



Staff Report Item 8

TO: East Bay Community Energy Board of Directors

FROM: Leah Goldberg, General Counsel

SUBJECT: Adopt Resolution Amending the Conflict of Interest Code to Update the Conflict of Interest Code (Action Item)

DATE: November 7, 2018

Recommendation

Adopt Resolution amending the EBCE Conflict of Interest Code to add 1 current and six new positions:

- A. Director of Public Affairs;
- B. Senior Director of Public Affairs;
- C. Vice-President of Technology and Data Analytics;
- D. Director of Government and Community Affairs;
- E. Finance Manager;
- F. Deputy General Counsel; and
- G. Clerk of the Board

Background

Shortly after the formation of the EBCE, the Board of Directors adopted a conflict of interest code as required by the Political Reform Act, commencing at Government Code Section 81000. The code lists the positions within EBCE that are required to file statements of economic interests (Form 700). The Conflict Code was amended in January 2018 to add several new positions. Since then, additional positions have been added to the EBCE. Pursuant to Government Code 87306, EBCE must update its conflict of interest code within 90 days of the creation of a new position that must file a Form 700.

Analysis & Discussion

Six new staff positions have been created at EBCE: Director of Public Affairs, Senior Director of Public Affairs, Vice President of Technology and Data Analytics, Director of Government and Community Affairs, Finance Manager, and Deputy General Counsel. Changes to the position also require the addition of Clerk of the Board to the Conflict of Interest Code. In accordance with the requirements of the Political Reform Act, a

new conflict of interest code must be adopted by resolution which includes the newly created positions. The attached resolution amends Appendix A to the conflict of interest code to add the new positions.

Attachment:

1. Resolution Adopting updated conflict of interest.

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY
UPDATING THE CONFLICT OF INTEREST CODE**

**THE BOARD OF DIRECTORS OF THE EAST BAY COMMUNITY ENERGY
AUTHORITY DOES HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

Section 1. The East Bay Community Energy Authority (“Authority”) was formed on December 1, 2016 pursuant to a Joint Powers Agreement to study, promote, develop, conduct, operate, and manage energy programs in Alameda County.

Section 2. The Political Reform Act, Government Code Section 81000, *et seq.*, (the “Political Reform Act”) requires all agencies, including the Authority, to adopt and promulgate a local conflict of interest code.

Section 3. On January 30, 2017 the Board of Directors of the Authority approved Resolution No. R-2017-1, adopting a Conflict of Interest Code for the Authority. Appendix A to the Conflict of Interest Code lists the employee and consultant positions subject to the Code and establishes economic disclosure categories, and Appendix B identifies the specific financial interests to be reported.

Section 4. On January 17, 2018 the Board of Directors approved Resolution No. R-2018-7, replacing Appendix A to the Conflict of Interest Code adopted in Resolution No. R-2017-1 in order to add new positions and enumerate the appropriate disclosure categories.

Section 5. The Board of Directors desires to again amend Appendix A of the Conflict of Interest Code in order to add seven new positions that require economic disclosures and to enumerate the appropriate disclosure categories.

Section 6. Accordingly, the designated positions and disclosure categories described in Appendix A to this Resolution are hereby incorporated into the Authority’s Conflict of Interest Code. Appendix A to this Resolution shall replace Appendix A to Resolution No. R-2017-1.

ADOPTED AND APPROVED this 17th day of November, 2018.

Chair

ATTEST:

Clerk of the Board

**EAST BAY COMMUNITY ENERGY AUTHORITY
CONFLICT OF INTEREST CODE**

APPENDIX "A"

DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Categories</u>
Member of Board of Directors	1, 2, 3, 4
Member of Board of Directors (Alternate)	1, 2, 3, 4
Chief Executive Officer	1, 2, 3, 4
Chief Operating Officer	1, 2, 3, 4
General Counsel	1, 2, 3, 4
Clerk of the Board	1, 2, 3, 4
Vice President of Marketing and Customer Accounts	1, 2, 3, 4
Vice President of Technology and Data Analytics	1, 2, 3, 4
Director of Power Resources	1, 2, 3, 4
Director of Regulatory and Legislative Affairs	1, 2, 3, 4
Director of Government and Community Affairs	1, 2, 4, 4
Director of Public Affairs	1, 2, 3, 4
Senior Director of Public Affairs	1, 2, 3, 4
Deputy General Counsel	1, 2, 3, 4
Finance Manager	1, 2, 3, 4
Consultant	5
Newly Created Position	*

* Newly Created Position

A newly created position that makes or participates in the making of governmental decisions that may foreseeably have a material effect on any financial interest of the position-holder, and which specific position title is not yet listed in the Authority's Conflict of Interest Code, is included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the Code, subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular newly created position, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the broadest disclosure requirements, but instead must comply with more tailored disclosure requirements specific to that newly created position. Such written determination shall include a description of the newly created position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Chief Executive Officer'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. (Gov. Code Section 81008.)

Within 90 days of the creation of a newly created position that must file a statement of economic interests, the Authority shall update this Conflict of Interest Code to add the actual position title in its list of designated positions, and submit the amended Conflict of Interest Code to the County Administrator's Office for code-reviewing body approval by the Alameda County Board of Supervisors. (Gov. Code Section 87306.)