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EMUR

April 8, 1993

C O N F I D E N T I A L

[REDACTED]

Re: [REDACTED]
Post-Employment
Case No., 93011.Q

Dear [REDACTED]:

Your department recently requested a written opinion about the applicability of the Governmental Ethics Ordinance to the post-City employment of [REDACTED], a former employee of the Department of [REDACTED]. Since leaving City employment, Mr. [REDACTED] has started his own company, [REDACTED], and has expressed his company's interest in seeking future City contracts. Because Mr. [REDACTED] is not currently seeking a City contract, we can offer at this time only general guidelines regarding the applicability of the post-employment provision to Mr. [REDACTED]'s situation.

In an effort to acquire accurate facts in this case, we contacted Mr. [REDACTED]. He said he is a former employee of [REDACTED] in the Department of [REDACTED]. He held the position of [REDACTED], and before that, [REDACTED]. Mr. [REDACTED] told us that his duties as [REDACTED] were to assist the [REDACTED] in day-to-day scheduling of work crews and job assignments and in ordering materials to be used by the employees of that division. He stated that at no time during his City employment did he have decision-making authority over any City contracts. He told us he was involved only in office projects internal to [REDACTED] in the [REDACTED] Department.

When Mr. [REDACTED] resigned his City job on [REDACTED], 1993, he started his own company, [REDACTED], which is certified by the City as a Minority Business Enterprise. He stated that this company will be pursuing contracting and subcontracting jobs in the field of industrial and



commercial [REDACTED] work, such as installing [REDACTED] in parking lots and highway systems. He described his responsibilities as president of the company to be chiefly marketing--he has met with general contractors about future projects and potential work for his company.

Mr. [REDACTED] told us his company is interested in seeking contracts or subcontracts on City projects at some time in the future, but has not yet begun doing so.

The two provisions of the Ethics Ordinance relevant to this situation are sections 2-156-100(b), under the title of "Post-employment Restrictions," and 2-156-070, entitled "Use or Disclosure of Confidential Information."

Post-Employment. Section 2-156-100(b) states:

No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the City or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.

According to this section, a former City official or employee is subject to two restrictions on employment after leaving City service: a one-year prohibition and a permanent prohibition.

Permanent Prohibition.

Under the permanent prohibition, a former City employee is permanently prohibited from assisting or representing any person in a particular business transaction involving the City if, while a City employee, he or she exercised "contract management authority" (as defined in § 2-156-010(g)) with respect to the particular transaction. (See Case No. 92010.A.) In other words, if a City employee had personal involvement in or direct supervisory responsibility for the formulation of a City contract--including the planning, development, or evaluation of proposals, or the selection of vendors--or the execution of a City contract, that employee would be permanently prohibited from working on that contract after

leaving City service. Mr. [REDACTED] told us that, during his City tenure, he did not have decision-making authority over any City contracts and was not involved in any of the activities that are part of contract management authority. If Mr. [REDACTED] did not exercise contract management authority, the permanent prohibition would not be applicable in his case.

One-Year Prohibition.

Under the one-year provision, a former City official or employee is prohibited for one year after leaving City service from assisting or representing any person in a business transaction involving the City if, while a City employee, he or she participated personally and substantially in the subject matter of that transaction. This generally means that if, while employed by the City, Mr. [REDACTED] participated personally and substantially in a particular project, he may not assist or represent anyone in that project for a year after leaving City employment. (See Case No. 92010.A.)

According to the Board's interpretation, "assisting" and "representing" a person in business transactions involving the City encompasses helping a person to seek a contract as well as helping a person to perform a contract. (See Case No. 89119.A.) "Representation" here applies to a broad range of activities in which one person acts as a spokesperson for another person or seeks to communicate and promote the interests of one party to another. Representing others before the City would include actions such as making personal appearances before City agencies on behalf of others; making telephone contact with City employees and officials on behalf of others; and submitting written requests and proposals to City agencies, employees or officials on behalf of others. (See Case No. 89087.A.) "Representation" also includes signing any proposals, contracts, or other documents that are submitted to City agencies. (See Case No. 90077.A.)

Under this provision, unless Mr. [REDACTED] was personally and substantially involved during his City tenure in the matter for which he seeks a City contract for his company, the one-year prohibition would not apply.

Confidential Information. Section 2-156-070, entitled "Use or Disclosure of Confidential Information," states:

No current or former official or employee shall use or disclose other than in the performance of his official duties and responsibilities, or as may be

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required by law, confidential information gained in the course of or by reason of his position or employment. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois Freedom of Information Act, as amended.

This section permanently prohibits current and former officials and employees from revealing confidential information they may have acquired during the course of their City job.

As mentioned earlier, because Mr. [REDACTED] is not currently seeking any City contracts and is not engaged in any activity to which the Ethics Ordinance is applicable, this letter can only provide general guidance on the relevant provisions of the Ordinance.

We appreciate your department's concern to abide by the ethical standards embodied in the Ethics Ordinance. If, at some time in the future, specific circumstances arise concerning Mr. [REDACTED]'S company in relation to a particular City contract, please feel free to contact us.

Sincerely,



Ellen Sewell
Legal Counsel

Approved:



Dorothy J. Eng
Executive Director

cc: [REDACTED]

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