R.E. BADGER WATER FACILITIES FINANCING AUTHORITY

CONFLICT OF INTEREST CODE

(Adopted October 17, 2011)

The Political Reform Act (Gov. Code § 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. § 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 hearing Section 18730 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 positions and establishing disclosure categories, shall constitute the conflict of interest code of the R.E. Badger Water Facilities Financing Authority (the "Authority").

All officials and individuals holding designated positions required to submit a statement of economic interests shall file their statements with the Executive Director as the Authority's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by Members of the Board of Directors and the Executive Director, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of San Diego. The Filing Officer shall retain the originals of the statements filed by all other officials and designated positions and make all statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

Approved and/or authorized by the Board of Supervisors of the County of San Diego
Date 12/6/11 Minute Order No. 19
THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors
By Nancy Vingerra
Deputy Clerk

BBK – August 2011

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APPENDIX

CONFLICT OF INTEREST CODE

OF THE

R.E. BADGER WATER FACILITIES FINANCING AUTHORITY

(Adopted October 17, 2011)

EXHIBIT "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Authority Officials who manage public investments, as defined by 2 Cal. Code of Regs. § 18701(b), are NOT subject to the Authority's Code but must file under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)] These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments[1]:

Members of the Board of Directors

Executive Director

[1] Individuals 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 that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED EMPLOYEES' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Administrative Manager	1, 2
General Counsel	1, 2
Consultant and New Position[2]	

[2] Individuals serving as a consultant as defined in FPPC Reg 18701 or in a new position must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Executive Director may determine that, due to the range of duties or contractual obligations, it is more appropriate to designate a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. 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.

EXHIBIT "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, that do business in or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the Authority.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Authority.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Position's department, unit or division.

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

§ 18750.1. Procedures for the Promulgation and Adoption of Conflict of Interest Codes for Local Government Agencies with Jurisdiction in More Than One County.

(a) Unless otherwise modified, the term "agency" as used in this section shall refer to a local government agency with jurisdiction in more than one county. The term "Commission" as used in this section shall refer to the Fair Political Practices Commission.

(b) An agency proposing a conflict of interest code or an amendment to an existing code, other than a nonsubstantive amendment, shall follow the procedures described in this section. An agency proposing a nonsubstantive amendment shall follow the procedures described in 2 Cal. Code of Regs. Section 18752.

(c) Every agency which proposes to adopt a conflict of interest code or to amend its existing code shall:

(1) Conduct a public hearing or establish a written comment period.

(2) Prepare an initial proposed code or an initial proposed amendment.

(3) Prepare a notice of intention to adopt a conflict of interest code, or to amend an existing code. This notice shall:

(A) Describe the proposed code or amendment in general terms and if the proposed action includes amendments to an existing code, include a concise, clear summary of the provisions of the existing code, if any, which will be affected by the proposed amendments, and a summary of how those provisions will be affected by the proposed amendments;

(B) State that copies of the proposed code or amendment are available to interested persons and indicate where the copies may be obtained;

(C) Specify the location where written comments concerning the proposed code or amendments may be submitted;

(D) Specify the date by which comments submitted in writing relating to the proposed code or amendments must be received in order for them to be considered by the agency before it adopts or amends the code;

(E) State the time and place of any public hearing that is scheduled on the proposed code or amendment; or if a public hearing on the proposed code or amendment is not scheduled, include a statement that any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing;

(F) State the name and telephone number of an agency officer to whom inquiries concerning the proposed code or amendment may be directed;

(G) State that the agency has prepared a written explanation of the reasons for the designations and the disclosure responsibilities, and has available all of the information upon which its proposal is based.

(4) File a copy of the notice with the Commission at least 45 days before the public hearing or close of the comment period.

(5) Provide notice pursuant to the requirements of Government Code Section 87311, including providing a copy of the notice to each employee of the agency affected by the proposed code or amendment at least 45 days before the hearing or close of the comment period by serving the employees individually with a copy of the written notice, by posting the notice on employee bulletin boards, or by publishing the notice in an employee newsletter.

(6) Make the exact terms of the proposed code or amendment available for inspection and copying to interested persons for at least 45 days prior to the public hearing or the close of the

comment period.

(7) Accept written comments from interested persons through the conclusion of the public hearing or the close of the comment period.

(d) If the procedures set forth in subsection (c) have been followed, a proposed code or amendment, which has been changed or modified from that which was made available to the public, may, without further notice or hearing, be adopted if the code or amendment adopted is substantially similar to the initially proposed code or amendment and all employees affected by the proposed code or amendment as adopted by the agency had adequate notice.

(e) The agency shall submit three copies of the final proposed code or of the existing code with the final proposed amendment in strikeout/underline form to the Commission accompanied by one copy of the following:

(1) For a code or amendment:

(A) A declaration by the chief executive officer of the agency declaring that the Code specifically enumerates each of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material financial effect on any financial interest and the agency has satisfied the requirements of subsection (c) preliminary to formulation of the Code;

(B) A summary of any hearing held by the agency with appropriate identification of any areas of controversy and the manner of their resolution.

(C) Copies of all written submissions made to the agency regarding the proposed Code or amendment, unless the person making the written submission requests its omission;

(D) A written explanation of the reasons for the designations and the disclosure responsibilities of officers, employees, members or consultants of the agency. In the case of an

amendment, provide a written justification for any changes including all changes in or additions to the designations or disclosure responsibilities;

(E) The names and addresses of all persons who participated in any public hearing of the agency on the proposed code or amendment and all persons who requested notice from the agency of the date of the Commission hearing on the adoption of the code or amendments;

(F) The most current organizational chart of the agency;

(G) Job descriptions for all designated employees or employees newly designated by the amendment.

(2) For a new conflict of interest code:

(A) A copy of a joint powers agreement or a copy of the statutory authority under which the agency was created with specific citations to the provisions setting forth the duties and responsibilities of the agency;

(B) A copy of the last annual or regular report prepared by the agency or submitted by the agency to the person or body to whom the agency reports or, if there is no report, copies of recent minutes of agency meetings;

(C) A brief description of the duties and the terms of all consultants working for the agency who are not designated employees.

(f) When an agency proposes a new conflict of interest code or an amendment to an existing code, the Executive Director shall either:

(1) Prepare a notice which specifies the establishment of a written comment period; includes a statement that any interested person, or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing; specifies the date by which comments submitted in writing must be received in order for them to

be considered; includes a clear and concise summary of the proposed action; provides the name and telephone number of the agency officer to whom inquiries concerning the proposed action may be directed and that the text of the proposed code or amendment is available for inspection and copying at the agency and at the Commission offices. This notice shall be sent to the agency and to all persons who have requested notice at least 45 days before the close of the written comment period; or

(2) Return the proposed code or amendment to the agency with written recommendations for revision. Any agency which objects to the recommendations for revision may request a full hearing by the Commission pursuant to subsection (h) of this regulation.

(g) If no hearing is requested as set forth in subsection (f)(1) above, the Executive Director at the end of the 45-day written comment period shall either:

(1) Approve the code as submitted; or

(2) Return the proposed code or amendment to the agency for revision. Any agency which objects to the recommendations for revision may request a full hearing by the Commission pursuant to subsection (h) of this regulation.

(h) If a public hearing on this matter has been requested, the Commission shall afford any agency or interested person or his or her duly authorized representative, or both, the opportunity to present statements, arguments or contentions in writing on, or prior to, the date of the hearing. Oral testimony shall be encouraged; however, oral statements may be limited at the discretion of the Chairman. The Commission shall consider all relevant matters presented to it prior to and during the public hearing, or appearing on the record of such hearing prior to taking action on the proposed code or amendment.

(i) After a full hearing as provided herein above, the Commission shall:

(1) Approve the proposed code or amendment as submitted and return the code or amendments to the agency;

(2) Revise the proposed code or amendment and approve it as revised; or

(3) Direct the Executive Director to return the proposed code or amendment to the agency for revision and resubmission within 60 days.

(j) If a code or amendment is approved, the Executive Director shall return a copy of the code or amendment to the agency with notification of approval.

(k) A conflict of interest code or amendment to a code shall become effective on the thirtieth day following the approval of the code or amendment.

(l) Each agency's code shall be maintained in the office of the chief executive officer of the agency, who shall make the code available for public inspection and reproduction during regular business hours commencing with the effective date of the code. No conditions whatsoever shall be imposed upon persons desiring to inspect the conflict of interest code of the agency, nor shall any information or identification be required from such person. Copies shall be provided at a charge not to exceed ten cents ($ .10) per page.

(m) The Commission shall maintain copies of each agency's code for public inspection and copying at its offices in Sacramento, California.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87300, 87303 and 87306, Government Code.

HISTORY

1. New section filed 5-18-87; operative 5-18-87 (Register 87, No. 21).

2. Amendment of subsection (b), new subsection (c) and relettering of following subsections, amendment of new subsections (d), (f)(2), (g), (g)(2), (l) and Note filed 4-21-92; operative 5-21-

92 (Register 92, No. 19)

August 23, 2011

R.E. BADGER WATER FACILITIES FINANCE AUTHORITY

EXPLANATION OF DESIGNATION OF OFFICIALS AND THE ASSIGNMENT OF DISCLOSURE RESPONSIBILITIES

Pursuant to Government Code Sections 87300 the R.E. Badger Water Facilities Finance Authority (the "Authority") is adopting a Conflict of Interest Code (the "Code"). The Code designates those employees, members, officers, and consultants who make or participate in the making of decisions which may foreseeably have a material effect on a financial interest and are therefore, subject to the disclosure and disqualification requirements of the Code.

The Code also sets forth Disclosure Categories to be assigned to the designated positions requiring individuals holding each position to disclose personal interests that may be affected by the exercise of the individual's duties.

Below is an explanation of the specific elements of the Code, the designation of Authority officials and the assignment of disclosure requirements.

INCORPORATION PAGE

The Fair Political Practices Commission (the "FPPC") adopted Regulation 18730 for the purpose of having an agency incorporate the Regulation as the provisions of its Code. The first page of the Authority's Code is called the Incorporation Page which incorporates Regulation 18730, provides for the designation of positions and establishment of disclosure requirements, and sets forth the processing requirements of officials' statements and public access to such statements.

"OFFICIALS WHO MANAGE PUBLIC INVESTMENTS"

The Authority has delineated those primary officials determined to be "Officials Who Manage Public Investments" as defined by the FPPC. These Officials file disclosure statements pursuant to Gov. Code section 87200 and are not to be designated in the regular list of designated positions of the Code.

The positions meeting the definition of "Officials Who Manage Public Investments" have full disclosure requirements and are as follows:

Members of the Board of Directors: The Board is the primary body responsible for "formulating or approving investment policies," a pivotal component of the management of public funds. [§18701(b)].

Executive Director: The Executive Director is the primary officer delegated with the responsibility to manage and invest monies not required for immediate necessities of the Authority, meeting the definition of an "official who manages public investments."

"DESIGNATED POSITIONS"

The Authority's list of Designated Positions specifically enumerates all positions within the Authority which make or participate in the making of Authority decisions which may foreseeably have a material effect on that employee's financial interests.

Disclosure Categories are assigned to Designated Positions on a narrow basis in relation to their official duties with the Authority to prevent requiring over-disclosure.

Positions that, by virtue of their positions, are involved in all facets of Authority operations are assigned broader disclosure requirements while positions having narrower involvement and/or responsibilities with the Authority are assigned more limited disclosure requirements based on the duties of the position.

Administrative Manager – Categories 1, 2
This position is involved in a broad range of Authority decisions too numerous and varied to narrow. Therefore, this position has full disclosure requirements.

Legal Counsel – Categories 1, 2
This position is involved in a broad range of Authority decisions too numerous and varied to narrow. Therefore, this position has full disclosure requirements.

Consultants and New Positions
Consultant is a generic designated position to cover all contracted positions meeting the definition of *Consultant* under the Political Reform Act and required to file disclosure statements. New Positions are to cover any newly created positions for interim filing requirements pending amendment of the Code. Consultants and New Positions have specific footnote language provided by the FPPC indicating that these positions have full disclosure responsibilities unless specifically narrowed or waived by the Authority, in writing, based on their duties and placed on file with the Authority's Filing Officer.

EXPLANATION OF DISCLOSURE CATEGORIES

Disclosure Categories identify the types of investments, business entities, sources of income, including gifts, loans and travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

The Authority cannot require a Designated Employee to over-disclose. Disclosure Categories must be designed and assigned **depending on the duties and responsibilities of the position held**. Therefore, five Disclosure Categories have been designed to be assigned to various designated positions and Consultants. This list of Disclosure Categories provides flexibility in the application of the Categories to different positions and Consultants but are narrow enough so as not to require over-disclosure by a Designated Employee.

ASSIGNMENT OF DISCLOSURE CATEGORIES:

Category 1 requires the disclosure of reportable investments, business positions, and sources of income in the jurisdiction of the Authority.

Category 2 requires the disclosure of reportable interests in all real property (not including personal residence) located in the jurisdiction of the Authority (or within 2 miles thereof).

The assignment of Categories 1 and 2 means the Designated Employee has full disclosure requirements. These Categories are usually assigned to General Counsel, and other very broad decision-makers whose responsibilities are too broad to be narrowed and warrant full disclosure. These are also the Categories provided Consultants, as defined, if not narrowed in writing as described.

Category 3 is limited to interests in entities engaged in land development, construction and sale/acquisition of real property and are to be assigned to positions such as those dealing with such matters. This is much more limited than either Category 1 or 5.

Category 4 is limited to interests in entities that provide services, supplies, etc. of the type used by the Authority. This Category is reserved for positions that are involved in the Authority on a broad basis touching a variety of departments and are therefore, unable to be narrowed to one department, unit, or division. Positions assigned this Category are usually involved in broad areas of administration and fiscal services.

Category 5 is limited to interests in entities that provides services, supplies, etc. of the type purchased or leased by an official's department, unit or division. This Category is reserved for positions involved in limited aspects of the Authority so that disclosure requirements can be narrowed in order to avoid requiring over-disclosure.

NOTICE OF INTENTION TO ADOPT A CONFLICT OF INTEREST CODE OF THE R.E. BADGER WATER FACILITIES FINANCING AUTHORITY

NOTICE IS HEREBY GIVEN that the R.E. Badger Water Facilities Financing Authority (the "Authority") intends to adopt a Conflict of Interest Code pursuant to Government Code Section 87300.

A conflict of interest code designates those employees, members, officers, and consultants who make or participate in the making of decisions which may affect financial interests, who must disclose those interests in financial disclosure statements, and who must disqualify themselves from making or participating in the making of governmental decisions affecting those interests.

The Authority hereby establishes a 45-day comment period on the proposed Code and will adopt the Code immediately thereafter. Any interested person may submit written comments concerning the proposed Code. Written comments must be submitted no later than October 17, 2011, to be considered by the Authority before it adopts the Code. Any interested person or his/her duly authorized representative may request a public hearing on the proposed Code no later than October 3, 2011.

The Authority has prepared a written explanation of the reasons for the designation of positions and assignment of disclosure responsibilities. The proposed Code and Explanation may be reviewed at, and copies obtained from, Michael Bardin, Executive Director, R.E. Badger Water Facilities Financing Authority, 5920 Linea del Cielo, Rancho Santa Fe, California.

Any comments or inquiries should be directed to the attention of the Executive Director.

COUNTY DIEGO
BOARD C SORS
2011 SEP 1 PM 3 23
THOMAS
CLERK
OF SU ORS

Santa Fe Irrigation District
PO Box 409
Rancho Santa Fe, CA 92069-0409
858.756.2424
858.756.0450 Fax

LETTER OF TRANSMITTAL

To:	Clerk of the Board, San Diego County Board of Supervisors	Date:	8/30/2011
Subject:	Conflict of Interest Code, R. E. Badger Water Facilities Financing Authority		

The following items are being transmitted:	
Number of Copies	Description:
1	Notice of Intention for adopting Code

The above items are submitted:	☐ At your request X For your review ☐ For your files
	☐ For your approval ☐ For your action ☐ For your information
	☐ Per contract dated ☐ For your signature
	☐ Other:

General remarks:

This notice establishes the 45-day review period prior to submission to the County for consideration. If you need anything else from the Financing Authority, please let me know.

Copies to:	Transmitted by: Kim Johnson Executive Assistant

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