



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Cristina Amores, Selection Committee Coordinator  
Internal Services Department  
  
Sade Chaney, Research Manager  
Office of the Commission Auditor

**FROM:** Nolen Andrew Bunker, Staff Attorney  
Commission on Ethics (COE)

**SUBJECT:** INQ 2022-52, Voting Conflict of Interest § 2-11.1(v); Appearances of  
Impropriety

**DATE:** March 25, 2022

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts:

We have reviewed your memorandum dated March 16, 2022, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Department of Transportation and Public Works Request to Advertise for Design-Build Services for Additional Elevators at Dadeland North Metrorail Station Parking Garage - Project No. DB20-DTPW-01 (Substitution Request). The memorandum was prepared in connection with Resolution Number R-449-14, directing the Office of the Commission Auditor (“OCA”) to conduct background checks on members serving on evaluation/selection committees.

The memorandum noted that two members of the selection committee made disclosures on their Neutrality Affidavit/Disclosure Form that merited submission to the Commission on Ethics for an opinion. The memorandum noted that:

- A. Jeannine Gaslonde, Transportation Planning Organization, indicated on her neutrality affidavit and resume that her husband, Yunion Santana, worked for Perez & Associates in

2013. Perez & Perez Architects Planners, Inc. is identified as a subconsultant for Lemartec Corporation, a respondent to this solicitation.

We conferred with Ms. Gaslonde, who advised that no circumstances have changed since we previously issued an ethics opinion regarding her service on this selection committee. *See* INQ 21-108. Accordingly, all prior information provided by Ms. Gaslonde remains accurate. Namely, while the memorandum noted that Ms. Gaslonde’s husband, Mr. Yunier Santana, worked for “Perez & Associates” in 2013, and Perez & Perez Architects Planners, Inc., is a respondent to the solicitation, Ms. Gaslonde clarified that Mr. Santana previously worked for C.H. Perez & Associates Consulting Engineers, Inc. (“CHPA”), *not* for Perez & Associates or Perez & Perez Architects Planners, Inc. Additionally, Ms. Gaslonde is the Transit and Regional Manager for the Miami-Dade Transportation Planning Organization (“TPO”) and confirmed that she believes she can be fair and impartial when evaluating the respondents to this project.

- B. Ricardo Ayala, Parks, Recreation and Open Spaces Department, indicated on his neutrality affidavit that he worked for BCC Engineering, LLC. from 2009 until 2014. BCC Engineering, LLC is identified as a subconsultant for Link Construction Group, Inc., a respondent to this solicitation. Mr. Ayala also indicated on his affidavit that he worked for Bermello Ajamil & Partners, Inc. from 2005 until 2009. Bermello Ajamil & Partners, Inc. is identified as a subconsultant for Munilla Construction Management, LLC., a respondent to this solicitation.

We conferred with Mr. Ayala. He is a Construction Manager 2 for the Miami-Dade Parks and Open Spaces Department (“PROS”). Mr. Ayala confirmed that he previously worked for Bermello Ajamil & Partners, Inc. (“BA&P”) as a Project Engineer/Project Manager. He stated that he left his employment with BA&P in October 2009, and that the termination of his employment was amicable. He does not have any current ownership interest or other financial interest in the company. He also does not have any business, close social, or other relationship with any current employee of BA&P.

Mr. Ayala also confirmed that he previously worked for BCC Engineering, LLC (“BCC”) as a Project Manager. He stated that he left his employment with BCC in January 2014, and that the termination of his employment was amicable. He does not have any current ownership interest or other financial interest in the company. However, he advised that he does maintain a professional friendship with the principal owner of BCC, and that he also maintains a close friendship with an individual who owns approximately five percent of the company. This individual works on runway and highway design, not elevator design, and, to Mr. Ayala’s knowledge, is not involved in this project.

Regardless, Mr. Ayala believes that he can be fair and impartial when evaluating the respondents to this project.

#### Discussion:

The Miami-Dade Commission on Ethics and Public Trust (“COE”) conducts a review of issues arising under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), which governs conflicts by members of County advisory and quasi-judicial boards.

The COE also considers whether the circumstances create an appearance of impropriety and makes recommendations based on Resolution No. R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

Specifically, Section 2-11.1(v) of the County Ethics Code states that no quasi-judicial personnel or advisory personnel:

shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves, and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stock holder, bondholder, debtor or creditor.

A. Ms. Gaslonde's Appointment to the Selection Committee.

As we have previously concluded in INQ 21-108, it does not appear that Ms. Gaslonde has a voting conflict of interest under Section 2-11.1 (v) of the County Ethics Code because she will not be directly affected by the vote, and she does not currently have any of the enumerated relationships with any entity affected by the vote.

Additionally, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, which bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, would not apply to Ms. Gaslonde because her husband's former employer, CHPA, is not a respondent to this project. *See* RQO 17-04; RQO 10-05; INQ 20-136.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, the COE also opines concerning whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of an appointed selection committee. *See* Miami-Dade County Code § 2-1067; COE Rules of Procedure § 2.1(b).

As noted above, given that Ms. Gaslonde's husband has no prior employment relationship with any proposer involved in the solicitation to this project, it remains clear that there is no appearance of impropriety and no issue that we are aware of that would in any way detract from Ms. Gaslonde's ability to conduct a fair and objective evaluation for this project. *See* INQ 21-108.

B. Mr. Ayala's Appointment to the Selection Committee.

Pursuant to Section 2-11.1(v) of the County Ethics Code, it does not appear that Mr. Ayala will be directly affected by the vote, nor does he currently have any of the enumerated relationships with any entity affected by the vote.

Additionally, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, which bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, would not apply to Mr. Ayala because he stopped working for BA&P thirteen years ago, and he stopped working for BCC eight years ago. *See* RQO 17-04; RQO 10-05; INQ 20-136.

However, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, the COE also opines concerning whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of an appointed selection committee. *See* Miami-Dade County Code § 2-1067; COE Rules of Procedure § 2.1(b). As the COE has previously noted on numerous occasions, “[i]n all procurement matters, appearances of integrity and fairness are paramount, [as there is a] ‘need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence . . . [which] may require a higher standard of ethics . . . .’” INQ 17-131 (quoting INQ 14-242).

In prior informal opinions, the COE has recommended that a County employee should not serve on a selection committee, even though not specifically prohibited by the County Ethics Code, when there is a close personal relationship between the County employee and an individual that has either a) an ownership interest in one of the responding firms, or b) a managerial position in one of the responding firms and involvement in the project.

For example, in order to avoid an appearance of impropriety, it was recommended that the County reconsider appointing to a selection committee an FIU Professor of Architecture who had close professional relationships with some of the respondents to a project. *See* INQ 14-246. Similarly, it was recommended that a Senior Professional Engineer for the Miami-Dade Water and Sewer Department (“WASD”) should be excused from service on a selection committee because she and her husband maintained a long-standing close friendship with the owner of a respondent to the project. *See* INQ 22-37.

Additionally, regarding the project at issue here, it was recommended that the Chief of Terminal Development for the Port of Miami should be excused from service on this selection committee because he maintained close friendships with five individuals who worked for a respondent to the project, and three of those individuals were identified as serving defined roles should that contract be awarded to the respondent. *See* INQ 21-108

As noted above, Mr. Ayala disclosed that he was previously employed by BCC, a subconsultant to Link Construction Group, Inc., a respondent to this solicitation. Mr. Ayala advised that he maintains a professional friendship with the principal owner of BCC, and a close friendship with a five-percent owner of the same company.

Opinion:

Accordingly, consistent with our holdings in prior ethics opinions, **Ms. Gaslonde does not have a conflict of interest under the County Ethics Code** that would prevent her from serving on this

selection committee because she will not be directly affected by the vote, she does not have any enumerated relationship with an entity affected by the vote, and her service on the Selection Committee would not otherwise give rise to an appearance of impropriety. *See* INQ 21-108.

Mr. Ayala also does not have a conflict of interest under the County Ethics Code that would prevent him from serving on this selection committee because he will not be directly affected by the vote, and he does not have any enumerated relationship with an entity affected by the vote.

However, while we emphasize that there has been no issue raised concerning Mr. Ayala's personal integrity and that his candor and honesty in this matter are appreciated, we must consider the friendships between Mr. Ayala and the principal owner of BCC and Mr. Ayala and a five-percent owner of BCC, which is a subconsultant to a respondent firm. In light of these relationships, **we recommend that the Internal Services Department consider excusing Mr. Ayala from this selection committee** because of the *appearance of impropriety* created by his friendship with two owners of BCC, a subconsultant to a respondent. *See* INQ 22-37; INQ 21-108; INQ 14-246.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>

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.