



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

July 13, 2026

Sky Woodruff
City Attorney
City of South San Francisco
409 13th Street, Suite 600
Oakland, California 94612

Re: Your Request for Formal Advice
Our File No. A-25-113

Dear Mr. Woodruff:

This letter responds to your request for advice on behalf of City of South San Francisco Councilmembers Mark Addiego and Buenaflor Nicolas regarding the conflict of interest provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the conflict of interest provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090.

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.

QUESTIONS

1. Does Councilmember Addiego’s ownership of stock in Merck & Co., Inc. (“Merck”), a company having offices within the proposed Eastern Neighborhoods Community Facilities District (“CFD”), preclude him from participating in City decisions involving the proposed CFD?

2. Does Councilmember Nicolas’s ownership of stocks in Gilead Sciences (“Gilead”), a company that is not located within the proposed CFD area, constitute a financial interest precluding her from participating in City decisions involving the proposed CFD?

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 18104 through 18998 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.

3. Does Councilmember Nicolas's employment with Antares Therapeutics ("Antares"), a company that is not located within the proposed CFD area, constitute a financial interest precluding her from participating in City decisions involving the proposed CFD?

4. Does Councilmember Nicolas's receipt of payment for the buy-back of her stock options from Scorpion Therapeutics ("Scorpion"), a company, which is not located within the proposed CFD, resulting from that company's sale of certain intellectual property to another company, Eli Lilly and Company ("Eli Lilly"), located within the proposed CFD constitute a financial interest?

CONCLUSIONS

1. Yes. Based on the facts provided, it is reasonably foreseeable that a decision to create the proposed CFD would have a material financial effect on Councilmember Addiego's business entity interest in Merck. The proposed CFD would create an assessment on the property leased by Merck, which is based on Merck's business activity. Accordingly, Councilmember Addiego knows or has reason to know that Merck has a property interest that is a named party in or subject of the decision, and it is reasonably foreseeable that the decision will have a material financial effect on Councilmember Addiego's interest in Merck. Under the Act, Councilmember Addiego must recuse himself from any decisions concerning the proposed CFD.

2-4. No. Based on the facts provided, it is not reasonably foreseeable that a decision to create the proposed CFD would have a material impact on Councilmember Nicolas's interests in Gilead, Scorpion, or Antares. Further, because Councilmember Nicolas received payment for the buy-back of her Scorpion stock options in March 2025, more than 12 months ago, she would not have an interest in Eli Lilly as a source of income. Under the Act, Councilmember Nicolas is not prohibited from taking part in the decisions.

FACTS AS PRESENTED BY REQUESTER

Background

The CFD has been proposed to fund transportation infrastructure improvements throughout the City's eastern neighborhoods. The eastern neighborhoods include life science and office campuses and warehouses, production, distribution, and repair facilities, constituting the City's largest business district and most significant economic generator. The proposed CFD seeks to establish a special tax district in which the proposed assessment will be collected based upon the square footage of the business operating from the property and the business activity for which the property is used. The assessment will be used to fund critical infrastructure improvements addressing ongoing transportation challenges, including traffic congestion, safety, and aging infrastructure related to the activity of businesses operating within the CFD.

There are several procedural steps that the City must take to form the CFD. The City must adopt the goals and policies of the CFD, then adopt a resolution of intention formally proposing the CFD. It must subsequently hold a public hearing and adopt a resolution of

formation before property owners vote to approve the CFD. If property owners vote to approve the CFD, the CFD will be ratified by the City Council.

In a follow-up email, you provided additional information concerning the specifics of the proposed CFD. The CFD encompasses 980.8 acres, 479 parcels, and 332 property owners. The boundaries of the proposed CFD extend east from the east side of Highway 101 and the Caltrain tracks to the bay shore on the western boundary, with Colma Creek delineating the southern portion. The CFD includes a variety of uses, including offices, biotech, warehouses, and industrial, where approximately 45,000 people are employed. It does not currently include any residential use. Although no residential units have been completed within the CFD, there are projects under development.

The CFD would assess a special per square foot tax based on the particular uses of the property as follows: life science and office: \$0.65; residential: \$0.25; warehouse/industrial/other: first 25,000 square feet: \$0.05; second 25,000 square feet: \$0.10; anything in addition: \$0.15 per square foot. Although the assessment is based on the square footage of the subject business, the rates differ significantly based on the nature of the business.

In a follow-up email, you provided additional information regarding the total number of parcels subject to the highest tier rate, as well as the voting process to enact the CFD. You state that 77 of the 479 parcels would be subject to the life science/office rate of \$0.65/square foot. Uses are determined by zoning, with the ability of a property to seek reclassification based on actual use or a change in zoning or use. The tax is included on the property tax bill and payable by the property owner. The property owner's ability to recover a portion of the tax from a tenant will depend on the terms of each lease.

You also provided more details on the specifics of the business subject to the proposed life science/office rate. Twenty-four life sciences businesses operate on those 77 parcels, but office uses also operate on those 77 parcels. Depending on the building, tenants might include both a biotech company and a professional office.

- Of the 77 parcels that would be subject to the life science/office rate, 24 are owned by biotech companies that would pay the tax directly. The other 53 are owned by non-biotech companies.
- Another 49 biotech companies are tenants at properties that would be subject to the life science/office rate.
- An additional 49 non-biotech businesses are tenants at the properties that would be subject to the life science/office rate.

Pursuant to Section 53326(b), voting is by landowners only, with one vote per acre or portion of an acre in the boundaries of the CFD. (" . . . the vote shall be by the landowners of the proposed district and each person who is the owner of land at the close of the protest hearing, or the authorized representative thereof, shall have one vote for each acre or portion of an acre of land that he or she owns within the proposed community facilities district not exempt from the special tax.")

The presence of multiple businesses on a parcel does not affect who votes or the number of votes. It is common for owners and tenants to consult on voting when the tenant is responsible for all or a portion of the tax. However, the statute specifies that the owner is the voter, regardless of whether the owner or a tenant is ultimately responsible for payment of the tax.

You also state that Gilead's Bay Area offices are in Foster City. Antares is located at 2 Tower Place. Geographically, it is not far from the proposed boundaries of the CFD. However, it is on the opposite side of Highway 101 and Caltrain tracks in an isolated area of the City. The City perceived no benefit to the businesses located in the towers from the contemplated improvements and no way to feasibly extend the improvements to the towers, so they were not included in the CFD. Eli Lilly has offices located within the proposed CFD area.

Councilmember Addiego's Interests

Councilmember Addiego has an interest in Merck stock. Merck is a company with offices within the proposed CFD area. A portion of his Merck stock is owned by Councilmember Addiego outright, while the remainder of the stock is held in trust for his father. Councilmember Addiego receives no income from his father's trust, and is not entitled to receive any income from the trust during his lifetime. Councilmember Addiego's direct interest in Merck is in the form of 3,329 shares of stock that he owns outright, which, at the time of drafting this letter, was valued at \$99.40 per share for a total valuation of \$330,902.60, according to Yahoo Finance. We note that full-year worldwide sales were \$65.0 billion for 2025 according to the company's website.

In follow-up emails, you confirmed that Merck is a tenant in an office research building located within the area of the proposed CFD. It is likely that Merck would be responsible for a share of the assessment if the CFD were approved. Merck is the only tenant of the 299,638 square foot property at 213 E. Grand Ave. Based on the current CFD assessment of \$0.65 per square foot of developed area for life science/office uses, the annual assessment on Merck's facility will total \$194,764.70.

Councilmember Nicolas's interests

Councilmember Nicolas owns stock valued at over \$1,000,000 (one million dollars) in Gilead Sciences ("Gilead"), her former employer. Councilmember Nicolas was also employed by Scorpion Therapeutics ("Scorpion"). In March 2025, Eli Lilly and Company ("Eli Lilly") completed the acquisition of the Scorpion name and one of its cancer treatments. Her employment then transitioned to Antares Therapeutics ("Antares"), which was spun off by Scorpion. Eli Lilly does not own property in the proposed boundaries of the CFD. It has offices and labs at two locations: 201 Haskins Way and 681 Gateway Blvd. The properties are owned by Prologis and ARE, respectively.

Councilmember Nicolas's employment at Antares and previously at Scorpion

Councilmember Nicolas is currently employed by Antares and has previously been employed by Scorpion. Depending on the timing of City Council consideration of actions necessary to the formation of the CFD, she might have received an income over the specified numerical limit within the prior 12 months from either Scorpion or Antares. However, like Gilead, neither Antares nor Scorpion have offices located within the proposed CFD area.

Councilmember Nicolas's receipt of payment from Scorpion for the buy-back of her stock options as a result of Scorpion's sale of certain intellectual property to Eli Lilly

Councilmember Nicolas received payment from Scorpion in an amount between \$100,000 and \$1,000,000 for the buy-back of her stock options in connection with Scorpion's sale of one of its cancer treatments and its name to Eli Lilly. Eli Lilly provided Scorpion with funds in exchange for the purchase of Scorpion's sale of these assets to Eli Lilly. Scorpion purchased Councilmember Nicolas's stock options to complete the sale of the cancer treatment and Scorpion's name to Eli Lilly in March 2025. We note that full-year worldwide sales were \$65.17 billion for 2025 according to the company's website. In a follow-up email, you confirmed that Councilmember Nicolas did not have a 10 percent or greater ownership interest in Scorpion.

ANALYSIS

Under Section 87100 of the Act, "[a] public official at any level of state or local government shall not make, participate in making or in any way attempt to use the official's position to influence a governmental decision in which the official knows or has reason to know the official has a financial interest." "A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of the official's immediate family," or on certain specified economic interests. (Section 87103.)

As pertinent to your request, those specified economic interests include:

- Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more. (Section 87103(a).)
- Any real property in which the official has a direct or indirect interest worth \$2,000 or more. (Section 87103(b).)²
- Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to,

² In addition, an "interest in real property" includes a pro rata share of interests in real property held by a business entity in which an official has a 10 percent interest or greater. (Section 82033.)

received by, the public official within 12 months prior to the time when the decision is made. (Section 87103(c).)

- Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)

Councilmember Addiego

Councilmember Addiego has a business entity interest in Merck based on the 3,329 shares of Merck stock that he owns outright³ valued at approximately \$330,902.60. Merck is a tenant in an office research building located within the area of the proposed CFD, and would likely be responsible for a share of the special assessment.

Foreseeability and Materiality

Foreseeability standards vary depending on whether an interest is explicitly involved in a governmental decision. A financial effect is presumed to be reasonably foreseeable when it is explicitly involved in a decision. Financial interests that are explicitly involved include an interest that is a named party in, or subject of, a government decision. Under this standard, a financial interest in a business entity is explicitly involved when the entity “is the subject of any action taken by the agency that is directed at the entity.” (Regulation 18702.1(a)(1)(G).) A 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. (Regulation 18702.1(a).)

Regulation 18702.1 provides the materiality standards for an interest in a business entity. Relevant to Councilmember Addiego’s financial interest in Merck, Regulation 18702.1(a)(4) states, in relevant part, that the reasonably foreseeable effect of the decision on the official’s interest in the business entity will be material if:

The official knows or has reason to know that the entity has an interest in real property and:

(A) The property is a named party in, or the subject of, the decision under Regulations 18701(a) (1)-(6);

Under Regulation 18702.2(a)(3), a decision is material when it would impose, repeal, or modify any taxes, fees, or assessments that apply to the parcel.

³ Based on the facts presented, Councilmember Addiego’s interest in the Trust appears to fall within the exemption established in Regulation 18234(c)(2)(B)(i) and would not constitute a financial interest. However, in light of the conclusion reached herein, it is unnecessary to further consider whether a the councilmember has a financial interest in the Trust.

Councilmember Addiego knows or has reason to know that Merck has a real property leasehold interest in the E. Grand Ave. property and that the property is a named party in or the subject of the CFD assessment decisions which will impose a \$0.65 fee per square foot of developed area for life science/office uses on the parcel.⁴ Therefore, he has a disqualifying financial interest under Regulation 18702.2(a)(1) and may not participate in any decisions concerning the proposed CFD.

Councilmember Nicolas

Councilmember Nicolas has a business entity interest in Gilead based on ownership of stock valued at over \$1,000,000, and Antares, as a current employee of the company.

Councilmember Nicolas received payment from Scorpion in an amount between \$100,000 and \$1,000,000 for the buy-back of her stock options in connection with Scorpion's sale of two company assets to Eli Lilly. Specifically, Scorpion sold a cancer treatment drug and its business name to Eli Lilly. Scorpion then reorganized under the new name Antares. Antares purchased Councilmember Nicolas's "Scorpion" stock options to complete the sale of the cancer treatment and Scorpion name to Eli Lilly. This occurred in March 2025, more than 12 months ago. As such, we do not further examine whether Councilmember Nicolas has a financial interest in Eli Lilly as a result of this stock sale.

Foreseeability and Materiality

Where an official's economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, "[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable." Gilead is located in Foster City, a wholly separate jurisdiction. Antares is located in a geographically separate area of the City, cut off from the CFD by Highway 101 and the Caltrain tracks. Any potential financial effect would be indirect and Gilead and Antares would not be explicitly involved in the decision.

The reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business as either a business entity or source of income is material if the business will be financially affected under the materiality standards in Regulation 18702.1. (Regulation 18702.3(a)(4).) The CFD would impose a fee on businesses within its boundaries to fund infrastructure for streets, including the addition of designated lanes for mass transit and bicycles, as well as pedestrian access and street improvements. Under Regulation 18702.1, the

⁴ We also note that, based on the current CFD assessment of \$0.65 per square foot of developed area for life science/office uses, the annual assessment on Merck's facility will total approximately \$200,000. Depending on the amount of the assessment passed along to Merck as a tenant, Merck may incur additional expenses in an amount equal to or greater than \$250,000 within a few years, and the materiality threshold for a business entity discussed below may also be met.

Act provides that the reasonably foreseeable financial effect of a governmental decision on an official's financial interest in a business entity, including a business entity that is a source of income, is material if:

- The decision may result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or greater than: (A) \$1,000,000; or (B) five percent of the entity's annual gross revenues and the increase or decrease is at least \$10,000.
- The decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or greater than: (A) \$250,000; or (B) one percent of the entity's annual gross revenues and the change in expenses is at least \$2,500.
- The official knows or has reason to know that the entity has an interest in real property and the property is a named party in, or the subject of, the decision under Regulations 18701(a) and 18702.2(a)(1) through (6), or there is clear and convincing evidence the decision would have a substantial effect on the property.

Gilead is located in Foster City, and Antares is located in a geographically separate area of the City, cut off from the CFD by Highway 101 and the Caltrain tracks, so that the transportation infrastructure improvements contemplated under the CFD would not extend to that location. The City Council will only consider approving the CFD after it has already been approved by a vote of the property owners included within its boundaries. In other words, the City Council would not be faced with the decision of whether to include Antares in the CFD boundaries, such that the company could theoretically be subject to the CFD assessment. Based on the facts provided, it does not appear reasonably foreseeable that the company could experience an indirect financial effect that would meet the above standards. Consequently, neither Gilead nor Antares would experience a reasonably foreseeable, material financial effect as a result of the CFD decisions, and Councilmember Nicolas is not prohibited from taking part in those decisions.

If you have other questions on this matter, please contact me at znorton@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Zachary W. Norton

Zachary W. Norton
By: Senior Counsel, Legal Division

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