



June 27, 2002

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Alberto Argudin
ADA Engineering, Inc.
11401 S.W. 40th Street
Suite 470
Miami, FL 33165

RE: REQUEST FOR ADVISORY OPINION 02-76

Dear Mr. Argudin:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 27, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any conflicts between the firm's prior work on the Northside Runway project and serving as a member of the architectural and engineering team for the Supplemental Services contract for the Northside Runway.

In your letter, you advised the Commission that The Aviation Department recently issued a Notice to Professional Consultants to provide supplemental services for the new Northside Runway. The scope of services provides that the selected A/E firm will provide design services for issues that arise during construction. The Northside Runway project consists of construction of an 8,600 feet runway and parallel taxiway and connectors. The project spans the entire north side of the airport. Due to modifications in related and parallel projects including the Northside Utilities and Drainage Project, the General Aviation Center and Federal Express, modifications must be made to the original design.

ADA Engineering previously worked on the Northside Runway project as a prime and a subconsultant. As a prime contractor, ADA Engineering prepared the Project Book for the Northside Runway project. The project book is a planning tool for the architectural and engineering (AE) firm who will do the design work for the project. The project book provided general information about Federal Aviation Administration (FAA) and Aviation Department standards, specifications and master plans. The project book also provided a conceptual estimate of costs and scheduling for the project.

As a subconsultant to CH2MHill, ADA Engineering worked on the Environmental Impact Statement and the Application for Development Approval. In that capacity, ADA conducted studies and provided data for use in the final reports by the prime consultant.

Addendum 1 to the Notice for Professional Consultants provides that: "As a part of the submittal of the Notice To Professional Consultants, Prime Consultants must identify whether they or any of their subconsultants, or members have participated in any way in the construction of the MIA New Northside Runway including, field testing, environmental remediation and/or construction work, specifically including work performed or to be performed as a subcontractor or supplier to the Construction Contractor for the MIA New Northside Runway. In identifying themselves or any such subconsultants, or members, the Prime Consultant must identify the specific work that they, the subconsultant, or member performed or work to be performed on the MIA New Northside Runway as well as the work to be performed as part of the Supplemental CIS Services for MIA New Northside Runway and a statement as to how this work is sufficiently different so as not to pose a conflict of interest. Such descriptions of work performed and work to be

performed may be submitted to the Miami-Dade County Commission on Ethics and Public Trust (Ethics Commission) for evaluation as to any possible conflicts of interest. Possible conflicts of interest should be resolved by the Ethics Commission prior to the completion of the selection process. Determinations by the Ethics Commission shall be deemed final. Any Prime Consultant, subconsultants, or members found to have a conflict of interest will render the Prime Consultant's submittal non-responsive."

The Commission found the Conflict of Interest and Code of Ethics ordinance permits ADA Engineering to provide supplemental services on the Northside Runway. ADA's previous work on the Northside Runway is not related to any duties which will be performed as a member of an AE team for supplemental services.

In a series of opinions, the Commission has opined on conflicts between current and prior work that should bar a contractor from participating in the current contract. In RQO 00-129, the Commission opined that ADA Engineering may not work as a member of the CM team on the South Terminal program where they had served as a member of the design team. The Commission found that there was an inherent conflict between the role of designer and contractor.

In RQO 00-137, the Commission found that HJ Ross had a potential conflict of interest where they would regulate a firm that served as a partner on another contract. The Commission found that the two firms' current business relationship might impair Ross' independence of judgment.

However, in the instant case, ADA did not serve as a member of the original design team or do any AE work for the Northside Runway project. Therefore, ADA's prior work on the Northside Runway project would not overlap with any work performed as a member of the

architectural and engineering team on the supplemental contract. Therefore, ADA may provide supplemental services for the Northside Runway project.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Robert Meyers", with a long horizontal line extending to the right.

ROBERT MEYERS
Executive Director