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July 27, 2005

Mike Ritus
Arquitectonica
801 Brickell Avenue
Suite 1100
Miami, FL 33131

RE: REQUEST FOR ADVISORY OPINION RQO 05-75

Dear Mr. Ritus:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 27, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any conflicts between the firm's current work on the South Dade Cultural Center and responding to a solicitation for supplemental services on the same project.

In your letter, you advised the Commission that Arquitectonica is currently serving as the Architect of Record for the South Dade Cultural Center. The center is comprised of two buildings, the Theater building and the Activities Building and is located adjacent to the South Dade Government Center. The original agreement required Arquitectonica to provide architectural and engineering services from development of schematic designs, project development schedule, probable construction costs to construction documents and contract administration

services during the construction phase of at least 24 hours a week.

Miami-Dade County recently issued a Notice to Professional Consultants to provide supplemental construction administration and A/E services for the South Dade Cultural Center. The scope of services included in the supplemental services agreement include: threshold inspector and special inspector services; supplemental AE services; enhanced on-site construction administration including structural steel systems and acoustical requirements; design and specification of additional exterior lighting, graphics and interior design and AE services for owner changes and field conditions requiring a change in scope from the existing design documents.

The original agreement remains in effect until 2007. However, the agreement cannot be amended because it contains minority participation goals. In 2004, the federal court ruled that Miami-Dade County could not apply minority participation goals in its AE contracts and that existing contracts with goals could not be modified. Due to the complexity of the project, the contractor is requesting additional services. However, because of the court decision, the County cannot include the supplemental services in Arquitectonica's current agreement.

The Commission found that Arquitectonica may provide supplemental services under the Notice to Professional Consultants. The supplemental services are essentially an amendment to the terms of Arquitectonica's current agreement to provide AE services on the South Dade Cultural Center. In the instant case, a conflict will not be created as long as the contract is carefully supervised and monitored by the County's Cultural Affairs Department to ensure that the services provided under the new agreement are

distinct from services provided under the original contract.

Therefore, Arquitectonica may provide services under the supplemental agreement as long as the services provided under the supplemental agreement are distinct from the services provided under the current agreement. Further, if Arquitectonica is awarded the supplemental agreement, on a quarterly basis, the Office of Cultural Affairs must provide copies of all work orders related to the supplemental agreement to the Ethics Commission.

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,



ROBERT MEYERS
Executive Director

cc:

Michael Spring, Office of Cultural Affairs
Christopher Mazzella, Inspector General