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December 20, 2007

Luisa Millan-Donovan
Chief, Professional Contracts Division
Office of Capital Improvements
111 N.W. First Street
Suite 2130
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 07-58

Dear Mrs. Millan-Donovan:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on December 19, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether two contracts for the design of a water pipeline conflict with a prior contract to design a water main.

In your request, you advised the Commission that the Department of Water and Sewer entered into an agreement to design a 60 Inch Force Main in 2006. Specifically, the scope of services provided that the consultant will provide the design of a 60 inch wastewater force main at the South Miami Heights Water Treatment Plant including acquiring easements and permits, perform geotechnical and survey investigations and assist during the bidding and construction phases of the project.

WASD is currently selecting a consultant to design a transmission pipeline from the wastewater treatment center to a recharge delivery system. The selected consultant will

finalize route selections, perform surveying and geotechnical analysis and provide assistance during permitting and bidding phases. The first project is for the design of a transmission pipeline from the Central District Wastewater Treatment Plant to the Village of Key Biscayne. The second agreement is for the design of a transmission pipeline from the South District Wastewater Treatment Plant to a recharge facility in the vicinity of Metrozoo.

The Ethics Commission found the selected consultant may perform work under the Force Main contract and the transmission pipeline for the Wastewater Treatment Plant. Although the pipelines will originate from the same treatment plant, the scope of work does not overlap and the contractor will not be required to oversee its own work. Therefore, the selected consultant will not have a conflict under the Ethics Commission's prior opinions.

Under the Ethics Commission's prior opinions, a contractor has a prohibited conflict of interest if the contract performs work under two contracts that have overlapping scopes of work or where the contractor has management or supervisory responsibilities under one contract that affect the performance under the second contract. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

In the instant case, the Force Main contract is unrelated to the design of the pipelines for the reclaimed water. Therefore, the contractor for the Force Main contract does not have conflicting roles or responsibilities with the contractor who designs the transmission pipeline for the reclaimed water. Accordingly, the same

consultant may design the force main and transmission pipeline.

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: Sara Leu, WASD