

ALAMEDA COUNTY BOARD OF SUPERVISORS MINUTE ORDER

The following action was taken by the Alameda County Board of Supervisors on 09/20/2022

Approved as Recommended ☒

Other ☐

Unanimous ☐ Brown: ☐ Haubert: ☐ Miley: ☐ Valle: ☒ Carson: ☐ - ☒

Vote Key: N=No; A=Abstain; X=Excused

Documents accompanying this matter:

Documents to be signed by Agency/Purchasing Agent:

File No. 30752
Item No. 119

Copies sent to:

Juanita Villaseñor, East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580-1841

Special Notes:



I certify that the foregoing is a correct copy of a Minute Order adopted by the Board of Supervisors, Alameda County, State of California.

ATTEST:
Clerk of the Board
Board of Supervisors

By: _____
Deputy



EAST BAY DISCHARGERS AUTHORITY
2651 Grant Avenue
San Lorenzo, CA 94580-1841
(510) 278-5910
FAX (510) 278-6547

A Joint Powers Public Agency

August 11, 2022

Clerk of the Board's Office
1221 Oak Street, Suite 536
Oakland, CA 94612

Subject: Amendments to the Conflict of Interest Code of the East Bay Dischargers Authority

The East Bay Dischargers Authority (EBDA) requests approval of amendments to the Conflict of Interest Code dated July 21, 2022. Based on review by agency staff and legal counsel, the proposed revisions were recommended for clarity. Resolution No. 22-12 was approved by the EBDA Commission on July 21, 2022. The following items are included for the Board's review:

1. Complete Conflict of Interest Code
2. Strikeout version
3. Agency Resolution No. 22-12

If any additional information is needed, please contact Juanita Villaseñor at juanita@ebda.org or (510) 278-5910.

Regards,

Juanita Villaseñor
Administration Manager

/jvv
Enclosures

RECEIVED

AUG 15 2022

**CLERK, BOARD
OF SUPERVISORS**

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City of Hayward

VICE-CHAIR
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Union S.D.

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GENERAL MANAGER
Jacqueline T. Zipkin
LEGAL COUNSEL
Eric S. Casher

2022 Local Agency Biennial Notice

AUG 15 2022

CLERK, BOARD
OF SUPERVISORS

Name of Agency: EAST BAY DISCHARGERS AUTHORITY

Mailing Address: 2651 GRANT AVENUE, SAN LORENZO, CA 94580

Contact Person: JUANITA VILLASENOR Phone No. (510)278-5910

Email: juanita@ebda.org Alternate Email: _____

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (*check one BOX*):

☒ **An amendment is required. The following amendments are necessary:**

(*Check all that apply.*)

- ☒ Include new positions
- ☒ Revise disclosure categories
- ☐ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other (*describe*) _____

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.



Signature of Chief Executive Officer

8/4/22

Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 3, 2022**, or by the date specified by your agency, if earlier, to:

Clerk of the Board's Office
(PLACE RETL 1221 Oak Street, Suite 536 (DDY HERE)
Oakland, CA 94612

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.

CONFLICT OF INTEREST CODE

OF EAST BAY DISCHARGERS AUTHORITY OF ALAMEDA COUNTY

SECTION 1. Purpose. Pursuant to the provisions of Government Code sections 87300 et seq., EAST BAY DISCHARGERS AUTHORITY (“AUTHORITY”) OF ALAMEDA COUNTY hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the California Political Reform Act of 1974.

SECTION 2. Incorporation of Regulation. The California Fair Political Practices Commission adopted a regulation (Title 2 California Code of Regulations section 18730) which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency’s code. Therefore, the terms of Title 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the California Fair Political Practices Commission are hereby incorporated herein by this reference. The provisions of Title 2 California Code of Regulations section 18730 and the provisions below, designating officials and employees and establishing disclosure categories, along with the applicable sections of the California Political Reform Act, shall constitute the Conflict of Interest Code of the Authority.

SECTION 3. Designated Positions and Disclosure Categories. Persons holding a Designated Position listed below shall file a Statement of Economic Interest in the form of a Form 700. Those individuals holding a Designated Position are deemed to be in a position to make, or participate in the making of, decisions on behalf of the AUTHORITY which may foreseeably have a material effect on their economic interests.

<u>Designated Position</u>	<u>Disclosure Category</u>
Commission Member	1
General Manager	1
Treasurer/Controller	1
Legal Counsel	1
Consultant	2

Disclosure Category 1: Designated Positions in this category shall disclose all of the following interests: investments, interests in real property within the AUTHORITY’s jurisdiction*, personal income, business entity income, and business positions held or received during the previous calendar year.

Disclosure Category 2: Persons in this category shall disclose investments and business positions in business entities, and income from business entities of the type to provide bids, supplies, vehicles and equipment of the type used by the AUTHORITY.

Disclosure Category 3: Consultants shall disclose all of the interests required to be

disclosed pursuant to Disclosure Category 2, subject to the following limitation: The General Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The General Manager’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.

*The AUTHORITY’s “jurisdiction” as set forth above in the disclosure categories is Alameda County. For the purposes of this Conflict of Interest Code, an interest in real property is located within the jurisdiction of the AUTHORITY if any part of the property is located in, or within two miles of, Alameda County, or if the property is located within two miles of any land owned or used by the AUTHORITY.

SECTION 4. Place, Manner and Time of Filing.

(a) Individuals holding a Designated Position shall file their Statements of Economic Interests with the AUTHORITY, which will make the statements available for public inspection and reproduction (Government Code Section 81008). The AUTHORITY will retain copies of the Statements of Economic Interests and file the original statements with the Alameda County Clerk of the Board of Supervisors.

(b) All designated filers shall comply with the provisions of Title 2 California Code of Regulations section 18730 along with the applicable sections of the California Political Reform Act, (and as that section may be amended), which contains detailed instructions regarding the scope and types of interests to be reported as well as the manner of reporting them. The regulation can be found online at:

<https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730Provisions-of-Conflict-of-Interest-Codes.pdf>.

(c) Initial Statements. All designated filers shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an Initial Statement within 30 days after the effective date of the amendment.

(d) Assuming Office Statements. All persons assuming Designated Positions after the effective date of this code shall file an Assuming Office Statement within 30 days after assuming the designated positions.

(e) Leaving Office Statements. All persons who leave designated positions shall file a Leaving Office Statement within 30 days after leaving office.

(f) Annual Statements. All designated filers shall file an Annual Statement no later than April 1 every calendar year.

SECTION 5. Disqualification. No designated filer shall make, participate in making, or in any way attempt to use their position to influence the making of any governmental decision which they know or has a reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of the official's immediate family or on any reportable interest of the public official as defined in Title 2 California Code of Regulations section 18730(b)(9).

CONFLICT OF INTEREST CODE

OF EAST BAY DISCHARGERS AUTHORITY OF ALAMEDA COUNTY

SECTION 1. Purpose. Pursuant to the provisions of Government Code sections 87300 et seq., EAST BAY DISCHARGERS AUTHORITY ("AUTHORITY") OF ALAMEDA COUNTY (~~the "EBDA"~~) hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the California Political Reform Act of 1974.

SECTION 2. Incorporation of Regulation. The California Fair Political Practices Commission adopted a regulation (Title 2 California Code of Regulations section 18730) which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. Therefore, the terms of Title 2 California Code of Regulations section 18730 and any amendments to it duly adopted by the California Fair Political Practices Commission are hereby incorporated herein by this reference. The provisions of Title 2 California Code of Regulations section 18730 and the provisions below, designating officials and employees and establishing disclosure categories, along with the applicable sections of the California Political Reform Act, shall constitute the Conflict of Interest Code of ~~EBDA~~the Authority.

SECTION 3. Designated Positions and Disclosure Categories. ~~The positions listed in this Section 3 are designated positions. Officers and employees holding these positions are designated public officials, and~~Persons holding a Designated Position listed below shall file a Statement of Economic Interest in the form of a Form 700. Those individuals holding a Designated Position are deemed to be in a position to make, or participate in the making of, decisions on behalf of the AUTHORITY which may foreseeably have a material effect on ~~an~~ their economic interests ~~of the designated public official. Each designated public official shall file an annual statement disclosing that public official's interests in investments, interests in real property, and business positions held or received during the previous calendar year, as required by the disclosure category applicable to that public official.~~

<u>Designated Position</u>	<u>Disclosure Category</u>
Commission Member	1
General Manager	1
Treasurer/Controller	<u>21</u>
<u>Legal Counsel</u>	<u>1</u>
Consultant	<u>32</u>

Disclosure Category 1: ~~Persons Designated Positions~~ in this category shall disclose all of the following interests: investments, interests in real property within EBDA's the AUTHORITY's jurisdiction*, personal income, business entity income, and business positions held or received during the previous calendar year ~~and income—including~~

~~loans, gifts and travel payments—~~from all sources.

Disclosure Category 2: Persons in this category shall disclose ~~all of the following interests: investments, business positions held or received during the previous calendar year, interests in real property within EBDA's jurisdiction*, and income—including loans, gifts and travel payments—from all sources~~investments and business positions in business entities, and income from business entities of the type to provide bids, supplies, vehicles and equipment of the type used by the AUTHORITY.

Consultant Disclosure Category 3: Consultants shall disclose all of the interests required to be disclosed pursuant to Disclosure Category ~~12~~, subject to the following limitation: The General Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements of the broadest disclosure category, but instead must comply with more tailored disclosure requirements specific to that consultant. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The ~~Distriet-General~~ Manager'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.

*~~EBDA's~~The AUTHORITY's “jurisdiction” ~~as set forth above in the disclosure categories~~ is Alameda County. For the purposes of this Conflict of Interest Code, an interest in real property is located within the jurisdiction of ~~EBDA~~the AUTHORITY if any part of the property is located in, or within two miles of, ~~the Alameda~~ County, or if the property is located within two miles of any land owned or used by ~~EBDA~~the AUTHORITY.

SECTION 4. Place, Manner and Time of Filing.

(a) ~~All designated public officials shall file statements of economic interests with the EBDA's Administrative Assistant. Upon receipt of the statements, the Administrative Assistant shall make and retain a copy and forward the original of the statements to the Alameda County Clerk of the Board of Supervisors. Statements of Economic Interests are public records available for public inspection. Individuals holding a Designated Position shall file their Statements of Economic Interests with the AUTHORITY, which will make the statements available for public inspection and reproduction (Government Code Section 81008). The AUTHORITY will retain copies of the Statements of Economic Interests and file the original statements with the Alameda County Clerk of the Board of Supervisors.~~

(b) All designated ~~public officials~~filers shall comply with the provisions of Title 2 California Code of Regulations section 18730 along with the applicable sections of the California Political Reform Act, (and as that section may be amended), which contains detailed instructions regarding the scope and types of interests to be reported as well as the manner of reporting them. The regulation can be found online at:
<http://www.fppe.ca.gov/content/dam/fppe/NS->

[Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.pdfhttps://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730Provisions-of-Conflict-of-Interest-Codes.pdf](https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/Regulations/Index/Chapter7/Article2/18730.pdf).

(c) ~~Within 30 days after the effective date of this Code, all designated public officials shall submit an initial statement disclosing all reportable investments, business positions held or received during the previous calendar year, interests in real property, and income received during the 12 months before the effective date of this Code.~~Initial Statements. All designated filers shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an Initial Statement within 30 days after the effective date of the amendment.

(d) ~~Employees assuming any designated position shall submit an initial statement disclosing all reportable investments, business positions held on the date of assuming office, interests in real property, and income received during the 12 months before assuming office, within 30 days of assuming said designated position.~~Assuming Office Statements. All persons assuming Designated Positions after the effective date of this code shall file an Assuming Office Statement within 30 days after assuming the designated positions.

(e) ~~Employees leaving any designated position shall submit an initial statement disclosing all reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office, within 30 days of leaving said designated position.~~Leaving Office Statements. All persons who leave designated positions shall file a Leaving Office Statement within 30 days after leaving office.

(f) ~~All designated public officials shall submit an annual statement. Such statements shall cover the period of the preceding calendar year. Annual statements shall be filed no later than April 1 following the end of the preceding calendar year.~~Annual Statements. All designated filers shall file an Annual Statement no later than April 1 every calendar year.

SECTION 5. Disqualification. No designated filer shall make, participate in making, or in any way attempt to use their position to influence the making of any governmental decision which they know~~Designated public officials must disqualify themselves from making, participating in the making, or in any way attempting to use his or her official position to influence the making of any governmental decision which he or she knows~~ or has a reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of ~~his or her~~the official's immediate family or on any reportable interest of the public official as defined in Title 2 California Code of Regulations section 18730(b)(9).

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 22-12

INTRODUCED BY Commissioner Duncan

**RESOLUTION APPROVING AMENDMENTS TO THE AUTHORITY'S CONFLICT OF
INTEREST CODE**

WHEREAS, the East Bay Dischargers Authority adopted its Conflict of Interest Code on February 22, 1977 and amended said Code on May 7, 1981; September 19, 1996; May 21, 1988; July 19, 2001; July 15, 2004; June 15, 2006; November 18, 2010; and August 18, 2016; and

WHEREAS, the Conflict of Interest Code has been reviewed and modified pursuant to law by Legal Counsel; and

WHEREAS, the Conflict of Interest Code has been reviewed by the Personnel and Financial Management Committees and recommended for approval by the Commission.

NOW, THEREFORE, BE IT RESOLVED, the Conflict of Interest Code of the East Bay Dischargers Authority is hereby approved, effective July 21, 2022.

BE IT FURTHER RESOLVED, that a copy of the Code, as amended, shall be forwarded to the Alameda County Board of Supervisors for its approval, in accordance with California Government Code Section 87306.5.

SAN LORENZO, CALIFORNIA, JULY 21, 2022, ADOPTED BY THE FOLLOWING VOTE:

AYES: Cutter, Lathi, Duncan, Johnson, Andrews
NOES: None
ABSENT: None
ABSTAIN: None



CHAIR
EAST BAY DISCHARGERS AUTHORITY

ATTEST:



GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY