AQD EXHIBIT
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PENGAD 800-631-6989

CITY OF ALBUQUERQUE

LEGAL DEPARTMENT
(505) 768-4500

July 6, 1990

INTER-OFFICE CORRESPONDENCE REF:

TO: Sarah B. Kotchian, Director, Environmental Health Department

FROM: Adelia W. Kearny, Assistant City Attorney

SUBJECT: City of Albuquerque and County of Bernalillo Conflict of Interest Submissions

At the request of the Environmental Protection Agency, certified copies of the following are attached:

1. Sections 1-12-1 through 1-12-3, Public Boards, and Sections 2-3-1 through 2-3-13, Conflicts of Interest, Revised City of Albuquerque Ordinances, 1974; and Article XII, the Code of Ethics, from the City Charter; and

2. Bernalillo County Ordinance 85-3, the Code of Ethics.

The above ordinances and excerpt from the City Charter require the disclosure of all potential conflicts of interest by members of the Albuquerque-Bernalillo County Air Quality Control Board and meet the requirements of the Clean Air Act, Section 7428(a)(2), U.S.C.A.

CITY OF ALBUQUERQUE

By David S. Campbell
David S. Campbell
City Attorney

Dated: 7/6/90

Adelia W. Kearny
Adelia W. Kearny
Assistant City Attorney

AWK:ps
Attachments
3054Y
cc: Robert Harley, Chief Engineer

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

OFFICE OF THE CITY CLERK
(505) 768-3030

KAREN M. ACEVES
CITY CLERK

June 28, 1990

I, Karen M. Aceves City Clerk of the City of Albuquerque, New Mexico, a municipal corporation, hereby certify that Chapter 1 Article XII (Public Boards, Commissions and Committees, Chapter 2 Article III (Conflict of Interest) and Article XII (Code of Ethics) of The City of Albuquerque Revised Ordinance 1974, are true and correct copies of the original documents as maintained in the City Clerk's Office of which I am the Custodian.

Karen Aceves
City Clerk

June 28, 1990
Date

(Seal)

AN EQUAL OPPORTUNITY EMPLOYER

ARTICLE III

CONFLICT OF INTEREST

2-3-1 SHORT TITLE. This ordinance may be cited as the Conflict of Interest Ordinance.

(31-1985)

2-3-2 DEFINITIONS. As used in the Conflict of Interest Ordinance:

A. "business" means a corporation, partnership, sole proprietorship, firm organization or other legal entity carrying on business;

B. "confidential information" means information which by law or practice is not available to the public;

C. "controlling interest" means a financial interest in a business which is greater than twenty percent;

D. "employee" means every appointed classified or unclassified officer or employee of the City who receives compensation in the form of a salary or who is eligible to receive per diem and mileage. The term employee shall not include elected officials of the City;

E. "financial interest" means any interest which shall yield, directly or indirectly, any monetary or other material benefit to a city employee or to the city employee's spouse or minor children. The term "financial interest" shall not include the employee's salary or other compensation authorized by law;

F. "officer" means all members of boards, commissions and committees, the Chief Administrative Officer, and all department directors, division directors and section chiefs; and

G. "official act" means an official decision, vote, approval, disapproval or other action which involves the use of discretionary authority.

(31-1985)

2-3-3 EMPLOYEE CONDUCT--STANDARDS. Employees must in all instances maintain their conduct at the highest standards. No employee shall continue in his/her City employment with pay when he/she engages in activities which are found to more than likely lead to the diminishing of the integrity, efficiency, or discipline of the City service.

(31-1985)

2-3-4 GIFTS AND DONATIONS PROHIBITED.

A. No reward, favor, gift, emolument, or other form of remuneration in addition to regular compensation and employee benefits shall be received by any employee for the performance or non-performance of his/her duties from any vendor, contractor, individual or firm doing business with the City or who can be reasonably anticipated to do business with the City in the future, or from any other source having or proposing to have any relationship with the City of Albuquerque.

B. Nothing in this section shall be construed to prohibit an occasional, non-pecuniary gift, insignificant in value; an award publicly presented in recognition of public service, acts of heroism or for solving of crimes; a commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of the State to engage in the business of making loans.

(31-1985)

2-3-5 CONFLICT OF INTEREST--EMPLOYEES.

A. An employee shall disqualify himself/herself from participating in any official act directly affecting a business in which he/she has a financial interest. No employee shall acquire a financial interest at a time when he/she believes or has reason to believe that it will be directly affected by his/her official act.

B. Every employee who has a financial interest which he/she believes or has reason to believe may be affected by an official act taken within the scope of his/her employment shall disclose the precise nature and value of such interest. The disclosures shall be made in writing to the City Clerk at the time the conflict occurs and during the month of January every year thereafter.

Additionally, it shall be the duty of an employee to inform his/her department head of such a financial interest at the time he/she acquires it. The information on the disclosures, except for the valuations attributed to the reported interests, shall be made available by the City Clerk for inspection to any citizen of this State; provided, however, the valuation shall be confidential. The filing of disclosures pursuant to this section is a condition of entering upon and continuing in City employment.

C. The City shall not enter into any contract with a business in which an employee has a controlling interest, involving services or property of a value in excess of one thousand dollars ($1,000) unless the contract is made after public notice and competitive bidding or the Chief Administrative Officer has made a written waiver of this prohibition; provided that this subsection does not apply to a contract of employment with the City.

D. Any purchase order or contract entered into by the City with a business in which an employee of the City has a controlling interest is void if the employee failed to comply with the provisions of this Section prior to the City entering into such contract or purchase order.

(31-1985)

2-3-6 CONFIDENTIAL INFORMATION. No employee or former employee shall disclose or use confidential information acquired by virtue of his/her municipal employment or office without prior written approval of the Chief Administrative Officer. Nothing in this subsection shall prohibit a former employee from entering into a contract to represent the City in a confidential capacity.

(31-1985)

2-3-7 CONFLICTS OF INTEREST--FORMER EMPLOYEES.

A. A former employee shall not within one year after the date of termination from employment represent any person or business in connection with a matter in which the former employee has performed an official act, unless the Chief Administrative Officer consents to such representation. No person or business with which a former employee is associated may knowingly undertake or continue a private representation in such a matter unless:

1. the disqualified former employee is screened from participation in the matter and is apportioned no part of the compensation therefrom; and

2. written notice is promptly given to the Chief Administrative Officer.

B. Nothing in this section shall prohibit a former employee from entering into a contract to represent the City in any matter.

(31-1985)

2-3-8 FALSE STATEMENTS PROHIBITED.

A. No person shall willfully or corruptly make any false statement, certificate, mark, rating, or report in regard to any test, certification, appointment, or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing in connection with employment with the City or in connection with the work-related conduct of any City employee.

B. No person seeking appointment to, or promotion in the service of the City, shall either directly or indirectly give, render, or pay any money, service, or other valuable thing to any person for, or on account of, or in connection with his/her test, appointment, proposed appointment, promotion or proposed promotion; provided, however, that this provision shall not apply to payments made to duly licensed employment agencies.

(31-1985)

2-3-9 NEPOTISM PROHIBITED. No relative of a City employee, by blood or marriage, may be employed in any position with the City in which the employee may be able directly to supervise, control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed.

(31-1985)

2-3-10 OUTSIDE EMPLOYMENT. No employee shall engage in outside employment without prior approval of the Chief Administrative Officer, or a designee of the Chief

Administrative Officer. No employee shall continue outside employment if such employment has a negative impact on his/her job performance. A determination that such employment has a negative impact on an employee's job performance is not the subject of a grievance as defined in the Merit System Ordinance, Chapter 2, Article IX, R.O. 1974. No employee who is receiving Worker's Compensation benefits shall engage in outside employment.

(31-1985)

2-3-11 CODE OF CONDUCT.

A. The Director of the Personnel Services Department shall, subject to the prior approval of the Chief Administrative Officer, promulgate a Code of Conduct for all employees.

B. In addition to the Code of Conduct promulgated by the Director of Personnel Services, a City department director may promulgate a Code of Conduct for all employees of his/her department which prescribes standards in addition to those set forth in this ordinance and the Code of Conduct promulgated by the Director of Personnel Services which are peculiar and appropriate to the function and purpose for which the department was created or exists. Such codes, upon approval of the Chief Administrative Officer, shall further govern the conduct of employees and if violated, shall constitute cause for dismissal, demotion or suspension.

(31-1985)

2-3-12 VIOLATION BY EMPLOYEES. Violation of any of the provisions of this ordinance by any employee is grounds for disciplinary action, including dismissal, in accordance with the provisions of the Merit System Ordinance, Chapter 2, Article IX, R.O. 1974.

(31-1985)

2-3-13 VIOLATION BY FORMER EMPLOYEE. Violation of any of the provisions of this ordinance by a former employee is a misdemeanor, and, upon conviction the former employee shall be sentenced to imprisonment for not more than ninety (90) days or fined not more than $300.00 or both such imprisonment and fine.

(31-1985)