

RESOLUTION NO.91- 16 -A

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF EL PASO DE ROBLES
RECSINDING RESOLUTION NO. 90-37 AND
AMENDING THE CONFLICT OF INTEREST CODE
TO INCORPORATE BY REFERENCE THE FAIR POLITICAL
PRACTICES COMMISSION'S MODEL CONFLICT OF INTEREST CODE**

WHEREAS, amendments to the Political Reform Act, Government Code Section 82000, et seq., have in the past (and foreseeably will in the future), required conforming amendments to be adopted by this body to its conflict of Interest Code; and

WHEREAS, the Fair Political Practices Commission (FPPC) has adopted a model Conflict of Interest Code for consideration by local governments, set forth at 2 California Code of Regulations, Section 18730, and to which future amendments may be adopted by the FPPC after public notice and hearing conducted under the Administrative Procedure Act, Government Code Sections 11370, et seq; and

WHEREAS, adoption and incorporation by reference of the model code and later amendments will save this body time and money by minimizing the administrative requirements necessary to keep its local code in conformity with the Political Reform Act; and

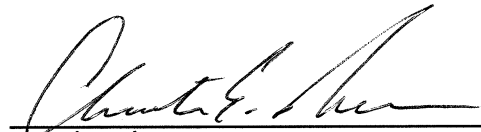
WHEREAS, adoption and incorporation by reference of the model code will ensure an accurate and clear Conflict of Interest Code for the use and benefit of all affected City employees and the interested public.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Paso de Robles as follows:

1. All previous adopted resolutions and policies regarding the creation of a City Conflict of Interest Code are hereby rescinded.
2. The model code set forth at 2 Code of California Regulations, Section 18730, and any and all amendments duly adopted by the FPPC, are hereby adopted and incorporated by reference by and for the use of this body and shall constitute the City's Conflict of Interest Code for the employees described on Exhibit "A".

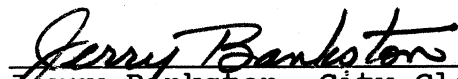
PASSED AND ADOPTED by the City Council of the City of Paso Robles, this 19th day of February, 1991, on the following vote:

AYES: Russell, Reneau, Martin, Picanco and Iversen
NOES: None
ABSENT: None



Christian E. Iversen, Mayor

ATTEST:



Jerry Bankston, City Clerk

EXHIBIT "A"

**LIST OF EMPLOYEE POSITIONS DESIGNATED AS
SUBJECT TO THE PROVISIONS OF THE CITY'S
CONFLICT OF INTEREST CODE**

City employees in the below described positions shall comply with the City's Conflict of Interest Code. Disclosure of financial interests shall be required for the indicated categories. Disqualification shall occur when required by the Code.

DISCLOSURE CATEGORIES

- A - Investments
- B - Interests in Real Property
- C - Investments and Interests in Real Property Held by a Business Entity or Trust
- D - Income
- E - Loans
- F - Gifts
- G - Honoraria
- H(1) - Commission Income
- H(2) - Income and Loans to Business Entities or Trusts
- H(3) - Income from Rental Property

POSITIONS

CATEGORIES

Airport Operations Manager	All
Assistant City Engineer	All
Building Inspector	All
Building Official	All
City Planner	All
Director of Administrative Services	All
Director of Community Development	All
Director of Community Services	All
Director of Public Works	All
Economic Development Manager	All
Senior Building Inspector	All
Senior Engineering Inspector	All
Fire Chief	All
Fire Marshall	All
Police Chief	All
Project Area Committee Members (Redevelopment Agency)	All

EXHIBIT "A" TO
RESOLUTION NO. 16-A

TITLE 2 FAIR POLITICAL PRACTICES COMMISSION
(Register 88, No. 46—11-12-88)

§ 18730
(p. 334.5)

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 87307 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.* 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.*), 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 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.* 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.

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.

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(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 thirty 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 thirty 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 thirty days after assuming the designated positions, or if subject to State Senate confirmation, thirty 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 thirty days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign 30 Days After Appointment. Persons who resign within 30 days of initial appointment are not deemed to have assumed office or left office provided they did not make or participate in the making of, or use their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an assuming or leaving office statement.

(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.

(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.

(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:

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.

(A) Investment and Real Property Disclosure. When an investment or an interest in real property³ 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 exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(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 two hundred fifty dollars (\$250) 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), or greater than ten thousand dollars (\$10,000);
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.

(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;

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 \$1,000 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.

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. 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 one thousand dollars (\$1,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) 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 two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the designated employee within twelve 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 \$250 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.

(8.3) Section 8.3. 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.

(8.5) Section 8.5. Disqualification of State Officers and Employees. In addition to the general disqualification provisions of Section 8, 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.

(9) Section 9. 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.

(10) Section 10. 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.

(11) Section 11. 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 87300-87302, Government Code.

HISTORY:

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14). Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b) (7) (B) 1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b) (7) (A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).

18732. Filing Dates for Annual Statements Filed Pursuant to Conflict of Interest Codes (87302).

(a) When a person assumes office or comes under the coverage of a newly effective conflict of interest code between October 1 and December 31 and files an initial Statement of Economic Interests pursuant to the conflict of interest code, that person need not file an annual Statement of Economic Interests until one year following the date specified in the code if the filing deadline for the annual statement is April 1 or earlier.

(b) If a person leaves an office subject to a conflict of interest code between January 1 and the filing deadline for his annual Statement of Economic Interests, the leaving office statement may serve as that person's annual statement, provided that prior to the deadline of the annual statement, the person notifies the filing officer in writing of his intention to follow this procedure.

NOTE: Authority cited: Section 83112, Government Code. Reference: Section 87302, Government Code.

HISTORY:

1. New section filed 12-27-77; effective thirtieth day thereafter (Register 77, No. 53).
2. Amendment of subsection (a) filed 6-22-78; effective thirtieth day thereafter (Register 78, No. 25).

18733. Disclosure Categories for Auditors, Investigators and Inspectors and Persons Similarly Situated (87302).

(a) Code reviewing bodies may, in their discretion, approve conflict of interest codes which permit designated employees of the type described in subsection (b) of this regulation to report their financial interests in the manner set forth in subsection (c) of this regulation.

(b) This regulation is applicable to designated employees who satisfy all of the following criteria:

- (1) The designated employee is not a high level decision or policy maker;
- (2) The designated employee's job functions primarily involve case assignments which are drawn from a large number of persons, business entities or parcels of real property;
- (3) The persons or business entities which are the subject of the designated employee's case assignments are varied in nature and are not selected from a single or limited number of industries, trades or professions;
- (4) The total number of cases assigned to the designated employee during a year constitutes only a small percentage of the total number of persons, business entities or parcels of real property from which the case assignments are drawn.

(5) The decisions made or participated in by the designated employee generally will affect only the person, business entity or parcel of real property which is the subject of the case assignment and will not create material secondary effects on other persons, business entities or parcels of real property.

(c) Designated employees described in subsection (b) of this regulation shall disclose the information required by Government Code Sections 87206 and 87207 with respect to any person, business entity or parcel of real property which was the subject of a case assignment during the period covered by the statement.

(d) This regulation does not relieve any employee from his obligation under Section 87100 and his conflict of interest code to disqualify himself from making, participating in the making, or using his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

COMMENT: This regulation was adopted in order to clarify the disclosure obligations of auditors, investigators and inspectors and others who make or participate in the making of decisions which could foreseeably and materially affect virtually any person, business entity or parcel of real property in the jurisdiction, yet who are not at such a high level