

VALLEY CLEAN ENERGY ALLIANCE

Staff Report – Item 8

TO: Valley Clean Energy Alliance Board of Directors

FROM: Harriet Steiner, City Attorney, City of Davis
Eric May, Senior Deputy County Counsel, Yolo County

SUBJECT: Conflict of Interest Code

DATE: December 13, 2016

Recommendations

1. Adopt a resolution adopting a Conflict of Interest Code for the Valley Clean Energy Alliance (VCEA).

Analysis and Discussion

The Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The VCEA is a joint powers agency subject to the Political Reform Act's conflict of interest code requirements.

The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730), which contains the terms of a standard conflict of interest code, which may be incorporated by reference in an agency's code. The standard terms contained in Section 18730 may be amended by the Fair Political Practices Commission, after public notice and hearing, to conform to amendments in the Political Reform Act.

The Conflict of Interest Code must list the positions within the agency that are considered "designated positions" and must identify the "disclosure categories" applicable to each designated position. The enclosed draft Conflict of Interest Code includes an Appendix which lists the VCEA's designated positions (Part A) and identifies the applicable disclosure categories for each designated position (Part B).

Persons holding designated positions listed in Part A of the Appendix to the Conflict of Interest Code need to file Statements of Economic Interest (Form 700s). At this time, the VCEA's designated officers and employees include the General Counsel and Consultants. In addition to the designated positions, officials who manage public investments, as defined by 2 California Code of Regulations Section 18700 are technically not subject to the VCEA's Conflict of Interest Code, but must file Form 700 disclosure statements under Government Code Section 87200. (Regulations Sec. 18730(b)(3).) At this time, officials who manage public investments, and are subject to the filing requirements under Government

Code Section 87200, include Members of the Board of Directors and alternates, the Executive Officer and Treasurer. These officials are listed in Part A of the Appendix to the Conflict of Interest Code for informational purposes. All persons required to file a Statement of Economic Interest must file an initial Form 700 no later than 30 days after the Board’s adoption of the Conflict of Interest Code.

Government Code Section 82101(b) requires the Yolo County Board of Supervisors to be the code reviewing body for the VCEA’s Conflict of Interest Code. If the Board of Directors adopts the Conflict of Interest Code, staff will forward the resolution and the VCEA’s Conflict of Interest Code to Yolo County for review and approval. The Board of Supervisors is required to act upon the Conflict of Interest Code within ninety (90) days after receiving the Code for review. The Board of Supervisors may approve the Code as submitted, make revisions, or return the proposed Code to the Authority’s Board of Directors for review and resubmission back to the Board of Supervisors for approval.

Environmental Review

The adoption of a Conflict of Interest Code is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to the CEQA guidelines as it is not a “project” but is an organization or administrative activity that will not result in direct or indirect physical changes in the environment (14 Cal Code Regs, 15378(b)).

County Counsel/City Attorney have reviewed and approved the Resolution as to form.

Attachments

1. Resolution
2. Conflict of Interest Code

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2016 - _____

**A RESOLUTION OF THE VALLEY CLEAN ENERGY ALLIANCE ADOPTING A CONFLICT
OF INTEREST CODE**

WHEREAS, the Political Reform Act (Government Code Section 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730), which contains the terms of a standard conflict of interest code, which may be incorporated by reference in an agency's code and, after public notice and hearing, may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act; and

WHEREAS, the Valley Clean Energy Alliance (the "VCEA") is a joint powers agency subject to the Political Reform Act's code-filing requirement; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Board of Directors of, the proposed Conflict of Interest Code for the Valley Clean Energy Alliance was provided each affected designated employee and publicly posted for review at the offices of the VCEA; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Valley Clean Energy Alliance, as follows:

Section 1. The Board of Directors of the Valley Clean Energy Alliance (the "Board") hereby adopts the proposed Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Secretary of the VCEA, and available to the public for inspection and copying during regular business hours.

Section 2. The Conflict of Interest Code shall be submitted to the Board of Supervisors of Yolo County for approval and said Code shall become effective 30 days after the Board of Supervisors approves the proposed Conflict of Interest Code as submitted.

Section 3. Persons holding designated positions listed in the Conflict of Interest Code shall file with the Secretary of the VCEA Statements of Economic Interests on Fair Political Practices Commission forms, in conformance with the individual disclosure categories and State law.

Section 4. The Secretary of the VCEA is directed to provide, upon request, copies of this Resolution and the Conflict of Interest Code to any officer, employee, and consultant

designated in the Code, and to make copies of the Code available to any interested party who requests a copy.

Section 5. Any violation of any provision of the Conflict of Interest Code is subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code Section 81000 *et seq.*

The foregoing Resolution was passed and adopted this _____day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Chairperson

ATTEST:

Secretary

EXHIBIT A

**CONFLICT OF INTEREST CODE OF THE
VALLEY CLEAN ENERGY ALLIANCE**

**Conflict of Interest Code of the
Valley Clean Energy Alliance
(December ____, 2016)**

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing, Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by reference. This incorporation page, Regulation 18730 and the attached Appendix designating positions and establishing disclosure categories, shall constitute the Conflict of Interest Code of the Valley Clean Energy Alliance (the "VCEA").

All Officials and Designated Positions required to submit a statement of economic interests shall file their statements with the Secretary, as the VCEA's Filing Officer. The VCEA's Filing Officer shall retain the originals of the statements of all Officials and Designated Positions and shall make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code §81008.)

APPENDIX
Conflict of Interest Code of the
Valley Clean Energy Alliance
(Adopted December ____, 2016)

PART "A"

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 California Code of Regulations Section 18700.3(b)(1) are NOT subject to the VCEA's Code, but must file disclosure statements under Government Code Section 87200. (Regs. § 18730(b)(3).) These positions are listed here for informational purposes only.

It has been determined that the positions listed below are officials who manage public investments¹:

Members of the Board of Directors

Members of the Board of Directors (Alternates)

Executive Officer

Treasurer

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¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

**DESIGNATED POSITIONS
GOVERNED BY THE CONFLICT OF INTEREST CODE**

Designated Positions	Disclosure Category
General Counsel	1, 2, 3
Consultants and New Positions ²	1, 2, 3 ³

² Individuals providing services as a Consultant defined in Regulation 18700.3(a)(2), or in a new position created since this Code was last approved that makes or participates in making decisions shall disclose pursuant to the broadest disclosure category in this Code subject to the following limitation:

³ The Executive Officer may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The 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 Sec. 81008.)

APPENDIX
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PART “B”

DISCLOSURE CATEGORIES

The Disclosure Categories listed below identify the types of economic interests that the Designated Position must disclose for each category to which he or she is assigned.⁴ “Investment” means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the VCEA.

1. All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of the VCEA, or within two (2) miles of any land owned or used by the VCEA.
2. All reportable investments and business positions in, and sources of income, including gifts, loans and travel payments, from business entities that contract with or have contracted with the VCEA to provide services, products, supplies, materials, machinery, vehicles or equipment to the VCEA.
3. All reportable investments and business positions in, and sources of income, including gifts, loans and travel payments, from business entities that are contractors or subcontractors engaged in the performance of work or services of the type utilized or foreseeably utilized by the VCEA, or manufacture, sell or provide services, products, supplies, materials, machinery, vehicles or equipment of the type purchased or leased by or used or foreseeably utilized by the VCEA.

⁴ This Conflict of Interest Code does not require the reporting of gifts from outside the VCEA’s jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position (Reg. 18730.1)