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December 4, 2024

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**ADVISORY OPINION NO. 2024-06**

K. Paul Carbo, Jr.  
411 Azalea Road  
Mobile, Alabama 36609

Public Official / Conflict of Interest / Use of  
Office for Personal Gain

A city council member may apply for a grant from the city where they serve as a council member provided he does not use his position, including confidential information obtained from his position and equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to obtain the grant or otherwise benefit himself or his private business.

Dear Mr. Carbo:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

**FACTS**

The City Council of Mobile created The City of Mobile Tax Increment Financing District One (TIFD 1) in 1993 with the goal of financing physical improvements in the downtown area. The City Council determined that the area encompassed by TIFD 1 was blighted and that the elimination of blight in this economically distressed area would reinvigorate the target area. The district was put in place for 30 years. During that time, a major component of the program was a facade grant program that provided a matching grant of 50% of eligible costs up to \$40,000 for exterior, street-facing facade renovations and improvements. The grant is open to owners, tenants, or the professional representatives of the property owner or tenant for properties that are historic properties in the District.

Prior to the October 1, 2023, expiration of TIFD 1, the city council determined by unanimous vote that there was a need for continued blight elimination in the area encompassed by TIFD 1. On July 18, 2023, the Mobile City Council amended and updated the program guidance of the TIFD 1 Plan, thus extending the district for 15 years. There were no material changes to the façade improvement program. Agenda item 50-741 was sponsored by Mayor Sandy Stimpson and placed on the agenda by Ricardo Woods, City Attorney.

The TIFD 1 Plan, as amended, establishes that the TIFD 1 will be administered by a committee of five composed of the following: the Mayor of the City of Mobile; the Executive Director of the Public Works Department; the Executive Director of Finance; the City Engineer; and the City Council President. The program is administered by Relya Mallory, Capital Projects Administrator in the City Finance Department. Presently, the City Council President is The Honorable C.J. Small, Councilor District 3. These are the sole decision-makers charged with reviewing and approving applications by private entities interested in applying for TIF grants.

William Carroll is a member of the Mobile City Council whose business interests in part include renovating houses in the various historic districts and selling them to interested buyers. Mr. Carroll has purchased a structure that is a historic property located in the TIF District. Mr. Carroll has no decision-making authority over the distribution of the small level (\$50,000 and under) facade grants under the program. The district boundaries have not changed since TIFD 1 was created in 1993 when Councilmember Carroll was not a member of the Mobile City Council. Nothing in the council's action in 2023, except for extending the time frame, made the property eligible for the grant.

### **QUESTION PRESENTED**

May a city council member apply for a grant from the city where they serve as a council member?

### **ANALYSIS**

The Ethics Act does not prohibit public officials from applying for grants that are open to the public provided the public official does not use their position, including confidential information obtained from their position and equipment, facilities, time, materials, human labor, or other public property under their discretion or control, to obtain the grant or otherwise benefit themselves or their private business.<sup>1</sup>

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<sup>1</sup> Ala. Code § 36-25-5; Ala. Code § 36-25-8.

Therefore, Mr. Carroll may apply for the grant in question provided he does not use his position, including confidential information obtained from his position and equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to assist himself or his business in obtaining the grant.

This opinion extends only to the restrictions of the Ethics Act and does not address any activity that has already occurred.

### CONCLUSION

A city council member may apply for a grant from the city where they serve as a council member provided he does not use his position, including confidential information obtained from his position and equipment, facilities, time, materials, human labor, or other public property under his discretion or control, to obtain the grant or otherwise benefit himself or his private business.

### AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on December 4, 2024.

  
Chair  
Alabama Ethics Commission