



DEPARTMENT of NEIGHBORHOOD
E M P O W E R M E N T

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DEPARTMENT of NEIGHBORHOOD
EMPOWERMENT

Neighborhood Purposes Grant (NPG) Announcement and Explanation

Dear Neighborhood Council Leaders:

The Department of Neighborhood Empowerment (Department) is pleased to announce that the City Council and the Mayor have given final approval to the ordinance establishing the Neighborhood Purposes Grant (NPG). This approval is the culmination of intense effort by the Department to provide Neighborhood Councils with greater flexibility in spending their allocated funds. **Effective March 30, 2009**, Neighborhood Councils will enjoy a significantly enhanced ability to form partnerships with 501(c)(3) nonprofit organizations and public schools in their communities. (Please note that grants cannot be issued to religious organizations or to private schools.)

In addition to paying vendors on the basis of an invoice, Neighborhood Councils will now be able to request that grants be issued for projects and for organizational/operational costs.

Note: Grants will only be issued in the form of City checks, (demand warrants), not charge card transactions. This will ensure maximum transparency and tracking of grants issued.

Conflict of Interest Laws Apply

The state and local conflict of interest laws that currently apply to the Neighborhood Council Funding Program and that are included in funding training packets also apply to the Neighborhood Purposes Grant. At a minimum, board members must recuse themselves from a vote to approve a grant should there be a conflict due to an affiliation with an applicant organization. There should be full disclosure and transparency. Please review these laws. As a reminder, the state and local conflict of interest laws are posted on the Department's website at: http://www.lacityneighborhoods.com/page2.cfm?doc=funding_bulletins

Neighborhood Councils in Good Fiscal Standing

Only Neighborhood Councils in good fiscal standing will be eligible to participate in the NPG program. Neighborhood Councils must comply with both of the following requirements:

- Must have a current fiscal year budget on file with the Department
- Must have submitted the previous two quarters of audit materials (including receipts/invoices)

You can check your fiscal status on our website at www.lacityneighborhoods.com

Application Form, Board Approval and Public Purpose

501(c)(3) nonprofit organizations and public schools must complete a Neighborhood Purposes Grant Application. The application must include all required information and

documentation. An electronic version of the NPG application is available on the Department's website.

Neighborhood Councils must evaluate all grant applications in a public meeting, deciding whether to approve or disapprove the proposed grant. ***If a grant application is approved for funding the board's resolution MUST include the grant's public purpose and benefit.***

All grant approved NPG applications must be sent to your Project Coordinator for review. The following is a checklist of the required documentation:

- Demand warrant form (modified to include a NPG selection)
- Board resolution (including public benefit statement)
- NPG application (checking for contact information, EIN, explanation of public purpose and project budget information)
- IRS determination letter (proof of nonprofit status)

Once the Project Coordinator has reviewed the application for completeness it will be forwarded to the Neighborhood Council Funding Unit of the Department for processing. If these documents are in compliance, the Department will then process a check to the grant recipient.

Grants Up to \$5,000

Neighborhood Councils will now have the legal authority to issue grants of public funds in amounts up to \$5,000 without a written contract provided that all the aforementioned documentation is submitted to the Department.

Grants of \$5,001 and Above

In addition to the aforementioned Demand Warrant (DW) form, Neighborhood Purposes Grant Application (including grantee's EIN), board resolution, and proof of 501 (c)(3) nonprofit status, please note the following:

Grants for amounts of \$5,001 and above will require contracts drafted in coordination with the Department so as to meet City contracting standards. Neighborhood Councils do not have the legal authority to enter into unilateral contracts.

Grants for amounts above \$20,000 will require the approval of the General Manager of the Department and the Board of Neighborhood Commissioners.

Posting Grants on the Department's Website

Grants issued by Neighborhood Councils will be posted on the Department's website so that stakeholders can monitor the progress of the Program.

If you have any questions please contact Rodger Shimatsu of the Neighborhood Council Funding Program at (213) 473-5383 or toll free at 3-1-1 or by email at Rodger.shimatsu@lacity.org.

City of Los Angeles, Department of Neighborhood Empowerment
 Neighborhood Council Funding Program
 APPLICATION for Neighborhood Purposes Grant (NPG)



This form is to be completed by the applicant seeking the Neighborhood Purposes Grant and submitted to the Neighborhood Council from whom the grant is being sought. All applications for grants must be reviewed and approved in a public meeting. The Neighborhood Council, upon approval of the application, shall submit the approved application along with all required documentation to the Department of Neighborhood Empowerment via the Project Coordinator.

Name of Neighborhood Council you are seeking the grant from: _____
Neighborhood Council Name

SECTION I - APPLICANT VERIFICATION INFORMATION

1A) _____
Organization Name *Federal I.D. # (EIN#)* *State of Incorporation* *Date of 501(c)(3) Status (if applicable)*

1B) _____
Organization Mailing Address *City* *State* *Zip Code*

1C) _____
Business Address (If different) *City* *State* *Zip Code*

1D) _____
Address of Affiliated Organization (If applicable) *City* *State* *Zip Code*

Name and address of person designated to receive official/legal notices: *Name:* _____

2) _____
Street *City* *State* *Zip Code*

3) Type of Organization- Please select one: **(Organizations must be located within the City of Los Angeles)**
 Public School *(not to include private schools)* or 501(c)(3) Non-profits *(other than religious institutions)*
 Attach Letterhead Attach IRS Determination Letter

SECTION II - PROJECT DESCRIPTION

4) Please describe the Neighborhood Improvement Project for which the grant is intended.

5) How will this grant be used to primarily support or serve a non-discriminatory, public purpose and benefit the public at-large.

Document Submission Checklist

Please review the application and ensure that the following required documentation is included prior to submitting the application to the Department:

- Board Resolution (including Public Benefit Statement)
- NPG Application
- IRS Determination Letter -- if 501(c)(3) organization
-or-
- Official Letterhead from Public School
- Demand Warrant Form (DW)

What is a Public Benefit?

A Neighborhood Purposes Grant (NPG) must provide a demonstrable benefit to the community.

An NPG should build community through the implementation process and enhance the neighborhood once completed. Projects may encompass a wide range and can include, but are not limited to:

- The Arts
- Beautification
- Community Support
- Education
- Community Improvements.

The Department of Neighborhood Empowerment has the final discretion to determine whether or not the proposed project is clearly beneficial to the community.

A project may be submitted that is part of a larger project, but if so, consider carefully whether it can be completed independently of the larger project and regardless of whether other funding needs to be secured.

Considerations:

- The **budget** is realistic and supported with documentation
- The organization or individual is **capable** of completing the project
- The **work plan** is detailed, specific, and feasible
- The project is **supported** by the community
- The **number** of stakeholders that will benefit from this project
- The project implementation process will **build community**
- The complete project will **enhance the community**

- **Credibility.** Does the organization know what it wants to accomplish? What is the evidence that the organization is currently achieving its goals? What kind of reputation does the group enjoy within its community and beyond?

- **Capability.** What skills does the organization's staff and board bring to the project? Are they relevant to the project's aims? Has the organization succeeded in similar endeavors of equal size and scale to what they are now proposing? In short, you want to find out if the staff and board of the applicant organization can effectively carry out the project or program.

- **Feasibility.** Your Neighborhood Council must determine whether the proposal is advancing a worthwhile project built upon a good idea that can be successfully implemented by the organization. The question of feasibility touches upon both credibility and capability; an organization without credibility or capability is not a practical community partner. Simply put: can the project be done? Consult the budget to make certain that the organization has allocated sufficient resources to execute the various tasks and strategies described in the proposal.

- **Importance.** Beyond the question of can and will a project be completed, the Neighborhood Council must ask: should it be done? Is the project significant? Is there evidence that the proposal will trigger action or work that the community wants? Will it make a difference in the

community it purports to aid or resolve the issue it addresses? Given your other opportunities for issuing grants, is it the right one to support at this time?

Questions to Ask and Factors to Consider:

- Is this a capital improvement project?
 - It should be on public property within the Neighborhood Council's boundaries
 - There must be coordination with appropriate City agencies (i.e., Street Services, LAPD, LAFD, Rec & Parks, etc.)
 - Appropriate permits need to be in place
- Is this for program services (i.e. after school program, graffiti removal, etc.)?
 - The applicant must create a fair selection process to establish participants
- Is this for equipment and supplies?
 - Purchases for schools or 501(c)(3) organizations need to ultimately benefit the local community
- Is this an event?
 - Events must be open and advertised to the public
 - Discuss appropriate liability issues

SAMPLE IRS DETERMINATION LETTER

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **AUG 31 2005**

INITIATING CHANGE IN OUR
NEIGHBORHOODS COMMUNITY DEV CORP
12502 VAN NUYS BLVD STES 113 & 114
PACOIMA, CA 91331

Employer Identification Number:
95-XXXXXXX
DLN:
17XXXXXXXXXXXX
Contact Person:
JOHN DOE ID# XXXXX
Contact Telephone Number:
(213) 555-1212
Public Charity Status
170(b) (1) (A) (vi)

Dear Applicant:

Our letter dated JUNE 2002, stated you would be exempt from Federal Income tax under section 501(c)(3) of the Internal Revenue Code, and you would be treated as a public charity, rather than as a private foundation, during an advance ruling period.

Based on the information you submitted, you are classified as a public charity under the Code section listed in the heading of this letter. Since your exempt status was not under consideration, you continue to be classified as an organization exempt from Federal Income tax under section 501(c)(3) of the Code.

Publication 557, Tax-Exempt Status for Your Organization, provides detailed information about your rights and responsibilities as an exempt organization. You may request a copy by calling the toll-free number for forms, (800) 829-1676. Information is also available on our Internet Web Site at www.irs.gov.

If you have general questions about exempt organizations, please call our toll free number shown in the heading between 8:30 a.m. and 5:30 p.m. Eastern time.

Please keep this letter in your permanent records.

Sincerely yours,

Jane Doe
Director, Exempt Organizations
Rulings and Agreements

Proposal Evaluation Form

(Suggested tool for use by the Neighborhood Council's Board)

Grant Applicant's Name: _____

Date: _____ Reviewer's Name: _____

PART I: ELIGIBILITY

1. Is the organization a nonprofit agency with tax-exempt status under Section 501(c)(3) of the Internal Revenue Code?

Yes _____ No _____

2. Do the programs and services of the organization primarily serve residents of your Neighborhood Council area?

Yes _____ No _____

3. Does the organization have an office/staff located in your Neighborhood Council area?

Yes _____ No _____

PART II: FUNDING PRIORITIES

1. Which of the following priority areas does the proposed project align with:

- | | |
|---|--|
| <input type="checkbox"/> Education | <input type="checkbox"/> Civic Engagement |
| <input type="checkbox"/> Health | <input type="checkbox"/> Neighborhood Improvements |
| <input type="checkbox"/> Human Services | <input type="checkbox"/> Other |
| <input type="checkbox"/> Arts/Culture | |

2. Does the proposed project primarily serve residents of your Neighborhood Council?

Yes _____ No _____

3. Will the proposed project be complete within one fiscal year (July 1-June 30)?

Yes _____ No _____

4. Does the proposed project have a budget of \$5,000 or less (does not require City contract)?

Yes _____ No _____

5. Does the proposed project have a budget of \$5,001 or more (requires City contract)?

Yes _____ No _____

6. Does the proposed project have a budget of \$20,001 or more (requires City contract and approval from the Department's General Manager and the Board of Neighborhood Commissioners)?

Yes _____ No _____

PART III: CONFLICT OF INTEREST

1. Does any Neighborhood Council board member have a conflict of interest with the grant applicant?

Yes _____ No _____

PART IV: SCORING FORM

Instructions: Please use the rating scale below to score the elements in Sections A-E. A score should be assigned to the statement to indicate the extent to which the proposal addresses the corresponding statement.

Rating Scale

1 - Poor	2 - Fair	3 - Good	4 - Excellent
The proposal has serious deficiencies. Not likely to recommend for funding.	The proposal somewhat addresses this element and is lacking some information. Likely to recommend for funding.	The proposal addresses this element in a satisfactory manner and provides adequate information. Recommend for funding.	The proposal fully addresses this element and is well articulated. Strongly recommend for funding.

Score / Max. Score

Section A: Agency Experience

The organization possesses expertise in working with the specified target population(s) and has a history working in the identified target area(s). _____ / Out of 4

Section B: Identified Need

The organization clearly identified the proposed need for the project and provided relevant information on the target population(s) and target area(s) to be served by the project. _____ / Out of 4

Section C: Measurable Objectives and Expected Outcomes

The organization clearly articulated the measurable objective(s) and expected outcome(s) for assessing the progress of the proposed project. _____ / Out of 4

Section D: Project Timeline

The organization clearly described the project activities and necessary steps for completing the proposed project within the indicated period or time. _____ / Out of 4

Section E: Merit of Proposal

The overall merit of the proposal illustrates a project that aligns with one of the primary objectives of the Neighborhood Council : (1) improving the physical infrastructure of the community or, (2) improving community engagement and problem-solving capacity. _____ / Out of 4

Total Points: _____ / Out of 20

Section F: Overall Comments

Please offer the applicant any comments, suggestions or feedback in the areas below.
(Note: This information will be utilized to provide applicants with general feedback on their overall proposal.)

1. Positive aspects of the proposal:

2. Areas for improvement:

3. General impressions and/or feedback:

Name of Reviewer: _____ Date: _____

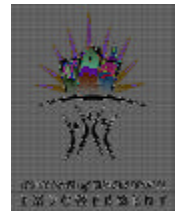
PART V: ATTACHMENTS

Which of the following items were included as attachments to the proposal?

- Project Budget
- IRS Determination Letter [for 501 (c)(3) organizations]
- Board of Directors Roster (including officers, telephone numbers, professional affiliations and terms of office)
- Agency Operating Budget (current year)
- Form-990 (most recently submitted)
- Audited Financial Statement (most recently completed)

DEMAND WARRANT

DW



NEIGHBORHOOD COUNCIL FUNDING PROGRAM - REQUEST FOR NEIGHBORHOOD COUNCIL PAPER CHECK

334-B E. 2nd Street, Los Angeles, CA 90012, 213.485.1360 or 3-1-1 Website: www.lacityneighborhoods.com
 Mail or submit this request via Fax: 213.485.4608 or email: done.funding@lacity.org ATTN: FUNDING PROGRAM

Date of Check Request: _____

Amount of Check Request: \$

Neighborhood Council: _____

If this Expenditure/Project is itemized in your budget please check here:

Otherwise attach minutes/affidavit approving the expenditure and ensure it is appropriated in your budget.

Please select category:	Operational Expense	Neighborhood Improvement	Outreach
<input type="checkbox"/>	Office Equip./Supplies/Facilities	<input type="checkbox"/>	Event/Refreshments
<input type="checkbox"/>	Apple One/Admin. Services	<input type="checkbox"/>	Election
<input type="checkbox"/>	Meeting Expenses	<input type="checkbox"/>	Advertisment/Newsletter/Web
<input type="checkbox"/>	Other	<input type="checkbox"/>	Other

Please provide a description of expense or attach additional information:

Make check payable to: _____

Check if for a City Dept.

Remittance Address: _____

City and State: _____ Zip Code: _____

Please select all appropriate categories, attach Vendor Invoice and provide required supporting documents:

- First- time request for this vendor:**
- Attach a completed W-9 and enter BTRC code here: _____

- Outreach expense:**
- Please consult DW Supporting Document Guidelines form and/or DONE for required documents

- Community improvement project:**
- Please consult DW Supporting Document Guidelines form and/or DONE for required documents

- Reimbursement for board members:**
- Submit original receipt(s) and proof of payment

- Purchase Order:**
- Provide quote and a Vendor contact name and number

- Neighborhood Purposes Grant (NPG):**
- Provide NPG Application, Board Resolution and proof of 501(c)(3) status

DECLARATION

The undersigned do hereby declare that, as a result of an official action of the Governing Body of the Neighborhood Council named above: (1) they are authorized to make this request, (2) this funding request is exclusively intended for the Neighborhood Council named above, (3) all reasonable precautions shall be exercised by the undersigned to safeguard and account for use of the funds, (4) **that state and local conflict of interest laws apply**; and (5) the amount of the check requested will be deducted from the total available balance in my Neighborhood Council Funding Program account. **Note: The names and signatures of the Neighborhood Council Treasurer and Second Signatory are required.**

Signature: _____

Signature: _____

Treasurer: _____

2nd Signatory: _____

Phone: _____

Phone: _____

(BELOW THIS LINE FOR DONE USE)

		Approval	Date
Vendor Code	Acct. #	Approval	Date

Board Resolution Template

Instructions: Please place on your neighborhood council letterhead and fill-in the information between the brackets.

<DATE>

We, <board officer name 1> and <board officer name 2>, declare that we are the <title of board officer 1> and <title of board officer 2> respectively of the <nc name> and that on <date of nc meeting where resolution was adopted> a Brown Act noticed public meeting was held by the <nc name> with a quorum of <number> board members present and that by a vote of; <number> yes, <number> no, and <number> abstentions the <nc name> adopted the following resolution:

The Neighborhood Purposes Grant (NPG) application submitted by <applicant name> has been available for review and comment by the public and duly evaluated by the <nc name> Board.

Therefore be it resolved that the <nc name> approves the NPG submitted by <applicant name> in the amount of <grant amount> for the following purposes and community benefits:

<Itemize Approved Budget Expenses Here>

<Include Public Benefit Statement Here>

Authorized Signature

Date

Authorized Signature

Date

STATE AND CITY CONFLICT OF INTEREST LAWS: INFORMATION FOR NEIGHBORHOOD COUNCILS

Conflict of Interest Laws Governing Neighborhood Councils

Board members of Neighborhood Councils who are given governmental decision-making authority, must be mindful of the following conflict of interest laws: The Political Reform Act of 1974, as amended (Government Code § 81000, *et seq.*), Government Code § 1090 *et seq.*, and the common-law conflict of interest rules. Because of the enactment of Ordinance No. 176477¹, Neighborhood Councils are not required to have a conflict of interest code, are not required to fill out the state (Form 700) disclosure statement and no longer are subject to the City's Governmental Ethics Ordinance (Los Angeles Municipal Code § 49.5.1 *et seq.*) However, compliance with state and common law conflict of interest laws is still required. A brief explanation of these laws follows.

The Political Reform Act.

The Political Reform Act is a state law that sets up rules and regulations to ensure that governmental officials are free from bias caused by their own financial interests and act in an impartial matter.

Basic Prohibition. Under the Act, public officials are disqualified from participating in government decisions in which they have a financial interest. There are four basic tests to ascertain whether a neighborhood council board member might have a financial interest under the Act. When all of the following are true, the board member would have a disqualifying interest:

the neighborhood council board member makes, participates in making, or uses his or her official position to influence the making of a decision;

the neighborhood council board member has a statutorily defined economic interest (his or her own finances or those of members of his or her immediate family, investment in a business, interest in real property, source of income or gifts, management position in a business) that may be affected by the decision;

¹ See, Los Angeles Administrative Code § 2.20.1.

it is reasonably foreseeable that the decision will have a *material financial effect* on the neighborhood council board member's economic interest;

the decision will affect the neighborhood council board member's economic interest in a way that is distinguishable from its effect on the public generally or a significant segment of the public.

A neighborhood council board member who is disqualified must abstain from making, participating in making or attempting to use his or her official position in any way to influence the government decision.

Persons Covered. The Act treats members of local governmental agencies as public officials. Public officials who make, participate in the making of, or influence or attempt to influence a governmental decision must comply with the Act's provisions. Neighborhood Councils have been treated as local governmental agencies and board members as public officials for the purposes of the Act.²

Participation In Decision-Making. Neighborhood Councils are advisory bodies. Their role is to make recommendations to the various City decision-makers, including City boards, commissions, City Council committees and the City Council (City Charter § 907). This role falls within the ability to make, participate in making, or attempting to influence a government decisions provision of the Act. Since the Neighborhood Councils have been delegated the authority to make governmental decisions, even the board member's votes on non-governmental or purely advisory recommendations will be subject to the conflict-of-interest provisions.³

Economic Interests Covered. What is a financial interest is often complicated and fact-based, but there are basic types of economic interests that the Act covers:

a business entity in which a neighborhood council board member, or his or her immediate family, owns an investment or in which the neighborhood

² Making *recommendations* as to whether the City should or should not enter into a contract will also trigger the Act's requirements. In this instance, this means making a recommendation about a *specific* contract which is coming before the City for action or recommending qualifications/specifications for a city contract. Merely advising the City as to whether, for example, the City should pave a certain street or install lighting, which decisions might ultimately result in the City entering into a contract for those services, would not trigger the Political Reform Act requirements for the neighborhood council providing this advice.

³ Thus, a board member who makes governmental decisions must also be aware of, and comply with, the disqualification rules even when making a purely advisory recommendation, for example, to a City Council Committee or Area Planning Commission regarding a conditional use permit for a project located within the boundaries of that Neighborhood Council.

council board members is an officer or director or holds a management position in that business entity;

real property in which a neighborhood council board member or his or her, immediate family, owns an interest;

any person or entity that is a source of income or loans to the neighborhood council board member or spouse;

any person or entity that has given the neighborhood council board member a gift within the last year; or

a neighborhood council board member's personal expenses, income, assets or liabilities, including those of his or her immediate family.

Business Investments and Business Positions. An investment of **\$2000 or more** in a business entity by a board member, his or her spouse or dependent children is considered an economic interest. If a board member is a director, officer, partner, trustee, employee or holds a position of management in a business entity, that is also considered an economic interest.

Real Property- An investment of **\$2000 or more** in real property by a board member, his or her spouse, or his or her dependent children or anyone acting on his or her behalf, is an economic interest.

Sources of Income and Gifts- The receipt by a board member of income of **\$500 or more** from an individual or organization within 12 months prior to the decision in question is an economic interest. Gifts totaling **\$360** or more received from a single source within 12 months prior to the decision is an economic interest.⁴

Personal Financial Effects- Expenses, income, assets or liabilities of board members or their immediate family are considered an economic interest if those expenses, income, assets or liabilities are likely to go up or down by **\$250** as a result of the decision at issue.

Once a board member determines that he or she has an economic interest, the next step is to determine whether the decision will have a direct or indirect impact upon the board member's interest and whether it is reasonably foreseeable that the decision will have a material effect on the board member's economic interest.

Direct v. Indirect Interest. Whether a particular impact is material or not also depends

⁴ Note: The gift limit is adjusted for inflation every two years. Govt Code § 89503(f).

upon whether the economic interest is directly or indirectly affected by the decision. A direct interest is generally one that is the subject of the decision; an indirect interest is one that may be impacted because of some connection or relations to the decision.⁵ A direct interest is more likely to create a greater risk of a conflict of interest than an economic interest that is indirectly involved in the decision.

Foreseeability and Materiality. To have a conflict of interest the effect on the board member's economic interest must be foreseeable (in other words, likely to occur) and be considered material. In other words, a conflict of interest results if a board member can reasonably predict that his or her decision on a particular matter will have some economic impact (positively or negatively) on his or her economic interest. The Act sets up some basic thresholds to determine whether an economic interest is material:

⁵ For example, if a neighborhood council board member owns a business that is subject to a permit or approval about which the Neighborhood Council is making a recommendation, that is a *direct* impact of that economic interest. If a neighborhood council board member owns a business that is located more than 500 feet away from a piece of property that is seeking, for example, to obtain conditional use approval to sell alcoholic beverages about which the Neighborhood Council is making a recommendation, the decision potentially has an indirect impact on that economic interest, i.e., the business of the board member.

Business Investments and Business Positions. As a *general* rule, if a decision directly involves a business entity in which the neighborhood council board member has an interest, the board member must disqualify himself or herself. However, if the only interest in the company is less than \$25,000 in stock, the board member may still be able to participate in the decision after a detailed examination of the state's regulations. If the decision indirectly involves a business entity in which the board member has an interest, a decision's impact would be material if, for large companies such as Fortune 500 companies, the impact on the interest would result in an increase or decrease of the business' gross revenue of **\$10,000,000** or more in a fiscal year; or results in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of **\$2,500,000**; or results in an increase or decrease in the value of the business entity's assets or liabilities of **\$10,000,000** or more. At the other extreme, for smaller companies the impact is material if the decision would result in an increase or decrease in revenues of **\$20,000** or more or increase or reduce expenses by **\$5000** or more in a fiscal year, or result in an increase or decrease in the value of its assets or liabilities by **\$20,000** or more.⁶

Real Property- If the decision affects a board member's property which is located **within 500 feet** of the boundaries of the property subject to the decision; disqualification from acting is generally required *unless* the decision will have no financial impact on the property. If the board member's property is located **more than 500 feet**, there is a presumption that the decision will not have a material financial effect. However, that presumption can be rebutted by proof that there are specific circumstances that would make it reasonably foreseeable that a financial effect will result from the presumption. Leasehold interests may also implicate the conflict of interest rules and have to be evaluated on a case-by-case basis.

Sources of Income - If the decision will have **any** financial effect upon an individual who is a source of income for the board member and that source is directly involved in the decision, the effect is determined to be material. The most common source is the employer of the board member or spouse. If a board member or his or her spouse owns 10% or more of a business, clients of that business may also be sources of income. However, if the source of income is indirectly involved in the decision, application of the state's regulations on the particular facts of this source is required to determine if the board member has to recuse himself or herself from acting on the matter.

Distinguishable From The Public. Even if a board member's economic interest is foreseeable and material, he or she does not have a legal conflict of interest unless the

⁶ The Political Reform Act also describes the impacts of other businesses that fall *between* these parameters, which are not discussed here.

decision's impact on his or her economic interest is *different* from the general public's impact. In other words, if a board member is participating in a decision on an issue that will affect the general public's financial interests in the same manner as his or her own interests, even though the decision will have a material economic impact on the board member's financial interest, it does not create a conflict of interest. Under this rule, the decision must affect the board member's interest in *substantially the same manner* as the interests of the public. An example of this would be if the City is embarking upon a plan amendment and zone change for a community plan area and a board member's property is subject to a zone change as is every other property within the community plan area. Although the board member's property is directly affected by the zone change, the property is impacted in substantially the same manner as other members of the public since all are being rezoned, so there is no conflict of interest requiring recusal. The state has developed specific percentage and numerical thresholds for determining when a group of people constitute a significant number to make a determination whether a decision affects the public in the same manner.

Decisions Related to Contracts - Government Code ' 1090, et seq.

In addition to the requirements of the Political Reform Act, state law contains special rules governing conflicts of interest relating to government contracts. A neighborhood council board member may not be *financially interested* in *any City contract* that he or she is involved in making. Thus, any participation by a board member in the process by which a contract is developed, negotiated or approved, *including making a recommendation on the contract*, is a violation of Government Code § 1090 if the board member has a financial interest in that contract. **Also, if the board member has a financial interest in a contract, the entire neighborhood council board might not be able act on the matter.**

However, there are some interests called remote interests which would disqualify a board member but not the entire neighborhood council board. Govt Code §1090 prohibitions apply to oral as well as written contracts. Financial relationships in a contract would include, but are not limited to: employee of a contracting party, attorney, agent or broker of a contracting party, supplier of goods or services to a contracting party; landlord or tenant to a contracting party; officer, employee or board member of a nonprofit corporation of a contracting party.

Common Law Conflict of Interest Rules.

Although Los Angeles City Charter § 222, contains its own conflict of interest provisions based on an appearance standard, these standards for disqualification are not applicable to neighborhood council board members. However, neighborhood councils are free to develop their own appearance standards and ethics rules in their bylaws.

Furthermore, basic principles of bias and conflict of interest rules that the courts have developed over time (common law) also apply to the board's decisions even if the statutory rules may allow a board member to participate in an action. As the Attorney General has concluded, [t]he common law doctrine against conflicts of interest . . . prohibit public officials from placing themselves in a position where their private, personal interests may conflict with their official duties. 64 Ops. Cal. Atty Gen 795. As put by the court of appeal, [a] public officer is impliedly bound to exercise the powers conferred on him with diligence and primarily for the benefit of the public. *Noble v. City of Palo Alto* (1928) 89 Cal. App. 47, 51.

This doctrine applies in situations involving both financial *and* nonfinancial interests. This means that simply having a personal relation to the matter could be construed as tainting a board member's decision-making because he or she is perceived to be biased or making the decision based on his or her personal interest, rather than for the good of the public.⁷

However, having general personal views and opinions about a matter is generally not sufficient to show bias. *Andrews v. Agricultural Labor Relations Board* (1981) 28 Cal. 3d 781. The mere appearance of bias is generally not sufficient for disqualification; but a disqualifying bias may be found if a showing can be made that a public officer has a specific prejudice against a person affected by a decision or a showing that a public officer's decision making ability is so impaired such that s/he cannot render a decision based on appropriate grounds. *Id.* at 792. Thus, neighborhood council board members should always be alert to whether their private interests, whether financial or otherwise, would be enhanced by any particular action they take on an item before them. Although not legally required, neighborhood council members should avoid even the appearance of bias to avoid allegations that might cause the integrity of the neighborhood council and its members to be questioned.

⁷ Even without a financial interest, the public officer must have some personal advantage or disadvantage at stake. See, e.g., *Clark v. City of Hermosa Beach* (1996) 48 Cal. App. 4th 1152; 88 Op. Atty. Gen. Cal 32 (2005).

Penalties.

Violations of the Political Reform Act and Government Code § 1090 can carry significant penalties.⁸

Violations of the Political Reform Act can result in civil actions, criminal prosecution and/or administrative sanctions, injunctive relief or in some cases, prohibition against holding future elective office, depending upon the nature of the violation and the jurisdiction of the enforcement agency.

Violations of Govt Code § 1090 are prosecuted as a felony and a conviction could, in addition to the imposition of a criminal fines and potential imprisonment, result in a lifetime ban from holding any public office in the State of California. In addition, contracts that are entered into in violation of this statute are void as a matter of law.

Finally, any person can file suit in civil court alleging violations of the Act.

Identifying Conflicts and Disqualification.

Because severe penalties may apply to a neighborhood council board member for violations of the conflict of interest laws it is important that board members identify their economic interests that may pose potential conflicts. The eight part test set forth earlier should help board members identify what type of economic interests they have.

If a board member has either an economic interest in a decision that requires disqualification or is disqualified due to the application of the common law doctrine of a

⁸ Note: The City Attorney's Office cannot defend or indemnify a board member who is charged, either civilly or criminally, with a violation of either the Political Reform Act or Gov=t Code § 1090. In addition, regarding the attorney-client privilege, the privilege applies to confidential communications between the attorney and the client. Although the City Attorney is the legal advisor to the neighborhood council board, the City's client is the municipal corporation, the City of Los Angeles, and not to any individual board member. While the City Attorney's Office is willing and able to assist individual neighborhood council board members with legal advice, the advice given may be disclosed to the neighborhood council board and to any other City entity.

conflict of interest, the board member must disclose the interest which is the subject of the conflict as well as the fact that he or she is disqualifying himself or herself from any participation in the decision. The board member also may not do anything to influence the decision.

If a board member is disqualified from acting on a meeting agenda item and he or she is present at the meeting, he or she should make a public announcement identifying the economic interest which is the subject of the conflict and the fact that he or she is disqualified from any participation. After announcing the recusal from participation, the board member should excuse himself or herself and leave the room while that item is pending.

Summary.

Any time any City business is before a neighborhood council board member that involves:

a business in which he or she or a member of his or her family has an investment;

an entity of which he or she is an officer or director or holds some position of management;

real property in which he or she or a member of his or her family has an interest;

a source of income to him or her or a member of his or her immediate family;

a source of gifts to him or her; or

any person or entity with which he or she has a relationship other than in his or her capacity as a City official (e.g, a friend, person with whom he or she has a business relationship or an organization in which he or she holds some position of importance),

board members should contact the Department of Neighborhood Empowerment with the pertinent facts, and the Project Coordinator for the board member's neighborhood council will confer with the City's attorney for advice to assist the board member.⁹ The information

⁹ The Project Coordinator generally will not provide information relating to allegations of conflict of interest matters relating to third persons (persons other than those making the inquiry); only the board member who is concerned about his/her own economic or common law conflict of interest should contact the Department. The one exception is that any board member can and should inquire about the ability of its board to enter into a contract that might implicate Govt Code § 1090.

will be communicated either directly from the Office of the City Attorney or through the Department of Neighborhood Empowerment's Project Coordinator, orally or in writing, depending upon the complexity of the board member's inquiry.

You may also seek advice from the Fair Political Practices Commission (FPPC) at their toll free help line at 1-866-ASK-FPPC, or may ask for a formal written opinion.¹⁰

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¹⁰ Formal written opinions take a minimum of 21 days but *only written advice from the FPPC* provides immunity from prosecution if acting consistent with that advice.

Project Completion Follow Up

Neighborhood Councils providing a grant to 501(c)(3) organizations or to public schools should require the grantee to be accountable for the progress and/or completion of the proposed project.

As a best practice, the Neighborhood Council (NC) should set up spot check reviews of ongoing receipts for the project as it moves toward completion.

After the project comes to a close, the NC Treasurer should obtain a Project Completion Report from the grantee for the Board to then review.

One source of information that should be requested and obtained is the nonprofit's tax returns which show income and expenses for past, current and pertinent future years.

Some points to keep in mind:

- Neighborhood Councils must maintain accountability
- Maintain organized records and keep them available for review
- Have scheduled or periodic inspections and audits
- Review project receipts
- Review progress of the project
- Review Project Completion Report from grantee to NC
(See Appendix A - Project Completion Report)
- Acquire photo's at project's throughout the process and/or at the project's completion

Should issues arise, the Department of Neighborhood Empowerment reserves the right to request all supporting documentation and to review the grant approval process as well as the project's progress and completion.

Project Completion Form

Awarding Neighborhood Council: _____

Applicant Name: _____

Grant Amount: \$ _____

Date Granted: _____

Please answer the following questions regarding the grant funding referred to above.
Attach additional pages if necessary.

1. Please provide a summary of the overall project for which funding was granted.

2. Please detail the projected community impact and the actual outcome.

3. Please describe any challenges as well as solutions where appropriate.

Submitted by

Date

E-mail

Phone