspection in the same manner and in the same location as other filings required by the conflict of interest code. (Ord. 1066 § 2 (part), 2006; Ord. 1026 § 2, 2004; Ord. 976 § 2, 2002; Ord. 813 § 2 (part), 1995)

2.34.040 Filing requirements.

All public officials, officials, elected and appointed officers, persons holding designated positions and consultants that are subject to the filing and disclosure requirements as set forth in Section 2.34.030 shall file statements of economic interests with the city clerk who will make the statements available for public inspection and reproduction. Each designated filer shall report such information disclosing that filer's interest in investments, real property, and income as designated reportable under the category to which the filer's position is assigned in this conflict of interest code. Statements for all persons designated pursuant to this section will be retained by the city clerk. Upon adoption of this conflict of interest code, the city clerk shall advise all persons holding designated positions who have not previously been required to file disclosure statements that an initial statement must be filed within thirty days of the effective date of this conflict of interest code. Thereafter, all public officials, officials, elected and appointed officers, persons holding design-

nated positions, and consultants shall file assuming office statements, annual statements, and leaving office statements as required by the Political Reform Act, Government Code Sections 87200 through 87205 and 87302(b) and 2 California Code of Regulations Section 18730(5).

Disclosure Categories

A. Category 1 – Officials and employees whose duties are broad and indefinable:

Investments, business positions, and income from sources located in or doing business in the jurisdiction.

Interests in real property located in the jurisdiction, including property located within a two-mile radius of any property owned or used by the agency.

B. Category 2 – Officials and employees whose duties involve contracting or purchasing:

Investments, business positions, and sources of income of the type which:

Provide services, supplies, materials, machinery, or equipment of the type utilized by the agency.

C. Category 3 – Officials and employees with regulatory powers:

Investments, business positions, and sources of income of the type which:

Are subject to the regulatory, permit, or licensing authority of the agency.

D. Category 4 – Officials and employees whose decisions may affect real property interests:

Investments, business positions, and sources of income of the type which:

Engage in land development, construction, or the acquisition or sale of real property.

Interests in real property located within the jurisdiction, including property located within a two-mile radius of any property owned or used by the agency.

E. Category 5 – Agencies which provide pooled self-insurance benefits:

Interests in real property located within the jurisdiction, including property located within a two-mile radius of any property owned or used by the agency.

Investments, business positions, and sources of income of the type which:

The agency is empowered to invest its funds.

Disclosure Categories (Continued)

Provide services, supplies, materials, machinery, or equipment of the type utilized by the agency.

Engaged in the business of insurance, including, but not limited to, insurance companies, carriers, holding companies, underwriters, brokers, solicitors, agents, adjusters, claims managers, and actuaries.

Financial institutions including, but not limited to, banks, savings and loan associations, and credit unions.

Have filed a claim, or have a claim pending, against the agency.

F. Category 6 – Officials and employees who provide medical services:

Investments, business positions, and sources of income of the type which:

Provide medical services, including, but not limited to, privately owned hospitals, medical clinics, laboratories, pharmacies, and ambulance companies. Manufacture, sell, or distribute medical equipment or services of the type leased or loaned by the agency to ambulance services, medical services such as police, sheriff, and fire rescue units, trauma centers, and emergency rooms.

Provide training for persons engaged in medical service programs.

G. Category 7 – Officials and employees who provide electrical power:

Investments, business positions, and sources of income of the type which:

Are energy consultants, research firms, engineering firms, or private electric utility companies.

Design, build, manufacture, sell, distribute, or service equipment that is either presently utilized by electric power suppliers or that is used by the federal, state, or local government or by private industry in research designed to refine or develop new methods of electrical power generation.

H. Category 8 – Officials and employees who provide water storage/usage (i.e., irrigation or reclamation districts):

Interests in real property located within the jurisdiction, including property located within a two-mile radius of any property owned or used by the agency.

Investments, business positions, and sources of income of the type which are:

Disclosure Categories (Continued)

Private water companies.

Engaged in farming, real estate development, or an owner of real property.

Delivery of concessions or services on behalf of the district by virtue of the district's authority.

I. Category 9 – Officials and employees who provide solid waste disposal:

Investments, business positions, and sources of income of the type which:

Manufacture, sell, or provide supplies, materials, machinery, services, or equipment utilized by the agency.

Interests in real property located within the jurisdiction, including property located within a two-mile radius of any property that is or may be used as:

A disposal site, transfer station, or resource recovery facility in which the designated official/employee provides planning or technical assistance or has enforcement branch responsibilities.

J. Category 10 – Officials and employees who provide library services:

Investments, business positions, and sources of income of the type which:

Manufacture, sell, or provide supplies, materials, books, machinery, services, or equipment of the type utilized by the library.

K. Category 11 – Officials and employees who provide instructional services (i.e., school districts or colleges):

Interests in real property located within the jurisdiction, including property located within a two-mile radius of any property that is owned or used by the agency.

Investments, business positions, and sources of income of the type which:

Manufacture, sell, or provide supplies, materials, books, machinery, services, or equipment utilized by their department or division within the agency.

L. Category 12 – Joint power authorities:

Interests in real property located within the jurisdiction, including property located within a two-mile radius of any property owned or used by the agency.

Investments, business positions, and sources of income of the type which:

The agency is empowered to invest its funds.

Disclosure Categories (Continued)

Contracted with the agency to provide services, supplies, materials, or equipment.

Are insurance companies, carriers, holding companies, underwriters, agents, solicitors, or brokers.

Have filed a claim or have a claim pending against the agency.

(Ord. 1066 § 2 (part), 2006)