

## ***ETHICS AND CONFLICTS OF INTEREST POLICY***

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### **POLICY**

The policy of the District is to maintain the highest standards of ethics from its District Officials, its General Manager and its employees which include all permanent, part-time, temporary and contract employees, including volunteers (“District officials”). The proper operation of the District requires that decisions and policy be made apparently and transparently, that a public office not be used for personal gain, and that all individuals associated with the District remain impartial and responsible towards the public. Accordingly, it is the policy of the District that District officials will maintain the highest standard of personal honesty and fairness in carrying out their duties. This policy sets forth the minimal ethical standards to be followed by the District officials. Additional standards to be followed by District employees specifically will mirror this policy and will be set forth in the District’s Personnel Manual.

The objectives of this policy are to (1) provide continued guidance for dealing with ethical issues, (2) heighten awareness of ethics and values as critical elements of the Board’s policy, and (3) maintain the District’s open ethical decision-making and values-based management.

### **PROCEDURES**

#### **Responsibilities of Public Office.**

District officials are obligated to uphold the Constitution of the United States and the Constitution of the State of California. District officials will comply with applicable laws regulating their conduct, including conflicts of interest, financial disclosure and open government laws. District officials will work in cooperation with other public officials unless prohibited from so doing by law or officially-recognized confidentiality of their work. (*Gov. Code § 1360; Article 20, § 3 of the California Constitution.*)

#### **Fair and Equal Treatment.**

District Officials will not, in the performance of their official functions, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin, ancestry, sex, sexual preference, medical condition or disability. A District official will not grant any special consideration, treatment or advantage to any person or group beyond that which is available to every other person or group in similar circumstances. (*See, e.g., Article 1, § 31 of the California Constitution; Age Discrimination in Employment Act of 1967 (29 U.S.C., § 621-634); Americans with Disabilities Act of 1990 (42 U.S.C., § 12101 et. seq.); Fair Employment and Housing Act (Gov. Code, § 12900 et seq.); Rehabilitation Act of 1973 (29 U.S.C., § 701 et. seq.); Title VII of the Civil Rights Act of 1964 (42 U.S.C., § 2000 et. seq.); Labor Code § 1102.1.*)

#### **Proper Use and Safeguarding of District Property and Resources.**

A District official shall not use or permit others to use District resources for personal purposes. “Personal purpose” means those activities which are for personal enjoyment, private gain or advantage, or are not related to District business. “Personal purpose” does not include the incidental and minimal use of public resources such as equipment or office space for personal purposes, including an occasional telephone call.

A District official will not ask or require a District employee to perform services for the personal convenience or profit of a District official or another employee. Each District official must protect and properly use any District asset within his or her control, including information recorded on paper or in electronic form. District officials will safeguard District property, equipment, moneys and assets against unauthorized use or removal, as well as from loss due to criminal act or breach of trust.

District officials are responsible for maintaining written records, including expense accounts, in sufficient detail to reflect accurately and completely all transactions and expenditures made on the District's behalf, in accordance with the District's policy for reimbursement of expenses of District officials. (*Article 16, § 6 of the California Constitution; Gov. Code, § 8314; Pen. Code, § 424.*)

### **Use of Confidential Information.**

A District official is not authorized, without approval of the Board of Directors, to disclose information that qualifies as confidential information under applicable provisions of law to a person not authorized to receive it, that (1) has been received for, or during, a closed session meeting of the Board, (2) is protected from disclosure under the attorney/client or other evidentiary privilege, or (3) is not required to be disclosed under the California Public Records Act.

This section does not prohibit any of the following: (1) making a confidential inquiry or complaint to a District attorney or grand jury concerning a perceived violation of law, including disclosing facts to a District attorney or grand jury that are necessary to establish the alleged illegality of an action taken by the District an elected official or employee, (2) expressing an opinion concerning the propriety or legality of actions taken by the District in closed session, including disclosure of the nature and extent of the allegedly illegal action, or (3) disclosing information acquired by being present in a closed session that is not confidential information. Prior to disclosing confidential information pursuant to (1) or (2), above, however, a District official will first bring the matter to the attention of the District to provide the Board an opportunity to cure an alleged violation.

A District official who willfully and knowingly discloses, for pecuniary gain, confidential information received by him or her in the course of his or her official duties may be guilty of a misdemeanor under Government Code section 1098. (*Gov. Code, § 54963.*)

### **Financial Conflicts of Interest.**

A District official will not have a financial interest in a contract with the District, or be purchaser at a sale by the District or a vendor at a purchase made by the District, unless the District official's participation is authorized under specific Government Code exemptions (*Gov. Code §§ 1090, et seq.*)

A District official will not participate in the discussion, deliberation or vote on a matter before the Board of Directors, or in anyway attempt to use his or her official position to influence a decision of the Board, if he or she has a prohibited financial interest with respect to the matter, as defined in the Political Reform Act (*Government Code sections 81000, et seq.*)

Generally, a District official has a financial interest in a matter if it is reasonably foreseeable that the Board decision would have a material financial effect (as defined by the Fair Political Practices Commission (“FPPC”) regulations) that is distinguishable from the effect on the public generally on five specific economic interests (*Gov. Code, § 87100 et seq.*):

- A business entity in which the District official has a direct or indirect investment of \$2,000 or more;
- Real property in which the District official has a direct or indirect investment interest worth \$2,000 or more;
- A source of income of the District official amounting to \$500 or more within 12 months before the Board decision;
- A source of gifts to the District official amounting to the annual gift limit<sup>1</sup> or more within 12 months before the Board decision; or
- A business entity in which the District official holds a position as a director, trustee, officer, partner, manager or employee.<sup>2</sup>

If a member of the Board believes that he or she may be disqualified from participating in the discussion, deliberations or vote on a particular matter due to a conflict of interest, the following procedure will be followed:

- (1) If the District official becomes aware of the potential conflict of interest before the Board meeting at which the matter will be discussed or acted on, the District official will notify the General Manager and the District’s legal counsel of the potential conflict of interest, so that a determination can be made whether it is a disqualifying conflict of interest;
- (2) If it is not possible for the District official to discuss the potential conflict with the General Manager and the District’s legal counsel before the meeting, or if the District official does not become aware of the potential conflict until during the meeting, the District official will immediately disclose the potential conflict during the Board meeting, so that there can be a determination whether it is a disqualifying conflict of interest; and
- (3) Upon a determination that there is a disqualifying conflict of interest, the District official (1) must publicly identify the financial interest that gives rise to the conflict or potential conflict (2) must not participate in the discussion, deliberation or vote on the matter for which a conflict of interest exists, which will be so noted in the Board minutes, and (3) must leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. The District official may speak on the issue during the time the general public speaks on the issue.

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<sup>1</sup> See FPPC Reg. 18940.2. The annual gift limit is adjusted biennially every odd-numbered year.

<sup>2</sup> **Personal Financial Effect.** If none of the five economic interests are involved, then any District decision resulting in an increase or decrease of personal expenses, income, assets or liabilities of the official of \$250 or more in a 12-month period prior to the decisions, the effect is material.

A District official will not recommend the employment of a relative by the District. In addition, a District official will not recommend the employment of a relative to any person known by the District official to be bidding for or negotiating a contract with the District.

### **Gifts**

No District official may accept any gift from those who have, or are likely to have, business with the District. In determining whether someone is likely to have business with the District officials and employees are encouraged to err on the side of caution. In addition, all gifts are subject to the prohibitions and limitation as set forth in the District's Conflict of Interest Code and the Regulations of the Fair Political Practices Commission ("FPPC"). (*Gov. Code, §§ 1090 et seq., 81000 et seq., and 87105; Pen. Code, §§ 68 and 70.*)

### **Soliciting Political Contributions.**

District Officials are prohibited from soliciting political funds or contributions at District facilities, or from District employees. A District official will not accept, solicit or direct a political contribution from (a) District employees, officers, consultants or contractors, or (b) any person or entity who has a financial interest in a contract or other matter while that contract or other matter is pending before the District. A District official will not use the District's seal, trademark, stationary or other indicia of the District's identity, or facsimile thereof, in any solicitation for political contributions contrary to state or federal law. (*Gov. Code, § 3205.*)

### **Incompatible Offices and "Revolving Door" Policy.**

Any District official appointed or elected to a public office of another public entity, the duties of which may require action contradictory or inconsistent with the interest of the first entity (as determined under applicable law), will resign from the former office. (*73 Ops.Cal.Atty.Gen. 357 (1990); see also Gov. Code, § 53227.*)

For a period of one year after leaving office, District Officials may not represent for compensation any other person or entity before the District or make any oral or written communication, if the appearance or communication is made for the purpose of influencing any action or proceeding as prohibited under Government Code section 87406.3.

For purposes of this section, "represent" will mean for compensation to actively support or oppose a particular decision in a proceeding by lobbying in person, orally, or in writing, the officers or employees of the District or otherwise acting to influence the officers of the District.

Nothing in this section is intended or will be applied to prevent a former District official from participating in meetings of the District in the same manner as other members of the public. (*Gov. Code, § 54954.3.*)

## **Improper Activities and the Reporting of Such Activities; Protection of “Whistle Blowers.”**

The General Manager has primary responsibility for (1) ensuring compliance with the District’s Personnel Manual, and ensuring that District employees do not engage in improper activities, (2) investigating allegations of improper activities, and (3) taking appropriate corrective and disciplinary actions. The District has a duty to ensure that the General Manager is operating the District according to law and the policies approved by the Board. District Officials are encouraged to fulfill their obligation to the public and the District by disclosing to the General Manager to the extent not expressly prohibited by law, improper activities within their knowledge. District Officials will not interfere with the General Manager’s responsibilities in identifying, investigating and correcting improper activities, unless the Board determines that the General Manager is not properly carrying out these responsibilities. Nothing in this section affects the responsibility of the Board to oversee the performance of the General Manager.

A District official will not directly or indirectly use, or attempt to use, the District or the influence of his or her position for the purpose of intimidating, threatening, coercing, commanding or influencing any other person for the purpose of preventing such person from acting in good faith to report or otherwise bring to the attention of the General Manager or the Board any information that, if true, would constitute: a work-related violation by a District official or District employee of any law or regulation, gross waste of District funds, gross abuse of District, a specified and substantial danger to public health or safety due to an act or omission of a District official or employee, use of a District office or position or of District resources for personal gain, or a conflict of interest of a District official or District employee.

A District official will not use or threaten to use any official District or influence to effect any action as a reprisal against a District official who reports or otherwise brings to the attention of the General Manager any information regarding the subjects described in this section.

Any person who believes that he or she has been subjected to any action prohibited by this section may file a confidential complaint with (1) the General Manager, or (2) a member of the Board of Directors if the complaint involves the conduct of the General Manager, who will thereupon refer the matter to the full Board to investigate the complaint. Upon the conclusion of the investigation, the General Manager (or the Board in the case of a complaint against the General Manager) will take appropriate action consistent with the District’s Personnel Manual and applicable law. (*Lab. Code, § 1102.5, et seq., and Gov. Code, §§ 53298 and 53298.5.*)

### **Compliance with the Brown Act.**

The members of the Board of Directors, and persons elected but who have not yet assumed office as members of the Board, will fully comply with the provisions of the State’s open meeting law for public agencies (the Brown Act). The Board has adopted Bylaws to guide the Board in ensuring that Board decisions are made during meetings of the Board that are open to the public, in compliance with the Brown Act. (*Gov. Code, §§ 54950 et seq., 54952.1 and 54959.*)

### **Compliance with FPPC Statement of Economic Interest (Form 700)**

All officials, employees and consultants are directed to refer to the District's Conflict of Interest Code for these specific requirements. The Conflict of Interest Code is held in the office of the Secretary to the Board/District Clerk as the District's Filing Officer/Official.

District Officials and designated employees shall annually file a Statement of Economic Interest as specified in the District's Code. District Officials and designated employees shall, within 30 days after assuming office/employment or leaving office/employment, file a Statement of Economic Interests as specified in the District's Code.

### **District Officials' Compensation and Expense Reimbursement.**

The members of the Board of Directors will fully comply with the provisions of the Board's policies on compensation and expense reimbursement.

### **Changes in Compensation.**

Changes in the compensation of the Board or District employees will require the approval of the Board during an open meeting of the Board held within sixty days prior to the effective date of the change.

### **Ethics Training.**

Directors and designated employees shall receive at least two (2) hours of ethics training every two (2) years. (*Gov. Code, § 53234 et seq.*)

### **Violation of Ethics Policy.**

A perceived violation of this policy by a District official should be referred to the Board of Directors for investigation, and consideration of any appropriate action warranted. A violation of this policy may be addressed by the use of such remedies as are available by law to the District, including but not limited to: (a) adoption of a resolution expressing disapproval of the conduct of the District official who has violated this policy, (b) injunctive relief, or (c) referral of the violation to the District Attorney and/or the grand jury.