



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

May 21, 2026

Nira F. Doherty
City Attorney
City of Menlo Park
181 Third Street - Suite 200
San Rafael, California 94901

Re: Your Request for Advice
Our File No. A-26-032

Dear Ms. Doherty:

This letter responds to your request for advice on behalf of City of Menlo Park (“City”) and Council Member Cecilia Taylor regarding the conflict of interest provisions of the Political Reform Act (the “Act”) and Government Code Section 1090, et seq.¹

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

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.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General’s Office and the San Mateo County District Attorney’s Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice “is not admissible in a criminal proceeding against any individual other than the requestor.” (See Section 1097.1(c)(5).)

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.

QUESTION

Does Section 1090 prohibit the City from entering into a contract for services with Climate Resilient Communities (“CRC”), a nonprofit organization, when Belle Haven Action (“BHA”), a nonprofit organization, is listed as a subcontractor on the contract, given that BHA employs Council Member Taylor as its Executive Director and CEO?

CONCLUSION

No. Since the City Council is not required to review or approve the contract with CRC, Section 1090 does not prohibit the City Manager from entering into the contract as long as the City Council completely refrains from taking part in the contract.²

FACTS AS PRESENTED BY REQUESTER

The City circulated a Request for Proposal (“RFP”) for public outreach services related to the City’s SAFER Bay climate resiliency project. The City Council did not take part in the preparation or issuance of the RFP. CRC, a 501(c)(3) non-profit corporation, submitted a proposal and listed BHA, a 501(c)(3) non-profit corporation, as a subcontractor on its proposal. Under the proposal, BHA would provide services related to public outreach regarding climate resiliency. The City wishes to award the contract to CRC which would result in BHA, as a subcontractor to the CRC, being a recipient of payments made by the City pursuant to the contract. The contract would not be approved by the City Council, but would be approved by the City Manager, pursuant to his spending authority.

The City operates under a City Manager form of government pursuant to Section 34851. The City Manager has independent authority to enter into contracts on behalf of the City. Specifically, Section 2.42.020 of the Menlo Park Municipal Code (“MPMC”) defines “purchasing agent” as the City Manager and their designee and Section 2.42.030 of the MPMC authorizes the purchasing agent to “[p]urchase or contract for supplies, services, equipment and public projects required by City departments.” The authorization provided in Section 2.42.030 of the MPMC does not require City Council approval.

² Under the Act, an official with a disqualifying conflict of interest is prohibited from making, participating in making, or using the official’s position to influence the decision. (Section 87100.) To the extent the City Council and Council Member Taylor completely refrain from taking part in the contract the Act does not generally apply. However, we caution that the Act prohibits any attempts to influence the decisions. For a decision before any City official including the City Manager, the Act prohibits Council Member Taylor from making any contacts or appearances before the official for the purpose of affecting the decision. (Regulation 18704(c)(1).)

Council Member Cecilia Taylor was elected to the City Council to represent District 1 in 2018 and is currently serving in that capacity. Council Member Taylor also serves as the Executive Director and CEO of BHA and receives a salary from BHA.

ANALYSIS

Section 1090 generally prohibits public officials, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is “concerned with any financial interests, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance in furthering the best interests of” their respective agencies. (*Stigall v. Taft* (1962) 58 Cal.2d 565, 569.) Under Section 1090, the prohibited act is the making of a contract in which the official has a financial interest. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void, regardless of whether the terms of the contract are fair and equitable to all parties. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646-649.)

When Section 1090 is applicable to one member of a governing body of a public entity, the prohibition cannot be avoided by having the interested board member abstain; the entire governing body is precluded from entering into the contract. (*Id.* at 649.) Notably, when members of a public board, commission, or similar body have the power to execute contracts, each member is conclusively presumed to be involved in the making of all contracts by their agency regardless of whether the member actually participates in the making of the contract. (*Fraser-Yamor Agency, Inc. v. County of Del Norte* (1977) 68 Cal.App.3d 201, 211-212; 89 Ops.Cal.Atty.Gen. 49 (2006).)

However, Section 1090’s prohibition does not necessarily apply when an independent entity, such as a statutorily independent officer, contracts on behalf of a local government agency. (81 Ops.Cal.Atty.Gen. 274 (1998) [Section 1090 did not prohibit the housing authority from contracting with a county supervisor to serve as the county housing authority’s secretary and executive director because the housing authority was sufficiently independent from the county]; 57 Ops.Cal.Atty.Gen. 458 (1974) [county supervisor not prohibited from selling supplies to the county because county purchasing agent was an independent officer]; 21 Ops.Cal.Atty.Gen. 90 (1953) [city treasurer not prohibited from depositing city funds in a bank in which a city councilmember was financially interested because the treasurer was an independent officer].)³ Thus, the question here is whether the City Manager has independent

³ See also *Chopra* Advice Letter, A-19-214 [Section 1090 did not prohibit a city manager from contracting on behalf of the city with a telecommunications company that employed a city council member because the city manager was an independent officer]; *Black* Advice Letter, No. A-19-103 [city manager not prohibited from contracting on behalf of the city with a nonprofit organization that employed a city councilmember because the city manager was an independent officer]; *Wilson* Advice Letter, No. A-16-269 [city department head serving under city

authority to contract with CRC, thereby avoiding a violation under Section 1090 because the City Council would not be taking part in any way in the making of the contract.

Section 34851 authorizes a City Manager form of government to be established by ordinance. When such ordinance is established, Section 34852 requires the ordinance to define the powers and duties of the City Manager. The City has adopted a City Manager form of government, pursuant to Section 34851. Sections 2.42.020 and 2.42.030 of the MPMC provides that the City Manager is the purchasing agent for the City and is authorized to purchase or contract for supplies, services, equipment and public projects required by City departments. You confirmed the authorization provided in the MPMC does not require City Council approval. As such, the City Manager has independent authority to enter into contracts on behalf of the City.

Accordingly, Council Member Taylor and the Menlo Park City Council will avoid violating Section 1090 where the City Manager enters into a contract with CRC without involvement or approval from the City Council, pursuant to the City Manager's authority under Section 34852 and the MPMC.

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

Sincerely,

Dave Bainbridge
General Counsel

JennaRinehart

By: Jenna C. Rinehart
Senior Counsel, Legal Division

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manager not prohibited from entering into a contract with a nonprofit organization that employed a city councilmember because the department head was an independent officer]; *Walter* Advice Letter, No. A-15-050 [city manager authorized to contract with a professional services provider despite a city councilmember being financially interested in that contract because city manager was an independent officer].