RESOLUTION 2014–47

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ADOPTING A REVISED CONFLICT OF INTEREST CODE FOR THE CITY OF EL CERRITO, INCLUDING THE FILING OF ANY RELATED AGENCY POSITIONS, SUCH AS THE EMPLOYEE PENSION BOARD, THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY, AND THE PUBLIC FINANCING AUTHORITY (PFA) AND RESCINDING RESOLUTION NO. 2012–77

WHEREAS, the Political Reform Act of 1974 ("Act"), Government Code Sections 8100 et seq. enacted as part of Proposition 9, requires every local agency to adopt and promulgate a Conflict of Interest Code applicable to employees or consultants holding designated positions and public officials within the jurisdiction of the local agency; and

WHEREAS, in 1977, the El Cerrito City Council enacted Resolution No. 3843, adopting a Conflict of Interest Code for the City of El Cerrito ("City"), and

WHEREAS, subsequent to the enactment of Resolution No. 3843, the Fair Political Practices Commission enacted 2 Cal.Code of Regs. Section 18730 which contains the terms of a standard model Conflict of Interest Code, which could be adopted by local agencies covering such matters as the manner of reporting financial interests, the procedures to be utilized in filing conflict of interest statements, the contents of such statements, the time within which such statements must be filed, etc; and which may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments to the Political Reform act; and

WHEREAS, in 1983, the City Council enacted Resolution No. 83-14 which adopted the model Conflict of Interest Code drafted by the Fair Political Practices Commission, including any amendments duly adopted by the Commission to conform to amendments to the Political Reform Act; and

WHEREAS, Appendix A of Resolution No. 83-14 listed the designated employees subject to the model Conflict of Interest Code (listed as "designated filers"); and Appendix B of Resolution No. 83-14 identified the specific financial interests that would be reportable; and

WHEREAS, state law as specified in the Act requires the City Council, as the City's code-reviewing body to direct the review of its Conflict of Interest Code; and

WHEREAS, the Act additionally requires the submission of a revised conflict of interest code for approval by the code-reviewing body or the notification of said body that no changes are necessary pursuant to Government Code Section 87306.5; and

WHEREAS, the City Council has regularly amended its Conflict of Interest Code to correspond to changes in the City resulting from reorganization of City departments and employees, changes in job classifications, and the addition and deletion of certain boards and commissions and to respond to any changes in State law; and

WHEREAS, the Conflict of Interest Code was last amended in 2012 through Resolution 2012–77 and the Code requires revision to reflect the changes in designated positions and the financial interests required to be reported; and

WHEREAS, this review has been completed and the City Council has determined that such changes are necessary due to changes in City organization and to comply with state law and that Appendix A and B, attached herein, accurately sets forth the designated positions, and their respective categories of financial interests which should be made reportable and those boards, commissions and committees which should be designated and the respective categories of financial interests which should be made reportable by their members; and

WHEREAS, the Conflict of Interest Code includes filing requirements for related agency positions, such as the Successor Agency to the former El Cerrito Redevelopment Agency, the Public Financing Authority (PFA), and the Employee Pension Board; and

WHEREAS, the City of El Cerrito Conflict of Interest Code, incorporated herein, requires revision so that it accurately sets forth the designated positions and categories of financial interests which should be made reportable.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of El Cerrito as follows:

Section 1. Incorporation of Recitals. All Recitals above are true and correct and are incorporated herein.

Section 2. Adoption of Model Conflict of Interest Code. The terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and included as part of the Conflict of Interest Code of the City of El Cerrito.

Section 3. Statement of Economic Interest Requirement. Persons holding designated positions and persons required to do so by statute shall file Statements of Economic Interests with the City of El Cerrito on Fair Political Practices Commission forms, in conformance with the individual disclosure categories and State guidelines, when requested by the City Clerk. Persons holding designated positions and persons required by statute to file statements of economic interests shall also report interests for any other related agency positions, such as the Employee Pension Board, Successor Agency to the former Redevelopment Agency, and the Public Finance Authority (PFA). The City Clerk will retain custody of the statements and make the statements available for public inspection and reproduction.

Section 4. Form 700 Requirement. In accordance with FPPC Regulation 18734, any individual hired for a position not yet covered under this Conflict of Interest Code must file a Form 700 if the individual serves in a position that makes or participates in making governmental decisions. Individuals in this category must file under the broadest disclosure category until the code is amended to include the new position unless the City of El Cerrito provides, in writing, a limited disclosure requirement.

Section 5. Late Filings and Failure to File Statements. Any violation of any provision of this Code is subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 et seq. The following additional regulations shall apply to City of El Cerrito (a) designated employees, (b) designated members of boards and commissions appointed by the City Council, and (c) consultants:

(a) City Employees:

If a City employee fails to file an Initial, Assuming Office or Annual Statement of Economic Interests within thirty days after the City Clerk has given specific written notice of non-filing, he or she shall undergo steps resulting in a written reprimand in accordance with the provisions of the appropriate Memorandum of Understanding or City of El Cerrito Personnel Policies and Administrative Regulations. The employee's supervisor shall comply with the provisions of the appropriate Memorandum of Understanding or City of El Cerrito Personnel Rules and Administrative Regulations. In addition, the City Clerk shall impose late filing fees in accordance with Government Code Section 91013 and 91013.5. No person who has left City employment and failed to file the appropriate statement shall resume active employment with the City of El Cerrito if there are outstanding statements or fines.

(b) Members of Boards and Commissions:

If a member of any non-elected board, commission or committee specified in the Code fails to file an Assuming Office, Initial or Annual Statement of Economic Interests within thirty days after the City Clerk has given specific written notice of non-filing, the member's term on the commission shall expire. The City Clerk shall notify the commissioner that his/her term has expired and notify the City Council that a vacancy exists on the commission. In addition, the City Clerk shall impose late filing fees in accordance with Government Code Sections 91013 and 91013.5.

Prior to being eligible for reappointment to any board, commission, or committee all outstanding filings for all commission appointments must be filed and any outstanding fines, payable under Government Code Section 91013, shall be paid. No person shall be appointed to any commission if there are outstanding statements or fines, and no person shall be appointed to any commission for a period of one year if terminated from any commission more than once for failure to file statements.

(c) Consultants:

If a consultant, as defined in 2 Cal. Code Regs. Section 18701, fails to file any Statement of Economic Interests within thirty days after the City Clerk has given specific written notice of non-filing, he or she shall be advised by the City's project manager that no further payments shall be made by the City of El Cerrito under the contract until such statement has been received by the City Clerk. The City Clerk shall also impose late filing fees in accordance with Government Code Sections 91013 and 91013.5.

Section 6. Employees and Officials that Must Disclose Financial Interests. The City Conflict of Interest Code hereby includes Appendix A, which reflects changes in City organization and in the job titles of City management staff and reflects the inclusion of staff positions with decision making authority as authorized by the El Cerrito Municipal Code and in compliance with Title 2, Section 18701 of the California Code of Regulations. Designated Employees and Public Officials shall disclose financial interests as set forth in Appendix B.

APPENDIX A

DESIGNATED FILERS

Job Classification	Disclosure Category
Administrative Analyst	1,2,3,4
Assistant City Attorney	1,2,3,4
Assistant City Manager	1,2,3,4
Associate Engineer	1,2,3,4
Associate Planner	1,2,3,4
Battalion Fire Chief	1,2,3,4
Building Official	1,2,3,4
City Clerk	1,2,3,4
Community Development Director	1,2,3,4
Development Services Manager	1,2,3,4
Economic Development Director	1,2,3,4
Human Resources Manager	1,2,3,4
Environmental Services Manager	1,2,3,4
Environmental Programs Manager	1,2,3,4
Fire Chief	1,2,3,4
Information Systems Manager	1,2,3,4
Planning Manager	1,2,3,4
Police Lieutenant	1,2,3,4
Public Works Director/City Engineer	1,2,3,4
Maintenance Superintendent	1,2,3,4
Police Chief	1,2,3,4
Police Captain	1,2,3,4
Program Manager	1,2,3,4
Recreation Director	1,2,3,4
Recreation Supervisor	1,2,3,4
Economic Program Manager	1,2,3,4
Senior Engineer	1,2,3,4
Senior Planner	1,2,3,4
Senior Program Manager	1,2,3,4
Special Counsel	1,2,3,4
Consultants*	1,2,3,4
Commissioners & Board Members:	

Arts and Culture Commissioners	5
Design Review Board Members	1,2,3,4
Financial Advisory Board Members	1,2,3,4

* With respect to consultants, the City Manager or designee may determine in writing that a particular consultant, has been hired to perform a range of duties that is sufficiently limited in scope so as not to require full compliance 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 of disclosure requirements, if any. The City Manager's determination is a public record and shall be retained for public inspection in the same manner and location as the disclosure statements filed pursuant to this Resolution.

Section 7. Adoption of Disclosure Categories. The City Conflict Code hereby includes Appendix B, to achieve consistency with State Law and reflect the required disclosure categories of this Conflict of Interest Code:

A P P E N D I X B
DISCLOSURE CATEGORIES

Category 1: Personal Income

All sources of income, including investments, gifts, loans and travel payments as defined in Government Code Section 82030, as amended. Not included as income in this disclosure category is income received from any source outside the City of El Cerrito if that source is not presently doing business within the City of El Cerrito and has not done business within the City of El Cerrito during the two years prior to the time this disclosure statement is made.

Category 2: Interests in Real Property

All interests in real property in excess of $2,000 held by the designated employee, or commissioner, the employee or commissioner's spouse, domestic partner or dependent children located in whole or in part within the City of El Cerrito or within a two mile radius of the boundaries of the City of El Cerrito. Included within this disclosure category is any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property. Included within this disclosure category is any pro rata share of interests in real property of any business entity or trust in which the designated employee, or commissioner, the employee or commissioner's spouse, domestic partner or dependent children, owns directly, indirectly or beneficially, a 10 percent interest or greater. An "interest in real property" does not include the principal residence of the employee or commissioner, making the disclosure unless all or part of that residence is used for business purposes and claimed as a business deduction on the designated employee or commissioner's income tax return.

Category 3: Investments

All financial interests in excess of $2,000 held by the designated employee or commissioner, the employee or commissioner's spouse, domestic partner or dependent

children in security issued by a business entity, including but not limited to common stock, preferred stock, options, debt instruments and any partnership or other ownership interest if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the City of El Cerrito, or does business or plans to do business in the City of El Cerrito, or has done business within the City of El Cerrito at any time during the two years prior to the time this disclosure statement is made. The term "investments" 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 or a common trust fund created pursuant to Section 1564 of the Finance Code, or any bond or other debt instrument issued by any government or government agency. The term "investments" does include a pro rata share of investments of any business entity, mutual fund, or trust in which the designated employee or commissioner, or the employee's or commissioner's spouse, domestic partner or dependent children own directly, indirectly or beneficially, a 10 percent interest or greater.

Category 4: Management Positions

Management positions held with any business entity located, doing business, planning to do business, or having done business in the past two years within the City of El Cerrito.

Category 5: Arts and Culture Commission

All members of the Commission shall disclose business entities in which they have an investment, or in which they are a director, officer, partner, employee, or hold any position of management; and income as defined in Government Code Section 82030, as amended, including gifts, loans, and travel payments; if the business entity or source of income: a) has applied for, is receiving, or within the previous two years has received, funds through the City to advance Arts in El Cerrito; b) has profited from the creation, production, sale, or display of any artistic endeavor; or c) has provided services, goods, or equipment to artistic endeavors in the City of El Cerrito.

Section 8. Rescission of Previous Conflict of Interest Code. The City Council hereby rescinds Resolution No. 2012-77.

I CERTIFY that at a regular meeting on September 22, 2014 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	Councilmembers Benassini, Bridges, Lyman and Mayor Abelson
NOES:	None
ABSTAIN:	None
ABSENT:	Councilmember Friedman

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on September 24, 2014.

Cheryl Morse, City Clerk

Approved:

Janet Abelson, Mayor