



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

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

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

SUBJECT: INQ 2021-34, Voting Conflict, §2-11.1(d)

DATE: February 24, 2021

CC: COE Staff

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-J.

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-J, entitled, "Authorization to negotiate and execute contract with Miami Lighthouse for the Blind and Visually Impaired, Inc., for a comprehensive vision program, for a term of 12 commencing July 1, 2021, and ending June 30, 2022, in a total amount not to exceed \$4000,000.00," will be considered at an upcoming meeting of TCT board.

This resolution seeks funding to contract with the Miami Lighthouse for the Blind and Visually Impaired, Inc. (MLB), to provide free eye examinations and prescription eyeglasses for financially disadvantaged preschool and school-age children through the instant vision program (IVP) and the in-office voucher program.¹

¹ The contract is based on a unit cost basis per exam, which is a reduction from the actual cost since MLB leverages funding from other sources, including The Miami Foundation, Fla. Dept. of Health and Dr. John T. MacDonald Foundation. The Children's Trust has been funding MLB to provide vision follow-up services since March 2006. These services will be provided to eligible participants at several child-care centers and MDC-PS sites. Through IVP, four mobile clinics will visit various schools daily; through the in-house voucher, services will be provided through vouchers dispensed by MLB and accepted by local participating optometrists.

You inquire on behalf of TCT board member Constance Collins regarding whether she 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-J. You make this inquiry because Ms. Collins is the Founder, President and Executive Director of Sundari Foundation (Sundari), one of the childcare sites where the vision services will be provided to eligible children.² 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. TCT's Bylaws also provides that, "Board members will act in such a manner to avoid the appearance of impropriety. No member shall serve as a staff member of any agency when The Children's Trust provides more than fifty (50) percent of the agency's budget, and The Children's Trust's funds may pay no portion of a Board member's salary".

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

The Ethics Code at Section 2-11.1(d), establishes a voting conflict if: (1) the board member has an enumerated relationship (*officer, director, partner, of counsel, consultant, employee, fiduciary, etc.*) with *any entity affected by the vote*; (2) the board member has an enumerated relationship with an entity affected and the matter would affect him or her in a manner distinct in which it would affect the public generally; and, (3) the board member might, directly or indirectly, profit or be enhanced by the board action.³ *See* RQO15-04

Unlike the usual factual pattern where a board member is employed or serves in the entity seeking the funding, in this instance, the TCT board member is an officer of a non-profit entity which will benefit from the services contracted with MLB, the recipient of the funds.

Although the board member has an enumerated relationship with a non-profit partner which stands to benefit from the continuous agreement to provide comprehensive vision services, there is no

² Sundari is a 501 (c) (3) non-profit organization, aka, The Lotus House, which provides sanctuary, support, education, tools and resources to improve the quality of life of homeless women, youth and children. Sundari has a childcare center on site. www.lotushouse.org

³ 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.

unique impact which would create a voting conflict. *See* Memorandum to RQO 19-04. Likewise, there is no funding being provided to the non-profit entity where Ms. Collins holds an official position.

Ms. Collins would not be affected by this vote in a matter distinct from the public generally: In this partnership, Sundari will benefit in the funding allocation by way of the contribution to the overall purpose of the comprehensive vision program- to provide vision care services and follow-up services to financially disadvantaged children.

Finally, there are no facts indicating that Ms. Collins might profit or be enhanced by the board action authorizing funding for comprehensive vision services to disadvantaged children through a contract with MLB: Although Sundari participants may benefit from the vision services afforded through this Resolution, Sundari is not a direct recipient of this contract. TCT is not providing direct funding to Sundari; rather, the funding is allocated to support a partnership with MLB with a common objective and any benefit or enhancement is not attributed to any individual board member. Any possible indirect benefit to Ms. Collins, as an officer of Sundari, is too remote to create a voting conflict.

Opinion:

Under the details provided concerning this Resolution of TCT authorizing the negotiation of a contract with MLB for a comprehensive vision program, it does not appear that Ms. Collins will profit or be enhanced by this vote nor will a special benefit come to her in her capacity as an officer of the non-profit entity (Sundari) site for administration of such services.

Also, based on the purpose and goal of the comprehensive vision program and the participation objectives of the non-profit organization, Ms. Collins' voting and participation would not raise the perception of an appearance of impropriety in this Resolution.

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.