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

June 2, 2026

Rebecca L. Moon
City Attorney
Sunnyvale
456 West Olive Avenue
Sunnyvale, CA 94088-3707

Re: Your Request for Advice
Our File No. A-26-049

Dear Ms. Moon:

This letter responds to your request for advice on behalf of City of Sunnyvale ("City") Councilmember Eileen Le 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.

QUESTION

Does Councilmember Eileen Le have a disqualifying financial interest in decisions related to either the Humboldt Court project or the Java Drive project, two affordable residential projects on sites located within 500 feet of 11 commercial real property parcels owned by her spouse's employer?

CONCLUSION

No. Councilmember Eileen Le does not have a disqualifying financial interest in decisions related to the Humboldt Court project or the Java Drive project and may take part in the decisions, barring any other economic interests in the decisions. As her employer is not

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[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.

explicitly involved in the decisions, it is not reasonably foreseeable that the decision will have a financial effect on the employer meeting the materiality thresholds in Regulation 18701.1(a)(2)-(4). Specifically, in regard to any financial effect on property owned by the employer, the facts do not present clear and convincing evidence that the decisions regarding either of these projects will have a substantial effect on the nearby parcels where the City previously adopted a Specific Plan for the area allowing mixed-use residential development of up to 20,000 units, the parcels are separated from each of the project sites by streets, parking lots, and/or landscaped areas, and traffic concerns are minimized by the Specific Plan's design to create a walkable, bikeable mixed use neighborhood that combines housing, jobs, and amenities.

FACTS AS PRESENTED BY REQUESTER

The City's Moffett Park is a 1,270-acre office and industrial district located next to Moffett Federal Airfield at the south end of San Francisco Bay. This area of north Sunnyvale has been the center of the City's high-tech industry for decades. Residential uses were not allowed in Moffett Park until 2023, when the City updated the Moffett Park Specific Plan ("MPSP"). The 2023 MPSP envisions the transformation of Moffett Park into a mixed-use neighborhood that will eventually add up to 20,000 housing units to the City's inventory.

Google, Inc. ("Google") is one of the major landowners in Moffett Park. Councilmember Le's spouse is an employee of Google. He is a senior software engineer at Google and his work is unrelated to the City's land use decisions. Councilmember Le's financial interests in Google related to income and stock ownership are above the thresholds in Section 87103(a) and (c). The Councilmember and her spouse own less than 10 percent of Google stock.

The Projects

The City is currently evaluating two proposed 100 percent affordable projects in the MPSP area. Google owns 11 parcels that are immediately adjacent to, and/or less than 500 feet from, the Project sites. Google's parcels are currently developed with multistory office buildings and parking. The proposed projects seek financial support from the City through grants of the City's Housing Mitigation Funds (HMF). The funding requests will be heard by the City Council in August 2026. The projects will also require land-use approvals from the Planning Commission, which can be appealed to or called up by the City Council. The land use applications are currently under review, and no hearings are currently scheduled. Both projects will make use of concessions and waivers permitted under the California Density Bonus Law to deviate from certain City standards and requirements.

220 Humboldt Court: The project site is approximately 3.55 acres. The developer is seeking a contribution of $10.5 million HMF from the City. The project includes demolition of an existing one-story office building, subdivision of the site into two parcels, and construction of two six-story affordable apartment projects totaling 264 rental units on Parcel A, 190 units on Parcel B, with a shared parking garage.

352 E. Java Drive: The project site is approximately 2 acres. The developer is seeking a contribution of $14 million HMF from the City. The project would demolish an existing one-story office building and construct a six-story, 180-unit affordable apartment project.

The projects will undergo project-specific environmental reviews to ensure consistency with the MPSP Environmental Impact Report (EIR). As part of the certification of the EIR, the City Council evaluated the environmental impacts of the full build-out anticipated by the plan and adopted a mitigation monitoring and reporting program for significant impacts that were identified. The Council also adopted a statement of overriding considerations for air quality, greenhouse gas emissions, and utilities and service systems.

Google's Parcels: Google owns 11 properties in close proximity (500 feet or less) to these proposed Projects. You state that because the two project sites are already zoned for residential development, the potential development of nearby housing is already a factor in Google's property values. You note that Google's parent company, Alphabet, Inc., is the world's second-most valuable company with a market cap of over $4 trillion and net assets over $415 billion as of April 2026 (CompaniesMarketCap.com). Construction will have temporary impacts on air quality, noise, and traffic in the local area which could be experienced by employees working at Google's buildings. However, all of Google's buildings are separated from the project sites by streets, parking lots, and/or landscaped areas. Along with temporary construction traffic, employees of the nearby Google offices will experience permanent changes in traffic patterns from the addition of new residents. It is your understanding that the projects will likely not require local traffic analysis because they are consistent with the MPSP EIR. Long term, the MPSP is designed to reduce vehicle trips by creating a walkable, bikeable mixed-use neighborhood that combines housing, jobs, and amenities.

ANALYSIS

The Act's conflict of interest provisions ensure that public officials will perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).) Section 87100 prohibits a public official from making, participating in making, or otherwise using the official's position to influence a governmental decision in which the official has a financial interest.

"A public official makes a governmental decision if the official authorizes or directs any action, votes, appoints a person, obligates or commits the official's agency to any course of action, or enters into any contractual agreement on behalf of the official's agency." (Regulation 18704(a).) "A public official participates in a governmental decision if the official provides information, an opinion, or a recommendation for the purpose of affecting the decision without significant intervening substantive review." (Regulation 18704(b).) A public official uses an official position to influence a governmental decision if the official:

> (1) Contacts or appears before any official in the official's agency or in an agency subject to the authority or budgetary control of the official's agency for the purpose of affecting a decision; or

> (2) Contacts or appears before any official in any other government agency for the purpose of affecting a decision, and the public official acts or purports to act within the official's authority or on behalf of the official's agency in making the contact.
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> (Regulation 18704(c).)

In other words, if a governmental decision would have a reasonably foreseeable, material financial effect on a financial interest of Councilmember Le, she is generally prohibited from taking part in that decision in any of the manners described above.

Economic Interests

"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.) Pertinent to the facts provided, those economic interests include:

- Any business entity in which the public official has a direct or indirect investment worth $2,000 or more. (Section 87103(a).)
- Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management. (Section 87103(d).)
- Any real property in which the public official has a direct or indirect interest worth $2,000 or more. (Section 87103(b).)
- Any source of income, aggregating $500 or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made. (Section 87103(c).)

"Income" includes any community property interest in the income of a spouse. (Section 82030(a).) Accordingly, Councilmember Le has an economic interest in Google as a source of income, given her spouse's employment with Google.

An "investment" means any financial interest in or security issued by a business entity, including, but not limited to, common stock, preferred stock, rights, warrants, options, debt instruments, and any partnership or other ownership interest owned directly, or indirectly, or beneficially by the public official. (Section 82034.) Councilmember Le has a business entity interest in Google due to her spouse's stock ownership in excess of $2,000. Additionally, an "indirect investment or interest" is defined as "any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater." (Section 87103.) The facts state that the official and her spouse's stock ownership interest in Google is less than 10 percent.

Based on these facts, Councilmember Le does not have an interest in any real property owned by Google.

Foreseeability & Materiality

A financial effect on a public official's economic interest is reasonably foreseeable if the economic interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. (Regulation 18701(a).) An economic interest is the subject of a proceeding if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the economic interest, and includes any governmental decision affecting a real property economic interest as described in Regulation 18702.2(a)(1)-(6). (Regulation 18701(a).)

Where a public official's economic interest is not explicitly involved in the decision, a different standard for determining the reasonable foreseeability of a financial effect is applicable. Under Regulation 18701(b). 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. (*Ibid*.)

Based on the facts provided, Google is not explicitly involved in the decisions at issue. When a public official has an economic interest in a business entity not explicitly involved in a decision, including a business entity that is a source of income, the materiality of a governmental decision's financial effect on the source of income is determined under Regulation 18702.1, pertaining to business entity interests. (Regulation 18702.3(a)(4).)[2] Relevant to your questions regarding the two project decisions, under Regulation 18702.1(a)(2)-(4), the Act provides that the reasonably foreseeable financial effect of a governmental decision on an official's financial interest in 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: $1,000,000; or 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: $250,000; or one percent of the entity's annual gross revenues and the change in expenses is at least $2,500.

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[2] Under the "nexus" standard, a governmental decision is alternatively determined to have a material financial effect on a source of income "if the decision will achieve, defeat, aid, or hinder a purpose or goal of the source and the official or the official's spouse receives or is promised the income for achieving the purpose or goal." (Regulation 18702.3(b.) However, the facts do not implicate this standard and we do not provide further analysis.

- 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 that the decision would have a substantial effect on the property.

Here, Google's parent company, Alphabet, Inc., is the world's second-most valuable company with a market cap of over $4 trillion and net assets over $415 billion as of April 2026. Therefore, it is not reasonably foreseeable that the decisions will affect Google's annual gross revenues or asset values at the threshold levels set forth in Regulation 18702.1. The two project sites are already zoned for residential development, and a factor in Google's real property asset values. There is no indication that the decisions will affect Google's expenses at the threshold levels.

Focusing on the "real property" standard above, at issue is whether there is "clear and convincing evidence" that either of the project's decisions "would have a substantial effect" on Google's multiple parcels located within close proximity to either one of the projects. The decisions for Humboldt Court include permitting the demolition of the existing one-story office building, subdividing the 3.55-acre site into two parcels, and constructing two six-story buildings to create 264 rental units on one parcel and 190 units and a shared parking garage on the other parcel. The decisions for Java Drive include permitting the demolition of the existing one-story office building, and the construction of a six-story, 180-unit affordable apartment building on the 2-acre site. The two project decisions also involve the City's approval of a 10.5 million and a 14 million in Housing Mitigation Funds (HMF) grants.[3]

However, the facts indicate that when the City adopted the MPSP in 2023, it decided to allow "the transformation of Moffett Park" into a mixed-use neighborhood, with the goal of enabling residential development (up to 20,000 units) in the area. As noted above, Google's property values already reflect the change in zoning from a strictly commercial area to one that allows residential development, with the understanding that commercial buildings will be

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[3] The grant decisions are in the nature of a contract and raise the prohibition in Section 1090, that an official must not participate in the making of a contract in which the official has a financial interest. However, an official has a financial interest in a contract under Section 1090 only when there is a sufficient connection between the contract in question and the interest held by the official. We have previously advised that an official does not have a financial interest in a contract decision for a project under Section 1090 solely because they have a financial interest in property near the project. (See, e.g., *Duke* Advice Letter, No. A-24-112 [the official did not have a financial interest in road project agreements under Section 1090 solely due to the proximity of his property to a road that was subject to the agreements involved]; and *Bordsen* Advice Letter, No. A-l7-059 [several officials did not have a financial interest in a contract under Section 1090, which involved frontage road improvements affecting the officials' real properties and business interests, simply because the officials' interests were adjacent to the project and would peripherally benefit along with numerous other properties and businesses along the route]. As a result, under Section 1090, the official would not have a financial interest in the Projects' contract decisions solely due to the location of the employer's property in proximity to the sites of the Projects. Please seek further advice if the official has other financial interests implicated in the grant decisions.

removed and new residential construction will occur. Additionally, while each project's construction will have temporary impacts on air quality, noise, and traffic around Google's buildings, there are factors that minimize these impacts to less than "substantial." All of Google's buildings are separated from the project sites by streets, parking lots, and/or landscaped areas. The traffic changes are stated to be "consistent with the established MPSP EIR" and the MPSP is designed to reduce vehicle trips by creating a walkable, bikeable mixed-use neighborhood that combines housing, jobs, and amenities. Thus, the facts do not provide clear and convincing evidence that the decisions regarding either the Humboldt Court or Java Drive projects would have a substantial impact on Google's properties.

Accordingly, based on the facts provided, Councilmember Le does not have a financial interest in the City's decisions regarding the Projects because it is not reasonably foreseeable that the decision will have a material effect on Google under the standards in Regulation 18702.1(a)(2)-(4). Thus, Councilmember Le does not have a disqualifying interest under the Act and is not prohibited from taking part in the decisions.

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

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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