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October 25, 2007

Luisa Millan-Donovan
Chief, Professional Contracts Division
Office of Capital Improvements
111 N.W. First Street
Suite 2130
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 07-46

Dear Mrs. Millan-Donovan:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 24, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any potential conflicts between three contracts to provide design and construction management services at three wastewater treatment plant water reclamation plants and pending solicitations to design pipelines for the reclaimed water.

In 2006, the Department of Water and Sewer entered into an Interim Consumptive Use Authorization and Agreement with the South Florida Water Management District. The agreement required Miami-Dade County to develop a plan for the use of reclaimed wastewater to meet the water needs of the next twenty years. Specifically, WASD is required to construct and test a facility for the use of reclaimed water to offset increased demand on the regional water system.

Earlier this year, the Office of Capital Improvements issued an NTPC for a firm to provide design and construction management services for water reclamation facilities at three wastewater treatment plants. The selected consultant will develop a plan for treating wastewater so that the treated water may be reused in various ways including irrigating golf courses, parks and in sewer systems. The consultants will also provide design work and construction management services for the water reclamation facilities.

The proposed agreements provide for the design of the transmission pipeline from the wastewater treatment center to a recharge delivery system. The selected consultant will finalize route selections, perform surveying and geotechnical analysis and provide assistance during permitting and bidding phases. The first project is for the design of a transmission pipeline from the Central District Wastewater Treatment Plant to the Village of Key Biscayne. The second agreement is for the design of a transmission pipeline from the South District Wastewater Treatment Plant to a recharge facility in the vicinity of Metrozoo.

The Ethics Commission found the selected consultants for the WASD Wastewater Treatment Reclamation Plants may also perform AE services on the design of the transmission pipelines. The transmission pipeline contract is a continuation of the work for the wastewater treatment reclamation plant. Therefore, the scope of work under the two contracts does not conflict.

Under the Ethics Commission's prior opinions, a contractor has a prohibited conflict of interest if the contract performs work under two contracts that have overlapping scopes of work or where the contractor has management or supervisory responsibilities under one

contract that affect the performance under the second contract. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

In the instant case, the contractor for the Wastewater Treatment Reclamation Plant does not have conflicting roles or responsibilities under the two contracts. The pipeline contract is merely a continuation of the work under the water reclamation agreement. Therefore, the selected consultants for the Water Reclamation agreements may perform the design work on the pipeline contracts.

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,



ROBERT MEYERS
Executive Director

cc: Sara Leu, WASD