Council Agenda Report

From: Kristy Buxkemper, Deputy City Clerk

Subject: Amendment to Conflict of Interest Code

Date: August 7, 2018

Facts

1. Under the Political Reform Act, all public agencies are required to adopt a conflict of interest code. The agency's code designates positions required to file Statements of Economic Interests (Form 700), and assigns disclosure categories specifying the types of interests to be reported. The Form 700 is a public document intended to alert public officials and members of the public to the types of financial interests that may create conflicts of interests.
2. Every two years, each public agency must review its Conflict of Interest code and update as needed.
3. On July 31, 2018, City staff posted the required "Local Agency Biennial Notice" in the City Clerk's Office stating that the City's current Conflict of Interest Code needed to be amended to reflect changes in position titles and levels of participation in making governmental decisions.
4. The City has until January 1, 2019 to complete the necessary code amendments.

Options

1. Take no action.
2. Approve Resolution 18-XXX amending the City's Conflict of Interest Code.
3. Direct revisions for consideration at the next City Council meeting.

Analysis and Conclusions

Option 1: Should the City Council take no action, the current Conflict of Interest Code, parts of which may be out of date, would remain in force and effect.

Option 2: The attached resolution proposes to amend the City's Conflict of Interest Code to appropriately designate those persons who are required to file a statement of economic interest pursuant to Title 2 of the California Code of Regulations, Section 18730.

The City's Conflict of Interest Code was last modified in 2016. Since that time, the City has added and/or eliminated certain positions and titles. The suggested additions/deletions to the list of designated reporting employees currently reflect the City's organizational structure as approved in the City's budget document.

In addition to modifying the list of filers, a revision to the disclosure categories is proposed. There have previously been four broad disclosure categories with multiple "sub categories" described in each. The revised code now contains a total of seven disclosure categories that can be combined as necessary depending on the level of decision-making responsibility a particular City position has. These modified categories are intended to better inform the public and the filer as to economic reporting requirements.

Option 3: Should the City Council determine that there are additional disclosure categories, or City positions that should report economic interests more or less broadly, it can direct staff to present a modified Conflict of Interest Code at the regular City Council meeting of August 21, 2018.

Fiscal Impact
There are no anticipated fiscal impacts associated with Options 2 or 3. Should the City Council take no action on the Conflict of Interest Code after it has been identified as being in need of amendment based on changes to the City's organizational structure, it is possible that the state Fair Political Practices Commission (FPPC) might seek to review the City's Code and determine if it complies with the Political Reform Act.

Recommendation (Option 2)
Approve Resolution 18-XXX amending the Conflict of Interest Code.

Attachments
1. Resolution 18-XXX amending the Conflict of Interest Code

RESOLUTION NO. 18-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
AMENDING THE CITY'S CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act of 1974, Government Code Section 81000, et seq., requires every local government agency to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the City Council of the City of El Paso de Robles adopted Resolution No. 16-155 on December 6, 2016, amending its Conflict of Interest Code; and

WHEREAS, on July 31, 2018 City staff posted the required "Local Agency Biennial Notice" in the City Clerk's Office stating that the City's Conflict of Interest Code was in need of amendment based on changes in position titles and levels of participation in making governmental decisions; and

WHEREAS, the City Council of the City of El Paso de Robles, as the Code-reviewing body for the City, has determined that the list of designated Employees and Advisory Committees identified in its Conflict of Interest Code in Exhibit "A" of said Resolution No. 16-155 should be amended to eliminate and/or add certain employee positions, to add reporting requirements for any newly formed Commission, and to more comprehensively describe economic disclosure categories associated with the filing of statements of economic interests pursuant to Title 2 of the California Code of Regulations, Section 18730.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: All of the above recitals are true and correct and incorporated herein by reference.

SECTION 2: The proposed amendments to the City's Conflict of Interest Code are hereby approved as reflected in the Conflict of Interest Code, including "Part A - Designated Positions" and "Part B – Disclosure Categories" attached hereto and incorporated herein by reference.

APPROVED this 7th day of December 2018 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

CONFLICT OF INTEREST CODE

OF THE

CITY OF EL PASO DE ROBLES

August 2018

CONFLICT OF INTEREST CODE
OF THE
CITY OF EL PASO DE ROBLES

(Adopted _____, 2018)

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 El Paso de Robles (the "City").**

All 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.)

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August 2018

APPENDIX

CONFLICT OF INTEREST CODE

OF THE

CITY OF EL PASO DE ROBLES

(Adopted _____, 2018)

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)]

OTHER CITY OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below are Other City Officials who manage public investments[1]. These positions are listed here for informational purposes only.

City Treasurer

Investment Consultant / PFM Asset Management LLC

[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

DESIGNATED POSITIONS' TITLE OR FUNCTION	DISCLOSURE CATEGORIES ASSIGNED
Executive Management:	
Police Chief	1, 2
Emergency Services Chief	1, 2
Director of Administrative Services	1, 2
Director of Community Development	1, 2
Director of Public Works	1, 2
Director of Community Services	1, 2
Assistant City Manager	1, 2
Staff	
Analyst, GIS	5
Attorney, Assistant City	1, 2
Attorney, Deputy City	1, 2
Building Inspector	6
Building Inspector, Senior	6
Building Official, Deputy	2, 3, 5
Building Official, Chief	2, 3, 5
Building Technician	5
City Clerk	5
Coordinator, Administrative Services	1, 2
Coordinator, Airport Services	2, 5
Coordinator, HR Specialist	5
Coordinator, Volunteer	5

Coordinator, Recreation	5, 7
Coordinator, Tourism	5, 7
Engineer Technician	6
Engineer, Capital Projects	2, 3, 5
Engineer, City	2, 3, 5
Fire Battalion Chief	5
Fire Captain	6
Librarian, Adult Services	5
Librarian, Children's Services	5
Manager, Finance	1, 2
Manager, Human Resources,	5
Manager, Industrial Waste	5
Manager, Information Services	5
Manager, City Librarian	5, 7
Manager, Recreation Services	5, 7
Manager, Utilities	5
Manager, Water Conservation Program	5
Manager, Storm Water	5
Planner, Assistant	2, 3, 5
Planner, Associate	2, 3, 5
Planner, City	2, 3, 5
Police Lieutenant	5
Superintendent, Maintenance Services	5
Supervisor, Fleet	5
Supervisor, Parks	5
Tech Supervisor, Wastewater	5

Tech Supervisor, Water	5

ADVISORY BODIES & COMMISSIONS

Tourism Collaboration Committee	5, 7
Travel Paso Robles Alliance (Hotelier BID)	5, 7
Airport Commission	1, 2

Consultants and New Positions[2]

[2] An 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 who 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 Manger'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.[3] "Investment" means a financial interest in any business entity (including a consulting business or other independent contracting business) and is reportable if it is either located in, doing business in, planning to do business in, or has 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.

Category 2: All interests in real property which is located in whole or in part within, or not more than two miles outside, the boundaries of the City.

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.

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.

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[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)

2018 Local Agency Biennial Notice

Name of Agency: City of Paso Robles

Mailing Address: 1000 Spring Street

Contact Person: Kristen Buxkemper Phone No. 805-237-3888

Email: kbuxkemper@prcity.com Alternate Email: cityclerk@prcity.com

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that *(check one BOX):*

☑ **An amendment is required. The following amendments are necessary:**

(Check all that apply.)

- ● Include new positions
- ○ Revise disclosure categories
- ● Revise the titles of existing positions
- ● Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ○ Other *(describe)* _____

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

_____ _____

Signature of Chief Executive Officer *Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2018**, or by the date specified by your agency, if earlier, to:

(City of Paso Robles, 1000 Spring Street, Paso Robles, CA 93446)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

www.fppc.ca.gov
FPPC Advice: advice@fppc.ca.gov (866.275.3772)