



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

August 11, 2026

Heather Baker
City Attorney
City of Culver City
9770 Culver Boulevard
Culver City, CA 90232

Re: Your Request for Advice
Our File No. A-26-066

Dear Ms. Baker:

This letter responds to your request for advice on behalf of City of Culver City (“City”) Council Member Dan O’Brien 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. We also provide no advice regarding any restrictions on incompatible activities the City may impose.

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. Further, the Commission is not authorized and does not provide advice concerning past conduct. (Regulation 18329(b)(6)(A).) Therefore, nothing in this letter should be construed to evaluate any conduct that may have already taken place, and any conclusions contained in this letter apply only to future actions.

QUESTION

May Council Member O’Brien take part in decisions relating to the Sepulveda Connects Project (the “Project”), specifically approval of conceptual plans for the Project and selection of

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.

a preferred alternative for segments of the Project, while serving as President and Chief Executive Officer (“CEO”) for the Culver City Chamber of Commerce (“Chamber”)?²

CONCLUSION

No, Council Member O’Brien is disqualified from taking part in City Council decisions relating to the Project, including the conceptual plans for the Project and the selection of preferred alternatives for segments of the Project. Under the nexus test, it is reasonably foreseeable that the decisions will have a material financial effect on the Chamber because the decisions will achieve, defeat, aid, or hinder a purpose or goal of the Chamber, and Council Member O’Brien receives or is promised income as the President and CEO of the Chamber for achieving the purpose or goal.

FACTS AS PRESENTED BY REQUESTER

Council Member O’Brien began his first term as a City Council Member on December 12, 2022, served as Mayor from December 9, 2024, to December 8, 2025, and continues to serve as a City Council Member to date. Beginning January 1, 2026, Council Member O’Brien accepted a position to serve as President and CEO on an independent contractor basis for the Chamber.

Per the contract, as President and CEO of the Chamber, Council Member O’Brien will provide executive leadership and management services customarily associated with the role, including: strategic planning; operational oversight; staff and vendor supervision including to assist in the recruitment, hiring, and compensation of Chamber staff; member relations; community and governmental engagement; and support of the Chamber’s Board of Directors.

As President and CEO of the Chamber, Council Member O’Brien will receive a designated monthly compensation under the contract. His compensation is fixed and he will not receive any commissions or bonuses. You confirmed Council Member O’Brien will receive, or is promised to receive, income from the Chamber totaling \$500 or more prior to any of the relevant governmental decisions. The contract states the Chamber currently lacks resources and cash flow

² We note that your request for advice additionally sought assistance regarding Council Member O’Brien’s involvement in decisions made by the: (1) Ad Hoc 2026 FIFA World Cup and 2028 Summer Olympics Preparation Subcommittee; (2) Ad Hoc 2026-27 Special Events Grant Program Subcommittee; and (3) Ad Hoc Film and Media Policy Subcommittee. However, the facts provided indicate Council Member O’Brien had previously taken part in decisions made by each of the subcommittees. Because the Commission does not issue advice relating to past conduct, we are unable to advise you regarding these questions, and we express no opinion on Council Member O’Brien’s involvement in previous decisions made by each of the subcommittees. We further note that the determination that the question relates to past conduct does not reflect any conclusion of past misconduct.

to pay Council Member O'Brien's compensation and, as such, a substantial part of the role initially will be to focus on efforts to increase the Chamber's revenues so there are adequate funds available to pay his compensation. Any unpaid portion of his compensation would accrue to the following month.

The Chamber is a 501(c)(6) nonprofit organization that supports the business community by assisting its members in achieving their full business potential. The Chamber is a voluntary, action-oriented organization of businesses and professionals working together to promote the commercial and economic vitality of Culver City, and to foster civic improvements that benefit the general welfare of those who live, work and visit the City. The Chamber advocates on behalf of its 186 member businesses and is entirely funded by membership investments, Chamber advertising media opportunities, and special events. The Chamber does not have an interest in any real property.

Sepulveda Connects is a City project to design and build transit priority and other mobility improvements on the Sepulveda Boulevard corridor within the City. Between January and November 2025, the City completed an Existing Conditions and Opportunities Analysis for the Project. Between July 2025 and January 2026, the City completed the Traffic Analysis and Modeling for the Project. On October 27, 2025, the City Council approved Guiding Principles to help staff and the public navigate the tradeoffs that will necessarily emerge given the realities of limited street space and a fixed budget. The Project is currently in the public outreach and conceptual design process for the Project. There are three proposed design alternatives. Each alternative presents a different way of achieving transit priority while balancing impacts to existing uses like traffic and parking. The City expects the final design and pre-construction to begin in the Summer or Fall of 2026 with construction beginning in the Winter of 2027.

Sepulveda Boulevard is a major north-south thoroughfare that facilitates local and regional travel across several modes. It is the City's busiest transit corridor, with buses running every eight minutes that carry more than 6,700 riders every weekday. It is also a key corridor for vehicle traffic to and through the City. Street-facing businesses generate significant pedestrian traffic and demand for parking and loading. The demands of these different uses lead to challenges. Buses experience poor on-time performance, with over 20 percent of trips running late, and 525 accidents have been reported on Sepulveda Boulevard in approximately the last six years.

The City's 2045 General Plan designates Sepulveda Boulevard as a Transit Priority Corridor, while the Bike and Pedestrian Action Plan envisions the addition of bike lanes along much of the corridor. The corridor also has regional significance. The Westside Cities Council of Governments ("WSCCOG") included Sepulveda Boulevard as a priority corridor for transit improvements in its 2020 mobility study, and in August 2025, the WSCCOG Board approved a contract to design a network of transit lanes throughout the Westside region on Sepulveda

Boulevard, Jefferson Boulevard, La Cienega Boulevard, and Santa Monica Boulevard. The WSCCOG Board voted to separately fund the City's existing effort to design bus lanes on Sepulveda Boulevard.

The goal of the Project is to: implement bus lanes on each corridor before the 2028 Olympics; provide travel options that work for all; get people where they need to go on time; support the City's economy and local businesses, by ensuring customers, workers, and deliveries have easy access to businesses and employment centers; combat climate change, by building infrastructure that invites walking, biking, and transit use; and balance the uses of our limited street space to ensure space-efficient modes like transit and cycling are safe and reliable.

Upcoming City Council decisions involving the Project that are expected to come before the City Council include approval of the conceptual plans for the Project, selection of a preferred alternative for segments of the Project, and adoption of a resolution granting California Environmental Quality Act Exemptions to the Project.

As of January 2026, the total businesses within the City are 4,461; the total businesses on Sepulveda Boulevard within the City are 534; and the total businesses on Sepulveda Boulevard within the City with street parking are 354. It is conceivable that parking might be removed or modified in front of any business on Sepulveda Boulevard within the project limits. Of the 534 business on Sepulveda Boulevard, 39 of the businesses are Chamber members that may be impacted by the Project. These members' dues collectively total \$10,180 in revenue.

ANALYSIS

Section 87100 of the Act prohibits a public official from making, participating in making, or in any way attempting to use the official's position to influence a government decision in which the official has a financial interest.

A public official disqualified from a governmental decision based on a conflict of interest is not merely prohibited from voting on the item. The official is also prohibited from making, participating in making, or in any way attempting to use their official position to influence the governmental decision in which they know or have reason to know they have a financial interest. (Section 87100.) Regulation 18704 defines "making, participating in making, and attempting to use their position to influence" a governmental decision as follows:

- *Making a Decision:* 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).)

- *Participating in a Decision:* 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).)
- *Using Official Position to Attempt to Influence a Decision.* A public official uses an official position to influence a governmental decision if the official: 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 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. (Regulation 18704(c)(1)-(2).)

Financial 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 an interest specified in Section 87103, including:

- Any business entity³ in which the public official has a direct or indirect investment worth \$2,000 or more (Section 87103(a)) and 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,⁴ and received by the public official within 12 months prior to the time when the decision is made. (Section 87103(c).)
- Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$630 or more in value provided to, received by, or promised to the public official within 12

³ The Act defines "business entity" to mean any organization or enterprise operated for profit. (Section 82005.)

⁴ Income is "promised to" the public official if the official has a legally enforceable right to the promised income. (Regulation 18700(c)(6)(C).)

months prior to the time when the decision is made. (Section 87103(e); Regulation 18940.2.)

- An interest in the official's personal finances and those of the official's immediate family. (Section 87103.)

Based on the facts, as President and CEO of the Chamber, Council Member O'Brien will receive, or is promised to receive, income from the Chamber totaling \$500 or more prior to the governmental decisions at issue here. Thus, the Chamber is a source of income to Council Member O'Brien.⁵ Additionally, an official always has an interest in their personal finances.

Foreseeability

For a conflict of interest to exist, it must be reasonably foreseeable that the governmental decision would have a financial effect⁶ on the public official's financial interests. (Regulation 18700(d)(1).)

Regulation 18701(a) provides the applicable standard for determining the foreseeability of a financial effect on a financial interest explicitly involved in a governmental decision. It states:

A financial effect on a financial interest is presumed to be reasonably foreseeable if the financial interest is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial 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 financial interest, and includes any governmental decision affecting a real property financial interest as described in Regulation 18702.2(a)(1)-(6).

Where, as the facts indicate here, an official's financial interest is not explicitly involved in a decision the applicable standard for determining the foreseeability of a financial effect on a financial interest is found in Regulation 18701(b) which 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

⁵ Council Member O'Brien will not have a business interest in the Chamber because, as a nonprofit organization, it is not a "business entity" as defined by the Act. (See Section 82005.)

⁶ "Financial effect" means an effect that provides a benefit of monetary value or provides, prevents, or avoids a detriment of monetary value. (Regulation 18700(c)(5).)

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.

Materiality

For a conflict of interest to exist, the reasonably foreseeable financial effect must be material. (Regulation 18700(d)(2).) Different standards apply to determine whether a reasonably foreseeable financial effect on an interest will be material depending on the nature of the interest.

Source of Income

Regulation 18702.3(a)(3) provides the materiality standard for a nonprofit source of income that is not a named party in, or the subject of the decision. Applicable to the facts presented here, this standard provides that the reasonably foreseeable financial effect will be material when a decision may: 1) result in an increase or decrease of the Chamber's annual gross receipts, or the value of its assets or liabilities, in an amount equal to or greater than \$1,000,000, or five percent of its annual gross receipts and the increase or decrease is equal to or greater than \$10,000 (Regulation 18702.3(a)(3)(A)); or 2) cause the Chamber to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than \$250,000, or one percent of its annual gross receipts and the change in expenses is equal to or greater than \$2,500 (Regulation 18702.3(a)(3)(B)).

In addition to the materiality standards for a nonprofit source of income as described above, there is a special rule for materiality that applies in cases where there is a "nexus" between duties owed to a source of income and to the official's public agency. When another entity pays a public official to accomplish some action that is within the official's public decision-making authority, any financial effect on the source of income is presumed material. Regulation 18702.3(b) sets forth the "nexus test" which provides:

Any reasonably foreseeable financial effect on a source of income to a public official is material if the decision will achieve, defeat, aid, or hinder a purpose or goal of the source and the official receives or is promised the income for achieving the purpose or goal.

The rationale for the nexus test is that when an employee earns a salary to accomplish a purpose that may be advanced by what they do as a public official, we presume that the private employer is benefiting from the actions of the employee in their official capacity. (*Garza* Advice Letter, No. A-17-207; *Tran* Advice Letter, No. A-16-024; *Maltbie* Advice Letter, No. A-15-243.) Typically, a "nexus" is found in situations where the official is also a high-level employee with direct influence and control over their employer's management or policy decisions. (*Tran* Advice Letter, *supra*; *Moser* Advice Letter, No. A-03-147; *Low* Advice Letter, No. A-99-305.)

Personal Finances

Regulation 18702.5(a) provides the materiality standard for a personal financial effect. It states:

A governmental decision's reasonably foreseeable financial effect on a public official's financial interest in personal finances or those of immediate family, also referred to as a "personal financial effect," is material if the decision may result in the official or the official's immediate family member receiving a financial benefit or loss of \$500 or more in any 12-month period due to the decision.

The Project

Based on facts provided, as President and CEO of the Chamber, Council Member O'Brien has or will receive income to provide executive leadership and management services customarily associated with the role, including: strategic planning; operational oversight; staff and vendor supervision including to assist in the recruitment, hiring, and compensation of Chamber staff; member relations; community and governmental engagement; support of the Chamber's Board of Directors; and generally to further the Chamber's purpose of assisting the 186 member businesses in achieving their full business potential and to advocate on behalf of its member businesses.

Considering the Chamber's purpose to support the business community by assisting its members in achieving their full business potential and to advocate on behalf of its member businesses, it is unnecessary to consider whether the effects of the decisions presented here on the Chamber's gross receipts, assets or liabilities, or expenses will meet the thresholds provided above in Regulation 18702.3(a)(3), as the determinative issue is the application of the nexus test as provided above in Regulation 18702.3(b).

The upcoming City Council decisions related to the Project include approving the conceptual plans for the Project, selecting preferred alternatives for specific segments of the Project, and adopting a resolution granting California Environmental Quality Act Exemptions to the Project. These decisions will have an impact on the 534 businesses located within the City on Sepulveda Boulevard, including 39 of the Chamber's 186 member businesses. This amounts to approximately 20 percent of the Chamber's total member businesses being impacted by the Project.

A goal of the Project is to support the City's economy and local businesses, by ensuring customers, workers, and deliveries have easy access to businesses. The City Council's decisions will determine where the bus lanes will be located, and which parking spaces will be removed on each segment of Sepulveda Boulevard. These decisions will determine which businesses,

including Chamber member businesses, will retain their on-street parking and whose customers will have easier access to their business. These determinations correlate to the Chamber's ability to retain paying member businesses and may hinder the Chamber's ability to recruit new members. Thus, it is reasonably foreseeable that the decisions related to the Project may have a financial effect on the Chamber.

As President and CEO of the Chamber, Council Member O'Brien is specifically paid to further the Chamber's purpose of assisting the 186 member businesses in achieving their full business potential and to advocate on behalf of its member businesses. Determining which businesses will retain their on-street parking and which businesses' customers will have easier access to their business may help to achieve the Chamber's purpose as the decisions will impact 39, or approximately 20 percent, of the Chamber's member businesses.

Pursuant to the nexus test, it is reasonably foreseeable that the decisions related to the Project will have a material financial effect on the Chamber because the decisions will achieve, defeat, aid, or hinder a purpose or goal of the Chamber, and Council Member O'Brien receives or is promised income as the President and CEO of the Chamber for achieving the purpose or goal. Accordingly, Council Member O'Brien may not take part in the decisions, unless an exception applies.⁷

Public Generally Exception

When an official has a disqualifying financial interest under the Act, an official may still participate under the "public generally" exception. Regulation 18703(a) sets forth the "public generally" exception, which states:

A governmental decision's financial effect on a public official's financial interest is indistinguishable from its effect on the public generally if the official establishes that a significant segment of the public is affected and the effect on the official's financial interest is not unique compared to the effect on the significant segment.

In order to invoke the "public generally" exception, an official must establish that the decision at issue affects a significant segment of the public, and the effect on the official's financial interest is not unique compared to the effect on the significant segment. (Regulation 18703(a).)

⁷ Since we have determined the Act prohibits Council Member O'Brien from taking part in the governmental decisions related to the Project since it is reasonably foreseeable that the decisions will have a material financial effect on the Chamber (Council Member O'Brien's source of income financial interest), we do not need to further analyze whether he is also prohibited based on his financial interest in his personal finances.

A significant segment of the public is at least 25 percent of all businesses or non-profit entities within the official's jurisdiction, which is defined as the City as a whole. (Regulations 18703(b)(1)(A) and 18703(d).) You state there are 4,461 businesses within the City. Accordingly, for the public generally exception to apply at least 25 percent, or 1,115, businesses or non-profit entities within the City would have to be similarly affected by the decisions. However, based on the facts provided, there are only 534 of the City's 4,461 businesses (11.9 percent) on Sepulveda Boulevard that may be similarly affected by the Project. Therefore, the decisions will not affect a significant segment of the public, and Council Member O'Brien may not invoke the "public generally" exception with respect to the decisions related to the Project.

Thus, the Act prohibits Council Member O'Brien from taking part in the decisions related to the Project.

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

JR:aja