

Attachment 9B

RESOLUTION EBCE R-2017-3

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST BAY COMMUNITY ENERGY AUTHORITY
ADOPTING A CONFLICT OF INTEREST CODE FOR THE
EAST BAY COMMUNITY ENERGY COMMUNITY
ADVISORY COMMITTEE**

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 and energy-related climate change programs (“CCA Program”) in Alameda County.

Section 2. Section 4.9 of the Joint Powers Agreement authorizes the creation of a Community Advisory Committee (“CAC”) to advise the Board on all subjects related to the operation of the CCA Program.

Section 3. The CAC is a purely advisory body and therefore not subject to the Political Reform Act, Government Code §§ 81000, et seq. or the Fair Political Practices Commission (the “FPPC”) Regulations pursuant to 2 California Code of Regulations § 18100.

Section 4. Nevertheless, to promote transparency and to avoid self-dealing or the appearance of self-dealing by CAC members, the Board desires to adopt a Conflict of Interest Code for the CAC that requires disclosure of certain financial interests and recusal from decisions impacting those financial interests.

Section 5. The Board hereby adopts the East Bay Community Energy Authority Community Advisory Committee Conflict of Interest Policy, attached and incorporated herein as “Exhibit CC” as the Conflict of Interest Policy applicable to the CAC and its members.

Section 6. All CAC members required to submit a statement of economic interests shall file their statements with the Authority’s Filing Official. The Filing Official, or his or her designee, shall make and retain a copy of all statements filed with the Authority. All retained statements, original or copied, shall be available for public inspection and reproduction.

ADOPTED AND APPROVED this ____ day of _____, 2017.

Chair

ATTEST:

Secretary

**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
General Counsel	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.)

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

APPENDIX "B"

DISCLOSURE CATEGORIES

Designated positions must report financial interests in accordance with the assigned disclosure categories.

Category 1: Persons in this category shall disclose interests in real property located within the jurisdiction of the East Bay Community Energy Authority. Real property shall be deemed within the Authority's jurisdiction if the property or any part of it is located within two miles of the borders of any of the parties to the Joint Powers Agreement for the Authority, or within two miles of any land owned or used by the Authority.

Designated persons are not required to disclose property used primarily as their principal residence.

Category 2: Persons in this category shall disclose reportable income from persons or business entities that have contracted with the Authority, or that provide, plan to provide, or have provided within two years from the time a statement is required under this Conflict of Interest Code, contractual services, or other services, supplies, materials or equipment of the type utilized by the Authority.

Category 3: Persons in this category shall disclose reportable investments in business entities that contract with the Authority or that provide, plan to provide or have provided within two years from the time a statement is required under this Conflict of Interest Code, contractual services, or other services, supplies, materials or equipment of the type utilized by the Authority.

Category 4: Persons in this category shall disclose reportable business positions in business entities that contract with the Authority or that provide, plan to provide or have provided within two years from the time a statement is required under this Conflict of Interest Code, contractual services, or other services, supplies, materials or equipment of the type utilized by the Authority.

Category 5: Each Consultant, as defined for purposes of the Political Reform Act, shall disclose pursuant to the broadest disclosure category in the Authority's Conflict of Interest Code subject to the following limitation: The Chief Executive Officer of the Authority may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to comply fully with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such a written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the

disclosure requirements. The Chief Executive Officer's written determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.