



MEMORANDUM

TO: CITY COUNCIL

FROM: HEATHER K. WHITHAM, CITY ATTORNEY

**SUBJECT: SUPPLEMENTAL INFORMATION
AGENDA ITEM 9.a.- JUNE 11, 2019 COUNCIL MEETING
CONSIDERATION OF INTRODUCTION OF AN ORDINANCE AND
ADOPTION OF A RESOLUTION AUTHORIZING THE
IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION
PROGRAM BY PARTICIPATING IN MONTEREY BAY COMMUNITY
POWER AUTHORITY'S COMMUNITY CHOICE AGGREGATION
PROGRAM**

DATE: JUNE 11, 2019

RECOMMENDATION:

Council Member George sought advice from the Fair Political Practices Commission ("FPPC") regarding her ability to participate in this item due to the fact that her husband is a PG&E employee. The FPPC advised that Council Member George does have a financial conflict of interest under the Political Reform Act and may not participate in this item.

A separate financial conflict of interest law, Government Code Section 1090, prohibits the City Council from entering into a contract that any of its officers are financially interested in, with some exceptions. As the FPPC has concluded that Council Member George has a financial interest in the item, the City Attorney's office has sought advice from the FPPC regarding the ability of the City Council to move forward with the approval of the joint powers agreement with the Monterey Bay Community Power Authority ("MBCPA").

Due to their need to file documents with the California Public Utilities Commission, the MBCPA has set a deadline of July 31, 2019 for the City to submit the ordinance and resolution to them. The FPPC has previously advised that ordinances like the one before the City Council this evening are not considered contracts under Government Code Section 1090. As such, as long as Council Member George recuses herself, the City Council may go ahead and introduce the ordinance only, pending a response from the FPPC regarding the City Council's ability to enter into the joint powers agreement with the MBPCA. The City Council will only then adopt the resolution to enter into the joint powers agreement at a later date if and when it has received a green light from the FPPC.