FACT SHEET ON DISCLOSING ECONOMIC INTERESTS

The City's Ethics Ordinance includes City laws regarding the disclosure of economic interests. This fact sheet is designed to offer general guidance to City Officials on the subject of disclosing economic interests, but should not be considered a substitute for the actual language contained in the Ethics Ordinance. In addition, this fact sheet is intended to supplement the instructions contained in the Form 700. Those instructions are very informative and can assist you with identifying reportable interests that aren't necessarily obvious, and may also help you identify things you don't need to report. For this reason, you are strongly encouraged to read the Form 700 instructions.

GENERAL RULES

- City Officials must disclose their economic interests on a form prepared by the State's Fair Political Practices Commission. It is known as a Form 700 or a Statement of Economic Interests, and it is filed with the Office of the City Clerk.

- City Officials must file an "annual" Form 700 on or before April 1 of each year, covering the previous calendar year. City Officials must also file an "assuming office" Form 700 within 30 days of assuming a new position, and a "leaving office" Form 700 within 30 days of leaving a position. Elected officials must also file a mid-year EC-700 report, disclosing all gifts received during the first half of the year.

- The purpose of these disclosure requirements is to provide the public with relevant information about City Officials to ensure that they are not using their positions to promote or enhance their own economic interests. For more information regarding whether or not your economic interests may disqualify you from influencing a municipal decision, please refer to the series of Ethics Commission fact sheets entitled "Disqualification from Municipal Decisions."

- If you are an elected official or are otherwise a "high level filer," then you must disclose a very broad range of economic interests. High level filers include the Mayor, the City Attorney, City Auditor, City Treasurer, and members of the City Council, Planning Commission, Funds Commission, Retirement Board, and the Defined Contribution Plan Board.

- If you are not a high level filer, then you are considered a "local code filer" because the City Council has adopted a conflict of interest code for your department or agency. Such officials must disclose their economic interests pursuant to the guidelines set forth in the conflict of interest code for their respective department or agency. In other words, if you are an employee of the Development Services Department, your department's conflict of interest code will identify your position and describe your disclosure categories. Similarly, if you are a member of the City's Park and Recreation Board, your board's conflict of interest code will describe your disclosure categories. All of the City's conflict of interest codes can be viewed at: http://www.sandiego.gov/city-clerk/elections/eid/codes.shtml.

- If you are a "local code filer," only the economic interests identified in your conflict of interest code need to be reported on your Form 700. For example, if your conflict code requires you to report only the gifts you receive from entities that supply goods or services to your particular department, then you

do not have to report gifts from a person or entity that does not do business with your department (such an entity would not be considered a "reportable source.")

- In general, you must disclose reportable interests (i.e., the interests described in your conflict of interest code) for yourself as well as for your immediate family, which includes your spouse or registered domestic partner, as well as your dependent children.

BUSINESS ENTITIES

- If you have an investment in a business entity worth $2,000 or more at any time during the reporting period and your ownership interest is less than 10% (e.g., you own 100 shares of Qualcomm stock), use Schedule A-1 to disclose information concerning this investment. Note that you are not required to disclose investments in diversified mutual funds registered with the Securities and Exchange Commission.

- If you, your spouse or registered domestic partner, or your dependent children, have a 10% or greater investment interest in a business entity (e.g., your spouse owns his or her own business), and the value of that investment interest is at least $2,000, use Schedule A-2 to disclose information concerning the business entity.

- When disclosing information regarding a business entity on Schedule A-2, remember that you must disclose any reportable sources of income to the entity if your pro rata share of the income from a particular source is $10,000 or more. For example, if you own 25% of a business and a client paid the business $50,000 during the previous calendar year, then you must identify this client on Schedule A-2 if the client is a reportable source on your conflict of interest code. Note that the $10,000 threshold is based on gross (not net) income received by the business.

- For Schedule A-2, note that you are presumed to have a 50% interest in any income received by your spouse or registered domestic partner. You must report, therefore, the name of any person who paid $20,000 to your spouse's wholly owned business (if the person is a reportable source). If you and your spouse own a business equally, then you would have a 75% interest in the gross income received by the business (your 50% ownership, plus one-half of your spouse's 50% interest).

- When disclosing your investments in business entities on Schedule A-2, it is important to remember to disclose any interests in real property held by the business. This includes any real property owned or leased by the business.

- Note that investments in business entities include trusts. For example, if you and your spouse have formed a family trust, you will need to disclose information regarding the trust on Schedule A-2 unless the trust contains only non-reportable interests (such as your personal residence, savings account, etc.)

- Even if you have a document (such as a pre-nuptial agreement) stating that you have no legal interest in your spouse's business or investments, you are still required to disclose such businesses and investments if they are reportable pursuant to your conflict of interest code.

REAL PROPERTY

- You are generally required to disclose interests in real property on Schedule B if the value of your interest is $2,000 or more at any time during the reporting period. Please refer to the conflict of interest code for your department or agency for more information on the specific real property interests that you must disclose.

- If your conflict of interest code requires you to disclose interests in real property located within the City of San Diego, you should know that the scope of that disclosure also includes real property located within a two-mile radius of any property owned or used by the City.

- Interests in real property include ownership interests, as well as deeds of trust, easements, and options to acquire real property. Interests in real properly also include leasehold interests. In other words, you may be required to disclose property that you rent for either personal or business use, depending upon the criteria set forth in your conflict of interest code.

- You are not required to report your interest in your personal residence (regardless of whether you own or lease your residence). Note, however, that if you claim a business deduction for any portion of your residence used for a home-based business (and the business is reportable pursuant to your conflict of interest code), you will need to disclose the fair market value of the portion claimed as the tax deduction on Schedule B.

- If you have an ownership interest of 10% or more in rental property, then you must list the name of the tenant if your pro rata share of income from that tenant is $10,000 or more during the reporting period (and if the tenant is a reportable source). Note that married couples and registered domestic partners are considered a single tenant for this rule. If you and your spouse or your registered domestic partner jointly own a rental property, your pro rata share of the income from a tenant is 75% (your 50% ownership, plus one-half of your spouse's 50% interest).

- You are not required to disclose real property loans made from commercial lending institutions in the regular course of business on terms available to the public.

INCOME, LOANS, AND BUSINESS POSITIONS

- If you receive $500 or more in income from a reportable source during the reporting period, you must disclose this income on Schedule C. Note that your income includes income received by your spouse or registered domestic partner from a reportable source, but does not include income received by your dependent children. You are not required to report income received by your dependent children, nor are you required to report income that is less than $500 during the reporting period.

- In California there is a legal presumption that you have a 50% community property interest in your spouse's income. In other words, unless you have a document (such as a pre-nuptial agreement) indicating that you have no legal interest in your spouse's income, you are required to report your 50% share of your spouse's income. If your spouse or registered domestic partner is self-employed, you should report his or her income on Schedule A-2 as part of an investment in a business entity.

- You are not required to disclose salary or reimbursement for expenses from another governmental agency. For example, if your spouse is employed by the City of Chula Vista, you do not need to disclose this income. Note that this exception only applies to "salary and reimbursement," which includes consulting fees paid by a governmental agency if the consultant is required to file a Form 700 for that agency. The exception, however, does not apply to other types of income, such as the proceeds from a sale of goods to a governmental agency or consulting fees from a governmental agency that are earned by a person who does not file a Form 700 for that agency.

- Income includes the gross proceeds from any sale (assuming the $500 threshold is reached), including the sale of a house or car. Income also includes payments received on loans made to others, including loan repayments from a campaign committee.

- Income includes commission income received as a broker, agent, or salesperson. You are also required to report the identity of each individual or entity that is a source of commission income if your pro rata share of that income is $10,000 or more (and if the individual or entity is a reportable source). There are additional rules applicable to the disclosure of commission income. Please contact the Ethics Commission for details.

- Income does not include payments received under an insurance policy, interest or dividends from financial institutions or securities registered with the Securities and Exchange Commission, alimony, or child support payments.

- Because the definition of "income" includes loans, you are required to disclose any outstanding loans of $500 or more from a reportable source unless the loan is made by a commercial lending institution in the regular course of business on terms available to the public without regard to your official status. An unpaid debt is considered a loan for purposes of disclosing your economic interests. Although commercial debts, such as a home mortgage, automobile loan, and credit card debt, are generally not subject to disclosure, personal debts and loans from service providers (e.g., accountants, attorneys), friends, and associates (but not family members) are subject to disclosure.

- You are also required to disclose any business position you hold with a for-profit entity that is a reportable source under your conflict of interest code, even if you did not receive any compensation from the entity. For example, you may be required to disclose your position as a member of the board of directors of a local bank if the bank is a reportable source, even if you do not receive any stipend or other form of compensation as a board member.

GIFTS

- Gifts from the same reportable source that have an aggregate value of $50 or more during the reporting period must be disclosed on Schedule D. Gifts from the same source valued at less than $50 within the reporting period do not need to be reported. In other words, you do not need to report four $10 lunches paid for by the same source (as long as that source did not give you any other gifts during the same calendar year).

- Although salary from another government agency is not reportable (see the above section on income), gifts from other government agencies must be disclosed if the government agencies are reportable sources pursuant to your conflict of interest code.

- Gifts from your friends might be reportable. If your conflict code states that you must report gifts from any source located in the City of San Diego, and your friend lives in Pacific Beach, then gifts from your friend may need to be reported (there are exceptions for gifts exchanged on birthdays and holidays, and gifts exchanged as part of a bona fide dating relationship).

- For additional information concerning the acceptance, valuation, and disclosure of gifts, please refer to the Ethics Commission Fact Sheet entitled "Gifts to City Officials."

TRAVEL EXPENSES

- Use Schedule E to disclose travel expenses (transportation, lodging, and meals) paid by a reportable source.

- Travel payments paid or reimbursed by the City of San Diego do not need to be disclosed.

- If an entity other than the City of San Diego pays or reimburses you for your travel, that payment may be considered a reportable gift (that may or may not be subject to the gift limit), a reportable form of income, or nothing at all, depending on the particular circumstances.

- The payment of travel expenses involves numerous rules that are too lengthy to detail in this fact sheet. Whether or not such expenses need to be reported, and whether or not they are subject to the gift limit ($390 in 2007) depends on a variety of factors, including whether you are giving a speech or participating on a panel, whether another governmental agency or 501(c)(3) non-profit entity is paying for the travel, and whether the travel is inside or outside of California. For this reason, please contact the Ethics Commission for assistance regarding travel payments before you accept them.

- If you have any questions concerning the disclosure of your economic interests, please contact the Ethics Commission at (619) 533-3476.

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