



**AGENDA REPORT**  
**SAN CLEMENTE CITY COUNCIL MEETING**  
 Meeting Date: October 5, 2021

Agenda Item 6C  
**Approvals:**  
 City Manager CS JS  
 Dept. Head \_\_\_\_\_  
 Attorney \_\_\_\_\_  
 Finance \_\_\_\_\_

**Department:** City Clerk  
**Prepared By:** Joanne Baade, City Clerk/Legislative Administrator *JAB*  
**Subject:** CONFLICT OF INTEREST CODE UPDATE

**Fiscal Impact:** None.

**Background:**

State law (Government Code Section 87200) requires that certain City officers (i.e., the City Council, Planning Commission, City Manager, City Attorney and City Treasurer) file statements of economic interests (Form 700) with the City Clerk at specified intervals. In addition, the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), mandates that local agencies adopt a Conflict of Interest Code that designates Commission/Committee members and City employees who are also required to file Form 700s because they could foreseeably make or participate in making governmental decisions that could affect their private financial interests. The Act requires that Conflict of Interest Codes establish disclosure categories for each designated position that tailors the disclosure requirements to the types of governmental decisions a person holding that position could make.

The Act further requires that agencies review and update their Codes at least once during even-numbered years and whenever a change is necessitated by modified circumstances (Government Code Sections 87306 and 87307). Because new positions were created in the City's FY 2021-22 City budget, the City Council, acting in its capacity as the Code-reviewing body, directed Staff at its September 7, 2021 meeting to review the City's Conflict of Interest Code to determine if changes to the Code were necessary.

Staff has completed its analysis and is recommending that Council adopt a resolution to update the City's Conflict of Interest Code (Attachment 1). A legislative (redlined) version of the proposed amended Code is included in this report as Attachment 2. The proposed revisions add new positions to the Code, delete positions that have been abolished, and reflect updated position titles. Pursuant to State law requirements, employees affected by the proposed changes have been informed of the proposed changes and advised that Council will consider adopting the amendments at this meeting.

**Staff Recommendation:**

That the City Council adopt a Resolution entitled A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING AND ADOPTING AN AMENDED CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

**Attachments:**

- 1) Proposed Resolution with Proposed Conflict of Interest Code attached
- 2) Conflict of Interest Code (Legislative Version that shows proposed changes)

**Notification:**

- 1) A Notice of Intention to Amend the Conflict of Interest Code was posted on the City Hall Bulletin Board on September 22, 2021.
- 2) Employees whose positions are affected by changes in the updated Conflict of Interest Code were emailed copies of the "Notice of Intention to Amend the Conflict of Interest Code", together with a red-lined version of the proposed Code, on September 22, 2021.

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## RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
SAN CLEMENTE, CALIFORNIA, APPROVING AND  
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 San Clemente (the "City"); and which 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"), which was amended on October 6, 2020, in compliance with the Act; 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**, 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 to each affected designated employee and was 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 October 5, 2021, at which all persons 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 San Clemente that:

1. The City Council does hereby approve and 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.

2. The said amended Conflict of Interest Code shall become effective immediately upon its adoption and approval.

3. All previous conflict of interest codes of the City of San Clemente shall be rescinded upon the effective date of said amended Code as approved by the City Council.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

RESOLUTION NO.

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ATTEST:

\_\_\_\_\_  
City Clerk of the City of  
San Clemente, California

\_\_\_\_\_  
Mayor of the City of  
San Clemente, California

STATE OF CALIFORNIA     )  
COUNTY OF ORANGE     ) §  
CITY OF SAN CLEMENTE    )

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. \_\_\_\_\_ was adopted at a regular meeting of the City Council of the City of San Clemente held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK of the City of  
San Clemente, California

Approved as to form:

\_\_\_\_\_  
City Attorney

**CONFLICT OF INTEREST CODE**  
**OF THE**  
**CITY OF SAN CLEMENTE**

LAW OFFICES OF  
BEST BEST & KRIEGER LLP

# CONFLICT OF INTEREST CODE OF THE CITY OF SAN CLEMENTE

(Amended October 5, 2021)

The Political Reform Act (Gov. Code § 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 officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **City of San Clemente (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 retain the original statements filed by such officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

All officials and designated positions required to submit a statement of economic interests shall receive ethics training every two years 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 SAN CLEMENTE**

(Amended October 5, 2021)

**PART "A"**

The Mayor, Members of the City Council and the 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, 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 investments<sup>1</sup>. These positions are listed here for informational purposes only.

Investment Advisory Committee

Investment Consultant

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<sup>1</sup> 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.

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## DESIGNATED POSITIONS

### GOVERNED BY THE CONFLICT OF INTEREST CODE

<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Assistant to the City Manager	1, 2
Assistant City Manager – Finance and Administrative Services Director	1, 2
Assistant Utilities Manager	5
Associate Civil Engineer	2, 3, 5, 6
Beaches, Parks and Recreation Director	5
Building Inspector (ALL)	2, 3, 6
Building Official	2, 3, 5, 6
Chief of Police Services	5
City Clerk	5
City Fire Chief	5
City Planner	2, 3, 5, 6
Code Compliance Manager	2, 5, 6
Community Development Director	1, 2
Deputy Administrative Services Director	1, 2
Deputy Community Development Director	2, 3, 5, 6



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<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Deputy Public Works Director	2, 3, 5, 6
Economic Development Officer	1, 2
Environmental Programs Supervisor	5
Financial Services Officer	4
Golf Course Manager	5
Human Resources Manager	4
Information Technology Manager	5
Legislative Administrator	5, 8
Maintenance Manager	5
Maintenance Operations Supervisor	5
Marine Safety Captain	5, 6
Principal Civil Engineer	1, 2
Principal Civil Engineer/Asset Manager	1, 2
Principal Planner	2, 3, 5, 6
Public Works Director/City Engineer	1, 2
Risk Management/Human Resources Officer	5, 8
Senior Civil Engineer	1, 2
Management Analyst, II	2, 3, 5
Senior Plan Check Engineer	2, 3, 6
Senior Planner	2, 3, 6
Systems Applications Analyst	5

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**DESIGNATED EMPLOYEES'**  
**TITLE OR FUNCTION**

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

Transportation Engineering Manager	1, 2
Utilities Director	5
Utilities Maintenance Supervisor	5
Utilities Manager	5
Utilities Operations Supervisor (ALL)	5

**MEMBERS OF BOARDS,**  
**COMMITTEES & COMMISSIONS**

Beaches, Parks and Recreation Commission	2, 3, 5
Golf Course Committee	5
Human Affairs Committee	5

Consultants and New Positions\*

\*Individuals serving as a consultant as defined in FPPC Reg 18700.3 or in a new position created since this Code was last approved that makes or participates in making decisions must file 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.)

## 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.<sup>2</sup> "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 District.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments.

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 are engaged 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 purchased or leased 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.

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<sup>2</sup> 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)

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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 organization, if the source is of the type to receive grants or other monies from or through the City or its subdivisions.

Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the City in the past two years, or have a claim pending before the City.

Category 9: All interests in real property, and 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 geographical area of, and within two miles of, the designated position's assigned advisory area.

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**LEGISLATIVE VERSION**  
**(SHOWS CHANGES MADE)**  
**(NEWLY ADDED POSITIONS UNDERLINED)**

**CONFLICT OF INTEREST CODE**  
**OF THE**  
**CITY OF SAN CLEMENTE**

# CONFLICT OF INTEREST CODE OF THE CITY OF SAN CLEMENTE

(Amended ~~October 6, 2020~~ October 5, 2021)

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**PART "A"**

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**OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

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Investment Advisory Committee

Investment Consultant

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<sup>1</sup> 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**

<b><u>DESIGNATED EMPLOYEES'</u></b> <b><u>TITLE OR FUNCTION</u></b>	<b><u>DISCLOSURE CATEGORIES</u></b> <b><u>ASSIGNED</u></b>
<u>Assistant to the City Manager</u>	<u>1, 2</u>
Assistant City Manager – Finance and Administrative Services Director	1, 2
Assistant Utilities Manager	5
Associate Civil Engineer	2, 3, 5, 6
Building Inspector (ALL)	2, 3, 6
Building Official	2, 3, 5, 6
<del>Business Services Officer</del>	<del>2, 4</del> [No longer a decision making position]
Chief of Police Services	5
City Clerk	5
City Fire Chief	5
City Planner	2, 3, 5, 6
Code Compliance Manager	2, 5, 6
Community Development Director	1, 2
Deputy Administrative Services Director	1, 2
Deputy Community Development Director	2, 3, 5, 6



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<u>DESIGNATED EMPLOYEES'</u> <u>TITLE OR FUNCTION</u>	<u>DISCLOSURE CATEGORIES</u> <u>ASSIGNED</u>
Deputy Public Works Director	2, 3, 5, 6
<u>Economic Development Officer</u>	<u>1, 2</u>
Environmental Programs Supervisor	5
Financial Services Officer	4
Golf Course Manager	5
Human Resources Manager	4
Information Technology Manager	5
Legislative Administrator	5, 8
Maintenance Manager	5
Maintenance Operations Supervisor	5
Marine Safety <u>Chief Captain</u>	5, 6
Principal Civil Engineer	1, 2
Principal Civil Engineer/Asset Manager	1, 2
Principal Planner	2, 3, 5, 6
Public Works Director/City Engineer	1, 2
<del>Recreation Manager</del> <u>Beaches, Parks and Recreation Director</u>	<del>5, 7</del>
Risk Management/Human Resources Officer	5, 8
Senior Civil Engineer	1, 2
Management Analyst, II	2, 3, 5
Senior Plan Check Engineer	2, 3, 6
Senior Planner	2, 3, 6

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BBK – ~~October 2020~~ October 2021

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**DESIGNATED EMPLOYEES'**  
**TITLE OR FUNCTION**

**DISCLOSURE CATEGORIES**  
**ASSIGNED**

Systems Applications Analyst	5
Transportation Engineering Manager	1, 2
Utilities Director	5
Utilities Maintenance Supervisor	5
Utilities Manager	5
Utilities Operations Supervisor (ALL)	5

**MEMBERS OF BOARDS,**  
**COMMITTEES & COMMISSIONS**

Beaches, Parks and Recreation Commission	2, 3, 5
<del>Coastal Advisory Committee</del>	<del>9</del> [Committee formally abolished]
Golf Course Committee	5
Human Affairs Committee	5

Consultants and New Positions\*

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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.)

## PART "B"

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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.<sup>2</sup> "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 District.

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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 purchased or leased 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.

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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 organization, if the source is of the type to receive grants or other monies from or through the City or its subdivisions.

Category 8: All investments and business positions in business entities, and sources of income, including gifts, loans, and travel payments, if such entities or sources have filed claims against the City in the past two years, or have a claim pending before the City.

Category 9: All interests in real property, and 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 geographical area of, and within two miles of, the designated position's assigned advisory area.