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BALTIMORE CITY BOARD OF ETHICS

May 13, 2021

Via Electronic Mail

Reginald Moore, Executive Director
Department of Recreation and Parks
Dr. Ralph W. E. Jones, Jr. Building
3001 East Drive – Druid Hill Park
Baltimore, MD 21217
RMoore@baltimorecity.gov

Dear Director Moore,

During its May 12, 2021 public meeting, the Ethics Board considered your request on behalf of the Baltimore City Department of Recreation and Parks (“BCRP”) for advance approval of your ability to solicit donations of land necessary to expand the Hilton Recreation Center, located at 3100 Phelps Lane in Baltimore. As explained more fully below, the Ethics Board unanimously voted to approve your request, subject to certain requirements.

According to your letter dated May 3, 2021, the materials accompanying that letter, and information you provided in conversations with me, members of the Law Department, and members of the Real Estate Department, the envisioned expansion would include a new gymnasium, several additional classrooms, a new outdoor basketball court, and an improved football field and track. However, part of the land necessary for this expansion is currently owned by Potts & Callahan, Inc. (“P&C”), a demolition and excavation company, and another part is owned by Greenstreet Academy (Greenstreet), a public charter school.

BCRP has in the past contracted with P&C for services, most recently in 2018 for Herring Run stream stabilization work. Moreover, P&C has recently contracted with other City agencies, including the Department of Public Works. It is also foreseeable that P&C will want to contract with BCRP and other City agencies in the future. Accordingly, P&C is likely considered a “controlled donor” for purposes of the Ethics Law, which means you ordinarily are prohibited from soliciting P&C for a gift, including a gift of land. *See* § 6-26¹ (prohibiting a public servant from soliciting an entity if the entity “does or seeks to do business of any kind, regardless of amount[,] with the public servant’s agency”).²

¹ Unless otherwise noted, all citations are to the Baltimore City Public Ethics Law, contained in Article 8 of the City code.

² It does not appear that Greenstreet Academy is a controlled donor relative to BCRP, but the Ethics Board’s approval should extend to all land donation solicitations pertaining to the Hilton Recreation Center, out of an abundance of caution.

Baltimore City Board of Ethics

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However, the general solicitation prohibition does not apply if it is “for the benefit of an official governmental program or activity or a City-endorsed charitable function or activity” and it either: “(i) is expressly allowed by a rule or regulation of the Ethics Board; or (ii) otherwise has been approved in advance by the Ethics Board, on the written request of the public servant and his or her agency.” § 6-26(b)(1) and § 6-26(b)(2)(i) and (ii). Your request for solicitation approval in this context does not meet the requirements of 6-26(b)(2)(i), as laid out in Ethics Board Regulation R.06.26.1, because solicitations under that regulation must be “directed at a broad range of potential donors” and must “not specially target controlled donors.” R 06.26.1(B)(3).

But Section 6-26(b)(2)(ii) appears to contemplate that the Ethics Board, apart from a rule or regulation, has the authority to “otherwise” provide advance approval for a gift solicitation at the request of a public servant and their agency, so long as it is “for the benefit of an official governmental program.” § 6-26(b)(1). Accordingly, under Section 6-26(b)(2)(ii), the Ethics Board unanimously voted to approve your ability to solicit donations of land necessary for the expansion of the Hilton Recreation Center. The Ethics Board’s approval is contingent on the following requirements:

1. The solicitation and any subsequent donation must be for the exclusive benefit of a governmental program—here, the expansion of BCRP’s Hilton Recreation Center;
2. The solicitation and any subsequent donation must comply with all other relevant City policies and approval requirements—here, BCRP should work with the City’s Real Estate Department, Law Department, and any other relevant City agencies;
3. All potential donors, including P&C, must be expressly informed in writing that a donation will not result in special access or favored treatment from any City agency or official; and
4. BCRP must provide a follow up report to the Ethics Board within 6 months of this approval—and thereafter as required by the Ethics Board—that details the manner of any solicitation efforts, the result of any solicitation efforts, and any progress on the Hilton Recreation Center expansion that pertains to the donated land.

If you have any questions or concerns about the Ethics Board’s decision, please do not hesitate to contact me.

Sincerely,



Jeffrey Hochstetler, Director
Ethics Board

Cc: Jacia Smith, BCRP
Hana Rose Kondratyuk, Law Department
Isabel Cumming, Ethics Board