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STAFF GENERAL COUNSEL

March 28, 2008

Kamel E. Moktech, P.E.  
Lea and Elliott  
7200 Corporate Center Drive  
Suite 510  
Miami, Fl 33126

**RE: INQUIRY 08-44**

Dear Mr. Moktech:

I received your request for an opinion regarding your firm's presentation at the American Public Transportation Association Rail 2008 Conference and I am rendering this informal opinion based on the information contained in your request. Please contact me if you want this matter placed on the Ethics Commission's April agenda.

In your request, you advised me that you are currently serving as Project Manager for the MIC-Earlington Heights Connector for Lea and Elliott. Lea and Elliott designed the final design criteria for the Operating System. Miami-Dade Transit will shortly begin the selection process for a construction firm to build the connector.

You recently submitted an abstract to the American Public Transportation Association (APTA). The abstract discusses the public interest in improving public transportation systems and uses the MIC-Earlington Heights

project as an example. You have been invited to present your abstract at the APTA conference in June. During the conference, the project may be covered by the Cone of Silence. Some of the proposers may be present at the industry conference.

The Conflict of Interest ordinance permits you to present information at an industry conference related to a project covered by the Cone of Silence. The Ethics Commission has established a public meeting exception to the Cone of Silence. Under that exception, Lea and Elliott representatives, MDTA staff and potential bidders or consultants may attend a conference presentation on the MIC-Earlington Heights Connector.

In order to ensure that the conference presentation meets the public meeting exception, Lea and Elliott should follow the steps contained in your request including noticing the conference presentation as a public meeting on the county calendar and providing notice to all firms who have received the RFP and addendum information. The firm may also prepare a sign-in sheet with the names and contact numbers of the firms that attend.

Further, although not required, the firm may require firms to provide questions in advance and prepare minutes of the presentation for submission to the Clerk of the Board of County Commissioners.

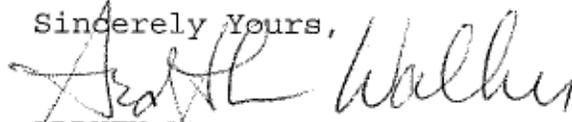
Finally, as you are aware, the Cone of Silence prohibits discussion of any covered solicitation between staff, selection committee members and proposers at any conference workshop that is not noticed as a public meeting.

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, please call the  
undersigned at (305) 350-0616.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Ardyth Walker". The signature is written in dark ink and is positioned above the printed name.

ARDYTH WALKER  
Staff General Counsel

cc: Robert Meyers, Executive Director

March 13, 2008

LE-MDCEC-031308

Ardyth Walker  
Attorney  
Commission on Ethics and Public Trust  
19 West Flagler, Suite 820  
Miami, FL 33130

SUBJECT: Request for Opinion- American Public Transportation  
Association (APTA) Rail 2008 Conference Presentation

Dear Mrs. Walker:

I am writing to seek guidance and direction from the Commission on Ethics and Public Trust on a potential issue that may arise in the near future. I am providing you with details below:

**Background Information**

Lea+Elliott is the final design criteria consultant professional on the Operating System elements of the Miami-Dade Transit MIC-Earlington Heights Connector project (CICC Project No. E04-MDT-02, PTP). I am the Project Manager for Lea+Elliott, and in this role we have developed the performance based final design criteria for the Operating System elements. It is our understanding that a Request for Bids may be advertised for these elements in the near future. Note, that Lea+Elliott represents only Miami-Dade Transit and is not a potential participant on any responses that the Request For Bids may generate.

I have recently submitted an abstract to American Public Transportation Association (APTA), a professional peer group comprised of Owners of transportation systems, engineers, consultants, etc., that represents the public interest in improving public transit for all persons and provides a medium for exchange of experiences, discussion, and comparative study of public transit affairs. To illustrate, we have utilized our work on the MIC-Earlington Heights Connector project.

My abstract has been accepted and I have been extended the privilege to publish a paper and present my work to the annual APTA Rail conference in San-Francisco at the beginning of June 2008. The purpose of the conference is to share information between Owners, Authorities, Consultants, the Industry as well as the General Public on transportation achievements, challenges and prospects in North America.

**Potential Issue on which Guidance is Requested**

It is possible that the Request for Proposals may have been issued by MDT and the project may be under the Cone of Silence at the time of the Conference. It is possible that during the presentation, potential bidders interested in the future procurement of the MIC-Earlington Heights Connector construction phase, are present.

If the Cone of Silence is in place, we propose to comply with it in the following manner:

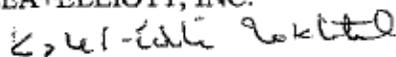
- a. Notice the Conference Presentation on the Miami-Dade Calendar as a public meeting;
- b. Advise the attendees of the Cone of Silence and have them sign in an attendee sheet with their company and contact information;
- c. Advise the attendees that all questions must be in writing to the designated Miami-Dade Contracting Officer; and
- d. We would prepare minutes of the Conference Presentation and together with a copy of the presentation and the attendees list, submit to the Clerk of the Board of County Commissioners.

I trust that you will review the relevant information and provide me with appropriate guidance so that we comply with the letter and the spirit of the Cone of Silence and related ethics matters.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

LEA+ELLIOTT, INC.



Kamel E. Mokhtech, Ph.D., P.E.  
Project Manager

cc: S. Shah, R. Falvey  
File-914

L+E