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December 11, 2003

Larry C. Houston
13720 S.W. 112 Court
Miami, FL 33176

RE: REQUEST FOR ADVISORY OPINION 03-173

Dear Mr. Houston:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on December 10, 2003 and rendered its opinion based on the facts stated in your request.

You requested an advisory opinion pertaining to any possible conflicts as they relate to your company's bid on Miami-Dade County construction projects.

You are a firefighter with the Miami-Dade Fire Rescue Department ["MDFR"], working at the Miami International Airport. Your primary duties include fire suppression on the runways. In addition, you are a Florida Certified General Contractor and recently incorporated a contracting company. You are interested in having your company bid on various County construction projects, including such projects through the Aviation Department.

The Conflict of Interest and Code of Ethics Ordinance only prohibits your company from contracting with MDFR. Section 2-11.1(d), "Further prohibitions on transacting business with the County" prohibits employees or their immediate family from contracting with their department through a corporation in which they have a controlling financial interest. However, Section 2-11.1 (c), "Prohibition on transacting business within the County" provides that,

Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any

employee...from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract awards or awarding the contract, and 3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to its enforcement, oversight, administration, amendment, extension, termination or forbearance.

Though you work at the airport, your job as a firefighter does not require you to inspect, oversee or administer any construction plans or projects at the airport.

In addition, you must obtain permission to work in this outside employment from the department director. Finally, in accordance with Section 2-11.1 (k), you must report your outside employment and file the required disclosure forms by July 1st of each year with the Department of Elections.

This opinion construes the Miami-Dade County 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 should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

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