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April 30, 2003

Jaime Borrelli
Borrelli & Associates
4960 S.W. 72nd Ave
Suite 408
Miami, FL 33155

RE: REQUEST FOR ADVISORY OPINION 03-59

Dear Mr. Borrelli:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 29, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your firm's ability to provide supplemental AE services for the South Terminal program.

In your request, you advised the Commission that the Aviation Department recently issued a Notice to Professional Consultants for two architectural and engineering agreements for the South Terminal program. The South Terminal program is composed of eight major capital projects. The scope of services for the two contracts includes contract administration and supplemental design services for concourse buildings as well as aircraft apron and taxiway and taxiway areas. The services will include, but not be limited to aviation planning, architecture, landscape architecture, lighting, acoustics, signage, graphics, industrial design, interior design, engineering,

telecommunication systems, baggage systems, security and information systems.

The Notice to Professional Consultants states that " Proposers are hereby advised that no firm that has or will perform services or work as a prime, subconsultant or a member of any tier for the Miami-Dade Aviation Department (MDAD) Miami International Airport for the South Terminal Construction Manager at Risk Contractor, a Joint Venture consisting of Parsons Transportation Group Inc. and Odebrecht Construction Inc. or the MDAD General Consultant Dade Aviation Consultants, a Joint venture comprised of Bechtel Infrastructure Corporation, DMJM Aviation Inc, Spillis Candela DMJM, The Bugdal Group, Poinciana Development Group Inc., Maurice Gray Associates, Inc, Sharpton, Brunson & Company, Inc. and TBI Airport Management Inc. may be included as a prime, subconsultant or member on this agreement. "

Borrelli and Associates , as part of a joint venture with Mateu Carreno, Rizo and Partners, contracted in 1997 to provide basic architectural and engineering services for the South Terminal expansion program. The 1997 agreement did not require the selected AE firms to provide architectural construction management, aviation systems architectural or engineering design, telecommunications systems, engineering construction management, interior design, lighting design, acoustics, signage, graphics and industrial designs as described in the request for proposal for supplemental AE services.

The Commission found the Borrelli and Associates team may provide supplemental AE services for the South Terminal program because the current project will be a continuation and expansion of the firm's current South Terminal work. Additionally, Borrelli and the other team members are not associated with any of the partners in Dade Aviation Consultants or the members of the

Parsons-Odebrecht Joint Venture team for the South Terminal. Therefore, Borrelli may provide supplemental AE services to the South Terminal program.

In a series of opinions, the Ethics Commission has delineated the types of relationships that create a conflict of interest for contractors. The Ethics Commission has previously held that firm may not serve on projects where the scope of work is identical to work previously provided on the same project; may not serve as members of construction inspection teams, CM at risk teams or hold other oversight responsibilities on contracts where the firm has or will provide other services to the project and may not hold oversight or management responsibilities where those responsibilities require the firm to supervise the work of affiliated firms of the company or companies for which the firm is serving as a partner on another project.

In the instant case, Borelli and Associates does not have any of the previously identified prohibited conflicts. Borelli and Associates work on the supplemental contract will be a continuation and expansion of the firm's prior South Terminal work of the work. Therefore, the scope of work on the two projects will not overlap. Furthermore, Borelli and Associates and the other team members are not part of Dade Aviation Consultants or members of the Parsons-Odebrecht Joint Venture team. Therefore, Borrelli and Associates may provide supplemental AE services for the South Terminal 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 this opinion, please call Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", followed by a horizontal line extending to the right.

ROBERT MEYERS
Executive Director