

**REPORT TO CITY COUNCIL**

**DATE: JULY 11, 2012**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER**

**SUBJECT: APPROVE RESOLUTION NO. 12-1676, RATIFYING OF A CONFLICT OF INTEREST CODE CONTAINING DESIGNATED POSITIONS AND DISCLOSURE CATEGORIES FOR THE SUCCESSOR AGENCY TO THE AGOURA HILLS REDEVELOPMENT AGENCY**

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The Political Reform Act, Government Code Sections 81000, et seq., requires the Board of Directors of the Successor Agency to the Agoura Hills Redevelopment Agency to adopt a Conflict of Interest Code and requires every local government agency to review its Conflict of Interest Code biennially to determine if it is accurate and up-to-date.

The Successor Agency has adopted a Conflict of Interest Code through Resolution No. SA12-09, which both contains designated positions and disclosure categories.

Due to the fact that the City Council serves as the Code Reviewing Body for the Successor Agency, the City Council is asked to now ratify the approved Conflict of Interests Code. The City Council is also requested to formally designate the City Clerk of the City as the filing officer for reports required to be filed pursuant to the Conflict of Interest Code.

Persons holding designated positions listed shall file Statements of Economic Interest pursuant to Section 5 of the Conflict of Interest Code, with the information required for the disclosure category assigned to them, unless otherwise exempted from doing so pursuant to Section 3 of the Conflict of Interest Code.

The adoption of this Resolution is necessary for the City and Successor Agency to comply with the Political Reform Act. The City Clerk will incur additional time and expense in performing these duties, as the filing officer for the Successor Agency, that will be tracked for reimbursement purposes between the two agencies and pursuant to a reimbursement agreement.

**RECOMMENDATION**

Staff recommends the City Council adopt Resolution No. 12-1676, ratifying a Conflict of Interest Code containing designated positions and disclosure categories for the Successor Agency to the Agoura Hills Redevelopment Agency.

Attachment: (A) Resolution No. 12-1676  
(B) Amended Resolution No. SA12-09

**RESOLUTION NO. 12-1676**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA; RATIFYING A CONFLICT OF INTEREST CODE CONTAINING DESIGNATED POSITIONS AND DISCLOSURE CATEGORIES FOR THE SUCCESSOR AGENCY TO THE AGOURA HILLS REDEVELOPMENT AGENCY**

**THE CITY COUNCIL OF THE CITY AGOURA HILLS DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

Section 1. The Political Reform Act, Government Code Section 81000, et seq., (the “Political Reform Act”) requires the Successor Agency to the Agoura Hills Redevelopment Agency (“Board”) to adopt a conflict of interest code.

Section 2. The Fair Political Practices Commission has adopted a Model Conflict of Interest Code (the “Model Code”). The Model Code, codified at Title 2, Division 4 of the California Code of Regulations Section 18730, can be incorporated by reference by the Agency as its conflict of interest code. That Model Code will be amended by the Fair Political Practices Commission from time to time to conform to amendments to the Political Reform Act.

Section 3. By this resolution, the City of Agoura Hills is ratifying the Conflict of Interest Code, approved by the Successor Agency to the Agoura Hills Redevelopment Agency on April 11, 2012, through Resolution SA12-07, which contains designated positions and disclosure categories.

Section 4. The Model Code was prepared by the Fair Political Practices Commission, and was approved by the Successor Agency to the Agoura Hills Redevelopment Agency, which sets forth the designated positions and the disclosure categories for each position of the Board.

Section 5. Pursuant to the Political Reform Act, a person holding a designated position listed in this Conflict of Interest Code that violates any provisions of this Code is subject to administrative, criminal, and civil sanctions provided in the Political Reform Act. In addition, if a person who holds a designated position makes, participates in making, or otherwise attempts to use his or her official position to influence a decision of the Agency in which he or she has a financial interest, he or she may also be subject to additional administrative, criminal, and civil sanctions and the decision may be set aside and voided pursuant to Government Code Section 91003.

Section 6. The Secretary of the Successor Agency to the Agoura Hills Redevelopment Agency has certified the passage and adoption of the respective Resolution and is now submitting a copy of this Code to the City Council for its approval as the Code Reviewing Body for the Successor Agency to the Agoura Hills Redevelopment Agency.

**PASSED, APPROVED, AND ADOPTED** this 11<sup>th</sup> day of July, 2012, by the following vote to wit:

AYES:            ()

NOES:            ()

ABSENT:         ()

ABSTAIN:        ()

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John M. Edelston, Mayor

ATTEST:

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Kimberly M. Rodrigues, City Clerk

## RESOLUTION NO. SA12-09

### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE AGOURA HILLS REDEVELOPMENT AGENCY AMENDING THE ADOPTED CONFLICT OF INTEREST CODE CONTAINING DESIGNATED POSITIONS AND DISCLOSURE CATEGORIES

**THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE AGOURA HILLS REDEVELOPMENT AGENCY DOES HEREBY FIND, RESOLVE AND ORDER AS FOLLOWS:**

Section 1. The Political Reform Act, Government Code Section 81000, *et seq.*, (the “Political Reform Act”) requires the Successor Agency to the Agoura Hills Redevelopment Agency (“Agency”) to adopt a conflict of interest code.

Section 2. The Fair Political Practices Commission has adopted a Model Conflict of Interest Code (the “Model Code”). The Model Code, codified as Title 2, Division 4 of the California Code of Regulations Section 18730, can be incorporated by reference by the Agency as its conflict of interest code. That Model Code will be amended by the Fair Political Practices Commission from time to time to conform to amendments to the Political Reform Act.

Section 3. On April 11, 2012, the Successor Agency approved Resolution SA12-07, adopting a Conflict of Interest Code which contained designated positions and disclosure categories.

Section 4. The Model Code, attached hereto as Exhibit "A" is amended and is duly adopted by the Fair Political Practices Commission, and Appendix A, which sets forth the designated positions and the disclosure categories for each position of the Agency, are hereby incorporated by reference and shall constitute the Conflict of Interest Code for the Successor Agency to the Agoura Hills Redevelopment Agency.

Section 5. Persons holding designated positions listed in Appendix A shall file Statements of Economic Interest pursuant to Section 5 of the Conflict of Interest Code with the information required for the disclosure category assigned to them, unless exempt from filing such Statements pursuant to Section 3 of the Conflict of Interest Code.

Section 6. Pursuant to the Political Reform Act, a person holding a designated position listed in this Conflict of Interest Code that violates any provisions of this Code is subject to administrative, criminal, and civil sanctions provided in the Political Reform Act. In addition, if a person who holds a designated position makes, participates in making, or otherwise attempts to use his or her official position to influence a decision of the Agency in which he or she has a financial interest, he or she may also be subject to additional administrative, criminal, and civil sanctions and the decision may be set aside and voided pursuant to Government Code Section 91003.

Section 7. The Secretary of the Agency shall certify to the passage and adoption of this Resolution and shall submit a copy of this Code to the City Council for its approval as the Code Reviewing Body for the Successor Agency to the Agoura Hills Redevelopment Agency.

**PASSED, APPROVED, AND ADOPTED** this 27<sup>th</sup> day of June, 2012, by the following vote to wit:

AYES: (5) Edelston, Weber, Buckley Weber, Koehler, Schwarz  
NOES: (0)  
ABSENT: (0)  
ABSTAIN: (0)

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John M. Edelston, Chair

ATTEST:

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Kimberly M. Rodrigues, Agency Secretary

## **EXHIBIT A**

### **Conflict of Interest Code**

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 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 Section 87300 or the amendment of a conflict-of-interest code within the meaning of 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, Sections 81000, 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 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 (Regulations 18110, 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 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, 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, Section 87200; and

(C) The filing officer is the same for both agencies.<sup>1</sup>

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.<sup>2</sup>

(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 Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 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) Investment and Real Property Disclosure.

When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> 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 \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$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 \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$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,<sup>6</sup> 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 \$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 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 Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$420.

(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 \$420 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 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 \$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.