Agenda Item 2d

METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Administration Committee

DATE: May 1, 2013

FR: General Counsel

W. I. 1111

RE: MTC Resolution No. 1198, Revised - Revisions to MTC's Conflict-of-Interest Code

Office of General Counsel reported to the Committee in October 2012 that MTC's Conflict-of-Interest (COI) Code, which also serves as the COI code for the Bay Area Toll Authority (BATA) and the MTC Service Authority for Freeways and Expressways (MTC SAFE), required an update in order to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure.

The Committee authorized posting the draft changes to the attached Resolution No. 1198, Revised, in the MTC Library beginning October 10, 2011, for a 45-day public comment period ending November 26, 2012. We received no comments, and the COI code was granted approval by the California Fair Political Practices Commission (FPPC) on April 17, 2013.

The positions designated in Appendix A to MTC's approved COI code must file an annual Statement of Economic Interest (FPPC Form 700) with the agency in compliance with the disclosure categories as indicated in Appendix B. Copies of the COI code will be made available to any interested person who calls Rosy Levya, Secretary to the Commission, during business hours at (510) 817-5700.

I recommend that this Committee forward Resolution 1198, Revised, MTC's Conflict of Interest Code, to the Commission for approval.

Adrienne D. Weil

Adrienne D. Weil

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Date: October 27, 1982
W.I.: 99110
I.D.: File 1
Referred by: A&O Committee
Revised: 06/26/91-C 07/27/94-C
11/18/98-C 06/28/00-C
11/20/02-C 09/28/11-C
05/22/13-C

ABSTRACT

Resolution No. 1198, Revised

Subject

This resolution adopts the amendments to the Metropolitan Transportation Commission's Conflict of Interest Code, directs the Executive Director to submit a copy of the amended code to the Fair Political Practices Commission, provides for future amendments, and revises Appendix A of the Commission Procedures Manual (Resolution No. 1058).

Resolution No. 1198 supersedes Resolution No. 859.

This resolution was revised on June 26, 1991 to include the disclosure of "business positions in business entities," to add a disclosure category for telecommunications services and equipment manufacturers to cover the activities of the MTC SAFE, to update the designated positions to reflect MTC's current organizational structure, and to clarify the definition of "consultant."

This resolution was revised on July 27, 1994 to amend the disclosure categories to cover MTC and MTC SAFE activities in the areas of towing services and intelligent vehicle highway systems (IVHS) and to update the designated positions to reflect MTC's current organizational structure.

This resolution was revised on November 18, 1998 to amend the conflict of interest code to reflect changes in FPPC regulations, amend the disclosure categories to cover the MTC Service Authority for Freeways and Expressways ("MTC SAFE") and Bay Area Toll Authority ("BATA") activities, and to update the designated positions to reflect MTC's current organizational structure. .

This resolution was revised on June 28, 2000 to add Associate Counsel as a designated position, delete the Legislation and Public Affairs and Finance sections to create one Funding and External Affairs section, and rename Treasury to Finance.

This resolution was revised on November 20, 2002, to delete the Funding and External Affairs section, to create a Programming and Allocations section and a Legislation and Public Affairs section, and to replace the Deputy Executive Director's position with two Deputy Directors' Positions.

This resolution was revised on September 28, 2011, to update the designated positions to reflect MTC's current organizational structure and disclosure categories.

This resolution was revised on May 22, 2013, to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure.

Date: October 27, 1982
W.I.: 99110
I.D.: File 1
Referred by: A&O Committee

RE: Adoption of the Amendments to the Metropolitan Transportation Commission's Conflict of Interest Code.

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 1198

WHEREAS, the Metropolitan Transportation Commission (MTC), is the regional transportation planning agency pursuant to Government Code § 66500 *et seq.*; and

WHEREAS, MTC has adopted for purposes of the Political Reform Act (Government Code § 81000 *et seq.*) a Conflict of Interest Code (Resolution No. 859) which has been approved by the Fair Political Practices Commission; and

WHEREAS, MTC desires to amend its Conflict of Interest Code; and

WHEREAS, the proposed amendments have been submitted to the public for comment and subject to a public hearing; now, therefore, be it

RESOLVED, that the amended Conflict of Interest Code, incorporated herein as though set forth at length as Attachment A, is adopted; and, be it further

RESOLVED, that the Executive Director is directed to submit a copy of the Conflict of Interest Code to the California Fair Political Practices Commission for approval; and, be it further

RESOLVED, that MTC may from time to time further amend Attachment A as appropriate, in accordance with the applicable statutory and regulatory provisions; and, be it further

RESOLVED, that MTC Resolution No. 859 is superseded by Resolution No. 1198; and, be it further

RESOLVED, that Appendix A of the Commission Procedures Manual (MTC Resolution No. 1058) is revised by Resolution No. 1198.

METROPOLITAN TRANSPORTATION COMMISSION

/s/
William R. "Bill" Lucius, Chairman

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on October 27, 1982.

Date: October 27, 1982
W.I.: 99110
I.D.: File 1
Referred by: A&O Committee
Revised: 06/26/91-C 07/27/94-C
11/18/98-C 06/28/00-C
11/20/02-C 09/28/11-C
05/22/13-C

CONFLICT-OF-INTEREST CODE FOR THE METROPOLITAN TRANSPORTATION COMMISSION

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 Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code Section 66500 *et seq.*, is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways ("MTC SAFE") pursuant to Streets and Highways Code Sections 2550-2556, and the Bay Area Toll Authority ("BATA") pursuant to Streets and Highways Code Section 30950 *et seq.* The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs. Sec. 18730) that 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 hearings, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code Regs. Sec. 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Metropolitan Transportation Commission (MTC)**.

Individuals holding designated positions shall file their statements of economic interests with **MTC**, which will make the statements available for public inspection and reproduction (Government Code Sec. 81008). Upon receipt of statements for the MTC Commissioners and from the Executive Director, **MTC** shall make and retain copies and forward the originals to the **Fair Political Practices Commission**. All other statements will be retained by **MTC**.

APPENDIX A

DESIGNATED POSITIONS

Designated Position	Assigned Disclosure Category
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
General Counsel	1, 3, 4
Deputy General Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative and Technology Services	2, 3
Director, Planning	2, 3
Director, Operations	2
Director, Electronic Payments	2
Director, Programming and Allocations	2, 3
Director, Legislation and Public Affairs	1, 3
Director, Bay Area Headquarters Authority ("BAHA")	1, 2, 3
Consultants/New Positions	*

*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant or new position, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008). Nothing herein excuses any such consultant from any other provision of the conflict-of-interest code.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

MTC Commissioners
Chief Financial Officer
Executive Director

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

APPENDIX B

DISCLOSURE CATEGORIES

Designated positions shall disclose pursuant to the appropriate disclosure category as indicated in Appendix A.

CATEGORY 1 – Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including public utilities, consultants, transportation companies, and manufacturers.

CATEGORY 2 – Investments and business positions in business entities, and income including receipt of loans, gifts, and travel payments, from, sources that provide services, products, or equipment of the type utilized by the designated position's department or division.

CATEGORY 3 – All interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by MTC.

CATEGORY 4 – Investments and business positions in business entities, and income, including receipt of loans, gifts, and travel payments, from, sources that filed a claim against MTC during the previous two years, or have a claim pending against MTC.

This is the last page of the conflict-of-interest code of the **Metropolitan Transportation Commission.**

CERTIFICATION OF FPPC APPROVAL

Pursuant to Government Code Section 87303, the conflict-of-interest code for the **Metropolitan Transportation Commission** was approved on April 17, 2013. This code will become effective on May 17, 2013.

William J. Lenkeit
Senior Counsel, Legal Division
Fair Political Practices Commission