



Consent Item 6

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| To: | Ava Community Energy Authority |
| From: | Jim Dorrance, Director of Power Resources |
| Subject: | Appointing Ava General Counsel and members of Ava's senior management to serve in the statutory role of prosecuting authority for purposes of prosecuting any violations of the California False Claims Act. |
| Date: | November 19, 2025 |

Summary/Recommendation

Adopt a resolution formally designating the General Counsel and certain members of Ava's senior management, specifically the Chief Executive Officer ("CEO"), Chief Financial Officer ("CFO"), and the Senior Vice President of Power Resources, as the prosecuting authority within or for Ava as that term appears in California Government Code § 12650(b)(8). The primary reason for this is to conform strictly with the Government Code in connection with claims relating to the California False Claims Act ("CFCA").

Financial Impact

Not Applicable/None.

Analysis and Context

Cal. Govt. Code § 12650(b)(8) within the CFCA requires public entities to designate a prosecuting authority within or for the public entity that is "charged with investigating, filing, and conducting civil legal proceedings on behalf of, or in the name of, a particular political subdivision." (Cal. Govt. Code § 12650(b)(8)). Normally this position is held by an agency's primary legal counsel (City Attorney, County Counsel, or General Counsel) unless others are also designated in this role, for example, senior management. Consistent with the statute, the

proposed resolution expressly designates Ava's General Counsel, the CEO, the CFO, or the Senior Vice President of Power Resources to serve in this role.

Attachments

A. Resolution

RESOLUTION NO. R-2025-xx

A RESOLUTION OF THE BOARD OF DIRECTORS

**OF AVA COMMUNITY ENERGY AUTHORITY DESIGNATING AVA
GENERAL COUNSEL, CHIEF EXECUTIVE OFFICER, CHIEF FINANCIAL
OFFICER, OR THE SENIOR VICE PRESIDENT OF POWER RESOURCES AS
AVA’S PROSECUTING AUTHORITY TO PROSECUTE CLAIMS UNDER THE
CALIFORNIA FALSE CLAIMS ACT**

WHEREAS Ava Community Energy Authority (“Ava”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, under the Joint Exercise of Powers Act, California Government Code sections 6500 *et seq.*, among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The Cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of Ava and parties to the Joint Powers Agreement (“JPA”) in March of 2020. The City of Stockton was added as a member to Ava in September of 2022. The city of Lathrop was added as a member to Ava in October of 2023. San Joaquin County was added as a member to Ava in July 2024. On October 24, 2023, Ava legally adopted the name Ava Community Energy Authority, where it had previously used the name East Bay Community Energy Authority since its inception.

WHEREAS Government Code § 12650(b)(8) provides that only the prosecuting authority of a local agency can prosecute violations of the California False Claims Act; and

WHEREAS the Board of Directors wishes to expressly designate the General Counsel, Chief Executive Officer, Chief Financial Officer, or the Senior Vice President of Power Resources as Ava’s prosecuting authorities in order to avoid any doubt as to which positions may serve in this role.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF AVA COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Board hereby designates Ava General Counsel, the Chief Executive Officer (“CEO”), the Chief Financial Officer (“CFO”) or the Senior Vice President of Power Resources, as Ava’s prosecuting authority pursuant to California Government Code § 12650(b)(8). Any person serving in the position of prosecuting authority may prosecute claims under the California False Claims Act, at Government Code §§ 12650, *et seq.*

ADOPTED AND APPROVED this 19th day of November, 2025.

Betsy Andersen, Chair

ATTEST:

Adrian Bankhead, Clerk of the Board