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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

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[Signature]
EXECUTIVE SECRETARY

February 21, 1995

(Organization and Personnel Committee--Action)

To: Board of Directors (Legal and Claims Committee--Action)

From: General Counsel

Subject: Amendment of Conflict of Interest and Disclosure of Personal Finances Code

Report

Amendments to Metropolitan's Conflict of Interest and Disclosure of Personal Finances Code (Conflict of Interest Code) were adopted by your Board on January 10, 1995. These changes were sent to the Fair Political Practices Commission (FPPC) for approval, as required by the Political Reform Act of 1974. The FPPC approved the Conflict of Interest Code on February 14, 1995, with changes in the first two sections (Sections 7100 and 7105 of the Administrative Code) to reflect a change in filing procedures.

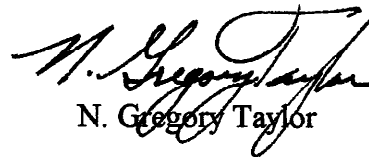
It is proposed that your Board approve and ratify Sections 7100 and 7105 of the Administrative Code to reflect the changes made by the FPPC. The revised sections are shown on Attachment A. Changes from the form previously approved by your Board are shown in underscore and strikeout format on Attachment B.

The substantive provisions of the Conflict of Interest Code are incorporated by reference to standard conflict of interest code provisions appearing in a regulation promulgated by the FPPC. To make these provisions readily available for review by Metropolitan's directors and employees, it is proposed that this regulation be reprinted in Metropolitan's Administrative Code. Metropolitan's General Counsel should be given authority to update the reprinted form of this regulation whenever it is amended by the FPPC.

Recommendations

1. That Sections 7100 and 7105 of Metropolitan's Administrative Code be amended to read as set forth in Attachment A to this letter; and
2. That 2 Code of California Regulations Section 18730 be printed at the end of Chapter VII of the Administrative Code, and that the General Counsel be

authorized to revise the version of this regulation appearing in the Administrative Code whenever it is amended by the FPPC.



N. Gregory Taylor

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Attachments

Attachment A**§ 7100. Incorporation of Title 2, California Code of Regulations**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission 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 hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of The Metropolitan Water District of Southern California.

§ 7105. Filing of Statements of Economic Interests.

Designated employees shall file their statements with The Metropolitan Water District of Southern California who will make the statements available for public inspection and reproduction. (Gov. Code, Sec. 81008.) Upon receipt of the statements for the Board of Directors, the agency shall make and retain a copy and forward the original to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

Attachment B**§ 7100. Incorporation of Title 2, California Code of Regulations**

The Political Reform Act, (Government Code Section 81000, et seq.), requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, ~~Title 2, California Code of Regulations, Section 18730,~~ (2 Cal. Code of Regs. Sec. 18730) which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, ~~and which in an agency's code. After public notice and hearing it may be~~ amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act ~~after public notice and hearings.~~ Therefore, the terms of ~~Title 2,~~ 2 California Code of Regulations, Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, ~~along with Sections 7200 through 7215 in which officials and employees are designated and disclosure categories are set forth,~~ are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall and constitute the Conflict of Interest Code of The Metropolitan Water District of Southern California.

§ 7105. Filing of Statements of Economic Interests.

Designated employees shall file their statements of economic interests with the agency. with The Metropolitan Water District of Southern California who will make the statements available for public inspection and reproduction. (Gov. Code, Sec. 81008.) ~~All statements of economic interests so filed shall be public documents open for public inspection and reproduction during regular business hours.~~ Upon receipt of the statements for the Board of Directors, the agency shall make and retain a copy and forward the original to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the agency.

1 Amend 2 Cal. Code of Regulations Section 18730 to read:

2 18730. Provisions of Conflict of Interest Codes

3 (a) Incorporation by reference of the terms of this
4 regulation along with the designation of employees and the
5 formulation of disclosure categories in the Appendix referred to
6 below constitute the adoption and promulgation of a conflict of
7 interest code within the meaning of Government Code Section 87300
8 or the amendment of a conflict of interest code within the meaning
9 of Government Code Section 87306 if the terms of this regulation
10 are substituted for terms of a conflict of interest code already
11 in effect. A code so amended or adopted and promulgated requires
12 the reporting of reportable items in a manner substantially
13 equivalent to the requirements of Article 2 of Chapter 7 of the
14 Political Reform Act, Government Code Sections 81000, et seq. The
15 requirements of a conflict of interest code are in addition to
16 other requirements of the Political Reform Act, such as the
17 general prohibition against conflicts of interest contained in
18 Government Code Section 87100, and to other state or local laws
19 pertaining to conflicts of interest.

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

23 (1) Section 1. Definitions. The definitions contained
24 in the Political Reform Act of 1974, regulations of the Fair
25 Political Practices Commission (2 Cal. Code of Regs. Sections
26 18100, et seq.), and any amendments to the Act or regulations, are
27 incorporated by reference into this conflict of interest code.

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(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 financial 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 financial 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 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

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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 financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial 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 financial interests set forth in a designated employee's disclosure categories are the kinds of financial 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

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.

1 conflict of interest code.²

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

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

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

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

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

22 (5.5) Section 5.5. Statements for Persons Who Resign
23 Prior to Assuming Office. Any person who resigns within 12 months
24 of initial appointment, or within 30 days of the date of notice
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26 ² See Government Code Section 81010 and 2 Cal. Code of Regs.
27 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.

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1 provided by the filing officer to file an assuming office
2 statement, is not deemed to have assumed office or left office,
3 provided he or she did not make or participate in the making of,
4 or use his or her position to influence any decision and did not
5 receive or become entitled to receive any form of payment as a
6 result of his or her appointment. Such persons shall not file
7 either an assuming or leaving office statement.

8 (A) Any person who resigns a position within 30 days of
9 the date of a notice from the filing officer shall do both of the
10 following:

11 (1) File a written resignation with the appointing
12 power; and

13 (2) File a written statement with the filing officer
14 declaring under penalty of perjury that during the period between
15 appointment and resignation he or she did not make, participate in
16 the making, or use the position to influence any decision of the
17 agency or receive, or become entitled to receive, any form of
18 payment by virtue of being appointed to the position.

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

21 (A) Contents of Initial Statements. Initial statements
22 shall disclose any reportable investments, interests in real
23 property and business positions held on the effective date of the
24 code and income received during the 12 months prior to the
25 effective date of the code.

26 (B) Contents of Assuming Office Statements. Assuming
27 office statements shall disclose any reportable investments,

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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.

(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 property³ is required to be

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

1 reported,⁴ the statement shall contain the following:

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

4 2. The name of the business entity in which each
5 investment is held, and a general description of the business
6 activity in which the business entity is engaged;

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

9 4. A statement whether the fair market value of the
10 investment or interest in real property exceeds one thousand
11 dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or
12 exceeds one hundred thousand dollars (\$100,000).

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

15 1. The name and address of each source of income
16 aggregating two hundred fifty dollars (\$250) or more in value or
17 fifty dollars (\$50) or more in value if the income was a gift, and
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⁴ Investments and interests in real property which have a fair
20 market value of less than \$1,000 are not investments and interests
21 in real property within the meaning of the Political Reform Act.
22 However, investments or interests in real property of an
23 individual include those held by the individual's spouse and
24 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.

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

1 a general description of the business activity, if any, of each
2 source;

3 2. A statement whether the aggregate value of income
4 from each source, or in the case of a loan, the highest amount
5 owed to each source, was one thousand dollars (\$1,000) or less,
6 greater than one thousand dollars (\$1,000), or greater than ten
7 thousand dollars (\$10,000);

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

10 4. In the case of a gift, the name, address and
11 business activity of the donor and any intermediary through which
12 the gift was made; a description of the gift; the amount or value
13 of the gift; and the date on which the gift was received;

14 5. In the case of a loan, the annual interest rate and
15 the security, if any, given for the loan.

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

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

21 2. The name of every person from whom the business
22 entity received payments if the filer's pro rata share of gross
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24 ⁶ Income of a business entity is reportable if the direct,
25 indirect or beneficial interest of the filer and the filer's
26 spouse in the business entity aggregates a 10 percent or greater
27 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.

1 receipts from such person was equal to or greater than ten
2 thousand dollars (\$10,000).

3 (D) Business Position Disclosure. When business
4 positions are required to be reported, a designated employee shall
5 list the name and address of each business entity in which he or
6 she is a director, officer, partner, trustee, employee, or in
7 which he or she holds any position of management, a description of
8 the business activity in which the business entity is engaged, and
9 the designated employee's position with the business entity.

10 (E) Acquisition or Disposal During Reporting Period.
11 In the case of an annual or leaving office statement, if an
12 investment or an interest in real property was partially or wholly
13 acquired or disposed of during the period covered by the
14 statement, the statement shall contain the date of acquisition or
15 disposal.

16 (8) Section 8. ~~State Agency~~ Prohibition on Receipt of
17 Honoraria.

18 (A) No member of a state board or commission, and no
19 designated employee of a state agency, shall accept any honorarium
20 from any source, if the member or employee would be required to
21 report the receipt of income or gifts from that source on his or
22 her statement of economic interests. This section shall not apply
23 to any part-time member of the governing board of any public
24 institution of higher education, unless the member is also an
25 elected official.

26 Subdivisions (b), (c), (d), and (e) of Government Code
27 Section 89502 shall apply to the prohibitions in this section.

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2 (B) No member of the governing board of a special
3 district or designated employee of a local government agency shall
4 accept any honorarium.

5 Subdivisions (b), (c), and (e) of Government Code
6 Section 89502 shall apply to the prohibitions in this section.
7 This section shall not limit or prohibit payments, advances, or
8 reimbursements for travel and related lodging and subsistence
9 authorized by Government Code Section 89506.

10 (8.1) Section 8.1 ~~State Agency~~ Prohibition on Receipt
11 of Gifts of ~~\$250~~ \$280 or More.

12 (A) No member of a state board or commission, and no
13 designated employee of a state agency, shall accept gifts with a
14 total value of more than ~~two hundred fifty dollars (\$250)~~ two
15 hundred eighty dollars (\$280) in a calendar year from any single
16 source, if the member or employee would be required to report the
17 receipt of income or gifts from that source on his or her
18 statement of economic interests. This section shall not apply to
19 any part-time member of the governing board of any public
20 institution of higher education, unless the member is also an
21 elected official.

22 ~~Subsections~~ Subdivisions (b), (c), (d), and (e) of
23 Government Code Section 89504 shall apply to the prohibitions in
24 this section.

25 (B) No member of the governing board of a special
26 district, or designated employee of a local government agency
27 shall accept any gifts with a total value of more than ~~two hundred~~

1 ~~fifty dollars (\$250)~~ two hundred eighty dollars (\$280) in a
2 calendar year from any single source.

3 Subdivision (d) of Government Code Section 89504 shall
4 apply to this section.

5 (9) Section 9. Disqualification. No designated
6 employee shall make, participate in making, or in any way attempt
7 to use his or her official position to influence the making of any
8 governmental decision which he or she knows or has reason to know
9 will have a reasonably foreseeable material financial effect,
10 distinguishable from its effect on the public generally, on the
11 official or a member of his or her immediate family or on:

12 (A) Any business entity in which the designated
13 employee has a direct or indirect investment worth one thousand
14 dollars (\$1,000) or more;

15 (B) Any real property in which the designated employee
16 has a direct or indirect interest worth one thousand dollars
17 (\$1,000) or more;

18 (C) Any source of income, other than gifts and other
19 than loans by a commercial lending institution in the regular
20 course of business on terms available to the public without regard
21 to official status, aggregating two hundred fifty dollars (\$250)
22 or more in value provided to, received by or promised to the
23 designated employee within 12 months prior to the time when the
24 decision is made;

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

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2 (E) Any donor of, or any intermediary or agent for a
3 donor of, a gift or gifts aggregating ~~\$250~~ two hundred and eighty
4 dollars (\$280) or more in value provided to; received by, or
5 promised to the designated employee within 12 months prior to the
6 time when the decision is made.

7 (9.3) Section 9.3. Legally Required Participation. No
8 designated employee shall be prevented from making or
9 participating in the making of any decision to the extent his or
10 her participation is legally required for the decision to be made.
11 The fact that the vote of a designated employee who is on a voting
12 body is needed to break a tie does not make his or her
13 participation legally required for purposes of this section.

14 (9.5) Section 9.5. Disqualification of State Officers
15 and Employees. In addition to the general disqualification
16 provisions of Section 9, no state administrative official shall
17 make, participate in making, or use his or her official position
18 to influence any governmental decision directly relating to any
19 contract where the state administrative official knows or has
20 reason to know that any party to the contract is a person with
21 whom the state administrative official, or any member of his or
22 her immediate family has, within 12 months prior to the time when
23 the official action is to be taken:

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

27 (B) Engaged in a business transaction or transactions
on terms not available to members of the public regarding the

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rendering of goods or services totaling in value one thousand dollars (\$1,000) or more.

(10) Section 10. Manner of Disqualification. 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 must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(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 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

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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: Section 83112, Gov. Code
Reference: Sections 87300-87302, 89501, 89502, 89503, and 89504, Gov. Code