ITEM 10.H.

MOORPARK CITY COUNCIL
AGENDA REPORT

TO: Honorable City Council

FROM: Deborah S. Traffenstedt, Administrative Services Director DST
BY: Maureen Benson, Deputy City Clerk MB

DATE: February 8, 2007 (CC Meeting of 2/21/07)

SUBJECT: Consider Resolution Amending the Conflict of Interest Code of the City of Moorpark and Rescinding Resolution No. 2006-2439

BACKGROUND AND DISCUSSION

The Political Reform Act, Government Code Section 87300, et seq., requires every state and local government agency to adopt and promulgate a Conflict of Interest Code. The City's Conflict of Interest Code was last amended in February 2006, when the City Council adopted Resolution No. 2006-2439. Since the time of the last update, new staff positions have been added, several job titles revised, and the Moorpark Arts Commission formed, requiring amendment of the City's Conflict of Interest Code.

Attached is a draft resolution which would rescind Resolution No. 2006-2439 and revise the City's Conflict of Interest Code to include an updated list of Designated Employees and the Disclosure Categories, and incorporates by reference the terms of Title 2, Division 6, California Code of Regulations, Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission (FPPC). The attached resolution includes City and Redevelopment Agency Designated Employees.

The City's Conflict of Interest Code is intended to list all designated positions, even if there is no current employee with that position title. For example, the City currently does not have a Deputy City Manager; however, that position is included in the City's Classification and Salary Plans and is listed in the attached resolution as a designated position. The City's Conflict of Interest Code does not establish any disclosure obligation for the City Councilmembers, Planning Commissioners, City Manager, City Attorney, and public officials who manage public investments (City Treasurer and Redevelopment Agency Treasurer), as Government Code Section 87200, et seq., requires such disclosure as a matter of state law.

STAFF RECOMMENDATION

Adopt Resolution No. 2007-____.

Attachments:
1. Draft Resolution
2. Title 2, Division 6, California Code of Regulations, Section 18730

ATTACHMENT 1

RESOLUTION NO. 2007-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, AMENDING THE CONFLICT OF INTEREST CODE OF THE CITY OF MOORPARK AND RESCINDING RESOLUTION NO. ~~2005-2316~~2006-2439

WHEREAS, the Political Reform Act, Government Code Section 87300, et seq., requires every state and local government agency to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the Fair Political Practices Commission (FPPC) has adopted a regulation which contains the terms of a standard model Conflict of Interest Code (Title 2, Division 6, California Code of Regulations, Section 18730), which can be incorporated by reference, and which may be amended by the FPPC to conform to amendments in the Political Reform Act after public notice and hearings conducted by the FPPC pursuant to the Administrative Procedure Act, Government Code Sections 11370, et seq.; and

WHEREAS, the City Council has determined that the terms of Title 2, Division 6, California Code of Regulations, Section 18730, and any amendments to it duly adopted by the FPPC, along with the attached Appendices A and B, accurately set forth the City's Conflict of Interest Code, including those positions which should be designated, and the categories of financial interests which should be made reportable; and

WHEREAS, the persons holding the positions listed in Appendix B are designated employees, because it has been determined that those positions make or participate in the making of decisions which may foreseeably have a material effect on financial interests; and

WHEREAS, the City's Conflict of Interest Code does not establish any disclosure obligation for the City Councilmembers, Planning Commissioners, City Manager, City Attorney, and Public Officials who Manage Public Investments (City Treasurer and Redevelopment Agency Treasurer), as Government Code Section 87200 et seq. requires such disclosure as a matter of state law, nor does the City's Conflict of Interest Code include a position which is solely clerical, ministerial or manual, or any unsalaried member of a board or commission which is solely advisory; and

WHEREAS, the City Council has previously designated positions and disclosure categories in Resolution No. ~~2005-2316~~2006-2439, which now needs to be rescinded and an updated Conflict of Interest Code adopted, and the City Council determines that the attached Appendices accurately set forth those positions which should be designated and categories of financial interest which should be made reportable.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The terms of Title 2, Division 6, California Code of Regulations, Section 18730, and any amendments to it duly adopted by the FPPC are hereby incorporated by reference and along with the attached Appendices A and B, in which employees, officials, and consultants are designated and disclosure categories are set forth, constitute the Conflict of Interest Code for the City of Moorpark. If any of the positions listed in Appendix A have a change of title, or if a position is transferred from one City department or office to another, the filing requirement and disclosure category shall remain the same until the next update of the City's Conflict of Interest Code.

SECTION 2. Persons holding designated positions shall file a Statement of Economic Interests pursuant to Section 4 of the Conflict of Interest Code (Title 2, Division 6, California Code of Regulations, Section 18730). The City Clerk shall carry out the duties of Filing Officer for the City Council, which is the Code Reviewing Body.

SECTION 3. Resolution No. ~~2005-2316~~2006-2439 is hereby rescinded.

SECTION 4. The City Clerk shall forward a copy of this resolution to the FPPC.

SECTION 5. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this ~~1st~~ 7th day of February, ~~2006~~2007.

_____
Patrick Hunter, Mayor

ATTEST:

_____
Deborah S. Traffenstedt City Clerk

Attachment: Appendices A and B

APPENDIX A

CITY OF MOORPARK
CONFLICT OF INTEREST CODE
DESIGNATED EMPLOYEES

Designated Positions		Disclosure Category
I.	Assistant City Manager	1
	1. Administrative Specialist	1
	1. Deputy City Manager	1
	2. Management Analyst	1
	3. Senior Management Analyst	1
II.	Administrative Services Department	
	1. Administrative Services Director(City Clerk)	1
	2. Assistant to City Manager/City Clerk	1
	3. Assistant City Clerk	1
	4. Deputy City Clerk I	2
	5. Deputy City Clerk II	2
	6. Human Resources Analyst	3
	7. Human Resources Assistant	3
	8. Information Systems Analyst	4
	~~8~~9. Information Systems Manager	1
	~~9. Information Systems Supervisor~~	~~1~~
	10. Information Systems Technician I	4
	11. Information Systems Technician II	4
	12. Senior Information Systems Analyst	4
III.	City Engineer/Public Works Department	
	~~1. Assistant City Engineer~~	~~1*~~
	~~2.~~1. Assistant City Engineeer~~/Public Works Director~~	1
	2. Assistant Engineer	1
	3. Associate Civil Engineer	1
	~~3~~4. Associate Engineer	1*
	~~4~~5. City Engineer/Public Works Director	1
	~~5~~6. Civil Engineer	1*
	~~6~~7. Management Analyst	1
	~~7~~8. Public Works Director	1
	~~8~~9. Public Works Superintendent	1
	~~9~~10. Public Works Supervisor	1
	11. Senior Civil Engineer	1
	~~10~~12. Senior Engineer	1*
	~~11~~13. Senior Maintenance Worker	5
	~~12~~14. Senior Management Analyst	1
	~~13~~15. Traffic Engineer	1*

Designated Positions		**Disclosure Category**
IV.	Community Development Department	
1.	Administrative Services Manager	1
2.	Assistant Planner I	1
3.	Assistant Planner II	1
4.	Associate Planner	1
5.	Building Inspector	1*
6.	Building Official	1*
7.	Code Compliance Officer I	1
8.	Code Compliance Officer II	1
9.	Community Development Director	1
10.	Community Development Technician	1
11.	Construction Administrator	1*
12.	Planning Manager	1
~~12.~~	~~Planning Technician~~	~~1~~
13.	Principal Planner	1
14.	Senior Building Inspector	1*
15.	Senior Management Analyst	1
16.	Senior Planner	1
V.	Finance Department	
1.	Accountant I	1
2.	Accountant II	1
3.	Administrative Assistant	4
4.	Budget and Finance Manager	1
5.	Finance Director	1
6.	Finance/Accounting Manager	1
7	Senior Account Technician	1
VI.	Parks, Recreation and Community Services Department	
1.	Active Adult Center Coordinator	6
2.	Active Adult Center Supervisor	6
3.	Administrative Specialist	7
4.	Community Services Technician	7
5.	Facilities Technician	5
6.	Landscape/Parks Maintenance Superintendent	1
~~5~~7.	Maintenance Supervisor	5
~~6~~8.	Management Analyst	1
~~7~~9.	Parks and Facilities Superintendent	1
10.	Parks and Facilities Supervisor	5
11.	Parks and Landscape Manager	1
~~8~~12.	Parks, Recreation and Community Services Director	1
13.	Recreation/Community Services Manager	1
~~9~~14.	Recreation Coordinator I	8
~~10~~15.	Recreation Coordinator II	8
~~11.~~	~~Recreation Manager~~	~~1~~
16.	Recreation Leader IV	8

Designated Positions	Disclosure Category
~~12~~17. Recreation Supervisor	8
~~13~~18. Senior Maintenance Worker	5
~~14~~19. Senior Management Analyst	1
~~15~~20. Vector/Animal Control Specialist	9
VII. Redevelopment Agency	
1. Redevelopment Agency Counsel	1*
2. Redevelopment Agency Consultant	1*
3. Redevelopment Agency Executive Director	1
4. Redevelopment Agency Secretary	1
5. Redevelopment Manager	1
6. Senior Management Analyst	1

Designated Positions	Disclosure Category
VIII. Moorpark Arts Commission Members	1
~~VIII~~IX. Parks & Recreation Commission Members	1
~~IX~~X. Redevelopment Project Area Advisory Committee Members	1
~~X~~XI. Assistant City Attorney	1*
Other Designated Consultants	1*

* The Fair Political Practice Commission Regulation (2 California Code of Regulations Section 18700) defines "consultant" as an individual who, pursuant to a contract with a state or local government 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 to the specifications for such a contract;
- (vi) Grant agency approval to a plan, design, report, study or similar item;
- (vii) Adopt, or grant agency approval of, 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 positions and shall disclose pursuant to Category 1, subject to the following limitation:

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to

APPENDIX B

CITY OF MOORPARK
CONFLICT OF INTEREST CODE

DISCLOSURE CATEGORIES

Category 1

Any investment or interest in real property, any loan, any gift, or any income in which the "designated employee" or spouse has an interest within the jurisdiction of the City of Moorpark, as defined in this Code; and any investments in business entities or income from sources which provide supplies, equipment or services of the type utilized by the department or division for which the Designated Employee is assigned.

***Disclosure by Consultants**

Consultants shall be included in the list of designated employees and shall disclose pursuant to Category 1, subject to the following limitation:

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 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 City Manager'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.

Category 2

Any investment in, or interest from, as defined by the Code, any person or business entity which provides services, goods or equipment involving municipal elections, printing services, records management, or preparation of minutes or transcripts.

Category 3

Any investment in, or income from, as defined by the Code, any person or business entity which provides human resources and risk management related services, goods or equipment, including but not limited to recruitment, testing, selection or placement, temporary staffing, and insurance and other benefit programs.

---

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 City Manager'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.

Category 4

Any investment in, or income from, as defined by the Code, any person or business entity which provides services, goods or equipment involving purchasing of supplies, equipment, or services, including but not limited to installation, maintenance or repair of City equipment such as telephones, copiers, and computers, and purchasing of City office and computer supplies, software and equipment.

Category 5

Any investment in, or income from, as defined by the Code, any person or business entity which provides parks, ~~and~~ recreation, building construction and maintenance supplies, engineering, ~~and~~or public works ~~maintenance~~ related services, goods, or equipment, including but not limited to maintenance of parks, landscaping, City-owned facilities/buildings, streets, and other public right-of-way.

Category 6

Any investment in, or income from, as defined by the Code, any person or business entity which provides services, goods, or equipment for seniors, including but not limited to contract instructor services, and recreation and special event services and supplies.

Category 7

Any investment in, or income from, as defined by the Code, any person or business entity which provides public transit, solid waste, recycling, or household hazardous waste related services, goods or equipment, including but not limited to bus and taxi services, solid waste franchise services, and household hazardous waste cleanup type services.

Category 8

Any investment in, or income from, as defined by the Code, any person or business entity which provides parks and recreation related services, goods, or equipment, including but not limited to contract instructor services, recreation and special event services and supplies, playground equipment, day care and teen event services and supplies.

Category 9

Any investment in, or income from, as defined by the Code, any person or business entity which provides vector and/or animal control related services, goods, or equipment.

ATTACHMENT 2

FAIR POLITICAL PRACTICES COMMISSION

- FPPC Home Page
- Commission
- Agendas
- Interested Persons' Meetings
- Candidates and Committees
- Lobbyists
- Restrictions on Government Officials and Employees
- Ethics Orientation for State Officials
- AB 1234 Ethics Training for Local Officials
- Conflicts of Interest / Form 700 / COI Codes
- Enforcement
- Audit Program
- Workshops & Seminars
- Legislation
- Litigation
- Mailing Lists
- **Links**
  - FPPC Media Center
  - Library and Publications
    - **The Political Reform Act**
    - **Regulations of the Fair Political Practices Commission**
    - **Newly Adopted or Amended Regulations / Proposed Regulations**
    - **FPPC Opinions**
    - **FPPC Publications**
    - **Advice Summaries / Advice Letters**
    - **FPPC Resolutions**
    - **Proposition 34 Archive**
    - **Internet Political Practices Phase 2**
  - Forms & Manuals
  - Privacy
- Contacting the FPPC

Regulations of the Fair Political Practices Commission

TITLE 2, DIVISION 6, CALIFORNIA CODE OF REGULATIONS

(Back to Regulations of the Fair Political Practices Commission)

Amend 2 Cal. Code Regs. section 18730 as follows:

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, ~~et seq.~~ et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

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.~~ 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the

000081

jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(C) The filing officer is the same for both agencies. [1]

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code. [2]

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

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 office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any 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.

(A) 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 of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property 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.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests 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, or for a board or commission member subject to Government Code section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to 2 Cal. Code Regs. section 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests 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.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure.

When an investment or an interest in real property[3] is required to be reported,[4] the statement shall contain the following:

1. A statement of the nature of the investment or interest;

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;

3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars ($2,000), exceeds ten thousand dollars ($10,000), exceeds one hundred thousand dollars ($100,000), or exceeds one million dollars ($1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported,[5] the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars ($500) or more in value, or fifty dollars ($50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

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) or less, greater than one thousand dollars ($1,000), greater than ten thousand dollars ($10,000), or greater than one hundred thousand dollars ($100,000);

3. A description of the consideration, if any, for which the income was received;

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; and the date on which the gift was received;

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.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,[6] the statement shall contain:

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

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000).

(D) 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.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or 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.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee 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 apply to any part time member of the governing board of any public institution of higher education, unless the member is also an elected official. Subdivisions (a), (b), and (c) of Government Code section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1 Prohibition on Receipt of Gifts in Excess of ~~$360~~ $390.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than ~~$360~~ $390 in a calendar year from any single source, if the member or employee 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 apply to any part time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars ($500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars ($500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of one hundred dollars ($100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars ($250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has 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:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars ($2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars ($2,000) or more;

(C) 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) or more in value provided to, received by

or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating ~~$360~~ $390 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee 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.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars ($1,000) or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 and 2 Cal. Code Regs. sections 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

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 – 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300 87302, 89501, 89502 and 89503, Government Code.

000087

[1] Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

[2]See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

[3]For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

[4]Investments and interests in real property which have a fair market value of less than $2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

[5]A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

[6]Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Copyright 2007
State of California FPPC.
All rights reserved.

000058