



CITY OF GLENDALE, CALIFORNIA REPORT TO THE CITY COUNCIL

AGENDA ITEM

Report: Waiver of Conflicts of Interest - SCPPA General Counsel

1. Resolution Waiving Legal Conflicts of Interest with SCPPA General Counsel Christine Godinez

COUNCIL ACTION

Item Type: Consent Calendar

Approved for March 28, 2023 **calendar**

EXECUTIVE SUMMARY

The City Attorney seeks approval of a waiver of conflicts of interest pertaining to SCPPA's General Counsel.

COUNCIL PRIORITIES

N/A.

RECOMMENDATION

Approve a waiver of conflicts of interest pertaining to former Principal Assistant City Attorney Christine Godinez to permit her representation of the Southern California Public Power Authority (SCPPA) as SCPPA General Counsel on matters in which she previously represented the City of Glendale.

BACKGROUND

California Rules of Professional Conduct require lawyers to obtain the informed written consent from each client, and comply with certain conditions, in order to represent a client, if:

- The representation is directly adverse to another client in the same or a separate matter; or
- If there is a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with . . . a former client.

Even when the above-referenced circumstances are not present, a lawyer must provide written disclosure of the relationship to the client and comply with specified conditions, where "the lawyer has . . . a legal, business, financial, professional, or personal relationship with or responsibility to a party or witness in the same matter." State Bar of California Rule 1.7.

Representation is only permitted if the lawyer reasonably believes that (1) the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; and (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

With regard to former clients, State Bar of California Rule 1.9 provides that a lawyer who has formerly represented a client in a matter must obtain the informed written consent of the former client in order to represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client. In addition, a lawyer who formerly represented a client has a continuing duty not to disclose confidential information, or to use confidential information obtained during the course of the representation to the disadvantage of the former client.

ANALYSIS

Former Principal Assistant City Attorney Christine Godinez worked for the Glendale City Attorney's Office for 21 years until 2022, primarily as counsel to Glendale Water & Power (GWP). She represented Glendale on various SCPPA-related transactions, including but not limited to: Project Agreements, Power Sales Agreements, Program Agreements, Task Orders, procurements, and financing transactions in connection with Authority projects, programs, and agreements (the "Matters").

SCPPA's role is to facilitate projects and joint action within the scope of SCPPA's Joint Powers Agreement on behalf of its member agencies, including Glendale. As such, Ms. Godinez' former representation of Glendale and/or current representation of SCPPA would not generally be materially adverse. There are circumstances, however, where SCPPA and Glendale (or other SCPPA Members) are counterparties to an agreement, such as in the case of a Power Sales Agreements between SCPPA and Glendale, or, for example, with respect to the Southern Transmission System Renewal Agreements for the Acquisition of Capacity and Transmission Services Agreement. In such transactions, particularly where SCPPA and Glendale are counterparties to the transaction, there is a possibility that a dispute or adversity between SCPPA and Glendale could arise. Whether or not the representation would or may become materially adverse, the representation of Glendale in connection with such matters is considered "personal and substantial." Accordingly, Ms. Godinez and SCPPA seek Glendale's informed written consent for Ms. Godinez' representation of SCPPA on Matters in which she previously represented Glendale.

In accordance with the Rules of Professional Conduct, all confidential information and documents obtained by Ms. Godinez during her representation of Glendale remain protected by the attorney-client privilege and work-product privilege to the maximum extent permitted by applicable law.

The proposed Waiver is attached as Exhibit 1. The Council's approval of the waiver would constitute the City's (1) acknowledgement of receipt of the written disclosures as set forth therein; and (2) waiver of any conflict of interest arising from Ms. Godinez' prior representation of Glendale with respect to the Matters. This waiver does not apply to situations where conflicts cannot be waived under the Rules of Professional Conduct. Given that SCPPA and Glendale generally work together to procure energy transmission and resources and confidential information will remain confidential, the City Attorney recommends approval of this item. The SCPPA Board has approved the conflict waiver as to SCPPA.

STAKEHOLDERS/OUTREACH

N/A.

FISCAL IMPACT

There is no fiscal impact associated with this report.

ENVIRONMENTAL REVIEW (CEQA/NEPA)

This matter is not subject to CEQA as there is no reasonable possibility it will have a significant impact on the environment.

CAMPAIGN DISCLOSURE

This item is exempt from campaign disclosure requirements.

ALTERNATIVES

1. Approve the Waiver of Legal Conflicts of Interest.
2. Deny the request for the Waiver of Legal Conflicts of Interest.
3. Choose an alternative not identified by staff.

ADMINISTRATIVE ACTION

Prepared by:

Michael J. Garcia, City Attorney

Approved by:

Roubik R. Golanian, P.E., City Manager

EXHIBITS/ATTACHMENTS

1. Waiver of Legal Conflicts of Interest