

Metropolitan Transportation Commission Administration Committee

January 8, 2020

Agenda Item 2e

MTC Resolution No. 1198, Revised – Revisions to MTC’s Conflict of Interest Code to Update List of Designated Positions – Authorization to Submit to FPPC for Approval and to Refer to Commission for Adoption

Subject: MTC Resolution No. 1198, Revised – Revisions to MTC’s Conflict of Interest Code to Update List of Designated Positions – Authorization to Submit to the Fair Political Practices Commission (FPPC) for Approval and to Refer to Commission for Adoption

Background: The Office of General Counsel reported to this Committee on November 13, 2019 that the Metropolitan Transportation Commission (MTC) Conflict of Interest Code (COIC), which serves as the COIC for the Bay Area Toll Authority, the MTC Service Authority for Freeways and Expressways, the Bay Area Headquarters Authority, the Bay Area Infrastructure Financing Authority, and the Advancing California Financing Authority, required an update in order to update the list of designated positions to reflect MTC’s affiliation with the Bay Area Regional Collaborative (BARC), the creation of two new positions, and MTC’s current organizational structure. The designated positions are listed in Appendix A to the COIC. Incumbents of positions designated in Appendix A must file an annual Statement of Economic Interests (FPPC Form 700) in compliance with the disclosure categories indicated in Appendix B.

The changes in the COIC reflect the addition of a designated position resulting from MTC’s affiliation with BARC, the addition of two new positions created during the past fiscal year, and changes in MTC’s organizational structure and nomenclature. The disclosure categories are tailored to the responsibilities of each role.

At its November 13 meeting, the Committee authorized posting the draft changes to MTC Resolution No. 1198, Revised, for the 45-day comment period required by the FPPC. We received no comments during the comment period, which closed on December 30, 2019.

Issues: None

Recommendation: Staff recommends that the Committee authorize staff to submit the proposed COIC to the FPPC for formal approval, and to refer the approved COIC to the Commission for adoption at a date to be determined.

Attachments: Attachment A: Proposed Amended Conflict of Interest Code
Attachment B: MTC Resolution No. 1998, Revised



Cynthia Segal

Revisions in ~~strikeout~~ and underline

**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.* and, pursuant to the Contract for Services dated as of May 30, 2017 between MTC and the Association of Bay Area Governments (“ABAG”), provides consolidated staff to perform work for ABAG and its affiliated Local Collaboration Programs, including ABAG Publicly Owned Energy Resources (“POWER”) and the ABAG Finance Authority for Nonprofit Corporations (“FAN”). MTC is also a member of and provides staff for the Bay Area Infrastructure Financing Authority (“BAIFA”) and the Bay Area Headquarters Authority (“BAHA”), and staffs the Advancing California Financing Authority (“ACFA”), a joint powers authority formed by ABAG and ~~the ABAG Finance Authority for Nonprofit Corporations~~ FAN. 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 of 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. (Gov. Code Sec. 81008.) All statements will be retained by **MTC**.

APPENDIX A

DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
Deputy Executive Director, Local Government Services (LGS)	1, 3, 4
General Counsel	1, 3, 4
<u>Senior</u> Deputy General Counsel	1, 3, 4
Senior Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
<u>Administrative Director, Office of the Executive Director</u>	<u>1, 3, 4</u>
Director, Administration & Facilities (AF)	1, 3
Director, Integrated Planning Department (PLN)	2, 3
Director, Operations <u>Design & Project Delivery (OPSDPD)</u>	2
<u>Director, Field Operations & Asset Management (FOAM)</u>	<u>2</u>
Director, Electronic Payments (EPS)	2
Director, Programming and Allocations (PAC)	2, 3
Director, Legislation and Public Affairs (LPA)	1, 3
Director, Technology Services (TSS)	2
Director, SF Estuary Partnership	2, 3
Director, Budget <u>Finance & Revenue Accounting</u> (aka Deputy Finance Director)	1
Director, Treasury <u>& Revenue</u> (aka Deputy Treasurer)	1
<u>Director, Bay Area Regional Collaborative (BARC)</u>	<u>2, 3</u>
<u>Deputy Director, PLN (aka Deputy Planning Director)</u>	<u>2, 3</u>
Assistant Directors: PLN, PAC, LGS	2, 3
Assistant Directors: OPSDPD , <u>FOAM</u> , EPS, TSS	2
Assistant Directors: LPA	1
Assistant Directors: AF	1, 3
Assistant Directors: Finance	1
Clipper [®] Executive Board Members	2
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 shall 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.

ATTACHMENT B

Date: October 27, 1982

W.I.: 99110

I.D.: File 1

Referred by: Administration 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 03/25/15-C

09/28/16-C 04/25/18-C

___/___/20-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.

This resolution was revised on March 25, 2015, to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure.

This resolution was revised on September 28, 2016, to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure, and to add Clipper[®] Executive Board member as a designated position.

This resolution was revised on April 25, 2018, to add designated positions in MTC's organization and their assigned disclosure categories resulting from the consolidation of the staffs of MTC and the Association of Bay Area Governments ("ABAG"), pursuant to the Contract for Services between ABAG and MTC, dated as of May 30, 2017 and the formation of the Advancing California Finance Authority, its staffing by MTC, and its adoption of the MTC Conflict of Interest Code; and to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure.

This resolution was revised on _____, 2020, to add the Bay Area Regional Collaborative (BARC) Director as a designated position, and 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 03/25/15-C
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Attachment A - Resolution No. 1198
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CONFLICT OF INTEREST CODE FOR THE METROPOLITAN TRANSPORTATION COMMISSION

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Attachment A - Resolution No. 1198
Page 2 of 5

Individuals holding designated positions shall file their statements of economic interests with **MTC**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by **MTC**.

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Attachment A - Resolution No. 1198
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APPENDIX A

DESIGNATED POSITIONS

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Deputy Executive Director, Local Government Services (LGS)	1, 3, 4
General Counsel	1, 3, 4
Senior Deputy General Counsel	1, 3, 4
Senior Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
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Director, Administration & Facilities (AF)	1, 3
Director, Integrated Planning Department (PLN)	2, 3
Director, Design & Project Delivery (DPD)	2
Director, Field Operations & Asset Management (FOAM)	2
Director, Electronic Payments (EPS)	2
Director, Programming and Allocations (PAC)	2, 3
Director, Legislation and Public Affairs (LPA)	1, 3
Director, Technology Services (TSS)	2
Director, SF Estuary Partnership	2, 3
Director, Finance & Accounting (aka Deputy Finance Director)	1
Director, Treasury & Revenue (aka Deputy Treasurer)	1
Director, Bay Area Regional Collaborative (BARC)	2, 3
Deputy Director, PLN (aka Deputy Planning Director)	2, 3
Assistant Directors: PLN, PAC, LGS	2, 3
Assistant Directors: DPD, FOAM, EPS, TSS	2
Assistant Directors: LPA	1
Assistant Directors: AF	1, 3
Assistant Directors: Finance	1
Clipper® Executive Board Members	2
Consultants/New Positions	*

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Attachment A - Resolution No. 1198
Page 4 of 5

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OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

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

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Attachment A - Resolution No. 1198
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APPENDIX B

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- 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.

LEAVE PAGE BLANK FOR _____, 2020 CERTIFICATION OF FPPC APPROVAL