

**RESOLUTION NO. 22-03
RESOLUTION OF THE GOVERNING BOARD OF THE
SAN JOSE-SANTA CLARA CLEAN WATER FINANCING
AUTHORITY SETTING FORTH ITS CONFLICT OF
INTEREST CODE AND SUPERSEDING RESOLUTION
NO. 14-01**

WHEREAS, the City of San José (“San José”) and the City of Santa Clara (“Santa Clara”) have entered into a Joint Exercise of Powers Agreement, dated as of March 1, 1981, as amended and restated by a Second Amended and Restated Joint Exercise of Powers Agreement, dated as of October 17, 1995 for the San José-Santa Clara Clean Water Financing Authority (“Authority”); and

WHEREAS, on November 12, 2014, this Board adopted Resolution No. 14-01, to set forth the Authority’s conflict of interest code; and

WHEREAS, on this date, this Board has conducted its review of its conflict of interest code and desires to make changes to it; and

WHEREAS, pursuant to Government Code Sections 87300 and 87302, the Authority desires to adopt and incorporate by reference in its revised conflict of interest code the terms of the standard model conflict of interest code adopted by the Fair Political Practices Commission (“FPPC”) by Title 2, Division 6, California Code of Regulations (the “Regulations”), Section 18730; and

WHEREAS, the revised conflict of interest code adopted by the Authority by this Resolution will be submitted to the Santa Clara County Board of Supervisors as the code reviewing body for approval;

NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BOARD OF THE SAN JOSE-SANTA CLARA CLEAN WATER FINANCING AUTHORITY THAT:

Section 1. In accordance with Government Code Sections 87300 and 87302, the Authority’s Conflict of Interest Code is adopted by this Resolution and Appendix I attached hereto.

Section 2. The terms of Section 18730 of the Regulations, and any amendments to Section 18730 or to the Regulations, taken with the appendix attached to this Resolution and incorporated by reference, constitute the Authority’s Conflict of Interest Code.

Section 3. Pursuant to Government Code Section 87200, the members of the Authority Board and the Director of Finance of the City of San José, who serves as the Treasurer of the Authority, are “public officials who manage public investments” and accordingly are subject to the disclosure and disqualification provisions set forth in

Government Code Sections 87200 through and including 87210 and are not subject to the Conflict of Interest Code adopted by this Resolution and shall submit their Statements of Economic Interests to the Secretary of the Authority who shall make and retain copies and forward the originals to the County of Santa Clara Clerk of the Board of Supervisors. Copies of all Statements of Economic Interest retained by the Authority will be available for public inspection and reproduction pursuant to Government Code Section 81008.

Section 4. Each "consultant" as defined by the Act and the Regulations adopted by the FPPC, is required to file disclosure Form 700 with the Secretary of the Board. If statements are received in signed paper format, the Authority shall make and retain a copy and forward the original of this statement to the Santa Clara County Clerk of the Board of Supervisors. If statements are electronically filed using the County of Santa Clara's Form 700 e-filing system, both the Santa Clara County Clerk of the Board of Supervisors and the Authority will receive access to the e-filed statement simultaneously. The Authority shall retain a copy for its records. Statements of Economic Interests are public records available for public inspection and reproduction pursuant to Government Code Section 81008.

Section 5. Nothing in this Resolution should be construed to allow any consultant retained by the Authority to make or participate in making or in any way attempt to influence a governmental decision in which the consultant knows or has reason to know that the consultant has a financial interest. Disqualification in the event of a conflict of interest is governed by the Act in Section 87100 and following of the Government Code and the Regulations.

All agreements with consultants, whether or not such a consultant is required to file a disclosure statement in accordance with this Resolution, shall provide that the consultant is obligated to disqualify himself or herself if a conflict of interest exists at any time during the term of the agreement.

Section 6. The Secretary of the Board is the filing official for the Authority (the "Filing Official"). The Filing Official is responsible for, among other things: (1) forwarding the Statements of Economic Interests from the Authority's filers to the Clerk of the Santa Clara County Board of Supervisors (or ensuring they are e-filed in the County's electronic system); (2) supplying the necessary forms and manuals prescribed by the Fair Political Practices Commission to the Authority's filers; (3) notifying the Clerk of the Board of the Santa Clara County Board of Supervisors regarding new individuals in designated positions, individuals leaving designated positions, and other events affecting filing obligations; and (4) notifying the Clerk of the Board of the Santa Clara County Board of Supervisors no later than February 1 of each year of the names and positions of every person whose Statements must be forwarded to the Clerk of the Board of the Santa Clara County Board of Supervisors.

Section 7. This revised conflict of interest code will not take effect until approved by the Santa Clara County Board of Supervisors. Upon approval of this revised conflict of

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interest code by the Santa Clara County Board of Supervisors, Resolution No. 14-01 will be superseded and will have no effect.

ADOPTED this 28TH day of September 2022 by the following vote:

AYES: COHEN, JIMENEZ, JONES, PARK

NOES:

ABSENT: WATANABE

By: David Cohen
David Cohen (Sep 28, 2022 14:04 PDT)

David Cohen
Vice-Chair of the Board

Attest:


toni taber (Sep 28, 2022 12:49 PDT)

Secretary of the Board

APPENDIX I

A. Government Code Section 87200 Authority Filers

Pursuant to Government Code Section 87200, officials who manage public investments as defined by Title 2 of the California Code of Regulations Section 18700.3(b) are subject to the disclosure requirements of the Political Reform Act and are required to file full Statements of Economic Interests. The Authority has determined that the holders of the positions listed below are officials who manage public investments for the Authority.

Authority Board Member
Authority Treasurer

B. Designated Positions

Designated Position	Disclosure Category
Consultant	1
Newly Created Position	*

Disclosure Category 1 for Consultant's Disclosure:

A Consultant, as defined by the Act and the Regulations adopted by the FPPC, shall disclose all investments, business positions and sources of income, including gifts, loans and travel payments, and all interests in real property, subject to the following limitation: The Treasurer of the Authority may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the full disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. All such determinations are public records and shall be retained for public inspection along with this conflict of interest code. The interests to be disclosed shall be set forth in the agreement for services between the consultant and the Authority.

* Newly Created Position:

A newly created position that makes or participates in the making of decisions that may foreseeably have a material effect on any financial interest of the position-holder, and which specific position title is not yet listed in an agency's conflict of interest code is 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 Treasurer of the Authority may determine in writing that a particular newly created position, although a “designated position,” is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position's duties and, based upon that description, a statement of the extent of disclosure requirements. All such determinations are public records and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Section 81008.)

As soon as the Authority has a newly created position that must file statements of economic interests, the Authority's Filing Official shall contact the County of Santa Clara Clerk of the Board of Supervisors Form 700 division to notify it of the new position title to be added in the County's electronic Form 700 record management system, known as eDisclosure. Upon this notification, the Clerk's office shall enter the actual position title of the newly created position into eDisclosure and the Authority's Filing Official shall ensure that the name of any individual(s) holding the newly created position is entered under that position title in eDisclosure.

Additionally, within 90 days of the creation of a newly created position that must file statements of economic interests, the Authority shall update this conflict-of-interest code to add the actual position title in its list of designated positions, and submit the amended conflict of interest code to the County of Santa Clara Office of the County Counsel for code-reviewing body approval by the County Board of Supervisors. (Gov. Code Sec. 87306.)