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## MEMORANDUM

TO: Members, San Francisco Public Utilities Commission

CC: Michael Carlin, Acting General Manager

FROM: Jesse Capin Smith  
Chief Assistant City Attorney

Francesca Gessner  
General Counsel, Public Utilities Commission

DATE: April 27, 2021

RE: Outside Counsel for Advice Regarding Appointment of General Manager

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As we informed you on April 26, in light of Mayor London Breed's nomination of City Attorney Dennis Herrera to be the new General Manager of the San Francisco Public Utilities Commission ("SFPUC"), the City Attorney's Office ("Office") will recuse itself from advising the SFPUC, including the SFPUC Commission, on the selection process for a new SFPUC General Manager, as well as any negotiation, review or approval of an employment contract with Mr. Herrera if he is appointed as the new General Manager. Although conflict of interest laws do not require us to recuse the entire Office from the General Manager selection and hiring process – only to screen the City Attorney himself due to his potential financial interest – we have determined that a complete recusal from these issues is in the City's best interests. The Office will continue to advise the SFPUC and the SFPUC Commission on all other legal matters aside from the General Manager selection and hiring process.

The Office has reciprocal relationships with other public law offices in the Bay Area that may assist in situations such as these, providing legal advice in the place of our Office. Accordingly, we have arranged for the Santa Clara County Counsel's Office to advise the SFPUC and SFPUC Commission on these matters regarding the selection and hiring process for a new General Manager, which they have offered to do without charge. The Santa Clara County Counsel's Office has expertise in municipal law and California labor and employment law and is well qualified to represent the SFPUC and SFPUC Commission in these matters.

We understand that Assistant County Counsel Robert M. Coelho will primarily handle these matters, although he may assign tasks to other Deputy County Counsels in his office as needed. We also anticipate that consistent with the current operations of this Office, Santa Clara County Counsel's Office will provide representation to the SFPUC and Commission in these matters remotely.

You may contact Assistant County Counsel Robert M. Coelho at robert.coelho@cco.sccgov.org or (408) 299-5900.

**Memorandum**

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cc: County Counsel James R. Williams, Santa Clara County Counsel's Office  
Assistant County Counsel Robert M. Coelho, Santa Clara County Counsel's Office  
Sean Elsbernd, Chief of Staff, Mayor London N. Breed  
Carol Isen, Director, Department of Human Resources