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STAFF GENERAL COUNSEL

June 29, 2010

Albert Argudin
President
ADA Engineering
8550 N.W. 33rd Street
Suite 101
Doral, FL 33122

REQUEST FOR ADVISORY OPINION-RQO 10-16

Dear Mr. Argudin:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 23, 2010 and rendered its opinion based on the facts in your request. You requested an opinion regarding whether ADA Engineering ("ADA") may provide engineering services to the City of North Miami.

In your request, you advised the Commission that the City of North Miami recently issued a Request for Qualifications for firms to provide engineering services to the City of North Miami. The firms will provide services in five different categories: 1) Architecture-drawings for renovations and additions to public buildings, drawings for new or potential projects and coordination with staff and elected officials; 2) Civil Engineering-roadway design, construction drawings and specifications in accordance with permitting authorities' requirements, sanitary sewer and pump station designs, compliance reports for USEPA, Florida Department of Environmental Protection, DERM and other county agencies, grant writing and project management; 3) Planning and Urban Design-design of housing master plans,

design of housing prototypes, grant writing and coordination with local, state and federal authorities; 4) Traffic Engineering-traffic studies, transportation planning, street and highway design, coordination with Miami-Dade Transit, MPO and other entities involved in transportation planning and 5) Water Resources-modeling and other engineering services for construction of water control structures, canals, bridges and related facilities.

ADA is currently providing services to the Department of Solid Waste as an independent consultant on the Munisport Landfill. The Munisport Landfill is a former municipal landfill located in the City of North Miami. Pursuant to a federal consent decree, the City of North Miami is responsible for clean-up of the landfill. The Department of Solid Waste is responsible for administering the escrow fund that is used to pay the cost of the clean-up. Although the City has an agreement with a private developer to oversee the clean-up, the City retains ultimate legal responsibility for the clean-up. In its capacity as independent engineer, ADA is responsible for reviewing the payment requests and plans for remediation of the landfill. ADA is also responsible for ensuring that the clean-up is being done in accordance with state and federal environmental guidelines.

The Ethics Commission found that ADA may not provide engineering services to the City of North Miami. Under the Ethics Commission's prior opinions, ADA will have a conflict of interest if it serves as an engineer for the City of North Miami and serves as an independent consultant for the Department of Solid Waste because the firm's independence of judgment in its county work will be compromised by work for the City of North Miami.

In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor supervises a firm under one agreement and serves as a subcontractor to a firm on another agreement. This arrangement creates conflicts because it may lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

ADA cannot simultaneously review the progress of the City of North Miami in performing its obligations to clean up the landfill while working as an engineer for the same city department that is responsible for the clean-up. Under the Ethics Commission's prior opinions, ADA's independence of judgment in overseeing the remediation of the landfill may be compromised by any work for the City of North Miami. Therefore, ADA may not serve in both capacities.

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.

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 'R. Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director