

May 25, 2006

CONFIDENTIAL

[EMPLOYEE]
[COMPANY]
[ADDRESS]

RE: Case No. 06027.Q

Dear [EMPLOYEE],

On May 5, 2006, you contacted the Board of Ethics concerning work on a Chicago Park District (the "Park District") contract that may involve the City of Chicago. Specifically, you wanted to know if the post-employment restrictions of the City's Governmental Ethics Ordinance prohibit you from responding to or working on an upcoming Request for Proposals ("RFP") to be issued by the Park District in relation to improving Northerly Island. It is staff's conclusion that the Ordinance does not prohibit you from responding to or working on the Northerly Island RFP, as described by you, or the resulting work, if any.

You left City service on [DATE] and currently work for [COMPANY], an architectural, engineering and consulting firm located in Chicago. When you began City service, you were employed in the [DEPARTMENT] as either a project manager or a project engineer for design and construction of various roadway projects, such as landscaping medians. In 2001, you became the [POSITION 1] within [DEPARTMENT] and held that position until 2004. That position included duties such as dealing with bicycle issues, traffic signal design and construction, plan development approval, red-light enforcement and traffic planning for special events. After the re-organization of [DEPARTMENT], you became the [POSITION 2], which position you held until you departed City service. In that position, you enforced public way permits, coordinated construction with utilities, and maintained pavement markings, landscaped medians and signs.

You and your current employer, [COMPANY], anticipate that the Park District will issue an RFP pertaining to the development of Northerly Island. To the best of your understanding and belief, the Park District has no definite plans for Northerly Island and will be seeking ideas and a master plan from respondents to the RFP. If permitted, you would be the project manager of the master plan submitted by [COMPANY]. You told staff that during your City employment, you had no involvement with Northerly Island, and that your involvement with Meigs Field was limited to supervising the striping plan for the pavement markings in the parking lot after the demolition of the runway.

According to what you explained to staff, the master plan submitted by your employer would devise how Northerly Island would be laid out and used, and would involve architecture, landscaping, shoreline use, space planning, structural engineering, and various other disciplines. The only transportation issues that may arise are how to get people over to the island, due to its location (e.g., shuttle buses, monorail, etc.).

APPLICABLE LAW AND ANALYSIS

Section 2-156-100(b). The provision of the Ordinance that is relevant to your request is Section 2-156-100(b), entitled “Post-Employment Restrictions,” which provides that:

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. [emphasis added]

This section prohibits you, as a former City employee, for one year after leaving City service, from assisting or representing any person in any business transaction involving the City if you participated “personally and substantially” in the subject matter of that transaction during your City employment. In addition, it permanently prohibits you from assisting or representing any person on a specific contract if, during your City employment, you exercised “contract management authority” over that contract.

Permanent Prohibition. As there is no indication that you had any involvement during the course of your City service in any aspect of the formulation of the RFP in issue, analysis under the permanent prohibition is unnecessary.

One-Year Prohibition. In order for this provision to be implicated, the business transaction at issue must “involve the City.” Though this would be a Park District project, it is staff’s belief that the project will ultimately involve the City in that portions of the plan may require City Council approval as well as an interface with existing City plans and/or departments. Assuming that this project does, in fact, involve the City, the question is whether this project would involve the same subject matter as your City employment. Based on the totality of the circumstances that you described, it is staff’s conclusion that the Northerly Island project would be distinct from the work you performed for the City and that it does not involve the same subject matter(s) on which you worked during your City employment.

STAFF CONCLUSION

Based on the facts that you presented, staff concludes that the Ordinance does not prohibit you from assisting your new employer, [COMPANY], in responding to a request for a master plan

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for a Northerly Island RFP, should one issue, or from serving as a project manager pursuant to that master plan. Should the requirements under the RFP differ from those described in this letter, please contact us for further guidance, as you may be restricted by the Ordinance's post-employment provisions from assisting [COMPANY] or any other person with respect to that work. Also note that we have addressed only one specific project. Based on staff's review of your City career, we believe that the Ordinance may prohibit you from working on other projects. Thus, we also advise you to contact us for further guidance if your responsibilities for [COMPANY] (or any other person) change, or if you are contemplating assisting any person on other City-related transactions or projects.

Please note that staff's conclusion is not necessarily dispositive of all issues relevant to this situation, but is based solely on the applicable sections of the Governmental Ethics Ordinance to the facts as you have represented them. If the facts stated are incorrect or incomplete, please notify the Board immediately, as this may change the outcome of our analysis. Other laws or rules may also apply to this situation.

Very truly yours,

Briana N. Billingslea
Attorney/Investigator

Approved by:

Dorothy J. Eng
Executive Director