



Midpeninsula Regional
Open Space District

R-22-125
Meeting 22-26
November 9, 2022

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 to make minor updates to the list of positions required to file Form 700 (Statement of Economic Interests).

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 some minor updates to 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 known as the California Fair Political Practices Commission (FPPC). The Code lists District employees who must file a 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 all positions to confirm which classifications are charged in making decisions on behalf of the District that would require them to disclose their financial interests within the meaning of FPPC regulations. The changes to the Code with respect to the classifications listed below represent positions that have been newly identified for inclusion in the list of Designated (Form 700) Positions (see redline changes in Attachment 1).

- Field Resource Specialist (Classification established in 2021)
- Senior Accountant (Classification established in 2015)
- Senior Technologist (Classification established in 2016)
- Special Projects Manager (Classification established in 2015)

In accordance with FPPC regulations, the District's Notice of Intention to amend its Conflict-of-Interest Code will be publicly posted and provided to employees at least 45 days prior to final submission to the FPPC. A copy of the proposed amended Conflict-of-Interest Code is attached to this report.

FISCAL IMPACT

There is no fiscal impact associated with the recommendation.

PRIOR BOARD AND COMMITTEE REVIEW

None

PUBLIC NOTICE

Notice of the public hearing and proposed amendments will be posted for the required 45 days prior to final adoption.

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, subject to any non-substantial modifications resulting from the public comment period, with certification of the General Manager, to the FPPC for final review and approval. Once approved by the FPPC, staff will incorporate the amended Code into District policies.

Attachments:

1. Redline Changes to List of Designated Positions
2. Resolution Amending the Conflict-of-Interest Code

Responsible Department Head:
Hilary Stevenson, General Counsel

Prepared by:
Egan Hill, Assistant General Counsel

Contact person:
Egan Hill, Assistant General Counsel
Maria Soria, Deputy District Clerk

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

APPENDIX A- DESIGNATED POSITIONS

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

Public Affairs Specialist (All Levels)	2
Real Property Manager	2
Real Property Specialist (All Levels)	1, 2
Resource Management Specialist (All Levels)	1, 2
<u>Senior Accountant</u>	<u>2</u>
Senior Administrative Assistant	2
Senior Management Analyst	1, 2
<u>Senior Technologist</u>	<u>2</u>
<u>Special Projects Manager</u>	<u>3</u>
Supervising Ranger	1, 2
Training and Safety Specialist	2
Visitor Services Manager	3
Volunteer Program Manager	3
Consultants/New Positions	*

**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.

RESOLUTION 22-__

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

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 (Title 2 California Code of Regulations Section 18750), has prepared code amendments.

NOW, THEREFORE, the Board of Directors of the Midpeninsula Regional Open Space District does hereby resolve as follows:

1. The District adopts the amended Conflict of Interest Code attached hereto as Exhibit A and incorporated herein, subject to any non-substantial modifications resulting from the public comment period, to be effective on the thirtieth (30) day following approval of the District’s amended code by the Fair Political Practices Commission.
2. The District shall commence the 45-day public comment period and notice affected staff members and the public of its intent to amend the code.
3. Resolution No. 20-41 is repealed.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Midpeninsula Regional Open Space District on November 9, 2022, at a regular meeting thereof, by the following vote:

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

ATTEST:

APPROVED:

Karen Holman, Secretary
Board of Directors

Zoe Kersteen-Tucker, President
Board of Directors

APPROVED AS TO FORM:

Hilary Stevenson, General Counsel

I, the Deputy 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.

Maria Soria, Deputy 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
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General Counsel	1, 2
General Manager	1, 2
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Information Technology Program Administrator	3
Interpretation & Education Program Manager	3
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Natural Resources Manager	3
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Planning Manager	1, 2
Procurement & Contracting Agent/Specialist	3
Property Management Specialist (All Levels)	1, 2
Public Affairs Manager	1, 2
Public Affairs Specialist (All Levels)	2
Real Property Manager	2

EXHIBIT A

Real Property Specialist (All Levels)	1, 2
Resource Management Specialist (All Levels)	1, 2
Senior Accountant	2
Senior Administrative Assistant	2
Senior Management Analyst	1, 2
Senior Technologist	2
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Consultants/New Positions	*

*Consultants and new positions that make or participate in making governmental decisions will be required to disclose pursuant to the broadest disclosure category in the code. If the new position or consultant performs limited duties, the agency may tailor the disclosure requirements. Where the position requires tailored disclosure, the District will prepare a written description of the position's duties and, based upon that description, a statement of the extent of disclosure requirements, on FPPC Form 804 or FPPC Form 805.

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.

The following positions are NOT covered by the conflict-of-interest code because they must file under Government Code Section 87200:

- Controller

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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.

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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.