RESOLUTION NO. 3237-15

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR APPROVING THE TOWN OF WINDSOR ANTI-FRAUD POLICY

WHEREAS, California Government Code Section 53087.6 governs how cities and counties may establish, review and investigate claims regarding fraud, waste or abuse by local government employees; and

WHEREAS, the Town of Windsor is committed to the highest standards of transparency and accountability in all of its affairs and is determined to maintain a culture of honesty and opposition to fraud and corruption; and

WHEREAS, the Town of Windsor's Administrative Services Director has submitted a proposed Town of Windsor Anti-Fraud Policy, attached hereto and incorporated herein by reference, for the Town Council's consideration; and

WHEREAS, the Policy incorporates the values of the Town, the objectives of California Government Code Section 53087.6 and otherwise complies with all applicable statutory and regulatory requirements; and

WHEREAS, in accordance with California Government Code Section 53087.6 the Town Council has considered the Policy and all comment thereon, at a duly-noticed public meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Windsor approves the attached Town of Windsor Anti-Fraud Policy.

PASSED, APPROVED, AND ADOPTED this 7th day of October 2015, by the following vote:

AYES:	**COUNCILMEMBERS FOPPOLI, FUDGE, SALMON, AND MAYOR OKREPKIE**
NOES:	**NONE**
ABSTAIN:	**NONE**
ABSENT:	**VICE MAYOR MILLAN**

BRUCE OKREPKIE, MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK

Attachment:
Exhibit A – Anti-Fraud Policy

EXHIBIT A

TOWN OF
WINDSOR

Anti-Fraud Policy

INTRODUCTION:

The Town of Windsor (the "Town") is committed to the highest possible standards of transparency, honesty and accountability in all of its affairs. The Town is determined to maintain a culture of honesty and opposition to fraud and corruption. Based on this commitment, the Town has established an Anti-Fraud Policy. This Anti-Fraud Policy outlines the principles to which the Town is committed in relation to preventing, reporting and managing fraud, theft, waste, abuse, or other dishonest conduct. The Anti-Fraud Policy reinforces the Town's approach to business dealings by articulating the core values of the Town and by setting out the ways in which employees or members of the public can voice their concerns about suspected fraud or corruption. The Policy also outlines how the Town will address concerns and complaints about fraud.

The Town has adopted the following Core Values as the basis for fostering an environment of positive energy, fairness and trust:

- Accountability: We take responsibility and ownership of our actions and are dependable.
- Communication: We share information and are open, clear and considerate.
- Integrity: We conduct ourselves honestly, honorably, and in the best interest of the Town.
- Professionalism: We are respectful, courteous, use good judgement and adhere to high standards of conduct.
- Teamwork & Collaboration: We work together cooperatively on common goals and value individual contributions.

DEFINITION AND CATEGORIES OF FRAUD:

Under California law (Government Code §53087.6(f)(2)), the term, "fraud, waste, or abuse" means any activity by a local agency or employee that is undertaken in the performance of the employee's official duties, including activities deemed to be outside the scope of his or her employment, that:

- Is in violation of any local, state, or federal law or regulation relating to:
  - Corruption
  - Malfeasance
  - Bribery
  - Theft of government property
  - Fraudulent claims

- Fraud
- Coercion
- Conversion
- Malicious prosecution
- Misuse of government property
- Willful omission to perform duty
- Is economically wasteful
- Involves gross misconduct

Violation	Definition	Description/Complaint Code
Fraud	A known misrepresentation of the truth or misstatement of fact to induce another to act to the Town's detriment.	Fraud, Accounting / Audit Irregularities
Theft of government property	Unauthorized taking into one's possession of property owned by the Town.	Theft of Cash, Goods, and Services
Fraudulent claims	A misrepresentation of faces in a claim to receive compensation.	Fraudulent Insurance Claims
Conversion	The wrongful possession of or interference with the Town's property as if it was one's own.	Theft of Cash, Goods, and Services
Misuse of government property	Misuse of the Town's property.	Waste
Corruption	The impairment of a public official's duty by bribery.	Release of Proprietary Information.
Malfeasance	Wrong doing or misconduct by a public official.	Conflict of Interest, Theft of Time, Unauthorized Discounts, Wage and Hour Issues, Customer Relations, Policy Issues, Safety Issues and Sanitation, or Product Quality Concerns
Bribery	The corrupt payment, receipt, or solicitation of a private favor for official action.	Kickbacks, Improper Loans to Town Officials
Coercion	Compulsion by physical force or threat of physical force, threat of taking or withholding official action or causing an official to take or withhold an action.	Retaliation Against Whistleblowers
Malicious prosecution	Intentionally (and maliciously) instituting and pursuing (or causing to be instituted and pursued) a legal action that is brought without probably cause and dismissed in favor or the victim that caused damages.	Abuse
Willful omission to perform duty	Intentional neglect to take action required by law or contract.	Abuse.

This is not an exhaustive list. If you are in doubt about the seriousness of your concern, advice and guidance can be sought from the Risk Manager, the Human Resources Manager, a Director, or the Town Manager.

PREVENTION AND CONTROL OF FRAUD:

Supervisors, Managers and Directors ("Managers") in each department shall advocate and develop a Town culture of honesty and integrity, assess the risk of fraud arising in the normal business operations of each department, and establish controls and procedures designed to eliminate the likelihood of fraud. Managers are also responsible to receive, investigate, report and recommend a remedial course of action in respect to suspected or voiced concerns of fraud or fraudulent behavior.

Managers shall promote a consistent Town culture of honesty and integrity through the following actions and activities:

- Managers shall lead by example in complying with this Anti-Fraud Policy.
- Managers shall regularly communicate the Town's core values.
- The Administrative Services Department shall conduct periodic meetings at a minimum of once a year to ensure employees understand business ethics and the related laws and regulations.
- Managers shall notify all direct and indirect interested parties, including external parties, of this Anti-Fraud Policy and the obligations of the employees to comply therewith.
- Managers shall to notify employees and external third parties of the opportunity and procedures for anonymously reporting wrongdoings and dishonest behavior.
- Managers shall establish control procedures to reduce the potential occurrence of fraud through protective approval, authorization and audit checks, segregation of duties, and periodic compliance reviews.

REPORTING FRAUD AND FRAUDULENT BEHAVIOR:

The Town recognizes that the decision to report a concern about suspected fraud or fraudulent behavior can be a difficult one to make. Employees are often the first to suspect that fraudulent activities may be taking place within the Town. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Town. The fear of reprisals, harassment or victimization may be overwhelming; thus to ignore the concern rather than report it may seem easier. The Town encourages and enables employees, staff and external parties, such as agents, advisors, and representatives, to raise serious, good faith concerns. It is the responsibility of every employee and citizen to immediately report suspected misconduct or dishonesty to a Manager, the Risk Manager, the Town Manager, the Town Attorney or the Financial Fraud Enforcement Task Force established by President Obama in 2009. Employees and citizens can report suspect fraud to the Town or the Financial Fraud Enforcement Task Force via email, telephone, written correspondence, or in person. Updated contact information for reporting suspect fraud to the Town can be found on the Town's website at www.townofwindsor.com and for the Financial Fraud Enforcement Task Force can be found online at www.stopfraud.gov.

Managers, when made aware of such potential acts, must immediately report such acts to the Town Manager. Any investigative audit conducted shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the reporting party and the subject employee(s) shall be kept confidential, in accordance with Government Code §53087.6(e). Any reprisal against any employee or other reporting individual because that individual, in good faith, reported a violation is strictly forbidden.

The Town will do its best to protect an individual's identity when he or she raises a concern; however, the investigation process may reveal the source of the information and the statement by the individual may be required as part of evidence.

- Individuals are encouraged to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered and investigated at the discretion of the Town. In exercising this discretion, the factors to be taken into account would include:
    - seriousness of the issues raised;
    - credibility of the concern; and
    - likelihood of confirming the allegation from attributable sources.
- If an allegation is made in good faith no action will be taken against the originator. If, however, individuals make malicious and false allegations, action may be considered against the individual making the allegations.
- The Town encourages members of the public who suspect fraud and corruption to contact the Risk Manager, the Town Manager, the Town Attorney or the Financial Fraud Enforcement Task Force.

For concerns raised by employees or members of the public, the action taken by the Town will depend on the nature of the concern. The matters raised may be investigated internally or be referred to the Town Manager or an appointed designee.

During the review the Town encourages cooperation by the employee or the member of the public who reported suspected fraud and requires strict adherence to the following guidelines:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Allow the Town Manager or an appointed designee to conduct an investigation.
- Do not further investigate the allegations.

The Town Manager or an appointed designee is responsible for the administration, revision, interpretation, and application of this Policy.

GUIDELINES FOR THE INVESTIGATION OF SUSPECTED FRAUD:

The Town Manager or an appointed designee is responsible for the full investigation and documentation of suspected fraud. They have primary responsibility for the investigation of reported wrongdoing and all suspected fraud and for coordinating investigative activities with the

Town Attorney and the Police Department. Investigation results shall not be disclosed or discussed with anyone other than those who have a legitimate need to know while the investigation is pending. Any required investigative activity shall be conducted without regard to the suspected wrongdoer's length of service, position/title, relationship to the Town, or any other perceived mitigating circumstance.

The Town Manager or an appointed designee shall maintain appropriate documentation regarding reported incidents of alleged fraud and maintain guidelines for access to and security of this documentation. If an investigation substantiates fraudulent activities, the Town Manager or an appointed designee will prepare an incident report to the Town Council, the Town's executive management, the Town Attorney and the Manager of the division in which the suspected fraud occurred. The Town Manager or an appointed designee shall prepare the report as soon as possible after the suspected fraud is substantiated and shall document the content of the investigation, the findings, and any disciplinary action taken as a result of the findings, except that the identities of the individual(s) reporting the fraud and the subject employee(s) shall be kept confidential in accordance with Government Code §53087.6(e)(2).

Any inquiries from the suspected individual, his or her attorney/representative, or any other inquirer shall be directed to the Town Manager or an appointed designee. If necessary, the Town Manager or an appointed designee will refer these inquiries to the Town Attorney. The Town will pursue prosecution if the results of an investigation indicate the possibility of criminal activity.

SECURITY OF INCIDENT REPORTS AND ASSOCIATED REPORTS, WORKING PAPERS, AND OTHER RELATED DOCUMENTS:

- Incident Reports, associated reports, working papers, and other documents referring to or describing Incident Reports, which are received either by mail, or e-mail shall remain confidential to the extent allowed by law.
- Incident Reports shall only be provided to individuals who are responsible and essential for conducting the investigation or reviewing of the Incident Report. These individuals are required to hold such information in confidence, to the extent allowed by law.
- The confidentiality of all Incident Reports, associated reports, working papers, and other documents shall be maintained at all times by the Town Manager and investigating/reviewing departments, who shall take such measures as they determine are reasonable and necessary to maintain the confidentiality of such information and documents, to the extent allowed by law.
- Town Staff responsible for reviewing/investigating Incident Reports can make investigative disclosures of information contained in an Incident Report to the extent necessary for obtaining additional information relevant to the investigation.
- The Town Manager is authorized to determine the distribution or release of any Incident Reports, associated reports, working papers, other documents and correspondence associated thereto, in accordance with the California Public Records Act, the confidentiality provisions of Government Code §53087.6(e), and other applicable law.
- The Town Council may, at their discretion, authorize the release of information relative to substantiated incident reports, except that the identities of the reporting parties and the subject employees shall be kept confidential except to issue any report of an investigation

that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. See Government Code §53087.6(e)(2).

DISCIPLINARY ACTION:

Failure to comply with any part of this Policy is grounds for disciplinary action, in accordance with applicable Town policies and procedures, up to and including termination from employment.

An employee who:

- has engaged in any form of fraud, waste, or abuse; or
- has engaged in any form of dishonest conduct; or
- retaliates against anyone who makes a good faith report of suspected fraud; or
- suspects or discovers fraudulent activity and fails to report his or her suspicions as required by this Policy; or
- intentionally reports false or misleading information

will be subject to disciplinary action, including termination. Any Manager who does not bring forth every report of suspected fraud made by an employee or member of the public to the Town Manager will be subject to appropriate disciplinary action, in accordance with applicable Town policies and procedures, up to and including oral reprimand, written reprimand, suspension with pay, suspension without pay, or termination from employment.

2497375.1