Groveland Community Services District

BOARD MEETING AGENDA SUBMITTAL

TO: **GCSD Board of Directors**

FROM: **Peter Kampa, General Manager**

DATE: **September 16, 2020**

SUBJECT: **Agenda Item 6A. Adoption of a Resolution Approving a Revised Conflict of Interest Policy in Accordance with the Political Reform Act**

RECOMMENDED ACTION:
Staff recommends the following action:
I move to adopt Resolution 40-2020Approving a Revised Conflict of Interest Policy in Accordance with the Political Reform Act.

BACKGROUND:
California law in the Fair Political Practices Act requires that the District considers updates to its conflict of interest policy every two years. The District is required to submit the attached form to the County by October 1, 2020 stating whether our existing policy is acceptable, or we intend to update our current policy. Following review of our very extensive current COI policy, attached, staff determined that a concise policy referencing current law is desired over our prior version.

District legal counsel has provided the attached revised policy for your consideration. Due to the wholesale policy language change, using track changes was not an option.

ATTACHMENTS:
1. Draft proposed revised Conflict of Interest Policy
2. Resolution 40-2020
3. COI policy update form

FINANCIAL IMPACT:
None

(TO BE REFORMATTED INTO GCSD POLICY STYLE)

GROVELAND COMMUNITY SERVICES DISTRICT
CONFLICT OF INTEREST CODE

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 ("FPPC") has adopted a regulation (2 California Code of Regulations Section 18730, hereinafter "CCR 18730") which contains the terms of a standard conflict of interest code and which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the FPPC to conform to amendments in the Political Reform Act. Therefore, the terms of CCR 18730 and any amendments to it duly adopted by the FPPC are hereby incorporated by reference. This regulation and the attached Appendices in which members and employees are designated and disclosure categories are set, shall constitute the conflict of interest code of the Groveland Community Services District.

Individuals holding designated positions shall file their statements of economic interests with the Clerk of the Groveland Community Services District. The Clerk will (1) make and retain a copy of each statement filed and forward the original to the Tuolumne County Board of Supervisors; and (2) make the statements available for public inspection and reproduction. (Gov. Code Sec. 81008). Original statements for all designated positions of the Groveland Community Services District will be retained by the Clerk of the Groveland Community Services District.

APPENDIX A

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED EMPLOYEES' TITLE OR FUNCTION	DISCLOSURE CATEGORIES
Members of the Board	ALL
Secretary of the Board	ALL
Attorney	ALL
Consultants[1]	ALL

[1] Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation: The President of the Board may determine in writing that a particular consultant, although 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 a 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 President'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.

APPENDIX B

DISCLOSURE CATEGORIES

All investments and business positions in business entities, and all sources of income and interests in real property as set forth below. This category is known as full disclosure.

1. Investments in or income from persons or businesses engaged in the business of providing services or supplies, including, but not limited to, equipment, machinery, or office supplies, to the Groveland Community Services District, or could foreseeably provide services or supplies to the Groveland Community Services District.

2. Interests in real property located in whole or in part within the boundaries of the Groveland Community Services District, or within a two-mile radius of the Groveland Community Services District, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property if the fair market value of the interests is greater than $2,000.00.

3. Business positions, including but not limited to, status as a director, officer, sole owner, partner, trustee, employee, or holder of a position of management in any business entity which, in the prior two years has contracted with, or in the future may contract with Groveland Community Services District to provide services or supplies to the Groveland Community Services District.

CONFLICT OF INTEREST CODE
for
Groveland Community Service District

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal.Adm. Code Sections 18100, et seq.) and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees.

The persons holding positions listed in Appendix "A" are designated employees. It has been determined that these officers and employees make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories.

Those designated employees, if any, specified in Government Code Section 87200 shall file statements of economic interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200 et seq.[1] With respect to all other designated employees, they shall disclose all those types of economic interests set forth in the latest adopted standard form for statements of economic interests as adopted by the Fair Political Practices Commission. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests - Place of Filing.

The Clerk of the Board of Supervisors shall be the official filing officer. However, all designated employees shall file statements of economic interests with the County Clerk's Office.

[1] Designated employees who are required to file statements of economic interests under any other Conflict of Interest Code and those Article 2 filers who are designated in this code in a capacity which is in addition to their Article 2 capabilities may file identical expanded statements of economic interests with both entities in lieu of filing separate and distinct statements. Each expanded statement shall be originally signed by the designated employee, and shall include interests made reportable by virtue of both positions.

Section 5. Statements of Economic Interests - Time of Filing.

(a) Initial Statements. All designated employees employed by the agency on the effective date of this Code shall file statements within thirty (30) days after the effective date of this Code, unless the employee has previously filed a statement pursuant to subdivision (b) or (c).

(b) Assuming Office Statements.

(1) All persons assuming designated positions after the effective date of this Code which are civil service or merit system positions, shall file statements within thirty (30) days after assuming the designated positions.

(2) All other persons appointed, promoted or transferred to designated positions after the effective date of the Code, shall file statements within ten (10) days after assuming office, or if subject to confirmation, ten (10) days after being nominated or appointed.

(c) Annual Statements. All designated employees shall file statements no later than April 1st.

(d) Leaving Office Statements. All persons who leave designated positions shall file statements within thirty (30) days after leaving office.

(e) Candidate Statement. All candidates for election to designated offices other than those specified in Government Code Section 87200 shall file statements within five (5) days after the final date for filing nomination petitions. This subsection shall not apply to candidates who have filed a statement of economic interests with the agency within the previous twelve (12) months.

Section 6. Contents of Statements of Economic Interests.

All statements shall disclose those reportable interests required by the applicable disclosure categories as set forth in Section 3.

Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information.

(a) Investment and Real Property Disclosure. When an investment or interest in real property[2] is required to be reported[3] the statement shall contain the following:

(1) A statement of the nature of the investment or interest;

(2) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

(3) The address or other precise location of the real property;

(4) A statement whether the fair market value of the investment or interest in real property exceeds Two Thousand Dollars ($2,000.00), exceeds Ten Thousand Dollars ($10,000.00), or exceeds One Hundred Thousand Dollars ($100,000.00), or exceeds One Million Dollars ($1,000,000.00).

(b) Personal Income Disclosure. When personal income is required to be reported[4], the statement shall contain:

(1) The name and address of each source of income aggregating Five Hundred Dollars ($500.00) or more in value, or Fifty Dollars ($50.00) or more in value if the income was a gift and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source was One Thousand Dollars ($1,000.00) or less, greater than One Thousand Dollars ($1,000.00), or greater than Ten Thousand Dollars ($10,000.00), or greater than One Hundred Thousand Dollars ($100,000.00);

(3) A description of the consideration, if any, for which the income was received;

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[2] For the purposes of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

[3] Investments and interests in real property which have a fair market value of less than $1,000.00 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment of interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

[4] A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

(4) In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received.

(c) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported[5], the statement shall contain:

(1) The name, address and a general description of the business activity of the business entity;

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than Ten Thousand Dollars ($10,000.00).

(d) Management Position Disclosure. When management positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(e) Acquisition or Disposal During Reporting Period. In the case of an annual leaving office statement, if an investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Disqualification.

Designated employees must disqualify themselves from making, participating in the making or using their official positions to influence the making of any governmental decision which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the designated employee has a direct or indirect investment worth more than Two Thousand Dollars ($2,000.00);

(b) Any real property in which the designated employee has a direct or indirect interest worth more than Two Thousand Dollars ($2,000.00);

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[5] Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filers spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating Five Hundred Dollars ($500.00) or more in value received by or promised to the designated employee within twelve (12) months prior to the time when the decision is made; or

(d) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

The effects on a designated employee's financial interests of a decision by a landowner voting district to set ad valorem property tax assessments is not distinguishable from the effects such a decision will have on the public generally within such a district. The effects on a designated employee's financial interests of a decision by a utility district to set rates is not distinguishable from the effects such a decision will have on the public generally unless the designated employee's financial interests constitute more than two percent (2%) of the users to whom the rate will be applicable.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participating legally required for purposes of this section.

Section 9. Manner of Disqualification.

When a designated employee determines that he or she should not make a government decision because he or she has a financial interest in it, the determination not to act must be accompanied by disclosure of the financial interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

Section 10. Opinions of the Commission and Counsel.

(a) Any designated employee who is unsure of his or her duties under this Code may request a formal opinion or written advice from the Fair Political Practices Commission pursuant to Government Code Section 83114, or an opinion from the attorney for the agency, provided however that nothing in this section requires the attorney for the agency to issue such an opinion.

(b) If the designated employee truthfully discloses all material facts, an opinion or written advice provided by the Commission protects the designated employee from administrative, civil and criminal penalties to the extent provided for in Government Code Section 83114. If the designated employee has truthfully disclosed all material facts to the attorney for his or her agency, and an opinion is rendered by the attorney stating in full the facts and law upon which the opinion's based, compliance by the designated employee with such opinion may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Political Reform Act, Government Code Sections 81000, et seq. In addition, the designated employee's good faith compliance with the opinion of the attorney for the agency shall act as a complete defense in any disciplinary action the agency may bring under Government Code Section 91003.5.

(c) Copies of any opinion rendered by the attorney for an agency pursuant to this section shall be delivered to the designated employee requesting the opinion and shall be maintained in the files of the agency. Such opinions may subsequently be modified by the attorney for the agency or by the Commission, but such modifications or revisions shall be prospective in effect and shall take effect only after notification has been given the designated employee who requested the opinion.

Section 11. Violations.

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, penal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91014.

APPENDIX "A"

Board of Directors
General Manager
District Engineer
District Maintenance and Operations Manager
District Counsel
Consultants

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2020 Local Agency Biennial Notice

Name of Agency: _____

Mailing Address: _____

Contact Person: _____ Phone No. _____

Email: _____ Alternate Email: _____

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that *(check one BOX):*

☐ **An amendment is required. The following amendments are necessary:**

(Check all that apply.)

- ☐ Include new positions
- ☐ Revise disclosure categories
- ☐ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other *(describe)* Update and simplify the COI policy to reference FPPC requiremen

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

_____ _____

Signature of Chief Executive Officer *Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2020**, or by the date specified by your agency, if earlier, to:

(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

RESOLUTION 40-2020

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRIC APPROVING A REVISED CONFLICT OF INTEREST POLICY IN ACCORDANCE WITH THE POLITICAL REFORM ACT

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, California law in the Fair Political Practices Act requires that the District considers updates to its conflict of interest policy every two years; and

WHEREAS, the District is required to submit the attached form to the County by October 1, 2020 stating whether our existing policy is acceptable, or we intend to update our current policy; and

WHEREAS, review of our very extensive current COI policy, attached, staff determined that a concise policy referencing current law is desired over our prior version; and

WHEREAS, District legal counsel has provided the attached revised policy for your consideration.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Groveland Community Services District does hereby approve a Revised Conflict of Interest Policy in Accordance with the Political Reform Act.

PASSED AND ADOPTED at the regular meeting of the Board of Directors of the Groveland Community Services District held September 16, 2020 by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Attest:

_____
Jennifer L. Flores, Secretary

_____
Janice Kwiatkowski, President – Board of Directors

CERTIFICATE OF SECRETAY

I, Jennifer L. Flores, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passes and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and help on September 16, 2020.
DATED: _____