



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Baker, Ortiz, Wilson, and Wood
From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel
Subject: Advice Letter Report
Date: January 26, 2024

The following advice letters have been issued since the December 29, 2023, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the February 15, 2024, Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at [the advice search](#).

Section 84308

Tony Lopresti

[I-23-177](#)

County’s award of a \$1000 “sponsorship” to a non-profit organization is an entitlement for use proceeding under Section 84308. Generally, a county supervisor’s ability to accept a contribution greater than \$250 from individuals associated with the non-profit will depend on whether the individual qualifies as a party, participant, agent, or individual whose contributions are required to be aggregated under Section 82015.5.

Robert Fabela

[I-23-178](#)

The mandated periodic review of a development agreement by a city council is a proceeding subject to Section 84308, as it is a substantive review of a contract agreement between the city and the applicant (project proponent) that involves a determination of substantial evidence of good faith compliance and may result in modifying or terminating the agreement.

Tyler Haskell

[I-24-008](#)

In a contract proceeding between a local agency and a county, the local agency’s employee who makes direct contact with the county is not an “agent” of the party for purposes of Section 84308. Due to the exclusions of government salary and benefits from the definition of “income” under the Act, the local agency employee is not representing the party “for compensation,” as required under Regulation 18438.3.

Section 1090

Brian A. Pierik

[A-24-001, A-24-002, A-24-003](#)

City council members who own real property within 500 feet of property under consideration for a Mills Act contract have a disqualifying financial interest in the decision under Regulation 18702.2(a)(7), unless there is clear and convincing evidence presented to establish that there would be no measurable impact on the property. Based on the facts provided, property under a

Mills Act contract can provide a general increase in property values in the neighborhood, with the greatest benefit to those properties closest in proximity. Thus, the council members are disqualified from taking part in the decisions under the Act. Under Section 1090, an officer does not however have a financial interest in a contract based solely on the proximity of the officer's property to the contract property, and the city is not prohibited from making the contracts.

Alan J. Peake

[A-24-006](#)

City is not prohibited from entering a contract with a construction contractor for construction of bike track, where the contractor designed the track as a subconsultant for another contractor during the design of the city's park project. Under Section 1097.6(a), the construction contractor is not an "officer" subject to Section 1090 because (1) it was an independent contractor under the initial contract with the city, and (2) the construction contractor's duties and services related to the initial contract did not include engaging in or advising on public contracting on behalf of the city.