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July 12, 2001

Thomasina Williams
80 S.W. Eighth Street
Suite 1830
Miami, FL 33130

RE: REQUEST FOR ADVISORY OPINION 01-58

Dear Ms. Williams:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 10, 2001 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether conversations between Clark Construction and employees of DAC prior to the release of the South Terminal RFP were a violation of the Cone of Silence.

In your letter, you advised the Commission that prior to release of the South Terminal RFQ, officials from DAC and officials from Clark Construction met to discuss the upcoming Request for Qualifications. According to statements provided by Clark's attorney and DAC's project manager, several meetings were held in the Spring of 2000 prior to the release of the RFQ on August 11, 2001. During these discussions, the parties discussed the completed architectural drawings for the project, DAC's projected timetable for completion of the project and how many projects would be included in the final RFQ. According to Clark's representative, Clark also shared its

viewpoint regarding the proper sequence of construction for the projects.

Clark's response to the RFQ references these meetings with DAC Officials. Clark's RFQ states that "The Clark team has been working with DAC for over a year to provide constructability input and share insight on the CM-at-risk process, and is therefore capable of applying our knowledge of this project to make this philosophy a reality. WE have discussed with DAC our alternate phasing plan, which will eliminate rework on areas of the project and better coordinate all pf the components of the project to save Miami-Dade time and money. We have prepared preliminary budget assessments to ensure the DAC's budget is achievable and know the costs associated with the project." Page 1-Clark's RFQ Response

According to the parties, no oral communication occurred after the release of the RFQ although Clark did make written requests of DAC after release of the RFQ.

The Commission found that the conversations between DAC and Clark Construction prior to the release of the RFQ did not violate the Cone of Silence. Section 2-11.1(t)(1)(a) provides that "Cone of Silence is hereby defined to mean a prohibition on: a) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the County's professional staff including; but not limited to the County Manager and his or her staff; and b) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their staff and member of the County's professional staff including, but not limited to, the County Manager and his or her staff." The ordinance also provides for the Cone of Silence to be imposed after the advertisement of the bid, RFP and RFQ and remain until the Manager makes his final recommendation to the

County Commission. Under the language of the Cone of Silence, any conversations between DAC and Clark Construction were permissible prior to the advertisement of the RFQ. Therefore, the pre-RFQ conversations did not violate the Cone of Silence.

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 Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", followed by a horizontal line.

ROBERT MEYERS
Executive Director