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May 26, 2006

Jackie Salazar Bofill
Office of the County Manager
111 N.W. First Street
29th Floor
Miami, FL 33128

REQUEST FOR ADVISORY OPINION 06-39

Dear Mrs. Bofill:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on May 25, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your spouse's ability to become certified by the Department of Business Development and do business with Miami-Dade County.

In your letter, you advised the Commission that your spouse is the President of TENUSA, a construction and landscape maintenance company. Tenusa is seeking certification from the county. You are the Chief of Intergovernmental Affairs in the Office of the County Manager for the GOB program.

The GOB Bond program is responsible for the administration of the Building Better Communities Bond program which was approved by the voters in 2004. The multi-billion dollar program covers a wide array of improvements to county infrastructure and cultural facilities. The program also

provides for construction in the municipalities in Miami-Dade County.

In your capacity as Chief of Intergovernmental Affairs, you are responsible for preparing the agenda items and coordinating the work between the various entities responsible for the program including various county departments, the County Attorney's office, outside agencies and the Agenda Coordinator's office.

The Commission found that Tenusa may become certified by the Department of Business Development. Tenusa may also contract with the county as long as it does not work on any GOB projects.

The Ethics Commission has consistently opined that the Department of Business Development may certify the spouse of a county employee.

Further, Section 2-11.1(c) permits the spouse of a county employee to contract with the county. Section 2-11.1 (c) provides that "(n)otwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee...from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract awards or awarding the contract , and 3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including but not limited to its enforcement, oversight, administration, amendment, extension, termination or

forebearance. Section 2-11.1(d) prohibits employees from contracting with their department through a corporation in which the employee or a member of their immediate family has a controlling financial interest.

Accordingly, the Conflict of Interest and Code of Ethics ordinance permits Tenusa, Inc to become certified by the Department of Business Development. Tenusa may also contract with the county as long as the firm does not work on any project connected to the GOB bond program.

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) 579-2653.

Sincerely Yours,



ROBERT MEYERS
Executive Director