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October 20, 2020

***Via Email Only***

Les Greenberg  
[plgreen@att.net](mailto:plgreen@att.net)

Re: Complaint Letter Dated September 22, 2020

Dear Mr. Greenberg:

Thank you for your letter to Ms. Baker of October 13, 2020. We have reviewed your letter and provide you with the following supplemental response.

With regard to your request for an independent investigation of your complaint, please be advised that such an investigation is not legally required. I also disagree with your premise that it would be a violation of the California Rules of Professional Responsibility for my office to conduct the investigation regarding your complaint about Council Member Small. I am confident about my ability, as well as my staff's capability, to duly carry out our ethical duties as legal representatives of the City of Culver City and officers of the court, even when members of the public raise concerns about any council member's activities.

We appreciate you clarifying you believe that Council Member Small having been given "operational control" of Culver City Forward (CCF) is a "gift," as that term is used in City Policy 4006. On that point we differ. The term, as used in that Policy, although perhaps unclear and written many years ago, incorporates into its definition the term "gift" as used in Government Code section 82028. Section 82028 makes clear something is not a gift to the extent consideration of equal or greater value is received by the giver. Carrying out an executive's assigned duty of operational control over an entity would be consideration equal in value to that operational control.

Alternatively, having or exercising that operational control, by itself, has no quantitative or qualitative value. Certainly, the salary one earns as compensation from exercising such control has a determinable value. In addition, how that control is carried out may result in a determination the person exercising that control is doing so in such a manner that adds value to the subject entity and could result in that person receiving an increased salary or bonus. However, as indicated in our prior correspondence, such salary or bonus would be analyzed as a source of income, pursuant to the Political Reform Act of 1974, as amended (Act), which includes Government Code Section 82028. That is why we previously mentioned the Fair Political Practices Commission's regulations, which are adopted and enforced pursuant to the Act.

In addition, the Act prohibits a person with control over a business entity from influencing or participating in a governmental decision that may foreseeably and financially impact that business entity. Please be advised, the term "business entity" as used in the Act does not include a non-profit, such as CCF (see, Government Code section 82005).

Unless we receive different or additional information warranting a further review, we will consider this matter closed.

Sincerely,

*Carol A. Schwab*

Carol Schwab  
City Attorney

Cc: Heather Baker, Assistant City Attorney