

AGENDA

ORANGE COUNTY POWER AUTHORITY MEETING OF THE BOARD OF DIRECTORS

Tuesday, February 9, 2021

10:00 a.m.

Due to the public health orders and guidelines in California and in accordance with the Governor's Executive Orders N-25-20 and N-29-20, there will be no location for in-person attendance. The Orange County Power Authority is providing alternatives to in-person attendance for viewing and participating in the meeting. Further details are below.

Note: Any member of the public may provide comments to the Orange County Power Authority Board of Directors on any agenda item or on a matter not appearing on the agenda, but within the jurisdiction of the Board. Please indicate whether your comment is on a specific agenda item or a non-agenda item when requesting to speak. When providing comments to the Board, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the Board as a whole through the Chair. Comments may be provided in the following manner:

Requests to Speak. In-person public attendance will not be provided. Members of the public who have requested to speak will be recognized at the appropriate time during the Zoom meeting and may speak through Zoom or telephonically. To allow the Chair to call on you, please provide the following minimum information with your request to speak: your name (if attending by videoconference) or telephone number (if attending by phone).

Comments shall be limited to three minutes when speaking. If you have anything that you wish to be distributed to the Board, please provide it via comments@ocpower.org, who will distribute the information to the Members.

The public may participate using the following remote options:

ZOOM MEETING

Please click the link below to join the webinar:

Join Zoom Meeting

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Passcode: 702466

Dial-in: 1 669 900 6833 US

Webinar ID: 921 8584 9346

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1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **CONSENT CALENDAR**

All items listed under the Consent Calendar are considered to be routine and may be enacted by one motion. Prior to the motion to consider any action by the Board of Directors, any public comments on any of the Consent Items will be heard. There will be no separate action unless members of the Board of Directors request specific items be removed from the Consent Calendar.

A. MINUTES FOR JANUARY 26, 2021 BOARD OF DIRECTORS' MEETING

Recommendation:

Approve as submitted.

B. ADOPTION OF ADMINISTRATIVE POLICIES

Recommendations:

1. Adopt Orange County Power Authority Policy Number 003: Customer Information Confidentiality Policy.
2. Adopt Orange County Power Authority Policy Number 004: Prohibition of Disseminating Untrue or Misleading Information Policy.
3. Adopt Orange County Power Authority Policy Number 005: Compensation and Expense Reimbursement Policy.

5. **REGULAR CALENDAR**

The following items call for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined.

A. ADOPT AUTHORITY'S FISCAL YEAR 2020-2021 BUDGET

Recommendation:

Adopt the Orange County Power Authority Fiscal Year 2020-2021 Budget.

B. ADOPT CONFLICT OF INTEREST CODE

Recommendations:

1. Resolution No. 2021-04: Resolution of the Board of Directors of Orange County Power Authority Adopting a Conflict of Interest Code Pursuant to the Political Reform Act of 1974.
2. Authorize staff to execute the appropriate documents and submit the adopted Code to the Board of Supervisors of Orange County, which serves as the Authority's code-reviewing body (Gov. Code § 82011), requesting approval of the Code as required under Government Code section 87303.

C. APPROVE AMENDMENT TO THE JOINT POWERS AGREEMENT REGARDING MEMBER WITHDRAWAL

Recommendation:

Approve the amendment to the Joint Powers Agreement regarding member withdrawal.

6. PUBLIC COMMENTS

Opportunity for members of the public to address the Board on any items not on the agenda but within the jurisdiction of the Board.

7. DIRECTOR COMMENTS

Board Members may briefly provide information to other members of the Board and the public, ask questions of staff, request an item to be placed on a future agenda, or report on conferences, events, or activities related to Authority business. There is to be no discussion or action taken on comments made by Board Members unless authorized by law.

8. REPORT BY CHIEF EXECUTIVE OFFICER

Chief Executive Officer may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified, but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.

9. REPORT BY GENERAL COUNSEL

General Counsel may briefly provide information to the Board and the public. The Board may engage in discussion if the specific subject matter of the report is identified, but the Board may not take any action other than to place the matter on a future agenda. Otherwise, there is to be no discussion or action taken unless authorized by law.

10. ADJOURNMENT

Compliance with the Americans with Disabilities Act

Board of Directors meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may contact 949-263-2612. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Board Documents

Copies of the agenda and agenda packet are available at www.ocpower.org. Late-arriving documents related to a Board meeting item which are distributed to a majority of the Board prior to or during the Board meeting are available for public review as required by law. Late-arriving documents received during the meeting are available for review by making a verbal request to the Board Secretary in the Zoom meeting room.

**ORANGE COUNTY POWER AUTHORITY
BOARD OF DIRECTORS**

MINUTES

January 26, 2021

This meeting was conducted utilizing teleconference and electronic means consistent with public health orders and guidelines in California and in accordance with the Governor’s Executive Orders N-25-20 and N-29-20. There was no location for in-person attendance. Due to the nature of the teleconference, all votes were cast via roll call.

The Board Minutes are prepared and ordered to correspond to the Board Agenda. Agenda Items can and may be taken out of order during the meeting.

The Agenda Items were considered in the order presented.

1. CALL TO ORDER

Chairman Carroll called the Orange County Power Authority (“OCPA”) Board of Directors meeting to order at 10:02 a.m.

2. PLEDGE OF ALLEGIANCE

Chairman Carroll led the Pledge of Allegiance.

3. ROLL CALL

Present: 6 Members

Alternate Board Member Kalmick (Huntington Beach)
Board Member Khan (Irvine)
Board Member Sonne (Buena Park)
Board Member Voigts (Lake Forest)
Vice Chairman Jung (Fullerton)
Chairman Carroll (Irvine)

Also present: Ryan Baron, General Counsel (Best, Best and Krieger, LLP)

4. CONSENT CALENDAR

ACTION: Motioned by Board Member Voigts, seconded by Board Member Khan, to approve the Consent Calendar as submitted.

MOTION CARRIED BY THE FOLLOWING VOTE:

Ayes: Alternate Board Member Kalmick, Board Member Khan, Board Member Sonne,
Board Member Voigts, Vice Chairman Jung, Chairman Carroll.

Noes: None

Abstained: None

Absent: None

A. MINUTES FOR JANUARY 12, 2021 BOARD OF DIRECTORS' SPECIAL MEETING

Action: Approved as submitted.

B. AUTHORIZATION OF THE CHIEF EXECUTIVE OFFICER TO SECURE COMMERCIAL GENERAL LIABILITY / ERRORS AND OMISSIONS INSURANCE, AND OTHER INSURANCE, AS NEEDED

Action: Authorized the Chief Executive Officer to enter into an insurance policy for commercial general liability / errors and omissions, and other insurance, as needed.

C. DESIGNATE AUTHORIZED REPRESENTATIVES TO SIGN CHECKS AND OTHER DISBURSEMENTS

Action: Adopted Resolution 2021-01 entitled: A Resolution of the Board of Directors of the Orange County Power Authority designating authorized representatives to sign checks and other disbursements.

D. ADOPT RESOLUTION APPROVING CHIEF EXECUTIVE OFFICER, OR DESIGNEE, CONTRACT / EXPENSE AUTHORIZATION LIMIT

Action: 1. Delegated authority to Chief Executive Officer, or designee, to execute contracts up to \$25,000 until an Authority Fiscal Year 2020-2021 Budget is adopted, at which time the Board's Procurement and Contract Authority Policies shall apply; 2. Adopted Resolution 2020-02 entitled: A Resolution of the Board of Directors of Orange County Power Authority authorizing the Chief Executive Officer, or designee, to execute agreements.

5. REGULAR CALENDAR

The following items called for discussion or action by the Board of Directors. The Board may discuss and/or take action on any item listed below if the Board is so inclined. Staff presentations for the Regular Calendar were made sequentially before a single roll call vote was taken.

A. CITIZEN'S ADVISORY COMMITTEE OVERVIEW

CEO Probolsky presented the overview, indicating the Authority will be conducting a community forum, designed to be as inclusive as possible, in the upcoming months. He stated he would bring back proposed plans for the forum over the next few meetings.

The following members of the public offered comment:

Susan Walker, no city of residence indicated, requested the Board of Directors appoint the advisory committee as soon as possible.

Jose Castenada, Fullerton, stated the importance of being as inclusive as possible.

ACTION: Motioned by Board Member Voigts, seconded by Chairman Carroll, the Board of Directors received and filed the presentation.

MOTION CARRIED BY THE FOLLOWING VOTE:

Ayes: Alternate Board Member Kalmick, Board Member Khan, Board Member Sonne, Board Member Voigts, Vice Chairman Jung, Chairman Carroll.

Noes: None

Abstained: None

Absent: None

B. ADDITION OF NEW MEMBERS TO THE ORANGE COUNTY POWER AUTHORITY

CEO Probolsky presented the staff report, stating staff will return with a presentation to the Board in March, and that a formal invitation to interested cities will be issued in early summer.

There was no discussion or public comment received on this item.

ACTION: Motioned by Board Member Voigts, seconded by Chairman Carroll, the Board of Directors received and filed the presentation.

MOTION CARRIED BY THE FOLLOWING VOTE:

Ayes: Alternate Board Member Kalmick, Board Member Khan, Board Member Sonne, Board Member Voigts, Vice Chairman Jung, Chairman Carroll.

Noes: None

Abstained: None

Absent: None

C. ADOPTION OF ADMINISTRATIVE POLICIES

CEO Probolsky presented the staff report, noting the Procurement Policy included a local preference clause.

Board Member discussion ensued.

General Counsel Baron stated the policy addressed local preference for the contractor. It did not include other sub-classifications.

There was no public comment received on this item.

ACTION: Motioned by Board Member Voigts, seconded by Chairman Carroll, the Board of Directors: 1. Adopted Orange County Power Authority Policy Number 001: Procurement Policy; 2. Adopted Orange County Power Authority Policy Number 002: Delegated Contract Authority Policy.

MOTION CARRIED BY THE FOLLOWING VOTE:

Ayes: Alternate Board Member Kalmick, Board Member Khan, Board Member Sonne, Board Member Voigts, Vice Chairman Jung, Chairman Carroll.

Noes: None

Abstained: None

Absent: None

D. PROGRAM UPDATE AND TIMELINE

Gary Saleba, EES Consulting, highlighted the status of the Request for Proposal for Power Management and Data Management, and the preparation of the operating budget.

Board Member discussion ensued.

Responding to Board Member inquiry, CEO Probolsky reviewed the timeline for opt-out notices, and stated service for commercial customers would begin in April and service for residential customers would begin in October.

There was no public comment received on this item.

ACTION: Motioned by Board Member Voigts, seconded by Chairman Carroll, the Board of Directors received and filed the presentation.

MOTION CARRIED BY THE FOLLOWING VOTE:

Ayes: Alternate Board Member Kalmick, Board Member Khan, Board Member Sonne, Board Member Voigts, Vice Chairman Jung, Chairman Carroll.

Noes: None

Abstained: None

Absent: None

6. PUBLIC COMMENTS

There were no Public Comments.

7. DIRECTOR COMMENTS

Chairman Carroll thanked everyone for their attendance. He requested staff schedule a presentation on the basic operation, structure, and policies of the Authority.

Alternate Board Member Kalmick requested a contact and resource allocation list so that Board Members could contact the appropriate staff person if they had specific inquiries.

Board Members Sonne and Voigts expressed support for the presentation requested by Chairman Carroll.

8. REPORT BY CHIEF EXECUTIVE OFFICER

CEO Probolsky thanked the Board and member cities for the opportunity to serve the Authority. He reported receiving the start-up loan from the City of Irvine, acquiring a domain name, and establishing an initial website. He also reported speaking engagements at a community forum hosted by the City of Huntington Beach that evening, and the January 27, 2021 meeting of the Association of California Cities – Orange County, noting that registration for meeting attendance was required. Responding to Board Member comments, CEO Probolsky stated a study session workshop on the Authority's operation, as requested by Chairman Carroll, would be scheduled once Chief Operating Officer Antonia Castro-Graham was fully on board. He anticipated a mid-spring timeline for the workshop.

9. REPORT BY GENERAL COUNSEL

The Authority's General Counsel did not provide a report.

10. ADJOURNMENT

Chairman Carroll adjourned the meeting at 10:46 a.m.

Mike Carroll, Chairman

Brian Probolsky, Secretary

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 4.B

To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: ADOPTION OF ADMINISTRATIVE POLICIES

Date: February 9, 2021

RECOMMENDATIONS

1. Adopt Orange County Power Authority Policy Number 003: Customer Information Confidentiality Policy.
2. Adopt Orange County Power Authority Policy Number 004: Prohibition of Disseminating Untrue or Misleading Information Policy.
3. Adopt Orange County Power Authority Policy Number 005: Compensation and Expense Reimbursement Policy.

BACKGROUND

On January 12, 2021, staff presented a listing of Administrative Policies that will be coming before the Orange County Power Authority’s (Authority) Board of Directors for adoption. Staff is bringing forward the following policies for the Director’s consideration and adoption.

1. **Customer Information Confidentiality Policy:** The Authority and its consultants will be receiving customer specific data that needs to remain confidential. To ensure this occurs, Policy No. 003 outlines that the Authority’s officers, employees, agents, contractors, and affiliates shall maintain the strict confidentiality of individual customers’ names, service addresses, billing addresses, telephone numbers, email addresses, account numbers, and electricity consumption, except where reasonably necessary to conduct the Authority’s business or to provide services to customers pursuant to the “Rules Regarding Privacy and Security Protections for Energy Usage Data” issued by the California Public Utilities Commission (CPUC).
2. **Prohibition of Disseminating Untrue or Misleading Information Policy:** To be in accordance with state laws, California Public Utilities Code Section 396.5, Policy No. 004 outlines that the Authority prohibits the dissemination of any statement related to the Authority’s Community Choice Aggregation Program that is known to be untrue or misleading, or that by exercise of reasonable care should be known to be untrue or misleading.
3. **Compensation and Expense Reimbursement Policy:** Policy No. 5 governs the compensation and reimbursement of expenses for members of the Authority’s Board of Directors. The Policy applies to both regular members of the Board and alternate members. In accordance with the Policy and the Joint Powers Agreement, the Authority is authorized to compensate Board members in the amount of \$212.50 for (1) attending each meeting of the Board of Directors, and (2) otherwise providing a day of service to the Authority. The Policy limits compensation to a specified maximum number of days per month. The Board of Directors may, from time to time, amend the Policy to change

the amount of compensation and/or the maximum number of compensable days per month.

FISCAL IMPACT

\$29,325 has been reflected in the Authority's budget to cover the costs of the Compensation and Expense Reimbursement Policy.

ATTACHMENTS

1. Orange County Power Authority Policy Number 003: Customer Information Confidentiality Policy.
2. Orange County Power Authority Policy Number 004: Prohibition of Disseminating Untrue or Misleading Information Policy.
3. Orange County Power Authority Policy Number 005: Compensation and Expense Reimbursement Policy.

Orange County Power Authority
Policy Number 003: Customer Information Confidentiality Policy

Orange County Power Authority (Authority), its employees, agents, contractors, and affiliates shall maintain the confidentiality of customers' names, service addresses, billing addresses, telephone numbers, email addresses, account numbers, and electricity consumption, except where reasonably necessary to conduct the Authority's business or to provide services to customers pursuant to the "Rules Regarding Privacy and Security Protections for Energy Usage Data" issued by the California Public Utilities Commission (CPUC).

Examples of reasonably necessary business purposes include, but are not limited to, when such disclosure is necessary (a) to comply with law, regulation, or court order; (b) to enable the Authority to provide service to its customers; (c) to collect unpaid bills; (d) to obtain and provide credit reporting information; (e) to resolve customer disputes or inquiries; (f) to communicate about demand response, energy efficiency, energy management, and conservation programs; or (g) in a situation of imminent threat to life or property. The Authority shall not, under any circumstance, disclose customer information for third-party telemarketing, e-mail, or direct mail solicitation. Aggregated data that cannot be traced to specific customers may be released at the Authority's discretion.

Customer data, including individual customer names, addresses, and electric energy usage data, is collected via Southern California Edison (SCE's) metering systems. The Authority may share customer data with contractors and vendors for purposes of providing services and operating programs. Contractors and vendors are required to agree to only use customer data for program operational purposes and protect it under the same standards as the Authority. The Authority maintains customer-specific energy usage and billing information for only as long as is reasonably necessary, typically not more than five years unless otherwise required by law or regulation.

Notice of this policy will be provided annually to customers via an on-bill message guiding customers to the most updated version on the Authority's website at www.ocpower.org. Any changes to this Policy between notification periods will be communicated on the Authority's website.

Customers that have questions or concerns regarding the collection, storage, use, or distribution of customer information, or who wish to view, inquire about, or dispute any customer information held by the Authority or limit the collection, use, or disclosure of such information, may contact the Authority's Chief Executive Officer or Chief Operating Officer by e-mail to info@ocpower.org.

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Orange County Power Authority
Policy Number 004: Prohibiting the Dissemination of Untrue or
Misleading Information Policy

In accordance with California Public Utilities Code section 396.5, Orange County Power Authority (Authority) hereby prohibits its Board members, officers, committee members, employees, agents, and consultants from the dissemination of any statement related to the Authority's community choice aggregation program that is known to be untrue or misleading, or that by exercise of reasonable care should be known to be untrue or misleading.

Any and all untrue or misleading statements, whether known or reasonably should be known to be untrue or misleading, regarding the Authority's rates, terms of service or other program activities are strictly prohibited. Individuals who violate this Policy shall be subject to corrective action.

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ORANGE COUNTY POWER AUTHORITY
Policy Number 005: Board of Directors' Compensation and
Expense Reimbursement Policy

This Policy governs compensation and reimbursement of expenses for members of the Authority's Board of Directors. The Policy applies to both regular members of the Board and alternate members.

DIRECTORS' COMPENSATION

Pursuant to this Policy adopted by the Board of Directors, the Authority is authorized to compensate Board members in the amount of \$212.50 for (1) attending each meeting of the Board of Directors, and (2) otherwise providing a day of service to the Authority. The Policy limits compensation to a specified maximum number of days per month. The Board of Directors may, from time to time, amend the Policy to change the amount of compensation and/or the maximum number of compensable days per month.

The following activities are compensable.

Compensable Activities

1. Meetings

Each regular Director shall be entitled to compensation for attendance at (1) each meeting of the Board of Directors; (2) each meeting of a standing committee on which the Director serves; (3) each meeting of an ad hoc committee to which the Director has been duly appointed; and (4) each meeting of any joint governmental board, committee, or association to which the Director has been appointed as the Authority's representative. Each alternate Director shall be entitled to compensation for attendance at a meeting when, and only when, the alternate Director attends the meeting in place of the regular Director.

2. Required Training

Each Director shall be entitled to compensation for attendance at the ethics training required by Government Code Section 53235 and the sexual harassment training and education required by Government Code Section 12950.1.

3. Other Activities

The Chair of the Board of Directors and Chief Executive Officer may, on a case-by-case basis, authorize compensation of individual Directors for a day of service when participating in the following types of activities: (1) meetings with representatives of local, regional, state, or national government on issues affecting the Authority; (2) meetings, conferences, and seminars relating to the business and operation of community choice aggregation entities, (3) ceremonial events sponsored by the Authority; (4) ceremonial events sponsored by another organization; (5) meetings of agencies, nonprofit organizations, or service clubs where the Director makes a presentation on behalf of the Authority; and (6) meetings with Authority staff, including telephone conferences when physical attendance is impractical.

4. Considerations

The Board Chair and the Chief Executive Officer shall approve compensation under Section 1 above only for activities that provides a benefit to the Authority. Benefits include, but are not necessarily limited to, the acquisition of information, education,

training, and skills that will further the Authority's mission and purpose. Other benefits include positive changes to federal and state statutes and regulations that govern the Authority, and maintenance of positive relations with the public and other governmental agencies.

Limitation

In no event shall a Director receive compensation for more than one meeting or other activity on the same day. Directors may not be compensated for more than six meetings per month

Non-Compensable Activities

Notwithstanding the section above, Board members shall not receive compensation for the following activities: (1) attendance at meetings or events of nonprofit organizations or service clubs, except when the Board Chair and Chief Executive Officer has authorized the Director to make a presentation on behalf of the Authority as described above; (2) Authority sponsored employee events including, but not limited to, the annual employee holiday luncheon and retirement events; (3) parades, festivals, holiday events, or retirement dinners; (4) meetings, without Authority staff present, with existing or potential contractors, vendors, or consultants; (5) meetings of partisan political organizations; (6) meetings, tours, and similar events conducted at the request of the Board member; or (7) any activity not described above.

REIMBURSEMENT OF DIRECTORS' EXPENSES

Approved Activities

In accordance with the terms of this Policy, the Authority will reimburse Directors for certain expenses incurred in connection with the compensable activities described above in Directors Compensation. The Authority will not reimburse Directors for any other expenses.

Reimbursable Expenses

1. Transportation
In travelling to and from events, Directors must use the most economical form of transportation that is reasonably consistent with the Director's travel and scheduling requirements.
2. Mileage for Personal Vehicles
 - a. The Authority will reimburse Directors for use of personal vehicles based on actual miles traveled at the then-current "standard mileage rate" adopted by the U.S. Internal Revenue Service for use in deducting the cost of operating an automobile for business purposes. The Authority will not reimburse Directors for any other personal vehicle expenses.
 - b. When calculating mileage traveled by a Director to attend an event, the Authority will use the lesser of (1) the distance from the administrative headquarters of the Director's member agency to the event, and (2) the actual distance traveled. Mileage reimbursements shall not exceed the cost of the lowest available airfare.
3. Other Transportation Expenses
 - a. When travel by personal vehicle is impractical, the Authority will reimburse

Directors for the actual cost of (1) regularly-scheduled travel by airplane, train, bus, or other commercial carrier, (2) rental cars, and (3) taxis and other comparably-priced for-hire vehicles. The Authority will also reimburse Directors for related necessary travel expenses such as baggage fees, toll charges, and parking fees. Directors must take advantage of any government or group rates offered by a transportation provider.

- b. Before deciding to travel by air, each Director must consider the total cost of alternatives, including the cost of ground transportation and any necessary lodging. Each Director should also consider alternative departure times, departure and arrival airports, dates, departure times, and stopovers to minimize airfare. Directors should request travel arrangements as early as possible to take advantage of lower airfares.
 - c. Generally, the Authority will only reimburse Directors for air travel in coach class. When necessary based on a Director's physical needs and/or the need to conduct meaningful work during a flight, the Board Chair has the discretion to approve reimbursement of first-class air travel. For trips that will exceed 24 hours, Directors must use their personal cars to travel to and from the airport, and utilize long-term airport parking, rather than pay for a taxi or other transportation to and from the airport.
4. Lodging
- a. The Authority will reimburse Directors for actual and necessary lodging expenses incurred in attending a conference, seminar, or meeting. Directors must take advantage of any government rate or group rate for lodging whenever possible. If there is no government or group rate, the Authority will reimburse Directors for lodging up to the per diem rate used by the U.S. Internal Revenue Service as the maximum allowable deduction for business-related lodging expenses. The per diem rates are set by the General Service Administration ("GSA") for federal employees. The rates are set forth at GSA.gov/per diem.
 - b. Lodging in connection with an activity that lasts only one day is considered "necessary" when the travel time to and from the activity exceeds two hours.
5. Meals
- The Authority will reimburse Directors for actual and necessary dining expenses incurred while attending (1) a conference, seminar, or meeting outside of the Authority, or (2) an Authority-related business meeting within the Authority. The Authority will reimburse Directors up to the applicable GSA per diem rate for each separate meal set forth at GSA.gov/per diem.
6. Incidentals
- The Authority will reimburse Directors for actual and necessary incidental expenses incurred while attending a conference, seminar, or meeting outside the Authority, up to the applicable GSA per diem rate set forth at GSA.gov/per diem. Reimbursable expenses include tips given to drivers, porters, bellhops, baggage carriers, and hotel housekeepers.
7. Travel Arrangements

- a. Each Director must utilize Authority staff to arrange all travel, lodging, and event registrations. The Chief Executive Officer shall designate an Authority employee responsible for making these arrangements. The Chief Executive Officer shall designate a single travel agency for use in making all travel arrangements.

Expenses That Are Not Reimbursable

The Authority will not reimburse Directors for the costs of: (1) barber and/or beauty shop services; (2) fines for traffic or parking violations; (3) any person accompanying a Director on a Authority-approved trip or event; (4) personal telephone calls; (5) fitness/health facility use; (6) massages; (7) alcoholic beverages; (8) entertainment (movies, sporting events, etc.); or (9) vehicle expenses other than the standard mileage charge.

Reimbursement Procedure

Each Director seeking reimbursement must file with the Secretary of the Board an expense report no later than three weeks after the conclusion of the compensable activity. The report shall attach detailed, actual receipts for all expenses. The report shall document that each expense meets the requirements for reimbursement set forth in this policy. Without limiting the foregoing, each report shall identify the compensable activity and the date, nature, and purpose of each expense for which reimbursement is sought. For reimbursement of a personal vehicle expense at the standard mileage rate, the expense report shall identify the date of the travel, the actual miles traveled, and the business purpose of the travel. The Chief Executive Officer shall prepare a standard form of expense report for use by Directors in seeking reimbursement.

Board Reports

Each Director seeking reimbursement of expenses incurred in connection with an activity shall provide a brief report of the activity at the next regular meeting of the Board of Directors.

Other Expenses

Any expense that does not meet the requirements of this Policy may be reimbursed only if the Board of Directors approves the expense at a public meeting before the expense is incurred.

PENALTIES

Any Director that misuses public resources or falsifies an expense report required by this Policy is subject to the following penalties: (1) loss of reimbursement privileges; (2) restitution of the Authority; (3) civil penalties for misuse of public resources pursuant to Government Code Section 8314; and/or (4) prosecution for misuse of public resources pursuant to Penal Code Section 424.

ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.A

To: Orange County Power Authority Board of Directors

From: Brian Probolsky, Chief Executive Officer

Subject: ADOPTION OF AUTHORITY’S FISCAL YEAR 2020-2021 BUDGET

Date: February 9, 2021

RECOMMENDATION

1. Adopt the Orange County Power Authority Fiscal Year 2020-2021 Budget.

BACKGROUND

The proposed Fiscal Year (FY) 2020-2021 budget provides an estimate of revenues and an expenditure plan totaling \$1.2 million for the operations of the Orange County Power Authority (Authority) from inception (November 20, 2020) through June 30, 2021. As the Authority matures, more detailed expenditure reports and budget comparison’s will be provided to the Board for review.

Revenues and other sources: Revenues for the Authority are \$2.5 million in the form of an interest-bearing loan from the City of Irvine.

Expenditures: Expenditures are broken into Operating and Non-operating expenses. The following outlines major categories for expected expenditures to be incurred during the fiscal year.

- Personnel - \$286,515
- Professional Services and Legal - \$655,000
 - BB&K, EES Consulting, PFM, Maher Accounting, etc.
- Board Member Compensation - \$29,325
- SCE Service Fees and Data Charges - \$1,200
- Regulatory Deposits and Interest - \$125,000
- Communications & Outreach - \$200,000
 - Branding, Marketing, Social Media, Website Design, etc.
- General and Administrative - \$100,000
 - Memberships, Office space, office and computer supplies

Estimated carryover for 2021-2022 is \$1,102,960.

FISCAL IMPACT

Revenues and other sources reflected at \$2.5 million and Expenditures reflected at \$1.2 million.

ATTACHMENT

1. Proposed Orange County Power Authority Fiscal Year 2020-2021 Budget.

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ORANGE COUNTY POWER AUTHORITY
OPERATING FUND
PROPOSED BUDGET
November 20, 2020 (inception) through June 30, 2021*

**FY 2021 Proposed
Annual Budget**

OPERATING REVENUES

Total Operating Revenues \$0

OPERATING EXPENSES

Personnel 286,515

Board Compensation 29,325

Service Fees - SCE 1,200

Professional Services 505,000

Legal 150,000

Communications & Outreach 200,000

General and Administration 100,000

Total Operating Expenses 1,272,040

Operating Income (Loss) (1,272,040)

NON-OPERATING REVENUES

AND OTHER SOURCES (EXPENSES)

Cash from Financing 2,500,000

Deposits (CAISO, CPUC, SCE) (100,000)

Interest and Related Expenses (25,000)

Total Non-Operating Revenues (Expenses) 2,375,000

CHANGE IN OPERATING FUND

1,102,960

*Excludes pre-launch costs paid by the City of Irvine and repaid at a future date.

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ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.B

To: Orange County Power Authority Board of Directors

From: Ryan Baron, General Counsel

Subject: ADOPTION OF CONFLICT OF INTEREST CODE

Date: February 9, 2021

RECOMMENDATIONS

1. Resolution No. 2021-04: Resolution of the Board of Directors of Orange County Power Authority Adopting a Conflict of Interest Code Pursuant to the Political Reform Act of 1974.
2. Authorize staff to execute the appropriate documents and submit the adopted Code to the Board of Supervisors of Orange County, which serves as the Authority’s code-reviewing body (Gov. Code § 82011), requesting approval of the Code as required under Government Code section 87303.

BACKGROUND

On January 12, 2021, staff presented a listing of Administrative Policies that will be coming before the Orange County Power Authority’s (Authority) Board of Directors for adoption. Staff is bringing forward the following policies for the Director’s consideration and adoption.

Conflict of Interest Code: The Political Reform Act (Act) requires all state and local government agencies to adopt and promulgate a conflict of interest code establishing the rules for reporting personal assets and the prohibition from making or participating in the making of any decisions that may affect any personal assets. A conflict of interest code must specifically designate all agency positions, except for those listed in Government Code section 87200, that make or participate in the making of agency decisions which may foreseeably influence any financial interest of that person and assign specific types of personal assets to be disclosed that may be affected by the exercise of powers and duties of that position.

The Code incorporates Section 18730 of the Fair Political Practices Commission (FPPC) as the provisions of the Code with an Appendix attached designating in Part A all of the Authority’s positions that make or participate in making decisions of the Authority and assigns appropriate disclosure categories in Part B. This is commonly referred to as the FPPC Standard Code.

Once adopted, the Code will be submitted to the Orange County Board of Supervisors for approval. The County Board of Supervisors serves as the Authority’s code-reviewing body. The effective date of the Code will be 30 days after the Board of Supervisors approves the document.

FISCAL IMPACT

None.

ATTACHMENTS

1. Resolution No. 2021-03: Resolution of the Board of Directors of Orange County Power Authority Adopting a Conflict of Interest Code Pursuant to the Political Reform Act of 1974.
2. Orange County Power Authority Conflict of Interest Code.

RESOLUTION NO. 2021-04

**RESOLUTION OF THE BOARD OF DIRECTORS
OF ORANGE COUNTY POWER AUTHORITY
ADOPTING A CONFLICT OF INTEREST CODE PURSUANT
TO THE POLITICAL REFORM ACT OF 1974**

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code Section 81000 et seq. (the "Act"), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of Orange County Power Authority ("Authority") and requires all public agencies to adopt and promulgate a Conflict of Interest Code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the Authority being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Board of Directors, the proposed Conflict of Interest Code was provided each designated position and publicly posted for review at the offices of the Authority; and

WHEREAS, a public meeting was held upon the proposed Conflict of Interest Code at a regular meeting of the Board of Directors on February 9, 2021, at which all present were given an opportunity to be heard on the proposed Conflict of Interest Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Orange County Power Authority that the Board of Directors does hereby adopt the proposed Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Chief Executive Officer, and available to the public for inspection and copying during regular business hours;

BE IT FURTHER RESOLVED that the said Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of Orange for approval and said Code shall become effective 30 days after the Board of Supervisors approves the proposed Conflict of Interest Code as submitted.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Orange County Power Authority held on February 9, 2021.

Chair
Orange County Power Authority

Secretary
Orange County Power Authority

Approved as to form:

Legal Counsel

AYES: _____ NAYS: _____ ABSENT: _____ ABSTAIN: _____

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CONFLICT OF INTEREST CODE

OF

**ORANGE COUNTY POWER
AUTHORITY**

CONFLICT OF INTEREST CODE OF ORANGE COUNTY POWER AUTHORITY

(Adopted February 9, 2021)

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 of 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 regulation (attached) and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of Orange County Power Authority.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the Board Secretary as OCPA's Filing Officer. The Board Secretary shall make and retain a copy of all statements filed by the Board of Directors and Chief Executive Officer, and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of Orange. The Chief Executive Officer shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX

CONFLICT OF INTEREST CODE

OF

ORANGE COUNTY POWER AUTHORITY

(Adopted _____, 2021)

PART “A”

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3(b), are NOT subject to OCPA’s Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

It has been determined that the positions listed below are Officials who manage public investments¹. These positions are listed here for informational purposes only.

Board of Directors

Chief Executive Officer

Treasurer/Auditor

Investment Consultant

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 § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED POSITIONS' **TITLE OR FUNCTION**

DISCLOSURE CATEGORIES **ASSIGNED**

Chief Operating Officer

4

General Counsel

1,2

Consultants and New Positions²

² Individuals serving as a consultant as defined in FPPC Reg. 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Chief 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 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 Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure 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 Orange County Power Authority.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of Orange County Power Authority.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of Orange County Power Authority.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by Orange County Power Authority.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

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

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ORANGE COUNTY POWER AUTHORITY
Staff Report – Item 5.C

To: Orange County Power Authority Board of Directors

From: Ryan Baron, General Counsel

Subject: FIRST AMENDMENT TO THE JOINT POWERS AGREEMENT
REGARDING MEMBER WITHDRAWAL

Date: February 9, 2021

RECOMMENDATION

Approve the first amendment to the Joint Powers Agreement regarding member withdrawal.

BACKGROUND

On December 22, 2020, the Board directed staff to develop a Joint Power Agreement amendment that would change member withdrawal date from March 1 to April 1, and provide 30 days' notice to Founding Members.

The City of Lake Forest had expressed interest in moving the March 1 date to April 1 to allow time for the City to hire a consultant firm to peer review the Implementation Plan per the direction of its City Council who approved the JPA Agreement on December 15, 2020. Section 6.1.1 of the Joint Powers Authority (JPA) Agreement allows any member to withdraw without reason or costs if it provides 15 days' notice to the Authority and withdraws by March 1, 2021.

ANALYSIS AND DIRECTION

Section 3.9.4.1 of the JPA Agreement provides that any amendments to the agreement must be approved by a 2/3 vote of the Board of Directors.

Notice of the amendment was provided to Authority Board Members on December 22, 2020 and to the Member Agencies on January 11, 2021 and is now being brought back to the Board of Directors for approval.

FISCAL IMPACT

None.

ATTACHMENT

1. First Amendment to the Orange County Power Authority's Joint Powers Agreement.

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**FIRST AMENDMENT TO THE
ORANGE COUNTY POWER AUTHORITY JOINT POWERS AGREEMENT**

This First Amendment (“**First Amendment**”) to that certain Orange County Power Authority Joint Powers Agreement (“**Agreement**”) dated November 20, 2020, by and between the Parties set forth in Exhibit A to Agreement is effective as of February 9, 2021. Under the Agreement, the Parties are sometimes referenced individually as a “**Founding Party**” and collectively the “**Founding Parties**.”

RECITALS

A. The Orange County Power Authority is a joint powers authority established on November 20, 2020 and organized under the Joint Exercise of Powers Act (Government Code § 6500 *et seq.*).

B. The Founding Parties desire to extend the right of a Founding Party under Section 6.1.1 of the Agreement to with withdraw without financial penalty until April 1, 2021.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

1. Right to Withdraw Prior to April 1, 2021. Section 6.1.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

“6.1.1 Right to Withdraw Prior to April 1, 2021. Except for the City of Irvine, a Party may withdraw from the Authority for any reason and without liability or cost prior to April 1, 2021 upon providing the Authority fifteen (15) days advance written notice.”

2. Right to Withdraw On or After April 1, 2021. Section 6.1.2 of the Agreement is hereby deleted in its entirety and replaced with the following:

“6.1.2 Right to Withdraw On or After April 1, 2021. Except for the withdrawal provided for in Section 6.1.1, a Party may withdraw its membership in the Authority on or after April 1, 2021, effective as of the beginning of the Authority’s fiscal year, by giving no less than one hundred eighty (180) days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party’s governing board. A Party that withdraws from the Authority pursuant to this subsection may be subject to certain continuing liabilities as described in this Agreement. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further actions as may be reasonably necessary to effectuate the orderly withdrawal of such Party.”

3. Definitions: Capitalized terms not defined herein shall have the meaning set forth in the Agreement.

4. Full Force: Except as expressly set forth herein, the Agreement remains unmodified and in full force and effect.

[SIGNATURE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereby have made and executed this First Amendment as of the date first written above.

ORANGE COUNTY POWER AUTHORITY

By: _____
Chair

Dated: _____

Approved as to Form:

By: _____
General Counsel