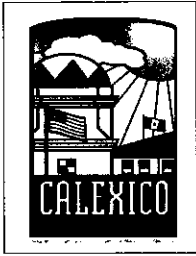



**AGENDA
ITEM
7**



CITY COUNCIL AGENDA STAFF REPORT

DATE: November 18, 2020

TO: Mayor and City Council

APPROVED BY: Miguel Figueroa, City Manager 

PREPARED BY: Gabriela T. Garcia, City Clerk, City of Calexico

SUBJECT: Resolution Approving and Adopting an Amended Conflict of Interest Code Pursuant to the Political Reform Act of 1974

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Recommendation

It is recommended that the City Council adopt Resolution approving and adopting the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974.

Background:

The Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), requires all public agencies to adopt and maintain a Conflict of Interest Code. The Act further requires that agencies regularly review and update their Codes as necessary as directed by the code-reviewing body or when change is necessitated by changed circumstances (Sections 87306 and 87306.5). The City Council is the City's code-reviewing body. As the code-reviewing body, the City Council directed that the Code be reviewed as required under the Act and if a change in the Code was necessary, that a revised Code be prepared and submitted to the City Council for adoption and approval.

During this review, staff found that an amendment to the Code is necessary to include new positions that must be designated, delete titles of positions that no longer exist, clarify the meaning of investment and real property interests noted in the disclosure requirements, include information on e-filing directly with the Fair Political Practices Commission for certain filers, and include information regarding ethics training require under AB 1234.

Discussion and Analysis

Pursuant to the Political Reform Act (the "Act"), the City Council directed staff to: (1) conduct a review of the City's Conflict of Interest Code ("Code") to determine if a change in the Code was necessary; and (2) file a biennial notice regarding the results of the review on or the required deadline; (3) revise the Code as necessary based upon such review; and (4) submit the amended Code to the City Council for adoption and approval, in accordance with Section 87303 of the Act.



During the review process, staff found that updates and amendments to the City's Conflict of Interest Code are necessary. A redlined version of the proposed amended Code is attached.

Fiscal Impact:

None.

Coordinated With:

City Attorney's Office.

Attachment(s):

1. Resolution approving and adopting the amended Conflict of Interest Code pursuant to the Political Reform Act of 1974.
2. Legislative Version of Proposed Amended Conflict of Interest Code.

RESOLUTION NO. 2020-_____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALEXICO,
CALIFORNIA ADOPTING AN AMENDED CONFLICT OF INTEREST CODE
PURSUANT TO THE POLITICAL REFORM ACT OF 1974**

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the “Act”), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the City of Calexico (the “City”) and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the City Council adopted a Conflict of Interest Code (the “Code”) in compliance with the Act which was last amended December 19, 2018; and

WHEREAS, subsequent changed circumstances within the City have made it advisable and necessary pursuant to Sections 87306 and 87307 of the Act to amend and update the City’s Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the City being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the City Council of, the proposed amended Code was provided each affected designated employee and publicly posted for review; and

WHEREAS, a public meeting was held upon the proposed amended Code at a regular meeting of the City Council on November 18, 2020, at which all present were given an opportunity to be heard on the proposed amended Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Calexico that:

Section 1. The City Council does hereby adopt the proposed amended Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the City Clerk and available to the public for inspection and copying during regular business hours; and

Section 2. The said amended Conflict of Interest Code shall become effective immediately after the date of its adoption and approval.

PASSED, APPROVED AND ADOPTED this 18th day of November, 2020 by
the City Council of the City of Calexico.

Rosie Arreola-Fernandez, Mayor

ATTEST:

Gabriela T. Garcia, City Clerk

APPROVED AS TO FORM:

Carlos Campos, City Attorney

State of California)
County of Imperial) ss.
City of Calexico)

I, Gabriela T. Garcia, City Clerk of the City of Calexico do hereby certify the above Resolution No. 2020-_____ was approved at a regular City Council meeting held on the 18th day of November 2020, by the following roll-call vote:

AYES:
NOES:
ABSTAIN:

Gabriela T. Garcia, City Clerk

SEAL

CONFLICT OF INTEREST CODE OF THE CITY OF CALEXICO

(Amended ~~December 19, 2018~~ November 18, 2020)

The Political Reform Act (Gov. Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating positions and establishing disclosure categories, shall constitute the conflict of interest code of the **City of Calexico (the "City")**.

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney and the City Treasurer, may electronically file their annual statements of economic interests directly with the Fair Political Practices Commission. All other officials and designated positions required to submit a statement of economic interests shall file their statements with the **City Clerk** as the City's Filing Officer. The ~~City Clerk~~ shall make and retain a copy of all statements filed by the Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney and the City Treasurer, and forward the originals of such statements to the Fair Political Practices Commission. The **City Clerk** shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

LEGISLATIVE VERSION

(SHOWS CHANGES MADE)

All officials and designated positions required to submit a statement of economic interests shall receive ethics training as required pursuant to Government Code section 53235 (AB 1234). The City's Filing Officer shall annually provide all filers with information on training available to meet the requirements of Section 53235, and maintain required records indicating the dates that filers satisfied the training requirements and the entity that provided the training. These records shall be retained for five years after the date of training and are public records subject to disclosure under the California Public Records Act. (Gov. Code § 53235.2.)

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

CITY OF CALEXICO

(Amended December 19, 2018 November 18, 2020)

PART "A"

The Mayor, Members of the City Council and Planning Commission, the City Manager, the City Attorney, the City Treasurer, and All Other City Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3(b), are NOT subject to the City's Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments¹. These positions are listed here for informational purposes only.

Finance Director

Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant City Attorney	1, 2
Assistant City Manager	1, 2
Building Manager	2, 3, 5, 6
<u>Building Official</u>	<u>2, 3, 5, 6</u>
Chief Water Plant Operator – Treatment	5
City Clerk	5
City Engineer	2, 3, 5
Code Enforcement Officer (ALL)	6
Community & Economic Development Director	1, 2
Community Recreation Coordinator	5
Community Services Director	5
Community Sports Coordinator	5
Deputy City Clerk	5
Development Services Director	1, 2
Evidence Technician	6
Finance Manager	4
Financial Analyst	5
Fire Captain	5
Fire Chief	5
Fire Inspector	6
Grants Manager	7
Housing Manager	2, 3, 5, 6
Housing Rehabilitation Inspector	2, 3, 5, 6
Housing/Economic Development Manager	1, 2

<u>DESIGNATED POSITIONS'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Human Resources /Risk Management Manager	5, 8
<u>Library Manager</u>	<u>5, 7</u>
Planner	2, 3
Planning Manager	1, 2
<u>Planning & Building Services Director</u>	<u>1, 2</u>
Police Chief	5
Police Lieutenant	5
Project Inspector	2, 3, 6
Public Works Manager/City Engineer	1, 2
<u>Recreation Manager</u>	<u>5, 7</u>
Senior's Program Coordinator	5
Supervisor – Fleet Maintenance	5
Supervisor – Maintenance & Operations	5
Utility Services Coordinator	5
Wastewater Systems Supervisor	5
Water System Supervisor	5

BOARD, COMMITTEES & COMMISSIONS

Economic Development & Financial Advisory Commission	1, 2
Library, Arts & Historical Board	1, 2
Parks, Recreation, Beautification & Senior Services Commission	1, 2
Personnel Commission	5

Consultants & New Positions²

² Individuals serving as a consultant as defined in FPPC Reg 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file statements under the broadest disclosure set forth in this Code subject to the following limitation:

The City Manager may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and

a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

App. A-4

BBK – ~~October 2018~~ October 2020

PART “B”

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned.³ “Investment” means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the City.

Category 1 — All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, do business in, or own real property within the jurisdiction of the City.

Category 2 — All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the City, including any leasehold, beneficial or ownership interest or option to acquire property.

Category 3 — All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that engage in land development, construction or the acquisition or sale of real property within the jurisdiction of the City.

Category 4 — All investments and business positions in business entities and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type utilized by the City.

Category 5 — All Investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position’s department, unit or division.

Category 6 — All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, subject to the regulatory, permit or licensing authority of the designated employee’s department, unit or division.

Category 7 - All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, or income from a nonprofit or other organization, if the source is of the type to receive grants or other monies from or through the City or its subdivisions.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency’s jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)