

Addendum #1 to the TML Pool Interlocal Agreement - Ethics Policy

RESOLUTION NO. 2007- 01

**A RESOLUTION OF THE TML RISK MANAGEMENT
POOL BOARD ESTABLISHING A CODE OF ETHICS**

WHEREAS, the Comprehensive Governmental Ethics Reform Act of 2006 (Public Chapter No. 1 of the Extraordinary Session of the 2006 General Assembly), requires governmental entities to adopt a Code of Ethics, and

WHEREAS, the Act provides that such Code of Ethics shall apply to all boards, commissions, authorities, corporations, and other entities created or appointed by such governmental entities, as well as their employees.

NOW THEREFORE, BE IT RESOLVED BY THE TML POOL BOARD OF DIRECTORS, THAT THE TML POOL CODE OF ETHICS SHALL READ AS FOLLOWS:

TML RISK MANAGEMENT POOL CODE OF ETHICS

SECTION 1: Applicability and interpretation.

(a) This article establishes the code of ethics for the TML Risk Management Pool (the Pool) and applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation or other instrumentality appointed or created by the Pool. When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel provisions. In any situation in which a personal interest is also a conflict of interest under state law, the more restrictive provision shall apply.

(b) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

SECTION 2. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Censure means an expression of severe criticism or reproach.

Credible, for the purposes of complaints alleging that any official or employee has violated any provision of this article, means that the complaint is not:

RECEIVED

- (1) Submitted anonymously.
- (2) Clearly unbelievable.
- (3) From a source not considered to be trustworthy under the circumstances.

Employment interest includes a situation in which an official or employee or a designated family member is employed with or negotiating possible employment with a person or organization that is the subject of a vote or that is to be regulated or supervised.

Gift means the transfer of anything of economic value, regardless of form, without reasonable consideration. "Gift" may include a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred. "Gift" does not include political campaign contributions which are solicited or accepted in accordance with applicable laws and regulations.

Official(s) means the members of the board of directors, or other person(s) in a position of authority, as well as members appointed thereby to committees, task forces, etc.

Personal interest means:

- (1) Any financial, ownership or employment interest in the subject of a vote by the Pool board not otherwise regulated by state statutes on conflicts of interests; or
- (2) Any financial, ownership or employment interest in a matter to be regulated or supervised; or
- (3) Any such financial, ownership or employment interest of the official's or employee's immediate family. For the purposes of this article, "immediate family" includes spouse, children (including natural, step and adoptive), parents (including natural, step and adoptive), siblings, parents-in-law, siblings-in-law, grandparents and grandchildren, and any other individual residing within the employee's household who is a legal dependent of the employee for income tax purposes.

Pool means The TML Risk Management Pool.

SECTION 3. Disclosure of personal interest by official with vote.

An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure.

SECTION 4. Disclosure of personal interest in nonvoting matters.

An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of discretion shall disclose the interest, before the exercise of the discretion when possible, on a form provided by and filed with the personnel director. Copies of such forms filed with the personnel director shall be provided to the President and, in the case of an employee, filed in the employee's personnel file. In addition, the official or employee may, to the extent allowed by law, charter, or policy, recuse himself from the exercise of discretion in the matter.

SECTION 5. Acceptance of gifts, gratuities, etc.

(a) An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the Pool:

- (1) For the performance of an act, or refraining from performance of an act, that the individual would be expected to perform, or refrain from performing, in the regular course of the individual's duties; or
- (2) That might reasonably be interpreted as an attempt to influence the individual's action, or reward the individual for past action, in executing Pool business.

(b) Unless impartiality and independent judgment of an official or employee would be compromised, this section shall not apply to meals provided to officials or employees or gifts of food, candy or other items of de minimis value.

SECTION 6. Use of information.

(a) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(b) An official or employee may not use or disclose information obtained in his official capacity or position of employment and not available to the general public with the intent to result in financial gain for himself or any other person or entity.

(c) Confidential information will remain the exclusive property of the employer and will only be used by an employee for permitted purposes. Employees will not use confidential information for any purpose which might be directly or indirectly detrimental to the employer or any of its affiliates.

SECTION 7. Use of Pool time, facilities, etc.

An official or employee may not use or authorize the use of Pool time, facilities, equipment, supplies or other resources for private gain or advantage to himself or to any private person or entity, except as authorized by legitimate contract or lease that is determined by the board of directors to be in the best interests of the Pool. This prohibition shall not apply when the board of directors or the President has authorized the use of such resources and established policies governing such use.

SECTION 8. Use of position or authority.

(a) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the Pool; provided, however, that this section shall not apply to reasonable amounts paid for:

- (1) Food, transportation, lodging and other travel expenses incurred in accordance with the Pool's adopted travel policy.
- (2) Dues, registrations, meals and similar expenses incurred in conjunction with membership or participation in a professional or community organization to which the official or employee belongs in his official capacity.
- (3) Meals purchased in the course of an official business meeting conducted on the Pool's behalf.

(b) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized in this article or by law, the charter, or policy of the Pool.

(c) No official or employee shall provide commercial or advertising endorsements in such a manner as to convey the Pool's approval of any private for-profit enterprise; provided, however, that an official or employee may respond to inquiries seeking information as to the Pool's experience with a vendor or other private enterprise.

SECTION 9. Ethics opinions; complaints; investigations.

(a) *Ethics officer.* The general counsel is designated as the ethics officer of the Pool. The general counsel, in his discretion, may request that the President or board of directors appoint another attorney, individual or entity to act as ethics officer for the purposes of any specific investigation. For complaints considered by the board of directors under the provisions of this section, the board of directors may choose an individual or entity other than the general counsel to act as the ethics officer for the purposes of investigating the complaint.

(b) *Ethics opinions.* Upon the written request of an official or employee potentially affected by a provision of this article, the ethics officer may render an oral or written advisory ethics opinion based upon this article and other applicable law.

(c) *Ethics complaints and investigations.* Allegations that any official or employee has violated any provision of this article will be processed and handled as follows:

- (1) A complaint will be acted upon only if the complaint is in writing, signed by the person making the complaint and submitted to:
 - a. The ethics officer, if the complaint is against any employee other than the President or the ethics officer.
 - b. The President, if the complaint is against the ethics officer or any official.
 - c. The chairman of the board, if the complaint is against the President.
- (2) The ethics officer shall investigate any credible written complaint against an employee, other than the President or the ethics officer.
- (3) When a complaint is filed against the President, the ethics officer, an appointed official or a member of the board of directors, the complaint shall be referred to the board of directors. For any such complaint, other than a complaint against the President, the President may gather information and present pertinent facts to assist the board of directors in its determination. The board of directors, by majority vote of its entire membership, shall determine that the complaint is credible and that a violation of this article has occurred, that the complaint is not credible or does not have merit, or that the complaint has sufficient merit to warrant further investigation; except that if the complaint is filed against a member of the board of directors, the disposition of the complaint shall be determined by a majority vote of the remaining members of the board of directors. If the board of directors determines that a complaint warrants further investigation, it shall authorize an investigation by the ethics officer, provided that the board of directors may choose an individual or entity other than the general counsel to act as the ethics officer for the purposes of the investigation.
- (4) The ethics officer may also undertake an investigation on his own initiative when he acquires information indicating reasonable suspicion of a violation.

- (5) Any person who is the subject of an investigation by the ethics officer shall be notified in writing at the beginning of the investigation and allowed the opportunity to respond to all allegations in person and/or in writing during the course of the investigation.
- (6) In the course of an investigation, the ethics officer, at his discretion, may hold meetings and conduct interviews in person or by telephone, involving officials and employees of the Pool, as well as other individuals. The ethics officer may also request any information that he believes may be pertinent to the investigation. An employee's failure to cooperate in any investigation by the ethics officer shall be considered an act of insubordination and treated as such under the Pool's personnel rules and regulations.
- (7) At the conclusion of an investigation, the ethics officer may issue written findings and make recommendations for action to end or seek remedies for any activity that, in the ethics officer's judgment, constitutes a violation of this code of ethics. For an investigation of any employee other than the President, copies of such findings and recommendations shall be provided to the employee, the President, the personnel director and the employee's department head. For an investigation of any other individual, copies of such findings and recommendations shall be provided to the President, the board of directors and the individual who is the subject of the investigation.

SECTION 10. Violations.

(a) A member of the board of directors who violates any provision of this article is subject to punishment as provided by the Pool's charter, bylaws and/or other applicable law, and in addition is subject to censure by the board of directors. Any action taken by the board of directors against a member of the board of directors shall be determined by a majority vote of the remaining members of the board of directors.

(b) An official other than a member of the board of directors who violates any provision of this article is subject to punishment as provided by the Pool's charter, bylaws, and/or other applicable law. In addition, the board of directors may, by majority vote of its entire membership, censure the official or remove the official from office in such manner as may be permitted by law.

(c) In addition to any other remedy provided by law, an employee who violates any provision of this article is subject to disciplinary action, in accordance with the Pool's personnel rules and regulations, including but not limited to dismissal.

SECTION 11. In case of conflict between this policy or any part hereof, and the whole or part of any existing policy of the Pool, the provision that establishes the higher standard shall prevail.

SECTION 12. If any section, subsection, clause, provision or portion of this policy is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this policy.

THIS RESOLUTION SHALL TAKE EFFECT FROM AND AFTER ITS FINAL PASSAGE IN ACCORDANCE WITH THE COMPREHENSIVE GOVERNMENTAL ETHICS REFORM ACT OF 2006 (Public Chapter 1 of the Extraordinary Session of the 2006 General Assembly).

DATE APPROVED BY BOARD: _____

APPROVED FOR LEGAL FORM: _____
General Counsel

CHAIRMAN

PRESIDENT