

RESOLUTION NO. 2010-1256

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALABASAS, CALIFORNIA APPROVING AMENDED CONFLICT OF INTEREST CODES FOR CERTAIN CITY DEPARTMENTS, COMMISSIONS, AND BOARDS PURSUANT TO THE POLITICAL REFORM ACT OF 1974.

WHEREAS, the City Council adopted Conflict of Interest Codes for certain City departments, boards and commissions on April 5, 1991 (Resolution 91-26) and amended said Codes on September 23, 1992 (Resolution 92-148), amended said Codes on September 28, 1994 (Resolution 94-297), and amended said Codes on October 2, 1996 (Resolution 96-411), and amended said Codes on October 7, 1998 (Resolution 98-514), and amended said codes on October 4, 2000 (Resolution 2000-655) and amended said codes on December 4, 2002 (Resolution 2002-795) and amended said codes on November 17, 2004 (Resolution 2004-915) and amended said codes on November 15, 2006 (Resolution 2006-1045) and further amended said codes on August 13, 2008 (Resolution 2008-1144) in accordance with the Political Reform Act of 1974; and

WHEREAS, Section 87306.5 of the Government Code states that every agency shall review its Conflict of Interest Code no later than July 1 of each even-numbered year, subject to the provisions of Section 87302(a) and 87303, when necessitated by changed circumstances; and submit amendments to the Code reviewing body no later than October 1 of the same year; and

WHEREAS, Regulation 2 California Code of Regulations Section 18730 contains the terms of a standardized conflict of interest code which will update the City's Conflict of Interest Code and maintain compliance with all new and future regulations adopted by the Fair Political Practices Commission; and

WHEREAS, certain City departments have been consolidated, separated, or dissolved; and new positions have been created and others have been eliminated since the last review of the Codes in 2006; and

WHEREAS, many previously listed positions are purely advisory and have no authority to commit the City to take any action and it is therefore appropriate to eliminate those positions from the Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALABASAS DOES RESOLVE AS FOLLOWS:

SECTION 1. Regulation 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 Exhibits in which

members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of the City of Calabasas.

SECTION 2. The following departments and categories are hereby designated to comply with the City's Conflict of Interest Code as reflected in Exhibit "A":

City Attorney
Administrative Services Department
Community Development Department
Community Services Department
Media Operations Department
Public Works Department
Consultant
City Commissions and Boards

SECTION 3. The designated positions are assigned to one or more of the disclosure categories set forth on Exhibit "B".

SECTION 4. The Determination of Consultant & Disclosure Filing Requirements Form is attached as Exhibit "C".

SECTION 5. Each designated employee named shall file annual statements as defined in said Codes.

SECTION 6. The City Clerk of the City of Calabasas is hereby designated as the filing officer to receive the filed statements, except as provided for in Section 7 of this resolution.

SECTION 7. The Fair Political Practices Commission is hereby designated as the filing officer to receive statements filed by the City Councilmembers, City Manager, City Attorney, Chief Financial Officer/City Treasurer, and Planning Commission Members.

SECTION 8. The City Clerk shall certify as to the adoption of this resolution and shall cause the same to be processed in the manner required by law.

PASSED, APPROVED AND ADOPTED this day ___ of ___, 2010.

Barry Groveman, Mayor

ATTEST:

Gwen Peirce, CMC, City Clerk

APPROVED AS TO FORM:

Michael G. Colantuono, City Attorney

CONFLICT OF INTEREST CODE OF THE CITY OF CALABASAS

Section 100. Purpose.

Pursuant to the provisions of Government Code Sections 87300 et seq. the City of Calabasas hereby adopts and incorporates by reference Regulation 2 of the California Code of Regulations, Section 18730. (Title 2, Division 6) and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Exhibits "A" "B" and "C", in which members and employees are designated and disclosure categories are set forth, which constitutes the Conflict of Interest Code of the City of Calabasas. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000 et seq.). The provisions of this Code are additional to Government Code Section 87100 and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Code shall be interpreted in a manner consistent therewith.

Section 200. Designated Positions.

The positions listed on Exhibit "A" are designated positions within each city department and/or division. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of, decisions which may have foreseeable material effect on a financial interest.

Section 300. Disclosure Statements.

Designated positions shall be assigned to one or more of the disclosure categories set forth on Exhibit "B." Each designated employee shall file an Initial Statement disclosing that employee's interest in investments and real property, and thereafter an annual statement disclosing said employee's interest in investments, real property and income designated as reportable under the category to which the employee's position is assigned on Exhibit "A".

Section 400. Place and Time of Filing.

- (a) All designated employees required to submit a Statement of Economic Interests shall file the original, on the form provided (per Section 500 of this Code), with the City Clerk's Office.
- (b) A designated employee required to submit an Initial Statement of Economic Interests shall submit the statement within thirty (30) days after the effective date of this Code.

- (c) Merit service employees appointed, promoted or transferred to designated positions shall file an Assuming Office Statement within thirty (30) days after date of assuming the designated position.
- (d) All other employees appointed, promoted or transferred to designated positions shall file an Assuming Office Statement not less than thirty (30) days after assuming the designated position.
- (e) Annual Statements shall be filed with the City Clerk's Office no later than the 1st day of April of each year by all designated employees. Such statements shall cover the period of the preceding fiscal year.
- (f) A Leaving Office Statement shall be filed within thirty (30) days after leaving a designated position. Such statements shall cover the period from the closing date of the last statement filed to the date of leaving the position.
- (g) Individuals who resign designated positions within 30 days following initial appointment are not deemed to assume or leave office, provided that during the period between appointment and resignation, the individual did not make, participate in making, or use the position to influence any decision of the City or receive, or become entitled to receive any form of payment by virtue of being appointed to the position.
- (h) A designated employee required to file a Statement of Economic Interests with any other agency, which is within the same territorial jurisdiction as the City and disclosure requirements are identical, may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate statement.
- (i) "Consultant", as defined by FPPC Regulation 18700, is herewith added to the list of designated employees and such persons shall disclose pursuant to the broadest disclosure category in the code, subject to the limitations stated in Exhibit "C" attached hereto.

Section 500. Form for Statements of Economic Interests.

Statements of Economic Interests shall be made on form supplied by the Fair Political Practices Commission, which forms shall be made available by the City Clerk's Office.

Section 600. Definitions.

GIFT

- (a) "Gift" means, except as provided in subdivision (b), any payment to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status. Any person, other than a defendant in a criminal action, who claims that a payment is not a gift by reason of receipt of consideration has the burden of proving that the consideration received is of equal or greater value.

- (b) The term "gift" does not include:
 - (1) Informational material such as books, reports, pamphlets, calendars or periodicals. No payment for travel or reimbursement for any expenses shall be deemed "informational material";

 - (2) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes;

 - (3) Gifts from an individual's spouse, registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse or registered domestic partner of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph;

 - (4) Campaign contributions required to be reported under Sections 84100-84400 of the Government Code.

 - (5) Any devise or inheritance.

INCOME

- (a) "Income" means, except as provided in subdivision (b), a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the filer, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse or registered domestic partner. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse or registered domestic partner owns, directly, indirectly or beneficially, a 10 percent interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time any statement or other action is required under this Code.
- (b) "Income" also does not include:
- (1) Campaign contributions required to be reported under Sections 84100-84400 of the Government Code.
 - (2) Salary and reimbursement for expenses or per diem received from a state, local or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic or charitable organization.
 - (3) Any devise or inheritance.
 - (4) Interest, dividends or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or governing agency.
 - (5) Dividends, interest or any other return on a security which is registered with the Securities and Exchange Commission of the United States government.

- (6) Redemption of a mutual fund.
- (7) Alimony or child support payments.
- (8) Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status if:
 - (A) Used to purchase, refinance the purchase of, or for improvements to, the principal residence of filer; or
 - (B) The balance owed does not exceed ten thousand dollars (\$10,000).
- (9) Any loan from an individual's spouse, registered domestic partner, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt or first cousin, or the spouse or registered domestic partner of any such person, provided that a loan from any such person shall be considered income if the lender is acting as an agent or intermediary for any person not covered by this paragraph.
- (10) Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed ten thousand dollars (\$10,000).
- (11) Payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

INTEREST IN REAL PROPERTY

"Interest in real property" includes any leasehold, beneficial or ownership interest or any option to acquire such an interest in real property located in the City owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is two thousand dollars (\$2,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the

individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater.

INVESTMENT

"Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this Code. No asset shall be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the commission.

CONSULTANT

"Consultant" means any individual who, pursuant to a contract with a state or local government agency:

- (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.

Section 700. Disqualification.

Designated employees shall disqualify themselves from making or participating in the marking or in any way attempting to use their official position to influence a governmental decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on:

- (a) Any reportable investment;
- (b) Any interest in real property;
- (c) Any reportable source of income, other than loans by a commercial lending institution in the regular course of business, aggregating five hundred dollars (\$500) or more in value provided to, received by or promised to the designated employee within twelve (12) months prior to the time when the decision is made;
- (d) Any business entity in which the designated employee is a director, officer, partner, trustee, employee or holds any position of management.
- (e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating five hundred dollars (\$500) or more in value provided

to, received by, or promised to the designated employee within twelve (12) months prior to the time when the decision is made.

EXHIBIT "A"

Department: CITY ATTORNEY

Designated Employees:	Categories
Assistant City Attorney	1, 2, 3, 4

Department: ADMINISTRATIVE SERVICES DEPARTMENT

Designated Employee:	Categories
Administrative Services Director	1, 2, 3, 4
City Clerk	1, 2, 3, 4
City Librarian	1

Department: COMMUNITY DEVELOPMENT DEPARTMENT

Designated Employees:	Categories
Community Development Director	1, 2, 3, 4
City Planner	1
Senior Planner	1
Planner	1
Associate Planner	1
Planning Assistant	1
Building Official	1
Senior Building Inspector	1
Building Inspector	1
Code Enforcement Officer	1
Permit Center Coordinator	1
Building Assistant	1

Department: PUBLIC WORKS & ENGINEERING

Designated Employees:	Categories
Public Works Director/City Engineer	1, 2, 3, 4
Deputy Public Works Director	1
Senior Civil Engineer	1
Associate Engineer	1
Senior Public Works Inspector	1
Public Works Inspector	1
Landscape Maintenance District Manager	1, 2, 3, 4
Assistant Landscape District Manager	1
Environmental Services Manager	1

Department: COMMUNITY SERVICES

Designated Employees:	Categories
Community Services Director	1, 2, 3, 4
Recreation Services Manager	1
Facilities Supervisor	1
Preschool Principal	1

Department: MEDIA OPERATIONS

Designated Employee:	Categories
Media Operations Director	1, 2, 3, 4

CONSULTANT

Designated Employees:	Categories
Consultant	** 1, 2, 3, 4
City Environmental Coordinator	1
City Arborist	1
City Geologist	1
Community Development Block Grants Administrator	1

COMMISSIONERS AND BOARDMEMBERS

Designated Commissioners and Boardmembers:	Categories
Library Commission	5
Historic Preservation Commission	1, 2, 3, 4

** The disclosure category for consultants shall be determined on a case-by-case basis by the City Manager. After written notification is given to the City Council, the City Manager may make a determination as to what disclosure, if any, is required by any particular consultant.

The City Manager may determine, in writing, that a particular consultant, although holding a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties, and based upon that description, a statement of the extent and disclosure requirements. 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.

EXHIBIT "B"

1. Category

Persons in this category shall disclose all interests in real property within the City. Real property shall be deemed to be within the City if the property of any part of it is located within or not more than two miles outside the boundaries of the City or within two miles of any land owned or used by the City.

Persons are not required to disclose property used primarily as their residence or for personal recreational purposes.

2. Category

Persons in this category shall disclose all investments.

3. Category

Persons in this category shall disclose all income, including loans, aggregating \$500 or more received during the reporting period, received from any one source located or doing business within the City or expecting to do business within the City. Gifts aggregating \$50 or more received during the period from any one source located inside or outside the City shall be disclosed. Income received from a public agency need not be disclosed.

4. Category

Persons in this category shall disclose all income from and investments in business that manufacture or sell services and/or supplies of the type utilized by the City and associated with the job assignment of designated positions assigned this disclosure category.

5. Category

Disclosure of any financial interests within 500 feet of current or proposed City Library locations or business activities which, as a significant part of their business, service public and/or private libraries.

EXHIBIT "C"

DETERMINATION OF CONSULTANT

DISCLOSURE FILING REQUIREMENTS

I, _____, City Manager of the City of Calabasas, hereby determine that the following "Consultants" are retained by the City of Calabasas to serve in a decision-making capacity, and are required to file statements of economic interest and provide financial disclosure within the following categories:

**CONSULTANT
NAME/COMPANY**

**DISCLOSURE
CATEGORIES**

EXEMPTION/WAIVER

I further determine that the following "Consultants" range of duties are limited in scope and are herewith granted an exemption/waiver from filing a disclosure statement under the City of Calabasas Conflict of Interest Code:

**CONSULTANT
NAME/COMPANY**

**PROJECT/
DUTIES**

Date

City Manager