**CONFIDENTIAL**

September 2, 2011

John Bills

10807 S. Pulaski

Chicago, IL 60655

**Re: Case No. 11037.Q**

Dear Mr. Y:

You retired from City service on June 30, 2011. On Friday, August 12, 2011, we met to discuss what restrictions, if any, the City’s Governmental Ethics Ordinance would place on you were to accept a position as a project manager with C. This letter will explain our analysis and conclusions.

**FACTS:** You were employed by the City from June 29, 1979 until your retirement. Your most recent position was with the City’s Department of N ransportation (“CDOT”) as [title]g Deputy Commissioner. You explained that, in this position, you oversaw Ns Division of and the installation and maintenance of signs and pavement markings. You also attended meetings and coordinated with the N Project Development Deputy regarding accident data to justify locations for installation locations based on accident data investigations.

Regarding your input specific to C you said that, at the request of your then-Commissioner, you attended meetings where the Engineer of Electricity would review the locations that CT requested to attach systems to City infrastructure (poles). You explained that C and other companies providing the same service wireless carriers, would apply for permits in N’s Permitting Division with a proposed site for a tower. The City employee who reviewed C ’s specs and plans, and discussed when projects would be starting and stopping, was a N Engineer of Electricity. These permit requests did not involve any contracts with the City; any wireless carrier (or any other business would have to obtain permits from the City for similar installation projects. At the end of the meetings you said you attended, and at which you were solely an observer, the Engineer of Electricity would give you a list of proposed DAS sites. You then took the list, without any personal interpretations or recommendations by you, to N’s Office of Underground Coordination (“OUC”) and N’s Infrastructure Management Division (“IMD”), so those offices could check to see if the proposed DAS sites interfered with any other N projects at the particular location. You gave an example of a denied request, a streetscape: the City did not want to approve a tear-up at a location where [infrastructure had just been repaired by N] . If acceptable, [these divisions] would then give approval for C’s proposed sites to the Engineer of Electricity, who told C that the sites were approved, or discussed alternative sites with C. You said that your sole involvement with C was to: i) attend the meetings at the request of your then-Commissioner; ii) receive the list of tentative locations from N’s Engineer of Electricity; and iii)\_take the list to N’s [two other divisions] , so they could ensure that there were no conflicts with any other N projects. You explained to us a few occasions that you did not have any role in issuing, approving, or evaluating permit requests for/from C (or anyone else, including the City).

In your proposed Project Manager position for C, you said that you would assess time lines for completing installation of DAS by C. In explaining this to staff, you said that the “scope of work” for the project manager position includes “the services necessary to file, expedite, and obtain permits from N and other necessary permits to construct outdoor distributed antenna system sites in the City of Chicago.” You provided the following list of proposed job duties under that scope of work:

* Determine site specific process and regulations for filing each permit type
* Prepare and submit permit filing requirements to C and its subcontractors
* Obtain application forms and instructions
* Obtain copies of required documents from C and its subcontractors in order to file
* Review completed drawings and documentation for accuracy and sufficiency based on jurisdictional requirements
* Prepare and submit applications to necessary entities
* Meet with permitting department personnel, as necessary
* Track project status
* Attend status meetings and calls with C, when necessary
* Provide additional documentation as required by the jurisdiction and its various departments

* Determine fees and order checks, as necessary
* Procure necessary permits
* Deliver permits to C

You said that you would ensure that the C employees completing the installations were doing it within the scheduled time frame, with the proper permits in place. You said that the position is temporary, and you anticipate the project lasting approximately four or five months, weather permitting.

**LAW AND ANALYSIS:**

**Post Employment:** To advise you, we will consider the facts you have presented in accordance with § 2-156-100(b) of the Ordinance, entitled “Post-Employment Restrictions.” It states, in relevant part:

No former...employee shall, for a period of one year after the termination of the employee’s 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...employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.

You are, as a former City employee, prohibited for one year after leaving City services from assisting or representing any person in a business transaction involving the City if, during your City service, you participated personally and substantially in the subject matter of that transaction. "Assisting" and "representing" a person in a business transaction involving the City has been found to include helping a person to seek a City contract, as well as perform a City contract (See Case nos. 04005.A; 92035.A; 89119.A). Also, the one-year period begins on the date your City employment ended, not on the date you stopped performing particular tasks. Case no. 97025.A.

There is no permanent prohibition regarding your proposed work for C, because there was no contract involved in the permitting process you described above, so you could not have had contract management authority in this City transaction involving C.[[1]](#footnote-1)

In order to determine how the one-year prohibition applies here, we must look at the work you performed, and the duties and responsibilities you had, while a City employee. (See Board Case No. 04011.A). Your responsibilities as a Managing Deputy Commissioner included supervisory authority over project managers for various N projects, including installation and maintenance of signs and pavement markings. You also attended meetings and coordinated with the [N personnel] regarding accident data to justify locations for red light camera installation locations based on accident data investigations. Regarding your input specific to C you said your only involvement was that you attended meetings where the Engineer of Electricity would review the locations that C requested to attach DAS to City infrastructure (poles). At the end of the meetings, the Engineer of Electricity would give you a list of proposed DAS sites, and you then took the list to N’s [2 other divisions] , so those offices could check to see if the proposed DAS sites interfered with any other N pojects at the particular location.

The issue here is whether the one-year prohibition in §100(b) limits your prospective employment with C as a project manager, where you would be filing, expediting, and obtaining permits from the City, tracking project status, and attending status meetings on outdoor antenna projects for C. The key question is whether you participated personally and substantially in the “subject matter” of these C transactions, which involve City permitting, during your City service. As a Managing Deputy Commissioner for N, the project managers you supervised worked on various City infrastructure projects, including the installation and maintenance of signs and pavement markings. You said that you did not have any role in issuing, approving, or evaluating permit requests for/from C (or anyone else). Your role as Managing Deputy Commissioner, as it pertains to permit requests by C, was to: attend the meetings at the request of your then-Commissioner; receive the list of C das tentative locations from N’s Engineer of Electricity; and take the list to N’s [2 other divisions] , so they could ensure that there were no conflicts with any other N projects.

On the facts you provided, Board staff concludes that you were not personally or substantially involved with issuing, approving, or evaluating permit requests for/from C (or anyone else, including the City) in your City job. Therefore, we conclude that you are not prohibited, under § 2-156-100 (b) of the Ordinance, from accepting and performing the position with C described in this letter.

**Confidential Information.** Staff also reminds you that Section 2-156-070, entitled "Use or Disclosure of Confidential Information," prohibits you, as a former City employee, from using or revealing confidential information acquired through your City employment. Confidential information, for purposes of this section, means information that may not be obtained under the Illinois Freedom of Information Act, as amended.

Staff's conclusions are based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter; as discussed in footnote 1, above, you will likely be subject to one-year or permanent restrictions, so that we advise you to contact us for specific advice in the event you decide pursue another opportunity. If the facts stated are incorrect or incomplete, please notify us, as any change may alter those conclusions. We thank you for your willingness to abide by the standards embodied in the Ordinance. Please contact us with any questions.

Sincerely,

Courtney L.D. Kimble

Attorney/Investigator

Approved:

Steven I. Berlin

Executive Director

1. 1. Please note that, the conclusion we reach in this letter are limited to the particular job opportunity you have asked us about--not any others., and we do not address any other job opportunities that might interest you. Our review of your City career indicates that you likely exercised contract management authority with respect to numerous other contracts or matters while you were in City service, and thus would be subject to numerous “permanent prohibitions” as to those contracts or projects associated with them, none of which we address. Thus, we advise you, in the event a different opportunity arises, to contact us for further guidance, as you will likely be subject to prohibitions for one year or permanently. [↑](#footnote-ref-1)