

VALLEY CLEAN ENERGY ALLIANCE**Staff Report – Item 13**

TO: Board of Directors

FROM: Mitch Sears, Executive Officer
Alisa Lembke, Board Clerk/Administrative Analyst

SUBJECT: VCE Updated Conflict of Interest Code

DATE: April 11, 2024

Recommendation

Adopt Resolution updating the Valley Clean Energy Alliance (“VCE”) Conflict of Interest Code to add four (4) new positions, enumerate disclosure categories, and update the code reviewing body.

Background and Discussion

On December 13, 2016, the Board of Directors adopted a conflict of interest code as required by the Political Reform Act, commencing at Government Code Section 81000, as Resolution 2016-002. The code lists the positions within VCE that are required to file statements of economic interests (Form 700). As a joint powers authority with members located entirely within Yolo County, the County Board of Supervisors is the conflict code reviewing body that is required to approve all changes to the conflict-of-interest code.

Since December 2016 several new VCE positions have been added. Of these positions, VCE staff and general counsel feel the following positions should report financial interests based on the decisions they will be making:

- Auditor
- Director of Finance and Internal Operations
- Director of Customer Care & Marketing
- Chief Operating Officer

In accordance with the requirements of the Political Reform Act, an updated conflict of interest code must be adopted by resolution which includes the updated information. The attached Resolution amends the Appendix to the conflict of interest code to add the new positions, enumerate the appropriate disclosure categories, and update the code reviewing body as Yolo County Board of Supervisors.

Attachment

1. Updated Conflict of Interest Code
2. Resolution 2024-XXX

**Conflict of Interest Code of the
Valley Clean Energy Alliance
(Adopted _____, 2024)**

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 (“VCE”).

All Officials and Designated Positions required to submit a statement of economic interests shall file their statements with the Secretary, as VCE’s Filing Officer. VCE’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 _____, 2024)**

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 VCE'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

Auditor

Director of Finance and Internal Operations

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
Director of Customer Care & Marketing	1, 2, 3
Chief Operating Officer	1, 2, 3
Consultants and New Positions ²	1, 2, 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:

The Executive Officer may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply with the disclosure requirements described in this section or shall be assigned 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

**Conflict of Interest Code of the
Valley Clean Energy Alliance
(Adopted _____, 2024)**

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.³ “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 VCE.

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 VCE, or within two (2) miles of any land owned or used by VCE.
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 VCE to provide services, products, supplies, materials, machinery, vehicles or equipment to VCE.
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 VCE, 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 VCE.

³ This Conflict of Interest Code does not require the reporting of gifts from outside VCE’s jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position (Reg. 18730.1)

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2024 - _____

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

WHEREAS, Valley Clean Energy Alliance (“VCE”) was formed as a community choice aggregation agency (“CCA”) on November 16, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Yolo, and the Cities of Davis and Woodland, to reduce greenhouse gas emissions, provide electricity, carry out programs to reduce energy consumption, develop local jobs in renewable energy, and promote energy security and rate stability in all of the member jurisdictions. The City of Winters, located in Yolo County, was added as a member of VCE and a party to the JPA in December of 2019; and

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, VCE 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 updated Conflict of Interest Code for VCE was provided to each affected designated employee and publicly posted for review at the offices of VCE.

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

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

Section 2. The updated 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 updated Conflict of Interest Code as submitted.

Section 3. Persons holding designated positions listed in the updated Conflict of Interest Code shall file with the Secretary of VCE 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 VCE is directed to provide, upon request, copies of this Resolution and the updated 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 updated 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.*

PASSED, APPROVED, AND ADOPTED, at a regular meeting of the Valley Clean Energy Alliance, held on the ___ day of _____ 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Lucas Frerichs, VCE Chair

Alisa M. Lembke, VCE Board Secretary

Attachment: Exhibit A – Conflict of Interest Code (Adopted ____ __, 2024)

EXHIBIT A

**CONFLICT OF INTEREST CODE OF
VALLEY CLEAN ENERGY ALLIANCE
(Adopted ____ __, 2024**