



Staff Report Item 10

TO: East Bay Community Energy Board of Directors

FROM: Nick Chaset, CEO
Inder Khalsa, EBCE General Counsel

SUBJECT: Amend the Conflict of Interest Code

DATE: January 17, 2018

Recommendation

Adopt a Resolution amending the EBCE Conflict of Interest Code to add the positions of Chief Operating Officer, Vice President of Marketing and Customer Accounts, Director of Power Resources, and Director of Regulatory and Legislative Affairs.

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). 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

Four new staff positions have been created at EBCE: Chief Operating Officer, Vice President of Marketing and Customer Accounts, Director of Power Resources, and Director of Regulatory and Legislative Affairs. 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:

A. Resolution amending the EBCE Conflict of Interest Code

Attachment 10A

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

Section 5. Accordingly, the designated positions and disclosure categories described in the 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.

Section 6. All officials and employees required to submit a statement of economic interests pursuant to Appendix A 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 and forward the originals of such statements to the County Administrator’s Office of the Alameda County Board of Supervisors. All retained statements, original or copied, shall be available for public inspection and reproduction (Gov. Code Section 81008).

Section 7. The Board of Directors of the Authority hereby directs the Secretary of the Board to coordinate the preparation of a revised Conflict of Interest Code in succeeding even-numbered years in accordance with the requirements of Government Code Sections 87306 and 87306.5. Future revisions to the Conflict of Interest Code should reflect changes in employee or official designations. If no revisions to the Code

are required, the Authority shall submit a report to the County Administrator's Office of the Alameda County Board of Supervisors no later than October 1st of the same year, stating that amendments to the Authority's Conflict of Interest Code are not required.

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

Scott Haggerty, Chair

ATTEST:

Stephanie Cabrera, 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
General Counsel	1, 2, 3, 4
Chief Operating Officer	1, 2, 3, 4
Vice President of Marketing and Customer Accounts	1, 2, 3, 4
Director of Power Resources	1, 2, 3, 4
Director of Regulatory and Legislative Affairs	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.)