

CODE OF ETHICS

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BROWNSVILLE NAVIGATION DISTRICT OF CAMERON COUNTY, TEXAS

CODE OF ETHICS

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PURPOSE

The volume and complexity of relationships between governmental entities and non-governmental business organizations have grown substantially in recent years.

This statement of Brownsville Navigation District of Cameron County, Texas ("District") policy has been prepared to outline the District's approach to identifying and evaluating potential conflict of interest issues for Commissioners and to assist in carrying out the shared responsibility of addressing conflict of interest issues. To this end all District Commissioners are required by this Code of Ethics to avoid conflicts of interest in their relationships with outside organizations, unless these can be managed in accordance with this policy. The purpose of this Code of Ethics is to provide guidelines for those relationships with outside organizations that will help to assure the primacy of integrity and to delineate the bounds of acceptable conduct.

The term *Conflict of Interest* refers to situations in which financial or other personal considerations may directly and significantly affect, or have the appearance of directly and significantly affecting a Commissioner's judgment in exercising any District duty or responsibility. The danger of a conflict of interest is that it represents an incentive for bias, a bias that influences decision making based on personal interest as opposed to the most objective decision.

POLICY

It is the District's policy that District Commissioners shall conduct themselves in a manner consistent with sound business and ethical practices; that the public interest shall always be considered in conducting District business; that the appearance of impropriety shall be avoided to ensure and maintain public confidence in the District; and that the Board shall control and manage the District's affairs fairly, impartially, and without discrimination, and according to the District's purpose.

The District intends to require compliance with all applicable state laws as well as this policy to ensure that the Navigation District's Commissioners do not engage in activities that have the potential to directly or indirectly:

1. Negatively affect or compromise the District's interests; or
2. Compromise objectivity in carrying out the responsibilities of the Commissioners of the District; or
3. Otherwise compromise the performance of District responsibilities.

PROHIBITIONS
APPLYING TO
COMMISSIONERS

No Commissioner shall:

1. Participate in a vote or decision on a matter involving a business, contract or real property in which the Commissioner has a substantial interest if it is reasonably foreseeable that an action on the matter would confer a special economic effect, distinguishable from its effect on the public, on the business, contract or property involved.
2. Solicit, accept or agree to accept any benefit as consideration for the Commissioner's decision, opinion, recommendation, vote or other exercise of discretion as a public servant.

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3. Solicit, accept or agree to accept any benefit as consideration for the Commissioner's decision, vote, recommendation or other exercise of official discretion in a judicial or administrative proceeding.
4. Solicit, accept or agree to accept any benefit as consideration for a violation of a duty imposed by law on the Commissioner.
5. Solicit, accept or agree to accept any benefit from a person the Commissioner knows is interested in or likely to become interested in any District contract or transaction;
6. Act as surety for a business that has work, business, or a contract with the District or act as surety on any official bond required of an official of the District.
7. Disclose confidential information; use confidential information for the purpose of securing a benefit for the Commissioner; accept employment or engage in professional activity which would require, or which the Commissioner should reasonably expect would require, the Commissioner to disclose confidential information.
8. Make personal investments, engage in any transaction or professional activity, or incur any obligation of any nature which would create, or which the Commissioner should reasonably foresee would create, a substantial interest in a business, contract or real property that would result in significant and continuing conflict of interest.
9. Engage in any activity or transaction that at that time is prohibited by law, now or hereafter enacted, which is applicable to the Commissioner by virtue of his or her association with the District.
10. Permit any personal or unauthorized use of District-owned or District-controlled equipment, materials, supplies, or property.

PROHIBITIONS
APPLYING TO
CONTRACTORS

No Contractor of the District shall offer, confer, or agree to confer on any Commissioner any benefit that would cause the Commissioner to be in violation of any provision of Section I(A).

DISCLOSURE
REQUIREMENTS -
COMMISSIONERS

1. If a Commissioner or a person related to the Commissioner within the first degree by consanguinity or by affinity, as defined by Subchapter B, Chapter 573, Government Code, has an employment or other business relationship with a vendor that results in the commissioner receiving taxable income, the Commissioner must disclose the nature and extent of the relationship. If a Commissioner or a person related to the Commissioner within the first degree by consanguinity or by affinity, as defined by Subchapter B, Chapter 573, Government Code, has received any gifts from a vendor that have a total value of more than \$250.00 in a 12-month period, the Commissioner must disclose the gifts.
2. The conflicts disclosure statement required under this policy will include an acknowledgement by the Commissioner that the disclosure applies to the Commissioner and to any person related to the Commissioner within the

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- first degree by consanguinity or by affinity, as defined by Subchapter B, Chapter 573, Government Code, and the statement covers the preceding 12 months.
3. The conflicts disclosure statement must include the Commissioner's signature acknowledging the execution of the statement under penalty of perjury.
 4. The conflicts disclosure statement shall be filed with the Texas Ethics Commission and the secretary of the Board of Commissioners not later than the end of the fifth business day after the date the Commissioner became aware of the relationship between the Brownsville Navigation District (District) and the vendor if the vendor has contracted with the District, the District is considering doing business with the vendor or a vendor offered one or more gifts to the Commissioners in the preceding 12-month period that have a total value of more than \$250.
 5. A member of the Board of Commissioners may request in writing that the general counsel of the District advise the Commissioner with respect to a potential violation of this section. If the request provides detailed information about an alleged violation or hypothetical situation, the Commissioner is entitled to rely in good faith on the general counsel's advisory opinion written in response to the Commissioner's request.
 6. The Board of Commissioners shall design a conflicts disclosure statement which shall be used by the Commissioners to report the conflicts disclosures required under this section or the Board of Commissioners may chose to utilize the conflicts disclosure statement adopted by the Texas Ethics Commission. This conflicts disclosure statement shall be adopted by rule of the Board of Commissioners and shall comply with the requirements in Section 176.004 of the Local Government Code and Section 60.484 of the Texas Water Code.
 7. For the purpose of receiving conflicts disclosure statements required to be filed under this Section, the Director of Finance and Administration is hereby appointed as the agent for the Secretary of the Board of Commissioners. A copy of any conflicts disclosure statement filed with the Director of Finance and Administration will be forwarded to the Secretary of the Board once filed.
 8. The conflicts disclosure statements required to be filed by Commissioners that are described in items 1 through 7 of this section shall also be required to be filed by the Port Director and CEO of the District and shall apply to the Port Director and CEO of the District or a person related to the Port Director and CEO within the first degree by consanguinity or by affinity, as defined by Subchapter B, Chapter 573, Government Code.
 9. The Board of Commissioners of the District may reprimand, suspend, or terminate the employment of the Port Director and CEO for failing to comply with a requirement adopted under this section.
 10. If a Commissioner has a substantial interest in a business, contract or

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property on which a special economic effect distinguishable from its effect on the public, would be conferred by a vote or decision by such Commissioner, the Commissioner may not participate in the consideration of the matter subject to the vote or decision. In addition, the Commissioner shall, before the vote or decision occurs, file with the Port Director an affidavit stating the nature and extent of his or her interest. The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a Commissioner has a substantial interest. The Commissioner having the substantial interest may not participate in that separate vote, but may vote on a final budget if the director has complied with Local Government Code Chapter 171 and this Code, and the matter in which the director is concerned has been resolved.

11. Commissioners shall within 30 days of their appointment or, for Commissioners serving on the date of the enactment of this Code, by June 1, 2005, disclose in writing to the Port Director the location by address and approximate acreage of real property located within one mile of the Brownsville Ship Channel, in which they own a substantial interest, as defined in Section II(P). Commissioners shall notify the Port Director of the acquisition of a substantial interest in additional property located within such geographical area and the sale of any such property within 30 days of such transaction. The District shall prepare and maintain a map denoting the location of any such property for each Commissioner.
12. The disclosures required by this subsection are in addition to any requirements imposed by law.

DISCLOSURE
REQUIREMENTS -
VENDORS

1. "Vendor" is defined for the purposes of this policy as a person (or entity) who provides goods or services to the District. This provision applies also to an agent for a vendor in their business dealings with the District. This provision specifically does not apply to:
 - a. Vendors who are solicited to sell personal property at a posted price out of a regularly maintained inventory to the District by employees of the District in the normal course of the District's business, provided that such purchase is in an amount that does not require written quotations or Board of Commissioner approval under state law or District policy.
 - b. Common carriers and hospitality service providers such as restaurants and hotels that provide services to employees or members of the Board of Commissioners of the District at regularly advertised prices.
2. A vendor who (1) responds to a District Request for Proposals, (2) contracts or seeks to contract with the District for the sale of property, goods or services to the District, or (3) otherwise communicates with the District in connection with the negotiation of a potential agreement between that vendor and the District is required to complete and file a conflict of interest questionnaire with the Secretary of the Board of Commissioners of the District not later than the seventh day after the initial contact with the

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District that discloses the vendor's affiliations or business relationships that might cause a conflict of interest. The conflict of interest questionnaire must be filed even though no affiliations or business relationships that might cause a conflict of interest exist.

3. A vendor must file an updated conflict of interest questionnaire on September 1st of each year if the vendor did any business with the District during the preceding 12 months and after each event that would make a statement in the most current questionnaire on file with the District incomplete or inaccurate.
4. Any contract or purchase order between the District and a vendor who has not completed and filed a conflict of interest questionnaire is voidable.
5. The Board of Commissioners shall design a conflict of interest questionnaire which shall be used by Vendors to report the conflicts required to be disclosed under this section or the Board of Commissioners may chose to utilize the conflicts of interest questionnaire adopted by the Texas Ethics Commission. This conflict of interest questionnaire shall be adopted by rule of the Board of Commissioners and shall comply with the requirements in Section 176.006 of the Local Government Code and Section 60.483 of the Texas Water Code.
6. For the purpose of receiving conflict of interest questionnaires required to be filed under this Section, the Director of Finance and Administration is hereby appointed as the agent for the Secretary of the Board of Commissioners. A copy of any conflict of interest questionnaire filed with the Director of Finance and Administration that indicates a conflict of interest will be forwarded to the Secretary of the Board once filed.
7. The conflict of interest questionnaires required to be filed in regard to conflicts of interest in regard to Commissioners of the District shall include conflicts of interest in regard to the Port Director and CEO of the District.
8. The disclosures required by this subsection are in addition to any requirements imposed by law.

NEPOTISM

No Commissioner with the authority to appoint, elect or hire District personnel shall exercise that authority in favor of persons who are related to the Commissioner, exercising such authority within the second degree by affinity or within the third degree by consanguinity.

This provision shall not prevent the retention or advancement of any person who has been continuously employed in his or her position for at least 30 days prior to the election or appointment of the Commissioner related to such person; provided, however, that the Commissioner related to that person shall not participate in any deliberation, voting or appointment process relating to that person.

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DETERMINATION OF
DEGREES OF
RELATIONSHIP

1. The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.
2. If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:
 - a. The number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
 - b. The number of generations between the relative and the nearest common ancestor.
3. An individual's relatives within the third degree by **consanguinity** are the individual's:
 - a. Parent or child (relatives in the first degree);
 - b. Brother, sister, grandparent, or grandchild (relatives in the second degree); and
 - c. Great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).
4. A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.
5. An individual's relatives within the second degree by **affinity** are:
 - a. Anyone related by consanguinity to the individual's spouse in the first or second degree, as defined above; and
 - b. The spouse of anyone related to the individual by consanguinity in the first or second degree, as defined above.

EXCEPTIONS

Section I.A.5 does not apply to the following benefits, which may be accepted by a Commissioner:

1. A fee prescribed by law to be received by the Commissioner or any other benefit to which the Commissioner is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a Commissioner;
2. A gift or other benefit conferred on account of kinship or on account of a personal, professional or business relationship independent of the Commissioner's relationship with the District;
3. An Honorarium in consideration for legitimate services rendered above and

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beyond official duties and responsibilities if:

- a. Not more than one Honorarium is received from the same person in a calendar year;
 - b. Not more than one Honorarium is received for the same service; and
 - c. The Commissioner files an affidavit with the Port Director stating the purpose and amount of the Honorarium and the date on which it was received.
4. A benefit consisting of food, lodging, transportation or entertainment accepted as a guest while the Commissioner is engaged in District business;
 5. An award publicly presented in recognition of public service;
 6. A contribution to the political campaign of a Commissioner that is otherwise legal under applicable law; or
 7. Benefits of any kind with a fair market value of \$25 or less in the aggregate.

DEFINITIONS

As used in this Code:

Affinity – Two individuals are related to each other by affinity if: (1) they are married to each other; (2) the spouse of one of the individuals is related by consanguinity to the other individual; or (3) the ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

Commissioner – A member of the Board of Commissioners of the District.

Consanguinity – Two individuals are related to each other by consanguinity if: (1) one is a descendant of the other; or (2) they share a common ancestor.

Benefit – Anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

Business – Any entity operated for economic gain, including a corporation, partnership, proprietorship or any other entity carrying on an enterprise for profit.

Confidential information – Any information concerning the District: (1) that is not a matter of public knowledge or available to the public on request; or (2) that the district is legally required to keep confidential.

Contract – Any claim, account or demand against or agreement with any person, whether express or implied, executed or executory, oral or in writing. It does not include a lease of real property from the District approved by

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the Board and in the standard form and on the standard terms of all District leases.

Decision – The exercise of discretion of a Commissioner of the District.

District – The Brownsville Navigation District of Cameron County, Texas.

Employment – Any rendering of services for pay.

Honorarium – A payment for services rendered in a situation where custom, propriety or practice prevents a price being set.

Participate – To take part in official acts or actions or proceedings as a Commissioner through approval, disapproval, decision, recommendation, investigation, the rendering of advice or the failure to act or perform a duty.

Partner – A partner in an active trade or business with gross annual revenues of not less than \$25,000 in which the Commissioner and the partner each own, and know each owns, interests of at least 33 1/3%.

Person – An individual, business, labor organization, representative, fiduciary, trust or association.

Public Official – Any elected official of the State of Texas, the County of Cameron, and any of the cities, towns or villages included within the District, or the federal government.

Substantial interest – Has the meaning given the term by Section 171.002 of the Texas Local Government Code. It also includes any economic interest of a Commissioner if the Commissioner is entitled to a commission or fee arising out of a contractual relationship relating to real property or to a contract which would benefit by District action. A Commissioner shall also be deemed to have a substantial interest if the following persons have a substantial interest in a contract or real property: (1) a person related in the first degree to the Commissioner; (2) a partner of a Commissioner; or (3) an organization that employs, or is about to employ, a Commissioner or a person related in the first degree to a Commissioner.

Transaction – The conduct of any activity that results in or may result in an official act or action of the District.

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PENALTIES FOR
VIOLATIONS OF
STANDARDS OF
CONDUCT -
COMMISSIONERS

A Commissioner who is found by the Board to have violated this Code is subject to official reprimand by vote of a majority of a quorum of the Board.

PENALTIES FOR
VIOLATIONS OF
STANDARDS OF
CONDUCT –
CONTRACTORS AND
VENDORS

Any business contracting with the District that offers, confers or agrees to confer any benefit as consideration for a Commissioner's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or in exchange for the Commissioner's having exercised his official powers or performed his official duties or that participates in the violation of any provision of this Code may have its existing District contracts terminated and may be excluded from future business with the District for a period of time determined by the Board.

CONSTRUCTION,
APPLICATION AND
SEVERABILITY

The propriety of any official act or action taken by or transaction involving a Commissioner prior to the effective date of this Code shall not be affected by the enactment of this Code.