

**CITY OF DANA POINT  
AGENDA REPORT**

Reviewed By:	
DH	<u>X</u>
CM	<u>X</u>
CA	—

**DATE:**                   **AUGUST 21, 2007**

**TO:**                      **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:**               **CLARA WONG, INTERIM DIRECTOR OF ADMINISTRATIVE SERVICES**

**SUBJECT:**           **DESIGNATION OF CONFIDENTIAL EMPLOYEES**

**RECOMMENDED ACTION:**

That the City Council adopt a Resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING SPECIFIC POSITION CLASSIFICATIONS AS CONFIDENTIAL

**BACKGROUND:**

Government Code Section 3507.5 permits the City of Dana Point to adopt reasonable rules and regulations providing for designation of the management and confidential employees of the agency and restricting such employees from representing any employee organization, which represents other employees of the agency, on matters within the scope of representation. This Section, however, does not otherwise limit the right of employees to be members of and hold office in an employee organization.

**DISCUSSION:**

In accordance with Government Code Section 3507.5, many California public agencies designate certain key employees as confidential. The confidential employees are generally those who have access to confidential or privileged information. Therefore, those employees are not permitted to represent other employees of the agency in labor matters - negotiations or discipline hearings, for example – in order to avoid an obvious conflict of interest, the appearance of bad faith and the willful or inadvertent release of information that could seriously impair the labor-management relationships within the agency.

The regular represented classifications that have the greatest access to confidential or privileged information are:

1. Account Clerk
2. Accounting Technician
3. Administrative Secretary (all departments)
4. City Clerk Specialist
5. Records Assistant

Therefore, incumbents of these classifications should be designated as confidential and prohibited from representing any employee organization on matters within the scope of representation. Employees in these classifications will be required to complete a City Confidential Agreement (see Supporting Document A).

The City has met and conferred with the DPEA in accordance with Government Code Section 3505, and the DPEA has agreed to the City's designating the represented positions listed above as confidential and requiring represented confidential employees to sign the City's Confidentiality Agreement.

In addition, there are non-represented classifications that have access to confidential information that should be designated as confidential, and employees in these classifications are also required to complete the City's Confidentiality Agreement (see Supporting Document B). The non-represented classifications that have the greatest access to confidential or privileged information are:

1. Accounting/Data Processing Manager
2. City Clerk
3. Deputy City Clerk
4. Director of Administrative Services
5. Director of Community Development
6. Director of Community Services and Park
7. Director of Public Works and Engineering Services
8. Emergency and Support Services Manager
9. Executive Secretary
10. Management Analyst (Admin. Svcs. Department)
11. Personnel Analyst
12. Secretary (part-time) – City's Manager's Department
13. Senior Management Analyst (Public Works/Eng. Svcs. Dept.)

Designation of non-represented classifications as confidential may be amended at any time by the City Manager.

**STRATEGIC PLAN IMPLEMENTATION:**

Achieve total excellence in municipal services and City administration with excellent customer service and cost-effectiveness.

**FISCAL IMPACT:**

None.

**NOTIFICATION/FOLLOW-UP:**

1. Notify employees in designated confidential classifications of the City Council approved action.
2. Have each employee in a designated confidential classification complete the Confidentiality Agreement.

**ALTERNATIVE ACTIONS:**

Do not designate specific represented and/or non-represented classifications as confidential.

**ACTION DOCUMENTS:**

**PAGE NO.**

A. <a href="#">Resolution Designating Confidential Positions</a> .....	4
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**SUPPORTING DOCUMENTS:**

B. <a href="#">Confidentiality Agreement for Represented Employees</a> .....	6
C. <a href="#">Confidentiality Agreement for Non-Represented Employees</a> .....	7

**ACTION DOCUMENT A****RESOLUTION NO. \_\_\_\_\_****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DESIGNATING SPECIFIC POSITION CLASSIFICATIONS AS CONFIDENTIAL**

THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS

**SECTION 1.** California Government Code Section 3507.5 permits the City of Dana Point to adopt reasonable rules and regulations providing for designation of the management and confidential employees of the agency and restricting such employees from representing any employee organization, which represents other employees of the agency, on matters within the scope of representation. This Section, however, does not otherwise limit the right of employees to be members of and hold office in an employee organization.

**SECTION 2.** The City of Dana Point shall designate the following non-represented classifications as confidential, and employees serving in these confidential classifications are hereby admonished not to share confidential or privileged information unless duly authorized. The City Manager may at any time modify the list of non-represented confidential classifications:

1. Accounting/Data Processing Manager
2. City Clerk
3. Deputy City Clerk
4. Director of Administrative Services
5. Director of Community Development
6. Director of Community Services and Parks
7. Direction of Pubic Works and Engineering Services
8. Emergency and Support Services Manager
9. Executive Secretary
10. Management Analyst (Admin. Svcs. Dept.)
11. Personnel Analyst
12. Secretary (part-time, City Manager's Dept.)
13. Senior Management Analyst (Public Works/Eng. Svcs. Dept.)

**SECTION 3.** The City of Dana Point has met and conferred with the Dana Point Employees Association, and it is agreed that the following represented classifications are designated as confidential, and employees serving in these confidential classifications are hereby admonished not to share confidential or privileged information unless duly authorized:

- 1. Account Clerk
- 2. Accounting Technician
- 3. Administrative Secretary (all departments)
- 4. City Clerk Specialist
- 5. Records Assistant

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of August 2007.

\_\_\_\_\_  
DIANE L. HARKEY, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY M. WARD, CITY CLERK

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            )        ss:  
CITY OF DANA POINT            )

I, Kathy M. Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. \_\_\_\_\_ was duly adopted and passed at a regular meeting of the City Council on the 21st day of August, 2007, by the following roll-call vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
KATHY M. WARD  
CITY CLERK

**SUPPORTING DOCUMENT B**



CITY OF DANA POINT  
 CONFIDENTIALITY AGREEMENT  
 FOR REPRESENTED EMPLOYEES

The California Government Code allows the City of Dana Point to adopt rules and regulations providing for the designation of the management and confidential employees and restricting such employees from representing any employee organization on matters within the scope of representation – for example, labor negotiations or discipline hearings – in order to avoid an obvious conflict of interest, the appearance of bad faith and the willful or inadvertent release of information that could seriously impair the labor-management relationships of the City. Your job classification has been so designated.

You are required to read, sign and abide by the terms of this Confidentiality Agreement. Failure to adhere to the terms of this Agreement may result in discipline.

Except as required by the duties of my position, I will not:

1. Divulge or discuss information designated by the City as restricted or protected materials.
2. Remove from the premises any materials designated by the City as restricted or protected, or allow these materials to be seen by unauthorized persons.

I also agree that I will:

1. Take necessary steps to safeguard restricted and protected information and materials in my custody;
2. Call to the attention of my supervisor any situation which might indicate that the security of restricted and protected information has been or is being threatened;
3. Avoid actions that give the appearance of conflict of interest or that jeopardize the security of restricted and protected information.

I have read, understand, and have been provided a copy of this form and agree to accept my obligations with respect to the protection of restricted and protected information.

Employee Signature	Title	Date Signed

**SUPPORTING DOCUMENT C**



**CITY OF DANA POINT  
CONFIDENTIALITY AGREEMENT  
FOR NON-REPRESENTED EMPLOYEES**

The California Government Code allows the City of Dana Point to adopt rules and regulations providing for the designation of the management and confidential employees. Your job classification has been so designated.

You are required to read, sign and abide by the terms of this Confidentiality Agreement. Failure to adhere to the terms of this Agreement may result in discipline.

Except as required by the duties of my position, I will not:

1. Divulge or discuss information designated by the City as restricted or protected materials.
2. Remove from the premises any materials designated by the City as restricted or protected, or allow these materials to be seen by unauthorized persons.

I also agree that I will:

1. Take necessary steps to safeguard restricted and protected information and materials in my custody;
2. Call to the attention of my supervisor any situation which might indicate that the security of restricted and protected information has been or is being threatened;
3. Avoid actions that give the appearance of conflict of interest or that jeopardize the security of restricted and protected information.

I have read, understand, and have been provided a copy of this form and agree to accept my obligations with respect to the protection of restricted and protected information.

Employee Signature	Title	Date Signed