# **RESOLUTION NO. 2012-** 73

# A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MERCED, CALIFORNIA, RE-ADOPTING THE CITY'S CONFLICT OF INTEREST CODE

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

**SECTION 1:** 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 Appendixes constitute the Conflict of Interest Code of the City of Merced. The Conflict of Interest Code of the City of Merced so adopted amends and replaced Resolution Nos. 1976-178, 2004-117, 2006-116, 2008-69, 2010-83, and all subsequent amendments previously in effect to conform to this newly adopted Code.

SECTION 2: 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 3: 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 15th day of October , 2012, by the following called vote:

AYES:

Council Members:

BLAKE, DOSSETTI, MURPHY, LOR,

PEDROZO, THURSTON

NOES:

Council Members:

NONE

ABSTAIN:

Council Members:

NONE

ABSENT:

Council Members:

RAWLING

APPROVED:

ATTEST:

JOHN M. BRAMBLE, CITY CLERK

Assistant Deputy City Clerk

(SEAL)

APPROVE AS TO FORM:

BY: Key Lyce 10/15/12
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 18720.
- 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. "Designated Employee" is an officer, employee, member, or consultant 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
- Unsalaried members of boards or commissions, which are solely advisory
- 4. "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

Flood Hazard Collifol Board

Public Financing and Economic Development Authority

Merced Industrial Development Authority

Citizen Commissions, Committees, and Boards:

**Bicycle Advisory Commission** 

Building and Housing Board of Appeals

Design Review Board/Commission and Historic Preservation Commission

Disclosure Category

All Boards and Commissions

are Merced Category 1 Filers.

Disaster Council

**Downtown Steering Committee** 

**Economic Development Advisory Committee** 

Measure C – Citizens Oversight Committee

Minor Subdivision Committee

Mobile Home Rent Review Commission

Personnel Board

Planning Commission

Recreation and Parks Commission

Regional Airport Authority

# Designated Employees:

Department	Position	Disclosure
		Category
City Manager	Assistant to the City Manager	1
Parks and Community Services:	Recreation Supervisor	1
City Attorney	Chief Deputy City Attorney	1
-	Deputy City Attorney I/II/III/IV	1
Development Services	Director of Development	
	Services/Chief Building Official/Construction	
	Project Official	1
Planning:	Planning Manager	1
	Principal Planner	1
	Associate Planner	1
Engineering:	City Engineer	1
	Associate Engineer	1
	Senior Architect	1
	Environmental Project	
	Manager	1
	Engineering Technician IV	1
Inspection Services:	Assistant Chief Building	
	Official	1
	Code Enforcement Officer	1
	Building Inspector I/II	1
	Plans Examiner	1
	Engineering Technician IV	
	(Inspection Services Only)	1

Department	Position	Disclosure
		Category
Economic Development	Director of Economic	
	Development	1
	Development Manager	1
	Development Associate	1
Housing:	Housing Finance	
	Specialist	1
	Housing Program Specialist	
	I/II	1
	Housing Rehabilitation	1
	Specialist I/II	1
Finance	Deputy Finance Officer	1
	Purchasing Supervisor	1
	Accountant III	1
	Payroll Coordinator	1
Fire	Fire Chief	1
	Fire Deputy Chief	1
	Fire Battalion Chief	1
	Fire Captain	1
	Fire Inspector	1
Information Technology	Director of Information	
imornation reciniology	Technology	1
	Information Technology	
	Manager	1
	Systems Engineer I/II/III	1
Police	Police Chief	1
	Police Lieutenant	1
	Police Sergeant	1
Public Works	Public Works Director-	
	Operations	1
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Department	Position	Disclosure
		Category
	Public Works Director-	
	Water Resources and	
	Reclamation	1
	Public Works Manager-	
	Internal Services	1
	Public Works Manager-	
	Tax Services	1
	Public Works Manager-	
	Water	1
	Public Works Manager-	
	Wastewater	1
	Airport Manager	1
	WWTP Maintenance	
	Supervisor	1
	WWTP Operations	
	Supervisor	1
	Public Works Supervisor-	
·	Fleet	1
	Public Works Supervisor-	
	Main Sewers/Storm Drains	1
	Public Works Supervisor-	
	Parks/Trees	1
	Public Works Supervisor-	
	Solid Waste	1
	Public Works Supervisor-	
	Streets	1
	Public Works Supervisor-	
	Water	1
	Lab/Environmental Control	
	Supervisor	1
	GIS Coordinator	1
Command Committee	Dinata and Co.	1
Support Services	Director of Support Services	1
	Assistant City Clerk	1
	Deputy City Clerk	1
	Insurance Coordinator	1

Department	Position	Disclosure Category
Consultants		1
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# CITY OF MERCED CONFLICT OF INTEREST CODE APPENDIX "C"

Individuals holding designated positions must report their interest according to the following disclosure category.

#### Full Disclosure:

Interest in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the City of Merced; and investments and business positions in business entities, and income, including loans, gifts, and travel payments, from all sources.