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September 10, 2002

Mario Berrios
Professional Engineer
Aviation Life Safety Bureau
P.O. Box 592075
Building 5A-4th Floor
Miami, FL 33159

RE: REQUEST FOR ADVISORY OPINION 02-104

Dear Mr. Berrios:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 9, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding a proposed professional services agreement (PSA) between the Aviation Department and BND Engineering.

In your letter, you advised the Commission that BND Engineering has a miscellaneous architectural and engineering services contract from Miami International Airport for Construction Inspection Services. The scope of services provides that BND Engineering may do plans review for the Aviation Department.

Currently, the Aviation Life Safety Bureau has a professional services agreement with BND to provide two construction inspectors to the Bureau. The two construction advisors review construction plans to ensure that they meet the South Florida Prevention Code and

that all required fire prevention and suppression equipment are properly located.

The Aviation Life Safety Bureau proposes to issue a Professional Services Agreement for a special consultant to provide management services at the Life Safety Aviation Bureau. The current Chief of the Fire Bureau would serve in this position after he retires in early 2003. The bureau seeks the chief's continued service because of his expertise and his familiarity with several ongoing capital improvement projects.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits the Aviation Life Safety Bureau to issue a work order for needed management services. However, the Life Safety Bureau may not request that the company hire a specific individual or make the issuance of the work order contingent on hiring a particular person. Section 2-11.1(g) prohibits any Aviation Department employee from using their official position to seek special benefits on behalf of themselves or a third person. Section 2-11.1(g) provides that "(n)o person included in the terms defined in subsections (b)(1) through (6) shall use or attempt to use his official position to secure special privileges or exemptions for himself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners."

Therefore, the Aviation Life Safety Bureau may issue a work order for needed management services. However, Section 2-11.1(g) prohibits the Aviation Department from requiring BND Engineering to hire a particular individual or from making the issuance of the work order contingent on the hiring of a particular individual. Finally, the Aviation Life Safety Bureau may not

tailor the personnel specifications for a particular order to a particular person.

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,

A handwritten signature in black ink, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director