



Midpeninsula Regional  
Open Space District

R-18-121  
Meeting 18-36  
October 24, 2018

### AGENDA ITEM 3

#### AGENDA ITEM

Amendments to the Conflict of Interest Code

#### GENERAL MANAGER'S RECOMMENDATION

Adopt a resolution amending the Conflict of Interest Code.

#### SUMMARY

State law requires all public agencies, including the Midpeninsula Regional Open Space District (District), to adopt a Conflict of Interest Code (Code) and update it biennially. The Code designates positions required to file Form 700 - Statement of Economic Interests, which is a public document intended to identify the staff members who are involved in making final decisions that bind the District. The District's clerk, legal department, and human resources department have identified new classifications to add and outdated classifications to remove from the list of positions in the District's Code.

#### DISCUSSION

Pursuant to Government Code Section 87306.5, every two years the District is required to review its Conflict of Interest Code (Code) and submit a notice to the code-reviewing body, the California Fair Political Practices Commission (FPPC). The Code lists District employees who must file Form 700, in which they are required to disclose economic interests in certain entities that are engaged in business with the District.

The list of designated positions contains employee classifications that are involved or participate in making decisions that may foreseeably have a material effect on personal financial interests, as set forth in Section 87302(a) of the Government Code. In other words, listed positions are those individuals who are involved in making final decisions that may bind the District.

Amendments to the Code reflect an analysis of existing and new positions to identify employees who are making decisions for the District that would require them to disclose their financial interests within the meaning of FPPC regulations. Because the District has undergone recent significant organizational changes, there are numerous amendments to the List of Designated Positions (List), shown in **bold** in Attachment 1, which include position additions/deletions, changes to job classifications, and changes in disclosure categories.

In July and August 2018, the District sought FPPC review of the District's draft List and implemented certain changes suggested by the FPPC related to the appropriate disclosure category for each position. These suggested changes have already been incorporated into the List.

In accordance with FPPC regulations, the District's Notice of Intention to amend its Conflict of Interest Code was posted on September 5, 2018 and provided to employees. It has been available for at least 45 days prior to this meeting. As of the writing of this report, the District Clerk received three suggestions from employees to add certain positions to the list. As these were inadvertently omitted, the attached List now includes the suggested additions.

A copy of the proposed amended Conflict of Interest Code is attached to this report.

### **FISCAL IMPACT**

There are no unbudgeted fiscal impacts with this agenda item.

### **BOARD COMMITTEE REVIEW**

A Board Committee did not previously review this item.

### **PUBLIC NOTICE**

Notice of the public hearing and proposed amendments has been posted for the required 45 days prior to the October 24, 2018 Board meeting.

### **CEQA COMPLIANCE**

This is not a project under the California Environmental Quality Act (CEQA).

### **NEXT STEPS**

If approved by the Board, staff will transmit the proposed amendments to the District's Conflict of Interest Code, with certification of the General Manager, to the FPPC for final review and approval. Once approved by the FPPC, staff will implement the amended Code and notify all affected employees.

#### Attachments:

1. List of Designated Positions with changes marked in **bold**
2. Resolution
3. Proposed Amended Conflict of Interest Code

#### Responsible Department Head:

Hilary Stevenson, General Counsel

#### Prepared by:

Gary Baum, Acting Assistant General Counsel

#### Contact person:

Gary Baum, Acting Assistant General Counsel

Jennifer Woodworth, District Clerk

**CONFLICT-OF-INTEREST CODE FOR THE  
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

**APPENDIX A- DESIGNATED POSITIONS\***

<b>Designated Positions</b>	<b>Assigned Disclosure Categories</b>
Accountant	2
<b>Area Manager</b>	1, 2
Area Superintendent	1, 2
Assistant General Counsel (All Levels)	1, 2
Assistant General Manager	1, 2
Board Members	1, 2
<b>Bond Oversight Committee Members</b>	1, 2
<b>Budget &amp; Analysis Manager</b>	3
<b>Chief Financial Officer/Director of Administrative Services</b>	1, 2
<b>Capital Field Project Manager</b>	1, 2
<b>Capital Project Manager (All Levels)</b>	1, 2
District Clerk/Assistant to the General Manager	2
Docent Program Manager	3
<b>Engineering and Construction Manager</b>	1, 2
Executive Assistant/Deputy City Clerk	2
<b>Finance Manager</b>	2
<b>Facilities Maintenance Supervisor</b>	3
General Counsel	1, 2
General Manager	1, 2
GIS Program Administrator	1, 2
<b>Governmental Affairs Specialist</b>	2, 3
<b>Grants Specialist</b>	3
<b>Human Resources Manager</b>	2
Human Resources Supervisor	2
<b>Information Systems and Technology Manager</b>	3
Information Technology Program Administrator	3
<b>Land and Facilities Service Manager</b>	2
Maintenance, Construction and Resources Supervisor	2
Natural Resources Manager	3
Planner (All Levels)	1,2
Planning Manager	1,2
<b>Procurement &amp; Contract Agent/Specialist</b>	3
<b>Property Management Specialist (All Levels)</b>	1,2
Public Affairs Manager	1,2
Public Affairs Specialist (All Levels)	2
Real Property Manager	2

Real Property Specialist I & II	1, 2
Resource Management Specialist (All Levels)	1, 2
<b>Risk Management Coordinator</b>	2
Senior Administrative Assistant	2
Senior Management Analyst	1, 2
<b>Senior Real Property Agent</b>	1, 2
Supervising Ranger	1, 2
Training and Safety Specialist	2
<b>Visitor Services Manager</b>	3
Volunteer Program Manager	3
Consultants/New Positions	*

\*Revisions to the List (new or updated position titles) are shown in **bold**.

**RESOLUTION 18-**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT AMENDING  
CONFLICT OF INTEREST CODE**

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WHEREAS, the Board of Directors of the Midpeninsula Regional Open Space District (District) has adopted and maintained a Conflict of Interest Code pursuant to the Political Reform Act of 1974; and

WHEREAS, Government Code Section 87306.5 requires a biennial review of the District’s Conflict of Interest Code; and

WHEREAS, the District, in accordance with the California Fair Political Practices Commission Regulation 18750.1 (Title 2 California Code of Regulations Section 18750.1), has prepared code amendments, noticed affected staff members and the public of its intent to amend the code, and conducted a public hearing to consider the amendments.

NOW, THEREFORE, the Board of Directors of the Midpeninsula Regional Open Space District does hereby resolve to repeal Resolution No. 14-34 and adopt the amended Conflict of Interest Code as contained herein, to be effective on the thirtieth (30) day following approval of the District’s amended code by the Fair Political Practices Commission.

\* \* \* \* \*

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on October 24, 2018, at a regular meeting thereof, by the following vote:

- AYES:**
- NOES:**
- ABSTAIN:**
- ABSENT:**

**ATTEST:**

**APPROVED:**

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Secretary  
Board of Directors

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President  
Board of Directors

**APPROVED AS TO FORM:**

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General Counsel

I, the District Clerk of the Midpeninsula Regional Open Space District, hereby certify that the above is a true and correct copy of a resolution duly adopted by the Board of Directors of the Midpeninsula Regional Open Space District by the above vote at a meeting thereof duly held and called on the above day.

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District Clerk

**CONFLICT-OF-INTEREST CODE  
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

The Political Reform Act (Government Code Sections 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, which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code 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 amendment to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Midpeninsula Regional Open Space District (District)**.

Individuals holding designated positions shall file their statements with the **District**, which will make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008.) All statements will be retained by the **District**.

**CONFLICT-OF-INTEREST CODE FOR THE  
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

**APPENDIX A- DESIGNATED POSITIONS**

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Engineering and Construction Manager	1, 2
Executive Assistant/Deputy City Clerk	2
Finance Manager	2
Facilities Maintenance Supervisor	3
General Counsel	1, 2
General Manager	1, 2
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Governmental Affairs Specialist	2, 3
Grants Specialist	3
Human Resources Manager	2
Human Resources Supervisor	2
Information Systems and Technology Manager	3
Information Technology Program Administrator	3
Land and Facilities Service Manager	2
Maintenance, Construction and Resources Supervisor	2
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Public Affairs Manager	1,2
Public Affairs Specialist (All Levels)	2
Real Property Manager	2
Real Property Specialist I & II	1, 2
Resource Management Specialist (All Levels)	1, 2

Risk Management Coordinator	2
Senior Administrative Assistant	2
Senior Management Analyst	1, 2
Senior Real Property Agent	1, 2
Supervising Ranger	1, 2
Training and Safety Specialist	2
Visitor Services Manager	3
Volunteer Program Manager	3
Consultants/New Positions	*

\*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The General Manager may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The General 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 Section 81008.)

The following positions are NOT covered by the conflict-of-interest code because they must file under Government Code Section 87200 and, therefore, are listed for informational purposes only:

- Controller

An individual 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 Government Code Section 87200.

**CONFLICT-OF-INTEREST CODE FOR THE  
MIDPENINSULA REGIONAL OPEN SPACE DISTRICT**

**APPENDIX B-DISCLOSURE CATEGORIES**

Category 1 – Interests in real property are reportable interests if:

The real property to which the interest pertains is located in whole or in part within the District’s boundaries or sphere of influence, or within two miles of the District’s boundaries or sphere of influence, or within two miles of any land owned by the District. (A residence used solely for personal purposes is not reportable pursuant to Gov. Code Section 87206.)

Category 2

A. Income (including the receipt of gifts, loans, and travel payments), investments, and business positions:

1. In any business entity engaged in business within the District and which is of the type that has contracted with the District to provide employee testing or training, professional services, consulting services, financial services, other services, supplies, materials, machinery, books, uniforms, publications, equipment, vehicles or insurance.
2. In any business entity that engages in the design, planning, engineering, construction, materials supply or project management of private or public construction projects with the District.
3. In any business entity that engages in the business of brokerage, acquisition, leasing, marketing or disposal of real property within the District.
4. In any business entity that engages in the preparation of reports, surveys, evaluations or investigations of the type used by the District, including environmental documents such as Environmental Impact Reports, real property appraisals, land surveys, environmental assessments, hazardous waste investigations, percolation evaluations, engineering reports, biological assessments, geologic or hydrologic evaluations, or evaluation of the physical condition of real property.

Category 3

Investments and business positions in business entities, and sources of income (including receipt of loans, gifts, and travel payments) from sources of the type for which the employee’s division has purchasing authority.