
BOARD MEETING AGENDA

DATE: March 14, 2024
TIME: 10:00 a.m.
PLACE: This meeting will be held in person at 900 Fifth Avenue, Suite 100, San Rafael.

How to Provide Comment

Members of the public may submit public comment by:

1. Emailing amcgill@marinjpas.org the day before the meeting.
2. Attending the meeting and speaking during public comment periods.

A. Report from Executive Officer (McGill)

B. Public Comment

Anyone wishing to address the Board on matters not on the posted agenda may do so. Each speaker is limited to two minutes. As these items are not on the posted agenda, the Executive Officer and the Board may only respond briefly. Public input will be taken as part of each agenda item.

C. Approve Minutes of January 11, 2024, Regular Meetings (All)

D. Revisions to Taxicab Regulation Program Fee Schedule (Brown)

E. Resolution updating and amending Conflict of Interest Code for MGSA (McGill/Byers)

F. Adjournment

NEXT SCHEDULED MEETING: May 9, 2024



The meeting facilities are accessible to persons with disabilities. Requests for special accommodations (assisted listening device, sign language interpreters, etc.) should be directed to Michael Frank, 415-446-4428 or email: michael@michaelsfrank.com **no later than 5 days** before the meeting date.

January 11, 2024 MGSA Board Agenda

NOTE: A complete copy of the agenda packet is available on MGSA's website at <http://maringeneralservicesauthority.com>



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San Rafael, CA 94901
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BOARD MINUTES FOR MEETING OF JANUARY 11, 2024

The MGSA Board Meeting came to order in person. The meeting started at 10:00 a.m.

MGSA Board Members Participating: Vice President Andy Poster, and Members Cristine Alilovich, Daniel Del Monte, April Miller, and Robert Zadnik were present. President Greg Chanis and Members Cristine Alilovich and Amy Cunningham were absent.

Program Contractors Attending: Executive Officer Michael Frank, General Counsel Dave Byers, and MCSTOPPP Program Administrator Rob Carson.

A. Report from Executive Officer

The Executive Officer reported on activities since the last meeting. In particular, he mentioned:

Administration

- Lots of organizing and scheduling the transition to a new Executive Officer. A host of meetings scheduled.
- Training and transition will occur until the end of January

MarinMap

- Strategic Plan Update – Received report of survey and analysis of survey results; Meeting scheduled next week to determine stakeholder interviews for next steps

Taxi

- Permitting for 2024 is almost complete. Taxi permitting has stabilized since the pandemic with 21 taxi companies and 37 vehicles being permitted or in process. While demand for taxi services has increased, taxi companies are currently experiencing a shortage of available drivers which has resulted in a decrease of 5 vehicles being licensed for service. The program will meet its revenue projections for FY 23-24.

Animal Care and Control Program - No update

CATV - No update

Telecommunications - No small cell applications

B. Public Comment

None

C. Approve Minutes of October 26, 2023 and November 9, 2023 Regular Meetings

Motion by Miller, seconded by Del Monte, to approve the minutes for the October 26th, 2023 and November 9th, 2023 Board Meetings. Motion was approved 4 – 0 with President Chanis and Members Alilovich, Chanis, and Cunningham absent. There was no public comment on the item.

D. Marin County Storm Water Pollution Prevention Program (MCSTOPPP) Update and Fiscal Year 2024/25 Proposed Budget

Following an introduction of the item by Executive Officer Frank, Rob Carson, MCSTOPPP Program Manager, presented the proposed FY 2024-2025 Budget.

Following some Board questions of Carson, a motion was made by Del Monte, seconded by Miller, approving Resolution 2024-01 recommending adoption of the MCSTOPPP proposed budget and forwarding their recommendation to the Flood Control Board and the Marin County Board of Supervisors. Motion was approved 4 – 0 with President Chanis and Members Alilovich, Chanis, and Cunningham absent. There was no public comment on the item.

E. MGSA Work Plan Status Update for FY 2023/24 and Input on FY 2024/25 Work Plan Initiatives

Following a presentation by Executive Officer Frank, there was a brief discussion and some questions and answers. No action requested or taken. There was no public comment on this item.

RECESS INTO CLOSED SESSION

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54957: PUBLIC EMPLOYMENT - Title: Executive Officer

There was no closed session called.

RETURN TO OPEN SESSION

F. Executive Officer Professional Services Agreement with McGill and Associates, LLC.

Following an introduction of the item by Executive Officer Frank, a motion was made by Zadnik, seconded by Del Monte, approving Resolution 2024-02 recommending approval

of the professional services agreement appointing Adam McGill as MGSA's Executive Director. Motion was approved 4 – 0 with President Chanis and Members Alilovich, Chanis, and Cunningham absent. There was no public comment on the item.

G. Transmittal of Annual Fiscal Year 2022/23 Year-End Financial Statement and Audit Report

The Board accepted the Annual Financial Statement and Audit Reports for FY 2022/23 prepared by O'Conner and Company, Inc, Public Certified Accountants. The Executive Officer provided a brief overview and commented that the Audit was clean with no issues. No action was requested or received. There was no public comment.

H. Adjournment

The meeting adjourned at 11:09 a.m.



Michael S. Frank, Executive Officer

MEMORANDUM

DATE: March 14, 2024

TO: MGSA Board of Directors

FROM: Adam McGill, Executive Officer
Bob Brown, Taxi Program Manager

SUBJECT: Revisions to Taxicab Regulation Program Fee Schedule

Recommendation

Approve the attached Resolution modifying the Taxicab Regulation Program Fee Schedule.

Background

In 2006 the MGSA began regulating certain aspects of the taxicab business as required by Government Code § 53075.5. In 2017 the California legislature passed AB 1069, which made changes in state taxi requirements and became effective on January 1, 2019. Most of the changes in AB 1069 were intended to eliminate city-by-city licensing of taxicabs, which had proved expensive and inefficient. The legislation encouraged permitting through a Joint Powers Authority, such as MGSA has administered since 2006, or required cities that issue individual taxi permits accept permits from other cities in the same county to avoid duplication of permit costs and effort.

The intent of the Taxi Regulation Program is to have uniform, countywide monitoring of drug and alcohol testing, criminal background checks and vehicle inspections. At present there are 27 active permits for taxi companies, 70 vehicles and approximately the same number of drivers.

The financial viability of the taxi industry has been significantly impacted over the past several years, first by the advent and popularity of ridesharing services (also known as transportation network companies) which are not regulated by the Government Code, and more recently by increases in insurance costs and loss of ridership due to the COVID-19 pandemic. MGSA provided financial relief in the form of a 9-month free permit extension which ended in July 2021. The taxi industry in Marin has improved since the pandemic, increasing from 16 taxi companies permitted in 2021 to 21 companies in 2024. The industry is currently struggling with difficulties in hiring new taxi drivers due to increasing wages in other sectors of the economy and the low unemployment rate.

Over the past four years MGSA staff have implemented several efficiencies that have improved the taxi permit issuance process and lowered costs. Some of these include:

- Shifting from an annual program administrator contract to one based on an hourly rate,
- Conducting permitting online, without in-person services (necessitated by the pandemic),
- Shifting to calendar-year permits, concentrating almost all permit renewing to a single month each year,
- Annual printing of sequential taxi permit decals, rather than printing them individually at significantly higher cost,
- Closure of the MGSA office, and contracting for clerical support from the Transportation Authority of Marin, and
- Digitization of taxi permit records.

In November of 2021 the Board, recognizing the program cost reductions and impact of the pandemic on taxi company revenues, lowered the annual fee for taxi Vehicle Permits from \$1,000 to \$750.

With the stabilization of the taxi industry following the pandemic and continued program cost reductions, annual program costs for 2023 were approximately \$33,500, which includes the cost of the contract program manager, bookkeeping, a 25% portion of the TAM clerical contract, and portions of the overall MGSA overhead and legal costs. Permit income for the 2023 program year was approximately \$50,000. These program costs and revenues are summarized in Attachment 2.

Staff conducted a recent fee survey of other countywide or city-based taxi regulation programs, summarized in Attachment 3. While the fees vary greatly, it should be noted that some of the larger regulatory agencies have reduced their taxi fees since the pandemic.

Discussion

Under California law, public agencies are required to charge fees for service based on the costs of providing such services. Given the current and anticipated costs of issuing taxi permits it is estimated that permit fees can be reduced and still cover expected program costs. This is based on current levels of service, and would not cover increases in services like significantly increased levels of code enforcement or the need for program-related litigation.

Based on the current level of taxi permitting, which is likely to increase slightly if the pandemic continues to abate, staff is able to recommend a reduction in costs of Company Permits from \$1000 to \$750 and Vehicle Permits from \$750 per year to \$500 per year.

Attachments

1. Draft Resolution 2024-03
2. Taxi Program 2023 Costs and Revenues
3. Summary of Taxi Fee Survey

ATTACHMENT 1

**MARIN GENERAL SERVICES AUTHORITY
REVISIONS TO TAXICAB REGULATION PROGRAM FEE SCHEDULE
RESOLUTION 2024-03**

WHEREAS, Government Code Section 53075.5 requires local jurisdictions to protect the public health, safety and welfare by regulating taxicab operations in a manner consistent with requirements of State law; and

WHEREAS, the MGSA adopted and has administered a Taxicab Regulation Program since 2006; and

WHEREAS, the MGSA adopted Taxicab Program Regulations in 2006 by Resolution, which have been subsequently revised in 2008, 2009, 2016 and 2020; and

WHEREAS, the California State Legislature in 2017 passed AB 1069, revising Government Code Section 53075.5, which became effective on January 1, 2019; and

WHEREAS, periodic updates to the MGSA's Taxicab Regulation Program and Fee Schedule are necessary to reflect changes in permitting procedures, technologies and state law;

NOW THEREFORE, BE IT RESOLVED, that the MGSA Board of Directors adopts revisions to the Taxicab Regulation Program Fee Schedule as set forth in Exhibit A attached.

Adopted this 14th day of March 2024.

Ayes:

Noes:

Absent:

Greg Chanis, MGSA Board Chair

Attested By:

Adam McGill, Executive Officer

EXHIBIT A

MGSA Taxi Regulation Program Fee Schedule

Company Permit (One-Year Permit)	\$750*
Vehicle Permit (One-Year Permit per Vehicle)	\$500*
Penalty Fee for Company or Vehicle Permits issued after the permit expiration date.	\$200
Driver Permit (Two-Year Permit)	\$40
Transfer of Active Vehicle or Driver Permit (for remainder of term)	\$50

* Permits are issued for a calendar year. Fees for new company or vehicle permits which are issued mid-year will be pro-rated based on the remaining number of months in the year of issuance.

ATTACHMENT 2

MGSA 2023 TAXI PERMITTING COST AND REVENUE

ANNUAL PROGRAM COSTS:

Program administration, permit issuance and enforcement:

Estimated annual administration, permitting and enforcement costs:	\$15,000
Estimated annual invoicing, bookkeeping and database maintenance:	\$ 6,000
Estimated annual clerical support (25% of TAM contract):	\$ 3,000
Legal consultation (as needed):	\$ 2,000
MGSA program overhead (5%):	\$ 7,500
TOTAL PROGRAM COSTS:	\$33,500

ANNUAL PROGRAM REVENUE:

PROGRAM PERMIT INCOME – CURRENT FEE SCHEDULE: **\$50,000**
(21 Company Permits, 37 Vehicle Permits + Driver Permits)

ESTIMATED PROGRAM PERMIT INCOME – ADJUSTED FEE SCHEDULE: **\$35,000**
(Company Permits reduced from \$1,000 to \$750; Vehicle Permits reduced from \$750 to \$500)

ATTACHMENT 3

COMPARISON OF TAXI REGULATORY AGENCY FEES

Agency	Permit Type	Fee
MGSA	Company	\$1000 (Proposed \$750)
	Vehicle	\$750 (Proposed \$500)
	Driver	\$40 (2-year permit)
Monterey Co. Regional Taxi Authority	Taxicab Company	\$4227 new \$1000 renewal
	Vehicle	\$300
	Driver	\$315
Orange Co. Taxi Admin. Program	Company	\$1667
	Vehicle	\$319
	Driver	\$250 (2-year permit)
Oakland	Driver	\$251 new \$57 renewal
	Vehicle	\$960 application \$688 medallion \$388 renewal
San Diego Metropolitan Transit System	Company	\$1500 new
	Vehicle	\$350
San Jose	Taxi Company	\$7287 new \$490 renewal
	Driver	\$550 new \$168 renewal
Sonoma Co.	Vehicle	\$79.25
	Driver	\$117
Santa Rosa	Vehicle	\$110
	Driver	\$160
Pleasanton	Taxi Business	\$600
	Driver	\$150
Petaluma	Taxi Permit	\$98
Sacramento	Driver	\$145
	Vehicle	\$90 new \$115 renewal
Santa Barbara	Driver	\$204 new \$100 renewal
	Company	\$520

* Company, vehicle and driver permits combined

MEMORANDUM

DATE: March 14, 2024

TO: MGSA Board of Directors

FROM: Adam McGill, Executive Officer
Dave Byers, General Counsel

SUBJECT: Conflict-of-Interest Code Adoption/Update

Recommendation

By motion, approve Resolution 2024 - 04 adopting a Conflict-of-Interest Code and designating applicable reporting categories.

Background

The Political Reform Act is the foundation for California conflict-of-interest law, providing that public servants shall not make, participate in making, or attempt to influence the making of a government decision in which they have a financial interest.

All state and local government agencies are required to adopt a local conflict-of-interest code ("code"). The code is an independent set of rules adopted pursuant to the Act, having the force and effect of law.

The purposes of a local agency's code are to:

- Set forth the provisions (rules) for disclosure of income and assets as specified under the Act and the process of disqualification from action;
- Designate local agency positions subject to those provisions and required to file Statements of Economic Interests (Form 700 or SEI) due to their responsibilities with the local agency;
- List disclosure categories to be assigned to the designated positions indicating the types of income and assets to be disclosed on SEIs; and
- Inform designated positions and the public of the foregoing.

Discussion

MGSA adopted the FPPC Model Conflict-of Interest Code in 2006 and updated it in 2022, further directing a biennial review which is due at this time. General Counsel Byers has reviewed the model code and determined on the most significant changes since 2022 relate to the increase in dollar limits for prohibited gifts from \$340 to \$520, meaning a person cannot receive a gift of \$520 or more from a single source. Staff is requesting that the Board adopt the attached resolution reaffirming the MGSA policy of using the State’s Model Code as identified in the resolution (F1) and attachment (F2).

Attachments

- F1.** Resolution 2024 - 04 titled, “**Adopting a Conflict-of-Interest Code.**”

- F2.** Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations) § **18730. Provisions of Conflict of Interest Codes**

- F3.** General Counsel Memo to the Board of Directors



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RESOLUTION 2024 – 04

ADOPTING A CONFLICT-OF-INTEREST CODE

THE BOARD OF DIRECTORS OF THE MARIN GENERAL SERVICES AUTHORITY DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:

Section 1. The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies, including the Marin General Services Authority, to adopt and promulgate Conflict-of-Interest codes.

Section 2. The Fair Political Practices Commission (the “FPPC”) has adopted a regulation that contains the terms of a Model Conflict-of-Interest Code (the “Model Code”). The Model Code, codified at 2 California Code of Regulations Section 18730, can be incorporated by reference by the Authority as its conflict-of-interest code. After public notice and hearing, the FPPC may amend the Model Code to conform to amendments to the Political Reform Act.

Section 3. The Model Code, attached hereto as Exhibit “A,” and any amendments to it duly adopted by the FPPC, are hereby incorporated into the conflict-of-interest code of this Authority by reference. This regulation and the attached Appendices designating officials and employees and establishing economic disclosure categories shall constitute the Conflict-of-Interest Code for the Marin General Services Authority.

Section 4. All officials and employees required to submit a statement of economic interests shall file their statements with the Executive Officer or his or her designee. The Executive Officer shall make and retain a copy of all statements filed and forward the originals of such statements to the Office of the County Clerk of Marin County. All retained statements, original or copied, shall be available for public inspection and reproduction (Gov. Code Section 81008).

Section 5. The Authority hereby directs the General Counsel to coordinate the preparation of a revised Conflict-of-Interest Code in succeeding even-numbered years in accordance with the requirements of Government Code Sections 87306 and 87306.5. The revised Code should reflect any changes in employee designations. If no revisions to the Code are required, the Authority shall submit a report to the Office of the County Clerk of Marin County no later than October 1st of the same year, stating that amendments to the Code are not required.

Section 6. The Executive Officer is directed to certify to the passage and adoption of this resolution.

PASSED AND ADOPTED this 14th day of March 2024.

Ayes:

Noes:

Absent:

Greg Chanis
President, MGSA Board of Directors

Attested By:

Adam McGill
Executive Officer

Approved as to Form:

David Byers
General Counsel

EXHIBIT "A"

FPPC MODEL CODE

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

- (A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;
- (B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and
- (C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in the employee's statement of economic interests those economic interests the employee has which

are of the kind described in the disclosure categories to which the employee is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's

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disclosure categories are the kinds of economic interests which the employee foreseeably can affect materially through the conduct of the employee's office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April

1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following the person's return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that the person is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of the person's military status.

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(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided the person did not make or participate in the making of, or use the person's position to influence any decision and did not receive or become entitled to receive any form of payment as a result of the person's appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

- (1) File a written resignation with the appointing power; and
- (2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation the person did not make, participate in the making, or use the position to influence any decision of

the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

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Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;
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2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or

\$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

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2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which the employee is a director, officer, partner, trustee, employee, or in which the employee holds any position of management, a description of the business

activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on the member's or employee's statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

(D) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$520.

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(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$520 in a calendar year from any single source, if the member or employee would be

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required to report the receipt of income or gifts from that source on the member's or employee's statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of the election to office through the date that the officer vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of the election to office through the date that the officer vacates office, receive a personal loan from

any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while the official holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

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3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

4. Loans made, or offered in writing, before January 1,

1998. (8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of the officer's election to office through the date the officer vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.
2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that

the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

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1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:
 - a. The date the loan was made.
 - b. The date the last payment of \$100 or more was made on the loan.
 - c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
2. A loan that would otherwise not be a gift as defined in this title.

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3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

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(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use the employee's official position to influence the making of any governmental decision which the employee knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of the official's immediate family or on:

- (A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

- (B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;
- (C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;
- (D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
- (E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$500 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent the employee's participation is legally required for the decision to be made.

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The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make the employees' participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use the official's position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of the official's immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that the employee should not make a governmental decision because the employee has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of the duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for the employee's agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer. ³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act.

However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and

dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

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⁵ A designated employee's income includes the employee's community property interest in the income of the employee's spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300- 87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).

5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).

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9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-

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95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).

15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).

16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).

17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).

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18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

19. Editorial correction of subsection (a) (Register 98, No. 47).

20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District,

nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District,

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nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).
30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).
31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).
32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974

Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).
34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12- 1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision,

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April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

35. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-12-2018; operative 1-11-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing

and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2018, No. 50).

36. Amendment of subsections (b)(8.1)-(8.1)(A) filed 12-23-2020; operative 1-1-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 52).

37. Amendment of subsections (b)(3)(C), (b)(5)(C), (b)(5.5), (b)(5.5)(A)(2), (b)(7)(D), (b)(8)(A), (b)(8.1)(A), (b)(8.2)(A), (b)(8.2)(C)-(D), (b)(8.3)(A), (b)(9), (b)(9.3), (b)(9.5), (b)(10) and (b)(11) and footnote 5 filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974

Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20

EXHIBIT "A", APPENDIX "B"

<u>Designated Positions</u>	<u>Disclosure Categories</u>
Member of Board of Directors	1, 2, 3, 4
Member of Board of Directors (Alternate)	1, 2, 3, 4
Executive Officer	1, 2, 3, 4
General Counsel	1, 2, 3, 4
Taxi Regulation Program Coordinator	1, 2, 3, 4
Consultant	5

MEMORANDUM



TO: Board of Directors MGSA
FROM: David J. Byers, Esq. General Counsel
DATE: February 22, 2024
SUBJECT: Modifications to the Conflict of Interest Code

Since at least 2008 the MGSA Board has operated in accordance with the Conflict of Interest Code requirements of the Political Reform Act, Government Code Sections 81000 et seq. Every two years the General Counsel is directed to revise it. The most significant changes in the Model Code which MGSA uses is that the Code has been modified to increase the limit of prohibited gifts from \$340 to \$520 in Section 8.1 meaning one cannot receive a gift of \$520 or more from a single source. One can read the attached Section for the actual prohibition. Normally one would only need to modify that number to obtain a compliant code. However, the general language of the Model Code has also been modified to change singular his and her pronouns to generic ones. Therefore, it is recommended that the attached document be used as the new Exhibit A to ensure consistency with the Political Reform Act.