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March 3, 2003

Marco Osorio  
Vice-President  
Consul-Tech  
10570 N.W. 27<sup>th</sup> Street  
Suite 101  
Miami, Florida 33172

**RE: REQUEST FOR ADVISORY OPINION 03-26**

Dear Mr. Osorio:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on February 28, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your firm's ability to bid on a Department of Water and Sewer (WASD) contract.

In your request, you advised the Commission that the Department of Water and Sewer is seeking a program manager for the Comprehensive Lateral Investigation and Replacement Program. The Program Manager's responsibilities will include: managing the program and the 10 million dollar budget for inspection and repair of laterals; writing specifications for lateral repair, project tracking and scheduling; planning and preparing written progress reports and maintaining a database for the peak flow model.

The Lateral Investigation and Replacement Program is one phase of a Water and Sewer

Department project to comply with two federal consent decrees between the Environmental Protection Agency and the Department of Water and Sewer. Other phases of the project included a pump station improvement program and Infiltration, Exfiltration and Inflow analysis.

The Notice to Professional Consultants for the Lateral Investigation and Replacement Program requires consultants to file notice of any potential conflicts and seek an advisory opinion. The addendum states that "Prime Consultants must identify whether they or any of their subconsultants, or members have participated in any Miami-Dade Water and Sewer Department's current and previous design and program management services for sanitary sewer systems. In identifying themselves or any such subconsultants, or members, the Prime Consultant must identify the specific work that they, the subconsultant, or member performed or work to be performed on any Miami-Dade Water and Sewer Department's current and previous design and program management services for sanitary sewer systems as well as the work to be performed as part of this solicitation, Program Manager for Comprehensive Lateral Investigation and Replacement Program. Additionally, a statement is required as to how this work is sufficiently different so as not to pose a conflict of interest. Determinations by the Ethics Commission shall be deemed final. Any Prime Consultant, subconsultants, or members found to have a conflict of interest will render the Prime Consultant's submittal non-responsive.

Consul-Tech is not currently doing any work for WASD. However, URS Southern Corporation, a subcontractor to Consul-Tech, has an employee who has worked on consent decree projects. Thomas Christ was previously employed by PBSJ and worked on preliminary projects related to the Peak Flow study. Christ also served on a WASD Technical

Advisory Committee that advised on matters related to Peak Flow. The committee studies wet weather flows at the pump stations. The committee did not address lateral issues but there was a lateral pilot study committee.

The Commission found Consul-Tech may serve as Program Manager for the Lateral Investigation and Repair Program. Consul-Tech has not worked on any sanitary sewer projects for WASD. Further, Christ's work on WASD projects for PBSJ did not overlap with the scope of work under the Lateral program. Therefore, Consultech and its subcontractors may serve as Program Manager for the Lateral Investigation and Replacement program.

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 the opinion, please call the undersigned at (305) 579-2954 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS  
Executive Director