



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

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

FROM: Nolen Andrew "Drew" Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-93, Voting Conflict, §2-11.1(d); The Children's Trust Conflict of Interest and Code of Ethics Policy § III(A)

DATE: 05/31/2022

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible voting conflicts of interest by board members of The Children's Trust ("TCT") with regard to Resolution 2022-C.

Facts

The Children's Trust is an independent special district established by Miami-Dade County in the Miami-Dade County Code, Chapter 2, Article CIII, Sections 2-1521 through 2-1531.

You have advised that Resolution 2022-C will be considered at an upcoming TCT board meeting. You have further advised that Resolution 2022-C recommends:

Authorization to negotiate and execute contracts with 17 providers, identified herein, and selected following a competitive solicitation for innovative services to pilot or test new ideas or methods that have the potential to advance The Children's Trust's mission, in a total amount not to exceed \$1,230,000.00, for a term of 12 months, commencing October 1, 2022, and ending September 30, 2023, with the option for a no-cost extension for a period up to six months.

Specifically, Resolution 2022-C will provide \$85,000.00 in funding to The Sundari Foundation, Inc., and paid partner organization Jessie Trice Community Health Systems, Inc. ("JTCHS"), to "[c]reate a holistic children's neighborhood resource center offering enriched educational and

therapeutic supports, diverse programming, social services and resources for the children, youth and families of Lotus House, Overtown and surrounding neighborhoods.” The term “paid partner” means that both The Sundari Foundation and JTCHS will receive funding from Resolution 2022-C for this project: the funds are disbursed from TCT to The Sundari Foundation, and then The Sundari Foundation will disburse portions of those funds to its paid partners in the project, including JTCHS for this particular project. Resolution 2022-C will also provide \$85,000.00 in funding to the Adrienne Arsht Center for the Performing Arts to “[i]mplement a countywide mental health initiative that leverages the arts to promote mental health wellness across broad spectrums of our community.”

JTCHS is a Florida not-for-profit corporation that is a federally qualified community healthcare center that “owns and operates eleven (11) Comprehensive Primary Care centers, a [forty] 40 bed Women’s Residential Center for substance use, are in two (2) universities and are in forty (40) school-based health suites.”¹ The Sundari Foundation is a Florida not-for-profit corporation whose mission is to “improve the lives of homeless women, youth and children by providing sanctuary, support, education, tools and resources that empower them to improve the quality of their lives”² Finally, the Adrienne Arsht Center Trust, Inc., (“Arsht Center”) is a Florida not-for-profit corporation that stages live performances year-round with artists from around the world, as well as conducting “innovative programming from our resident companies and local arts partners, free community events that reflect Miami’s unique identity[,] and arts education experiences for thousands of Miami children each year.”³

Issue

You have inquired on behalf of three (3) TCT board members regarding whether they would have a voting conflict of interest in voting or otherwise participating in Resolution 2022-C under section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and under the TCT Conflict of Interest and Code of Ethics Policy/Bylaws. You have made this inquiry in light of the members’ relationships with various entities that will receive funding through this Resolution:

- Annie Neasman is President and Chief Executive Officer (“CEO”) of JTCHS;
- Constance Collins is President and Executive Director of The Sundari Foundation, Inc.;
- Dr. Dorothy Bendross-Mindingall is a M-DCPS Board Member and an Arsht Center Board Member.

¹ See <https://www.jtchs.org/about-us/>.

² See <https://www.guidestar.org/profile/81-0652266#summary>.

³ See <https://www.arshtcenter.org/about-us/>.

Law & Analysis

The Miami-Dade Commission on Ethics and Public Trust may opine regarding whether a TCT board member has a conflict of interest affecting his or her vote or participation in a funding allocation pursuant to the County Conflict of Interest and Code of Ethics and the TCT Conflict of Interest and Code of Ethics Policy/Bylaws. *See* RQO 19-06.

The County Conflict of Interest and Code of Ethics, at Section 2-11.1(d),⁴ establishes that a voting conflict exists if:

- 1) a board member has an enumerated relationship (officer, director, partner, of counsel, consultant, employee, fiduciary, or beneficiary) with any entity affected by the vote;
- 2) a board member has an enumerated relationship (stockholder, bondholder, debtor, or creditor) with an entity affected and the matter would affect him or her in a manner distinct from how it would affect the public generally; and,
- 3) a board member might, directly or indirectly, profit or be enhanced by the board action.

See RQO 15-04. The first category of conflict is an “automatic prohibited voting conflict,” which exists when the public official has an enumerated relationship with a party who will be affected by the official’s board action. *See* INQ 22-33. “Even in the absence of a financial or economic benefit to the elected official, if such a relationship exists, the official has a prohibited conflict of interest and is barred from voting.” *Id.* (citing RQO 15-04); *see also* INQ 20-107 (finding that TCT Board Member who is Executive Director of The Sundari Foundation had a conflict of interest and was prohibited from voting on the proposed TCT resolution because she was Executive Director of an organization receiving funds pursuant to said proposed TCT resolution).

This is distinguished from a circumstance where a TCT Board Member is also an officer for a not-for-profit entity that merely benefits from the services contracted with another entity receiving funding from TCT, but where there is no enumerated relationship with an entity directly receiving the TCT funds, nor is there a unique impact to that agency that would create a voting conflict. *See* INQ 21-34 (no voting conflict where TCT resolution funded a contract with a not-for-profit organization to provide optical services to financially disadvantaged schoolchildren and The Sundari Foundation operated one of the sites where the vision services were to be provided, *but it did not receive any funding through the resolution*); *cf.* INQ 21-37 (potential appearance of impropriety voting conflict for TCT Board Member and Executive Director of The Sundari Foundation where TCT resolution funded a contract with JTCHS to provide oral health preventative services to financially disadvantaged schoolchildren, and JTCHS and The Sundari Foundation specifically partnered to provide these preventative health care services at a Sundari owned property).

⁴ This section of the County Conflict of Interest and Code of Ethics, by its terms, applies to the Mayor and members of the Board of County Commissioners (“BCC”). However, by implication, members of the TCT board may be included for purposes 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 the dispersal of funds as described herein. *See* INQ 20-46.

Here, the facts presented indicate that each of the specified TCT board members have an automatic prohibited voting conflict because they each have an enumerated relationship with an affected entity that will be receiving funds if the TCT Board adopts Resolution 2022-C. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04; INQ 22-33; INQ 20-107.

With regard to Ms. Neasman, she is President and CEO of JTCHS, which is an enumerated relationship. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04; INQ 20-107. Furthermore, JTCHS is an entity that will be affected by this Resolution because, as a paid partner in the project, it will directly receive a portion of the funding from TCT paid to The Sundari Foundation to support the creation of a “holistic children’s neighborhood resource center.” Consequently, because JTCHS will receive TCT funding as a result of Resolution 2022-C, Ms. Neasman has an automatic prohibited voting conflict and would be barred from voting on or participating in discussion regarding TCT Resolution 2022-C. *See* RQO 15-04; INQ 20-107.

Likewise, as to Ms. Collins, she is President and Executive Director of The Sundari Foundation, which is an enumerated relationship. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04; INQ 20-107. Furthermore, The Sundari Foundation is an entity that will be affected by this Resolution because a portion of the funding will support the creation of a “holistic children’s neighborhood resource center,” an initiative proposed and led by The Sundari Foundation. Consequently, Ms. Collins has an automatic prohibited voting conflict and would be barred from voting on or participating in discussion regarding TCT Resolution 2022-C. *See* RQO 15-04; INQ 20-107.

Finally, as to Dr. Bendross-Mindingall, she is an Arsht Center Board Member, which is an enumerated relationship. *See* County Ethics Code § 2-11.1(d)(1); RQO 15-04; INQ 20-50 (service as a member of the Board of Directors of Miami Children’s Initiative (“MCI”) is an enumerated relationship with MCI). Furthermore, the Arsht Center is an entity that will be affected by this Resolution because a portion of the funding will support the implementation of a “countywide mental health initiative” proposed and led by the Arsht Center. Consequently, Dr. Bendross-Mindingall has an automatic prohibited voting conflict and would be barred from voting on or participating in discussion regarding TCT Resolution 2022-C. *See* RQO 15-04; INQ 20-107; INQ 20-50.

Opinion

Under the facts provided concerning TCT Resolution 2022-C to authorize negotiation and execution of contracts with, among other entities, JTCHS, The Sundari Foundation, and the Arsht Center, to provide innovative services with the potential to advance TCT’s mission, **we recommend that Ms. Neasman, Ms. Collins, and Dr. Bendross-Mindingall each refrain from voting on or participating in discussion regarding TCT Resolution 2022-C** because they each have an automatic prohibited voting conflict under Section 2-11.1(d), of the County Conflict of Interest and Code of Ethics, based on their enumerated relationships to JTCHS, The Sundari Foundation, and the Arsht Center respectively. *See* INQ 20-107.

This opinion is limited to the facts as presented to the Miami-Dade Commission on Ethics and Public Trust and is limited to an interpretation of the County Conflict of Interest and Code of

Ethics and TCT's Conflict of Interest and Code of Ethics/Bylaws 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.