STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811
(916) 322-5660 • Fax (916) 322-0886

April 6, 2021

Nicholaus Norvell
Best Best & Krieger LLP
655 West Broadway 15th Floor
San Diego CA 92101

Our File No. A-20-150

Dear Mr. Norvell:

This letter responds to your request for advice regarding Government Code Section 1090, et seq.[1] Please note that we are only providing advice under Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest, including Public Contract Code.

Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General's Office and the San Diego County District Attorney's Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice "is not admissible in a criminal proceeding against any individual other than the requestor." (See Section 1097.1(c)(5).)

QUESTIONS[2]

1) Does Section 1090 or the Act prohibit the Sweetwater Authority (the "Authority") from entering a contract with Hector Martinez, a member of the Authority's Governing Board, to install water facilities on property he owns through a trust?

2) Does Section 1090 or the Act prohibit the Authority from entering a contract with Director Martinez to quitclaim a drainage easement on his property to him?

[1] The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

[2] For convenience, we consolidated your Questions 1 through 10 as several pertain to the same issue.

3) Do the Act's conflict of interest provisions prohibit Director Martinez from requesting that the Authority consider a decision to amend the Rates and Rules to allow the Authority to separate payment for installation of water laterals from installation of water meters, thereby delaying the payment of capacity fees?

CONCLUSIONS

1) No. The Authority may enter into a contract with Director Martinez to install water facilities on his property because he has a noninterest in the proposed contract pursuant to Section 1091.5(a)(3). However, because the effect of any decision concerning the application for water service on his interest is both foreseeable and material under the Act, he may not make, participate in making, or use his position to influence those decisions.

2) No. Director Martinez would have a prohibitory interest in a contract with the Authority to quitclaim the easement to him; however, the rule of necessity applies to allow the Authority to enter such contract. Because the effect of any decision concerning the quitclaim of the easement on his interest is both foreseeable and material under the Act, he may not make, participate in making, or use his position to influence those decisions.

3) No. Director Martinez may make this request, but if the Authority then considers whether to amend the Rates and Rules to allow it to separate payment for installation of water laterals from installation of water meters, thereby delaying the payment of capacity fees, Director Martinez may not make, participate in making or use his position to influence the decision.

FACTS AS PRESENTED BY REQUESTER

Your firm serves as General Counsel to the Sweetwater Authority (the "Authority"), a California joint powers agency providing water service in San Diego County.

Hector Martinez is a member of the Authority's Governing Board. Director Martinez, through a trust, owns an investment property located on Randy Lane in the unincorporated area of Chula Vista, California. The Randy Lane property is located within the water service boundaries of the Authority. Director Martinez and his wife are the trustees of the trust, and the beneficiaries of the trust are their non-dependent adult children. In a follow up email, you stated that Director Martinez is the maker of the trust with the power to terminate it. Currently, there are renters in the existing residences on the property, and he receives about $3,000 per month from the rentals.

Director Martinez recently subdivided the Randy Lane property, which contains one (1) existing residence, into four (4) separate parcels with the intent to construct four (4) new residences. In order to receive water service for the new residences, the Authority would need to install new water service facilities, including water meters and laterals.

Installation of Water Service Facilities

Under the Authority's Rates and Rules, "[a]n application for water service shall be processed after payment of capacity fees (e.g., capacity, permit, inspection, etc.) and deposits (e.g.,

installation, abandonment, inspection, etc.), and the approved plans and permits from the jurisdictional agency (e.g., City of Chula Vista) are submitted, as required." (Authority Rates and Rules § 2.5.1(E).) Capacity fees are established periodically by the Authority and the San Diego County Water Authority (the water wholesaler supplying a portion of the Authority's water supply). The Authority's capacity fees are based on Equivalent Dwelling Units and the San Diego County Water Authority capacity fees and are based on the size of meter installed. The cost of meter and lateral installation is based on the actual cost at the time of construction. (Authority Rates and Rules § 2.5.2.) For deposit amounts, the Authority has a general list of standard deposit amounts depending on the type or size of the project, but sometimes requests greater or lesser deposits depending on the anticipated level of effort required to process the request for water service.

Generally, in order to collect the amounts due under Section 2.5.1, the Authority issues a "Fees, Deposits, and Credits Letter" to the prospective customer. The Authority has a long-standing practice of requiring payment for the construction of water laterals and capacity fees for all parcels in a subdivision at the same time. Once the amounts stated in the Fees, Deposits, and Credits Letter are paid, the Authority will execute a work order for Authority staff or a third-party contractor to install the proposed facilities, including the lateral(s) and meter(s). In the event that the costs of installation are greater than or less than the deposit amount collected under the Fees, Deposits, and Credits Letter, the Authority will issue an invoice for additional payment or issue a refund, as applicable.

On October 19, 2020, pursuant to Rates and Rules section 2.5.1, the Authority issued a Fees, Deposits, and Credits Letter requesting payment of a total of $86,307 for fees, costs, and deposits necessary to install facilities necessary to provide water service. Among the charges included in the Fees, Deposits, and Credits Letter was a deposit of $6,630 for engineering, inspection, and testing work, including work previously performed by the Authority and work anticipated to be completed as part of the installation. The construction manager assisting Director Martinez with development of the Randy Lane property has disputed a portion of the $6,630 deposit amount and requested that the Authority remove the disputed costs from the total deposit amount.

Also related to proposed installation of water service facilities, a neighboring property owner has asked whether the Authority may combine the installation work for Director Martinez's Randy Lane property with installation of water facilities for the neighbor's property, which would reduce costs for each installation project. The Authority has sometimes combined work on two or more installation projects in a similar manner in the past, both for the purposes of reducing developers' costs and reducing traffic and construction impacts on the surrounding community.

Authority Easement

The Authority owns a drainage easement on a portion of Director Martinez's Randy Lane property. The drainage easement, along with other property, was obtained through condemnation in connection with the construction of a nearby water storage tank. The drainage easement located on Director Martinez's property previously contained a drainage ditch and catch basin constructed by the Authority. Those improvements have since been removed without the involvement of the Authority.

Director Martinez has inquired whether the drainage easement may be quitclaimed by the Authority. Typically, to analyze whether drainage facilities located in an Authority easement are needed to address current or future conditions and whether the easement should be quitclaimed, the Authority would enter into a contract with a consultant to perform such analysis. The cost of the consultant's work would be paid for by the private landowner requesting quitclaim of the easement, through either a reimbursement agreement or similar arrangement with the Authority.

Depending on the outcome of the consultant's analysis, the Authority's Governing Board would then consider whether to approve the quitclaim of the easement. Generally, where an easement was purchased for value or through condemnation by the Authority, the Authority requires an appraisal paid for by the landowner and requires the landowner to pay the appraised value as consideration for quitclaiming the easement.

Relatedly, if the Authority determines that the easement is needed and that the removed improvements are necessary or beneficial to the Authority, the Authority may need to enter into an agreement or similar arrangement with the property owner for restoration of the improvements.

In a follow up email, you clarified the Authority does not have a practice of initiating the quitclaim of easements. Rather, a request for quitclaim of an easement is typically initiated by a property owner. When an easement quitclaim request is received, the Authority's policy and practice is to approve the quitclaim if there is no justification for the Authority to keep the easement (e.g., it is determined by the Authority that the easement is not needed for current or future Authority service/facilities).

In general, the Authority considers it an aspect of providing efficient public services not to encumber property unnecessarily. Further, acting on a request to quitclaim an easement may, depending on the circumstances of the particular case, relieve the Authority of unnecessary maintenance obligations or eliminate potential legal liability relating to the easement. In short, although the Authority generally considers quitclaim requests as a benefit for the property owner (and therefore requires the property owner to reimburse the Authority for costs related to the analysis), there may be certain public policy or other reasons that the Authority would wish to act on quitclaim requests on a case-by-case basis.

Amendment to Rates and Rules

Director Martinez would like the Authority to consider an amendment to the Rates and Rules to allow the Authority to separate payments for installation of water service laterals from payments for installation of water meters. This change would delay the payment of capacity fees (often a significant portion of the cost associated with installation of meters) until the meters are installed and water service is set to begin.

Potential Update to 2016 Capacity Fee Study

Finally, the Authority is currently in the process of planning a potential update to its current 2016 Capacity Fee Study in calendar year 2021. The Authority is considering adding two additional tasks to the study: (1) development of a fixed fee for smaller developer projects for engineering, inspection, and construction work, and (2) analysis of the Authority's overhead rate.

The outcome of the study may result in a proposed modification of the Authority's capacity fees, the potential creation of a fixed fee for smaller development projects, and/or potential changes to the overhead rate, which modifications would be considered by the Board for possible action.

ANALYSIS

Section 1090

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.) Section 1090 is intended not only to strike at actual impropriety, but also to strike at the appearance of impropriety. (*City of Imperial Beach v. Bailey* (1980) 103Cal.App.3d 191, 197.)

Under Section 1090, the prohibited act is the making of a contract in which the official has a financial interest. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646.) The prohibition applies regardless of whether the terms of the contract are fair and equitable to all parties. (*Id*. at pp. 646-649.) Finally, when Section 1090 applies to one member of a governing body of a public entity, the prohibition cannot be avoided by having the interested board member abstain. Instead, the entire governing body is precluded from entering into the contract. (*Thomson*, *supra*, at pp. 647- 649; *Stigall*, *supra*, at p. 569; 86 Ops.Cal.Atty.Gen. 138, 139 (2003); 70 Ops.Cal.Atty.Gen. 45, 48 (1987).)

Application for Water Service

Your request presumes that a contract will be formed between Director Martinez and the Authority once his application is processed after payment of the fees and deposits stated in the Authority's October 19, 2020 letter. At that time, the Authority can proceed with the work order to install water facilities on his property. The first issue, therefore, is whether any exceptions to Section 1090 apply to allow the Authority to enter a contract with Director Martinez to perform the water installation work.

The Legislature has expressly defined certain financial interests as "remote" or "noninterest" exceptions to Section 1090's general prohibition. Where a remote interest is present, the contract may be lawfully executed provided (1) the officer discloses his or her financial interest in the contract to the public agency; (2) the interest is noted in the public body's official records; and (3) the officer completely abstains from any participation in the making of the contract. (Section 1091.) Where a noninterest is present, the contract may be executed without the abstention. (Section 1091.5.)

Relevant to the present situation is the noninterest exception set forth in Section 1091.5(a)(3) for "public services generally provided." That exception provides that an officer or employee "shall not be deemed to be interested" in a public contract if his or her interest in that contract is "[t]hat of a recipient of public services generally provided by the public body or board of

which he or she is a member, on the same terms and conditions as if he or she were not a member of the body or board."

The California Supreme Court considered the application of this noninterest exception and read the exception to establish the following rule:

> If the financial interest arises in the context of the affected official's or employee's role as a constituent of his or her public agency and recipient of its services, there is no conflict so long as the services are broadly available to all others similarly situated, rather than narrowly tailored to specially favor any official or group of officials, and are provided on substantially the same terms as for any other constituent.

(*Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1092.)

With respect to an agency's permissible exercise of discretion in providing a public service generally provided under the exception, the Supreme Court stated:

> The presence of discretion in the formation of a contract that section 1091.5(a)(3) purportedly permits is not fatal, unless the discretion can be exercised to permit the special tailoring of benefits to advantage one or more board members over their constituency as a whole. Absent such a risk of favoritism, discretion is unproblematic.

(*Id*. at p. 1100.)

Thus, the noninterest exception set forth in Section 1091.5(a)(3) applies if: (1) the interest arises in the context of the affected official's or employee's role as a constituent of the public agency and recipient of its services; (2) the service at issue is broadly available to all those whom are similarly situated and is not narrowly tailored to specially favor an official or group of officials; and (3) the service at issue is provided on substantially the same terms as for any other constituent.

In the *Hentschke* Advice Letter, No. A-14-187, the Commission analyzed whether the exception applied to a turf replacement program generally available to all retail water customers of any of the San Diego Water Authority's member public agencies. The program, which provided monetary incentives to retail water customers who replace existing turf with water efficient landscaping, was available on a first-come, first-served basis. Each applicant was required to participate in a training course, replace existing turf with qualifying plants, and fill out the standard application form and agree to program terms. Even though the program administrator had some decision-making authority to determine that the replacement met all the program requirements (such as the amount of turf replaced and whether qualifying plants are used), the Commission concluded that the exception applied because the determination did not involve discretion to pick and choose among applicants or to vary benefits from one applicant to the next.

Here, if the Authority processes Director Martinez's application for water service, his interest in the ensuing contract will arise in the context of his constituency within the Authority's

jurisdiction and as a recipient of the Authority's services. In addition, there is no potential for favoritism because any resident within the Authority's jurisdiction may obtain its water services – in other words, such services are not narrowly tailored to specially favor an official or group of officials. And although Authority staff may have some discretion to determine the amount of the deposit, the capacity fees and deposits are generally based on uniform standards.[3] Thus, the terms of a contract between Director Martinez and the Authority will be provided on substantially the same terms as for any other constituent.[4]

Accordingly, assuming Director Martinez has a prohibitory financial interest in a contract for installation of water services under Section 1090, the noninterest exception under Section 1091.5(a)(3) applies to permit him to contract with the Authority to install water services.[5]

Easement

You state the Authority owns a drainage easement on a portion of Director Martinez's property. You therefore ask: 1) whether the Authority may enter into a contract with a consultant to determine the Authority's need, if any, for the easement; 2) whether it may also enter a reimbursement agreement (or similar arrangement) with Director Martinez to reimburse the costs for the consultant's work, including a potential appraisal of the easement value; and 3) whether the Authority may ultimately quitclaim the easement to Director Martinez. Assuming Director Martinez has a prohibitory financial interest in these contracts, the primary question is whether the rule of necessity would apply to allow the Authority to enter them.

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[3] Capacity fees are based on Equivalent Dwelling Units and size of meter installed. In addition, the cost of meter and lateral installation is based on the actual cost at the time of construction (Authority Rates and Rules § 2.5.2.), and the Authority has a general list of standard deposit amounts depending on the type or size of the project.

[4] The present matter is different from those matters where the exception has been found not to apply because administering officials were required to exercise judgment or discretion in scrutinizing applications. (See, e.g., 92 Ops.Cal.Atty.Gen. 67, 70 (2009) [grants for the purchase or retrofit of certain engines and equipment awarded only after each application individually scrutinized to determine its statutory compliance, and weighed according to such factors as emissions performance, cost-effectiveness and considerations of whether the engine is cleaner than required under the applicable air quality laws. In addition, the evaluation may include a determination that an application is made in good faith and credible]; *Hynes* Advice Letter, No. A-18-093 [customary Installer's Agreement between the sanitary district and a customer seeking to connect to the district's sewer required that the "Plans, Profiles and Specifications" for the construction of the sewer be approved by the district engineer and district board, and any construction was not to be covered until it had been inspected and approved by the district engineer].)

[5] Assuming Section 1091.5(a)(3) permits Director Martinez to contract with the Authority for water installation services, you ask whether he may revise his application to reduce the requested installation to only one lateral and one service meter at this time in light of its typical practice for multiple parcels in a subdivision; whether he may dispute a portion of the costs included in the Fees, Deposits, and Credits Letter; and whether the Authority may consider combining the installation work for Director Martinez's property with the installation work for a nearby property to reduce his costs. As stated, the presence of some discretion in the contract formation that Section 1091.5(a)(3) permits is not fatal "unless the discretion can be exercised to permit the special tailoring of benefits to advantage one or more board members over their constituency as a whole." (*Lexin*, *supra*, at p. 1100.) To the extent these requested changes constitute "special tailoring" of his water installation services because they would not be provided on substantially the same terms as for any other constituent, such changes would place Director Martinez's contract outside the application of Section 1091.5(a)(3).

In limited circumstances, a "rule of necessity" has been applied to allow the making of a contract that Section 1090 would otherwise prohibit. (*Dietrick* Advice Letter, No. A-15-174; 88 Ops.Cal.Atty.Gen. 106, 110 (2005).) The rule of necessity has two facets: in procurement situations, it has permitted a government agency to acquire an essential supply or service despite a conflict of interest; in nonprocurement situations, it has permitted a public officer to carry out the essential duties of the office despite a conflict of interest where the officer is the only one who may legally act. (65 Ops.Cal.Atty.Gen. 305, 310 (1982).) In nonprocurement situations, such as the situation here, the rule of necessity ensures that essential government functions are performed even where a conflict of interest exists. (*Ibid*.)

In a nonprocurement situation where the rule of necessity applies to allow a multi-member body to act when it otherwise would have been precluded from doing so due to a member's conflict of interest, the member with the conflict of interest must abstain from participation. (88 Ops.Cal.Atty.Gen. 106, 111 (2005); 69 Ops.Cal.Atty.Gen. 102, 112 (1986).)

Thus, to determine if the rule of necessity applies, we must examine whether resolving these disputes is an essential duty of the City Council and whether the City Council is the only government entity legally capable of settling or litigating these disputes.

Here, the Authority owns a drainage easement on a portion of Director Martinez's property that it obtained through condemnation in connection with the construction of a nearby water storage tank. You state that, in general, the Authority considers it an aspect of providing efficient public services not to encumber property unnecessarily. Further, acting on a request to quitclaim an easement may, depending on the circumstances of the particular case, relieve the Authority of unnecessary maintenance obligations and/or eliminate potential legal liability relating to the easement. Therefore, although a request for quitclaim of an easement is typically initiated by a property owner, it as an essential duty of the Authority to determine whether it should quitclaim easements on a case-by-case basis in order to avoid unnecessary maintenance costs and potential liability.

Accordingly, pursuant to the rule of necessity, the Authority may enter into the contracts described above related to the easement on Director Martinez's property. However, Director Martinez must abstain from any participation in his official capacity.[6]

The Act

The Act's conflict of interest provisions prohibits a public official from taking part in a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the official's financial interests distinguishable from the decision's effect on the public generally. (Sections 87100 and 87103.) An official's financial interests that may give rise to a disqualifying conflict of interest under the Act are identified in Section 87103 and include all of the following:

[6] Note that participation in the making of a contract is defined broadly as any act involving preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications, and solicitation for bids. (*Millbrae Assn. for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.)

• An interest in any business in which the official has a direct or indirect investment worth $2,000 or more (Section 87103(a)), or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)). Director Martinez has a business interest in leasing his real property on Randy Lane.

• An interest in any real property in which the official has a direct or indirect interest worth $2,000 or more. (Section 87103(b).) Director Martinez has a real property interest in the property on Randy Lane.[7]

• An interest in any source of income aggregating $500 or more in value to the official within the 12 months prior to the time when the decision is made. (Section 87103(c).) Director Martinez has a source-of-income interest in the Randy Lane property and in any tenant of that property who has paid rent of $500 or more in the 12 months prior to the decisions.

Foreseeability and Materiality

Regulation 18701(a) provides that a governmental decision's financial effect on an official's financial interest is presumed to be reasonably foreseeable if the official's interest is "explicitly involved" in the decision; an official's interest is "explicitly involved" if the interest is a named party in, or the subject of, the decision; and an interest is the "subject of a proceeding" if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the interest. In addition, an official's real property interest is explicitly involved in any decision which affects that interest as described in Regulation 18702.2(a)(1)-(6).

Regulation 18701(b) sets forth the foreseeability standard applicable to a decision's effect on an official's interest that is not explicitly involved in the decision and provides that the effect on such an interest is reasonably foreseeable if it "can be recognized as a realistic possibility and more than hypothetical or theoretical."

Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material depending on the nature of the interest. Relevant to Director Martinez's interests, Regulation 18702.2 provides the materiality standards applicable to a decision's effect on an official's real property interest.

Amendment to Rates and Rules

Under Regulation 18702.2(a)(3), a decision's financial effect is material when it "[w]ould impose, repeal, or modify any taxes, fees, or assessments that apply to the parcel."

Here, Director Martinez would like the Authority to consider an amendment to the Rates and Rules to allow the Authority to separate payments for installation of water service laterals from

[7] Director Martinez has a real property interest in the Randy Lane property due to the trust he created which is 100 percent owner of the real property at issue. He and his spouse are the trustees with power to terminate it. An "interest in real property" includes a pro rata share of real property held in a trust, in which the official owns, directly or indirectly or beneficially, a 10 percent interest or greater. (Section 82033.) An official has a "direct, indirect or beneficial interest" in a trust where, as here, the official created the trust and can terminate it. (Regulation 18234(c)(1).)

payments for installation of water meters. You state the change would delay the payment of capacity fees (often a significant portion of the cost associated with installation of meters) until the meters are installed and water service is set to begin. This change would therefore modify the capacity fees Director Martinez would be required to pay associated with his real property water connection by delaying them until water service is set to begin.

Requesting that the Authority consider such an amendment, by itself, will not have a reasonably foreseeable and material financial effect on Director Martinez's real property interest. However, if the Authority decides to consider the issue, the effect of any decision on his real property interest will be both foreseeable and material, and he may not make, participate in making, or use his position to influence the decision.[8]

Application for Water Service and Easement Quitclaim

Under Regulation 18702.2(a)(5), a decision's financial effect is material when it "[i]nvolves the issuance, denial or revocation of a license, permit or other land use entitlement authorizing a specific use of or improvement to the parcel or any variance that changes the permitted use of, or restrictions placed on, the property." Further, under Regulation 18702.2(a)(5), a decision's financial effect is material when it "[a]uthorizes the sale, purchase, or lease of the parcel." Accordingly, the effect of any decision concerning the application for water service or the potential quitclaim of the drainage easement on his interest is both foreseeable and material, and he may not make, participate in making, or use his position to influence those decisions.

Generally, Director Martinez may not appear before or communicate with the Authority regarding the proposed change to the Rates and Rules, application for water service or quitclaim of the easement except as permitted under Regulation 18704(d)(2). We note that Regulation 18704(d)(2) provides a limited exception allowing an official to appear at a public meeting of the governing board, as a member of the public, to address a matter related solely to the official's interest in real property owned entirely by the official or the official and members of his or her immediate family. Accordingly, the requests for water services and an easement quitclaim must be made as a member of the public during a public meeting of the Authority.

Moreover, contact with Authority staff must also be limited. Director Martinez may not contact or appear before agency staff regarding these issues except as necessary to apply for the water service/request the easement be quitclaimed, and to provide staff with any necessary information with respect to processing these requests. (See *Sipes* Advice Letter, No. A-09-124 [an official is not making, participating in making, or influencing a governmental decision in submitting a request and providing necessary information as required for processing the request so long as the official avails himself of the same procedure typically available to any member of the public and is not granted special access to city officials or employees].)

[8] Note that Regulation 18704 defines "making, participating in making, influencing a decision." You also asked whether he may take part in decisions concerning whether to add two additional tasks to the capacity fee study where the outcome of the study may result in the Authority considering whether to modify, among other things, its capacity fees. We note that a decision to add an item to the study will not, by itself, have a reasonably foreseeable and material financial effect on any of Director Martinez's interests. However, should the Authority decide to consider modifying its capacity fees subsequent to the study, we recommend you request additional advice.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Dave Bainbridge
General Counsel

By: Jack Woodside
Jack Woodside
Senior Counsel, Legal Division

JW:dkv