



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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TO: Juana León, Administrative Services Manager  
The Children's Trust

FROM: Martha D. Perez, General Counsel  
Commission on Ethics & Public Trust

SUBJECT: INQ 2021-36, Voting Conflict, §2-11.1(d)

DATE: February 26, 2021

CC: COE Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible voting conflict of interest by The Children's Trust board members on Resolution 2021-L.

#### Background:

The Children's Trust Board (TCT) is an independent special district established by Miami-Dade County in Art. CIII, Sections 2-1521 through 2-1531 of the Miami-Dade County Code (TCT ordinance).

You have advised that Resolution of TCT 2021-L, entitled, "Authorization to negotiate and execute contract renewals with five providers identified herein [Citrus Health Network, Inc. (Citrus), Community Health of South Florida (CHSF), Family Central (FC), Jessie Trice Community Health System (JT) and Santa La Haitian Neighborhood Center, Inc. (SL)], to deliver public benefits enrollment, in a total amount not to exceed \$852,542.00 for a term of 14 months, commencing August 1, 2021, and ending in September 30, 2022, with one remaining 12-month renewal, subject to annual funding appropriations" will be considered at an upcoming meeting of TCT board.<sup>1</sup>

This resolution seeks funding to renew contracts between The Children's Trust and five named agencies to assist families to access or continue participation in Trust-funded services, with one or

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<sup>1</sup> The allocated funding for Citrus in an amount not to exceed \$116,667.00; to CHSF in an amount not to exceed \$188,125.00; to FC in an amount not to exceed \$165,375.00; to JT in an amount not to exceed \$194,250.00; and to SL in an amount not to exceed \$188,125.00.

multiple public benefits enrollment, aiming to maximize economic benefits for low-income children and their families.<sup>2</sup> These providers have been an integral part in connecting families unable to access benefits due to enrollment barriers, with family-relevant assistant programs.

You inquire on behalf of two TCT board members regarding whether they would have a voting conflict of interest under Section 2-11.1(d) of the County Ethics Code or TCT Conflict of Interest and Code of Ethics Policy/Bylaws, in voting or otherwise participating in Resolution 2021-L. You make this inquiry in light of the relationship formed between the members' entities (including TCT) and the five named agencies:

- 1) Gilda Ferradaz works for the Department of Children and Families (DCF). The named providers use the DCF system in the application process for accessing benefits for eligible participants. DCF is not receiving funding through this Resolution.
- 2) Constance Collins is the President of Lotus Endowment Foundation, Inc., the supporting foundation for Sundari Foundation, Inc, the non-profit organization where she serves as Executive Director.<sup>3</sup> Sundari has partnered with Provider JT, for the operation of an on-site health clinic. Sundari is not receiving funding through this Resolution.

#### Discussion:

This office may consider and opine on whether a TCT board member has a conflict of interest, pursuant to the County Ethics Code, affecting his or her vote or participation in a funding allocation from TCT. *See* RQO 19-06

TCT's Conflict of Interest and Code of Ethics Policy states, *inter alia*, that a board member shall not vote on any matter presented to the CT Board if the member will receive a direct financial benefit from the board action. Additionally, "...board members ... will avoid an appearance of impropriety." *See* III (D) of the Policy. TCT's Bylaws also provides that, "Board members will act in such a manner to avoid the appearance of impropriety".

There are no facts indicating that either of these board members will be receiving a direct financial benefit from the board action, therefore, a conflict analysis under that provision of TCT rules is not applicable.

The Ethics Code at Section 2-11.1(d), establishes a voting conflict if: (1) the board member has a primary enumerated relationship (officer, director, partner, of counsel, consultant, employee,

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<sup>2</sup> Benefits programs include but are not limited to, WIC, SNAP, TCA, Nat'l Lunch Program, Emergency Food Assistance, TANF, Medicare and KidCare, EITC/ Child Tax Credit, Low Income HEAP, Housing Assistance programs, Child Care & Development Fund, Head Start and Early Head Start, Summer and TCT Programs, discounts, employment assistance programs, educational support, supplemental security/disability income and unemployment. *See* Reso. 2021-L

<sup>3</sup> Sundari is a 501 (c) (3) non-profit organization, dba, The Lotus House, which provides sanctuary, support, education, tools and resources to improve the quality of life of homeless women, youth and children. It is one arm of The Lotus Village- a mixed-use village with shelter facilities and supportive services (health clinic and wellness center) serving homeless persons and families. [www.lotushouse.org](http://www.lotushouse.org)

fiduciary, beneficiary) with any entity affected by the vote; (2) the board member has a secondary enumerated relationship (stockholder, bondholder, debtor, creditor) with an entity affected and the matter would affect him or her in a manner distinct in which it would affect the public generally; or, (3) the board member might, directly or indirectly, profit or be enhanced by the board action.<sup>4</sup>  
*See* RQO15-04

Regarding a possible voting conflict under Section 2-11.1(d) of the County Ethics Code, it is noted that Ms. Ferradaz does not have a primary enumerated prohibited relationship with an entity affected by the vote; she does not hold a secondary prohibited relationship which would affect her in a manner distinct from the public generally; and, she will not profit or be enhanced by the board action: Ms. Ferradaz is employed by DCF, the governmental entity which, in this instance, will benefit in the funding by way of its contribution to the overall purpose of the Resolution- to facilitate the application process for benefits enrollment on behalf of low-income children and families. There is no funding being provided to her entity.

Regarding a possible conflict of interest under Section 2-11.1(d) of the County Ethics Code, while Ms. Collins is the director of a nonprofit entity which has partnered with one of the providers, there is no unique impact to Ms. Collins which would create a voting conflict under this provision of the County Ethics Code. Furthermore, there are no facts suggesting that Ms. Collins might profit or be enhanced by the board action. Per TCT, the services under this Resolution “are not provided to Sundari. Sundari recused in the past because they have a health agreement for Jessie Trice to collocate a clinic at Lotus House. This agreement has nothing to do with The Trust.”

Notably, Sundari, the nonprofit entity under the leadership of Ms. Collins, has partnered with provider JT, for the operation of The Lotus Health and Wellness Clinic, to provide preventive health care services on Lotus Village/Lotus House/Sundari premises.<sup>5</sup>

Ms. Collins does not have a *per se* conflict prohibiting her participation and vote on this Resolution. However, an appearance of impropriety could be created in light of Sundari’s partnership with JT and JT’s on-site clinic. *See* INQ 19-16 (board member’s past business relationship and *current affiliation* with proposer should be enough to avoid voting on RFQ); INQ 14-244 (a vote by board member who *shares office* with member of applicant non-profit requesting zoning change, may be perceived as an appearance of impropriety because of the sharing of office space); INQ 13-235 (elected official’s *sublease* relationship with applicant to town attorney

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<sup>4</sup> This section of the County Ethics Code applies to the Mayor and members of the Board of County Commissioners (BCC); however, by implication, members of The Children’s Trust board may be included for purpose of analysis because, as an independent special district, the role and authority of TCT members mimics the role of the BCC, as ultimate decision-makers of contracts allocating funds such as the ones described herein.

<sup>5</sup> The Lotus Endowment Fund (LE) non-profit entity operates exclusively to support Sundari, dba, The Lotus House. LE owns all facilities utilized by The Lotus House, providing them to Sundari for \$1 annually. The facilities include the shelter (operated by The Lotus House), the health clinic (operated by JT) and the wellness center (operated by the United Way). Notably, while Sundari does not receive funding from this Resolution, Lotus House guests are likely to benefit from the service to be provided by the vendor(s), including JT.

position does not create a voting conflict; however, if official believes there's any chance that voting on the matter would enhance the relationship, then he should refrain from voting)

Opinion:

Under the details provided concerning this Resolution of TCT authorizing the execution and renewals of agreements with the five named agencies to deliver public benefits enrollment to eligible participants, it does not appear that Ms. Ferradaz has a voting conflict preventing her from participating and voting on this item.

With regard to Ms. Collins, the County Ethics Code represents a minimal standard of conduct. Consequently, while we do not suggest that Ms. Collins would use her position on TCT board to secure award of the funding to JT because of its existing partnership with her non-profit entity, in consideration of the heightened "appearance of impropriety" ethical standard in TCT Policy, we recommend that Ms. Collins consider the totality of circumstances and avoid participation and/or vote on this item.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.