



Agenda Report

21-1285

Agenda Date: 1/26/2021

REPORT TO COUNCIL

AND AUTHORITIES

SUBJECT

Adopt the following City of Santa Clara and related agencies' Resolutions Amending the Conflict of Interest Codes for Designated Positions as Required by the Political Reform Act and Regulations of the Fair Political Practices Commission:

1. City of Santa Clara
2. Santa Clara Stadium Authority
3. Bayshore North Project Enhancement
4. Public Facilities Financing Corporation
5. Sports and Open Space Authority
6. Housing Authority

COUNCIL PILLAR

Enhance Community Engagement and Transparency

BACKGROUND

The California Political Reform Act requires all public officials, employees, and consultants who make or participate in the making of governmental decisions to disclose any economic interest that could be affected by those decisions. Under Government Code Section 87302 of the Political Reform Act, certain designated officials and employees of the City are required to file a Statement of Economic Interest (Form 700) because of the nature of their position with the public agency. These officials, staff members and consultants serve in positions that been designated by the City's Conflict of Interest Code as being required to file such statements.

Local agencies are required to conduct a periodic review their Conflict of Interest Codes to determine if they are accurate, or alternatively, if the Codes must be amended. Amendments are necessary periodically, particularly when anew official or employee positions are added, deleted, or responsibilities are changed.

DISCUSSION

The accompanying Resolutions provide that the City of Santa Clara's and Authorities' Conflict of Interest Codes be amended to include an updated List of Designated Positions Required to File. Changes that occurred from the prior version of the Conflict of Interest are redlined in the Attachments.

Below is a summary of the changes from the prior version:

1. Updated Designated Positions:

The list of Designated Positions have been updated to add new job classifications or titles and remove those no longer applicable to the City. We have also added the following Commissions and Boards to the Conflict of Interest Code due their involvement in making city decisions.

- Cultural Commission
- Board of Library Trustees
- Deferred Compensation Committee
- Parks and Recreation Commission
- Salary Setting Commission

2. Consolidation of Disclosure Categories

The City's prior Conflict of Interest Code contained approximately 22 different disclosure categories. The majority of these categories were redundant as each category related to a specific department's contracts. We have consolidated those categories by creating a general disclosure category that applies to each designated position applicable department's contracts. Also, we eliminated the disclosure categories that are no longer applicable for existing designated positions.

3. Update of Consultant and New Positions language:

Under the Political Reform Act, an individual consulting to a government agency is required to file a Form 700 when they assume office and annually thereafter if the consultant makes governmental decisions as defined in the FPPC regulations or when they serve in a staff capacity and participate in governmental decisions or performs the duties of an individual in the agency's conflict-of-interest code. Not every person that is subject to the Act has to file a Form 700, just statutory filers who are expressly listed in the Act and designated officials who the agency designate in the conflict of interest code, which includes new positions or consultants who meet the standard above.

We have included language regarding consultants and new positions that provides the City Manager or Executive Director, as applicable, have the authority to determine which consultants or new positions that will be subject to the Conflict of Interest Code and the ability to assign the applicable disclosure category.

4. Stadium Authority Conflict of Interest Resolution

All public officials, including "consultants," are prohibited from making, participating in making, or influencing any government decision having a foreseeable, material financial effect on their economic interests. This conflict of interest prohibition applies irrespective of whether an individual is designated in a conflict of interest code. This means that Stadium Manager's employees still had an obligation to comply with state law even when they were not expressly listed in the Authority's conflict of interest code.

Staff believes that the 2018 amendment to the Stadium Authority's Conflict of Interest Code in adding the consultant designation was sufficient to create a duty to file a Form 700 on the part of individual 49ers Stadium Management Company (Management Company) officers who are performing decision-making functions on behalf of the Stadium Authority. However, in an effort to make such designations even clearer, we recommend that the Stadium Authority's Board adopt a resolution that designates Management Company as an Agency as an agent for the Stadium Authority which is subject the code. In addition, the Board should adopt a Resolution amending Appendix A of the Code to revise the position for Consultant to Consultant/New Positions and providing the Executive Director

with the authority to determine when a consultant or a new position is required to comply with the disclosure requirements described in the Code. This will provide more flexibility for the organization to identify those positions that may be required to file a Form 700 between the times the Code is updated biennially. The new positions are subject to the broadest disclosure category in the code, unless the Executive Director authorizes a narrower disclosure for new positions with limited duties.

The following individual employees of Stadium Manager and their respective positions have been determined by the Executive Director to be required to file a Form 700 under the Stadium Authority's Conflict of Interest Code:

President
Executive Vice President & General Manager
Chief Financial Officer
Chief Revenue Officer
General Counsel

The resolution also authorizes the Executive Director to designate such other individuals who qualify as a "Consultant" under the Code.

The recommended action will ensure compliance with the California Political Reform Act and updates the list of positions who are required to file the California Fair Political Practice Commission Form 700 - Statement of Economic Interests for the Stadium Authority

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no cost to the City other than administrative staff time and expense.

COORDINATION

This report has been coordinated with the City Attorney's Office.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Adopt the Resolutions amending the Conflict of Interest Code required by the Political Reform Act and Regulations of the Fair Political Practices Commission:

1. City of Santa Clara
2. Santa Clara Stadium Authority
3. Bayshore North Project Enhancement

4. Public Facilities Financing Corporation
5. Sports and Open Space Authority
6. Housing Authority

Reviewed by: Nora Pimentel, Assistant City Clerk

Approved by: Deanna Santana, City Manager/Executive Director

ATTACHMENTS

1. Resolution of the City of Santa Clara and attached Conflict of Interest Code and Appendices (Redline)
2. Appendix A and B (Clean Versions)
3. Resolution of the Stadium Authority and attached Conflict of Interest Code and Appendices
4. Resolution of the Bayshore North Project Enhancement Authority and attached Conflict of Interest Code and Appendices
5. Resolution of the Public Facilities Financing Corporation and attached Conflict of Interest Code and Appendices
6. Resolution of the Sports and Open Space Authority and attached Conflict of Interest Code and Appendices
7. Resolution of the Housing Authority and attached Conflict of Interest Code and Appendices