

RESOLUTION NO. 2018-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA, RE-
ADOPTING THE CITY'S CONFLICT OF
INTEREST CODE AND RESCINDING
RESOLUTION NO. 2016-55**

WHEREAS, the Merced City Council previously adopted Resolution No. 2016-55, adopting the model Conflict of Interest Code set forth in Section 18730 of the California Code of Regulations; and

WHEREAS, the City Council desires to add positions that must be designated; revise the titles of existing positions; revise the disclosure categories of existing positions; and delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions.

THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. Any resolutions in conflict with this Resolution are hereby rescinded and repealed.

SECTION 2. CONFLICT OF INTEREST CODE - ADOPTED. The Political Reform Act, Government 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 California Code of Regulations Section 18730, that contains the terms of a standard Conflict of Interest Code, and may be incorporated by reference in an agency's code. The standard Conflict of Interest Code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. 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 and along with the attached Appendices, designating positions and establishing disclosure categories, shall constitute the Conflict of Interest Code of the City of Merced.

SECTION 3. CONFLICT OF INTEREST CODE - STATEMENTS. Individuals holding the designated positions outlined in Appendix B shall file their statements with the Assistant City Clerk, who shall be and perform the duties of

filing officer for the City of Merced. Statements will be available for inspection and reproduction pursuant to Government Code Section 81008.

SECTION 4. SAVINGS CLAUSE. Any change provided for in this Conflict of Interest Code shall not affect or excuse any offense or act committed or done or omission or any penalty or forfeiture incurred or accruing under any other Conflict of Interest Code; nor shall it affect any prosecution, suit, or proceeding pending or any judgment rendered in connection with any other Conflict of Interest Code.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the _____ day of _____, 2018, by the following called vote:

AYES: Council Members:

NOES: Council Members:

ABSTAIN: Council Members:

ABSENT: Council Members:

APPROVED:

Mayor

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVE AS TO FORM:

BY: Kelly C. Turner 11-16-18
City Attorney Date

**CITY OF MERCED
CONFLICT OF INTEREST CODE
APPENDIX “A”**

Definitions:

1. “Public Official” means a member, officer, employee, or consultant of a state or local government agency. The term “public official” also includes individuals who perform the same or substantially the same duties as an individual holding an office or a position listed in Government Code Section 87200, including “other public officials who manage public investments” as that term is defined in 2 California Code of Regulations Section 18700.3.

2. “Member” shall include, but not be limited to, salaried or unsalaried members of boards or commissions with decision-making authority. A board or commission possess decision-making authority whenever:

- (A) It may make a final governmental decision;
- (B) It may compel a governmental decision, or it may prevent a governmental decision either by reason of an exclusive power to initiate the decision or by reason of a veto which may not be overridden; or,
- (C) It makes substantive recommendations, which are, and over an extended period of time have been, regularly approved without significant amendment or modification by another public official or governmental agency.

3. “Disclosure Categories” means the financial interest of designated City employees as set forth below:

Category 1: **Full Disclosure.** All interests in real property as well as investments, business positions, sources of income, and gifts from any source in, or doing business in, the jurisdiction of the City, and all other interests, which are subject to the regulation or supervision of the City.

Category 2: **Real Property.** All interests in real property located within the City. Investments, business positions in business entities, income, and gifts from sources in, or doing business within the City which:

1. Are of the type which engages in the appraisal, acquisition, disposal, development of real property, or rehabilitation or construction of improvements on real property including architects, contractors, and subcontractors.
2. Are of the type which provides services, supplies, materials, machinery, or equipment of any type utilized by the City Department to which the designated employee is assigned.
3. Are of the type which is subject to the regulation or supervision of the City.

Category 3: **Business/Investments**. Investments, business positions in business entities, income, and gifts from sources in, or doing business within the City which:

1. Are of the type which engages in the appraisal, acquisition, disposal, development of real property, or rehabilitation or construction of improvements on real property including architects, contractors, and subcontractors.
2. Are of the type which provides services, supplies, materials, machinery, or equipment of any type utilized by the City Department to which the designated employee is assigned.
3. Are the type which is subject to the regulation or supervision by the City Department of the designated employee.

Category 4: **Consultants**. The Assistant City Clerk, after consultation with the City Attorney, shall designate the disclosure category for each consultant subject to this Code.

4. “Designated Employee” is an officer, employee, member, or consultant set forth on Appendix B of an agency whose position is designated in the code because the position entails the making or participation in the making of governmental decisions which may foreseeable have a material effect on any financial interest. (*Government Code Section 82019*)

(A) *Making* a governmental decision means the person:

1. Votes on a matter;
2. Appoints a person;
3. Obligates or commits his or her agency to any course of action; or,
4. Enters into any contractual agreement on behalf of his or her agency.

(B) *Participating in the making* of a decision, means the person:

1. Negotiates, without significant substantive review, with a governmental entity or private person regarding the decision; or,
2. Advises or makes recommendations to the decision-maker by conducting research or an investigation, preparing or presenting a report, analysis or opinion which requires the exercise of judgment on the part of the employee and the employee is attempting to influence the decision.

(C) The term “designated employee” does not include:

- Public officials specified in Government Code Section 87200:
 - Planning Commissioners
 - City Council Members
 - Mayors
 - City Managers
 - City Attorneys
 - City Treasurers
 - Other city, county and local agency public officials who manage public investments
- Solely clerical, ministerial or manual positions
- Unsalaries members of boards or commissions, which are solely advisory

5. “Consultant” means an individual whom, pursuant to a contract with the City of Merced:

- (A) Makes a governmental decision whether to:
1. Approve a rate, rule, or regulation;
 2. Adopt or enforce a law;
 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order or similar authorization or entitlement;
 4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract, which requires agency approval;
 5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
 6. Grant agency approval to a plan, design, report, study, or similar item;
 7. Adopt, or grant agency approval of, policies, standards, or guidelines for the agency or for any subdivision thereof; or,
- (B) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

The City Manager or his designee may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and thus is not required to submit a Statement of Economic Interest. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager or his designee's determination is a public record and shall be retained for public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

**CITY OF MERCED
CONFLICT OF INTEREST CODE
APPENDIX “B”**

The following is a listing of those designated individuals who are required to submit Statements of Economic Interests:

Public Officials:

Mayor/Chairperson
City Council Member /Public Financing and Economic Development Authority
Member/Flood Hazard Control Board Member/Merced Industrial
Development Authority Member/Parking Authority Member
City Manager/Executive Director/City Clerk
City Attorney/ General Counsel/Authority General Counsel
Finance Officer
Planning Commissioner

Members:

City Council Boards:

City Council
Parking Authority
Flood Hazard Control Board
Public Financing and Economic Development Authority
Merced Industrial Development Authority

Disclosure Category

All Boards and Commissions
are Merced Category 1 Filers.

Citizen Commissions, Committees, and Boards:

Arts and Culture Advisory Commission
Bicycle Advisory Commission
Building and Housing Board of Appeals
Disaster Council
Economic Development Advisory Committee
Measure C – Citizens Oversight Committee
Minor Subdivision Committee
Personnel Board
Planning Commission
Recreation and Parks Commission
Regional Airport Authority

Designated Employees:

Department	Position	Disclosure Category
City Manager	Assistant City Manager	1
	Assistant to the City Manager	1
	Assistant City Clerk	1
	Deputy City Clerk	3
City Attorney	Chief Deputy City Attorney	1
	Senior Deputy City Attorney	1
	Deputy City Attorney	1
Development Services	Director of Development Services	1
	Chief Building Official/Construction Project Official	1
<i>Planning:</i>	Planning Manager	1
	Principal Planner	1
	Associate Planner	1
	Planner	1
<i>Inspection Services:</i>	Chief Building Official	1
	Assistant Chief Building Official	1
	Building Inspector I/II/III	1
	Plans Examiner	2
	Engineering Technician I-IV (Inspection Services Only)	2
<i>Housing:</i>	Housing Finance Specialist	1
	Housing Program Supervisor	1

Department	Position	Disclosure Category
Economic Development	Director of Economic Development	1
	Development Associate	1
<i>Airport</i>	Airport Manager	1
Finance	Deputy Finance Officer	1
	Purchasing Supervisor	3
	Accountant III	3
	Payroll Coordinator	3
Fire	Fire Chief	1
	Fire Marshall	1
	Fire Deputy Chief	1
	Fire Battalion Chief	1
	Fire Captain	1
	Fire Inspector	1
Information Technology	Director of Information Technology	1
	Information Technology Manager	3
	Systems Engineer I/II/III	3
Police	Police Chief	1
	Police Captain	1
	Police Lieutenant	1
	Police Sergeant	1
	Community Service Officer	1
	Management Analyst	1
Parks and Community Services	Director of Parks and Community Services	1
	Recreation Manager	1
	Recreation Supervisor	3

Department	Position	Disclosure Category
Public Works	Director of Public Works	1
	Deputy Director of Public Works	1
	Public Works Manager – Operations	1
	Public Works Manager – Tax Services	2
	Public Works Manager – Water	2
	Public Works Manager – Wastewater	2
	WWTP Maintenance Supervisor	3
	WWTP Operations Supervisor	3
	Public Works Supervisor – Facilities	3
	Public Works Supervisor – Fleet	3
	Public Works Supervisor – Main Sewers/Storm Drains	3
	Public Works Supervisor – Parks/Trees	3
	Public Works Supervisor – Solid Waste	3
	Public Works Supervisor – Streets	3
	Public Works Supervisor – Water	3
	Public Works Supervisor – Lab\Environmental Control	3
	Environmental Control Supervisor	3
	GIS Coordinator	1
	Recycling Coordinator	1

Department	Position	Disclosure Category
<i>Engineering:</i>	Water Conservationist	
	Specialist	1
	Management Analyst	1
	City Engineer	1
	Assistant Engineer	1
	Senior Engineer	1
	Associate Engineer	1
	Principal Architect	1
	Environmental Project	
	Manager	1
	Engineering Technician I-IV	2
	Land Engineer	2
Support Services	Director of Support Services	1
	Insurance Coordinator	3
	Personnel Coordinator	3
Consultants		
	Plan Check Consultants	2
	Contract Employees	4
	4	

**CITY OF MERCED
CONFLICT OF INTEREST CODE
APPENDIX “C”**

Individuals holding designated positions must report their interest according to the following disclosure categories:

Category 1: **Full Disclosure.** All interests in real property as well as investments, business positions, sources of income, and gifts from any source in, or doing business in, the jurisdiction of the City, and all other interests, which are subject to the regulation or supervision of the City.

Category 2: **Real Property.** All interests in real property located within the City. Investments, business positions in business entities, income, and gifts from sources in, or doing business within the City which:

1. Are of the type which engages in the appraisal, acquisition, disposal, development of real property, or rehabilitation or construction of improvements on real property including architects, contractors, and subcontractors.
2. Are of the type which provides services, supplies, materials, machinery, or equipment of any type utilized by the City Department to which the designated employee is assigned.
3. Are of the type which is subject to the regulation or supervision of the City.

Category 3: **Business/Investments.** Investments, business positions in business entities, income, and gifts from sources in, or doing business within the City which:

1. Are of the type which engages in the appraisal, acquisition, disposal, development of real property, or rehabilitation or construction of improvements on real property including architects, contractors, and subcontractors.

2. Are of the type which provides services, supplies, materials, machinery, or equipment of any type utilized by the City Department to which the designated employee is assigned.

3. Are the type which is subject to the regulation or supervision by the City Department of the designated employee.

Category 4: **Consultants**. The Assistant City Clerk, after consultation with the City Attorney, shall designate the disclosure category for each consultant subject to this Code.