



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Richard John, General Laborer, City of Miami Parks and Recreation Department

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

**SUBJECT:** INQ 2023-37, Section 2-11.1(c), Limitations on Contracting with the City; Section 2-612, City of Miami Code, Transacting business with city, etc.

**DATE:** March 28, 2023

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding your ability to participate in the Single Family Rehabilitation Program administered by the City of Miami, Department of Housing and Community Development.

#### Facts

You are employed with the City of Miami as a part-time General Laborer with the City of Miami Parks and Recreation Department (“Miami Parks”). Your primary job responsibilities include working at the Miami Parks Stockroom receiving packages, checking purchase orders to ensure that the items requisitioned were the items received, and otherwise cleaning and organizing the Stockroom.

You and your mother, Ms. Helene John, have advised that you are co-owners of a residential property in the City of Miami where your mother resides. Ms. John indicated that she would like to make repairs to the property and that, as a result, you both are seeking to participate in the Single Family Rehabilitation Program (“SFRP”) administered by the City of Miami, Department of Housing and Community Development. You indicated that your Miami Parks job duties do not include any oversight or administration of the SFRP. Both you and your mother indicated that neither of you have any family members working for the City who administer or oversee the SFRP.

The City of Miami’s SFRP “provides funding for low- to moderate- income homeowners for the rehabilitation of their owner-occupied properties to achieve decent, safe, and

sanitary conditions.”<sup>1</sup> The objectives of the SFRP are to: 1) prevent the deterioration of City neighborhoods by providing rehabilitation assistance; 2) provide safe and decent housing to City residents; 3) encourage interest in neighborhood preservation; and 4) encourage the hiring of local residents for contracting and construction work. In order to qualify for the SFRP: a) repairs must be necessary to bring the house to a decent, safe, and sanitary condition (e.g., plumbing, electrical, roofing, and structural); b) the property must be owner occupied and in the City of Miami; c) the property must have a homestead exemption and its market value must not be more than ninety percent of the average area purchase price for the County; and d) the owner’s household income must be less than or equal to eighty percent of the area median income adjusted for family size. Funds granted pursuant to the SFRP can be no greater than \$70,000, disbursed as a three percent non-amortizing ten-year deferred loan secured by a second mortgage on the residential property. “The entire principal and accrued interest is forgiven at the end of the loan term if the homeowner continues to own and reside in the property.”<sup>2</sup>

### Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) or the City of Miami Code would prevent you from contracting with the City of Miami, Department of Housing and Community Development, to participate in the SFRP.

### Discussion and Opinion

Generally, sections 2-11.1 (c) and (d) of the County Ethics Code permit municipal<sup>3</sup> employees to transact business with their employing municipality, so long as the contract does not interfere with the full and faithful discharge of the municipal employee’s duties, the municipal employee does not participate in negotiating or awarding the contract, and the municipal employee’s job duties will not require him or her to be involved with enforcing or overseeing the contract. However, the County Ethics Code prohibits a municipal employee from transacting business with the municipal department for which he or she works. *See* County Ethics Code § 2-11.1(c)(2). Nevertheless, section 2-11.1(c)(5)(5)

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<sup>1</sup> *Single Family Rehabilitation Program*, MIAMIGOV.COM, <https://www.miamigov.com/My-Government/Departments/Housing-Community-Development/Single-Family-Rehabilitation-Program> (last visited Mar. 27, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> Section 2-11.1(a) of the County Ethics Code provides:

This section shall . . . constitute a minimum standard of ethical conduct and behavior for all . . . employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefore be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to.

of the County Ethics Code provides that municipal employees and their immediate family members who are otherwise eligible for housing assistance administered by their employing municipality should be permitted to seek such assistance, so long as the municipal employee does not administer the program. *See* RQO 09-44 (permitting an immediate family member of a City of Miami employee to participate in the then-extant First Time Homebuyer's Down Payment Assistance Program administered by the City of Miami Department of Community Development).

Similarly, section 2-612(a) of the City of Miami Code prohibits all City employees from "enter[ing] into any contract or transact[ing] any business with the city or any person or agency acting for the city . . ." However, the City of Miami Code explicitly exempts from this broad prohibition against contracting with the City any City employee seeking to participate in the SFRP, provided that the City employee "meets all criteria of the program and provided that the city manager approves the participation of the employee and that the employee is identified as being an employee of the city in applicable documents." City of Miami Code § 2-612(a).

Here, after reviewing the facts presented to us, we conclude that **you and your mother, Ms. Helene John, may contract with the City of Miami, Department of Housing and Community Development** to participate in the SFRP, provided that you and your mother otherwise qualify to participate in the program, the City Manager approves your participation, and your employment status with the City is disclosed on all relevant documents. *See* RQO 09-44; INQ 22-41 (a City of Miami employee may participate in the SFRP). Because your employment as a General Laborer with City Parks does not involve any administration or oversight of the SFRP, and you will never have occasion to review, approve, or administer SFRP applications, then your employment with City Parks does not give rise to a prohibited conflict of interest. *See* County Ethics Code § 2-11.1(c)(5); City of Miami Code § 2-612(a). Therefore, provided that your current or future job responsibilities with City Parks or any other City of Miami department that may employ you in the future do not require your involvement in any aspect of the SFRP, you and your mother may apply to contract with the City of Miami, Department of Housing and Community Development to participate in the SFRP. *See* RQO 09-44; INQ 22-41.

Additionally, you may not lobby the City of Miami in support of your participation in the SFRP. This means that you may not contact anyone within the City in an attempt to influence a decision about any contract that you are seeking with the City. *See* County Ethics Code § 2-11.1(m)(1).

Furthermore, the County Ethics Code prohibits municipal employees from exploiting their official position. This means that you may not use your City position to secure special privileges or exemptions with respect to you and your mother's participation in the SFRP or any other housing-related program administered by the City of Miami, Department of Housing and Community Development. *See* County Ethics Code § 2-11.1(g); *see also* City of Miami Code § 18-108 ("Any attempt by city employees to realize personal gain by conduct inconsistent with proper discharge of their duties is a breach of public trust.").

This opinion is limited to the facts as you and your mother presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of

Interest and Code of Ethics Ordinance and the City of Miami Code only. Based on directives from the municipal department that employs you, or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on City of Miami directives, contact your supervisor or the Office of the City Attorney for the City of Miami. 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/>.

***Please submit this opinion to the City of Miami Department of Housing and Community Development for inclusion in your file. The Commission on Ethics does not submit this memorandum on your behalf.***

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 Commission on Ethics 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.