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March 14, 2006

Barry Fiandra  
Vice-President  
DMJM Harris/AECOM  
1100 Park Central Boulevard South  
Suite 1800  
Pompano Beach, FL 33064

**RE: REQUEST FOR ADVISORY OPINION RQO 06-25**

Dear Mr. Fiandra:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 9, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether your firm may serve as Program Management Consultant for the Seaport. The firm is currently providing services under two agreements: a bond engineering contract and an owner's representative contract.

In your letter, you advised the Commission that the Office of Capital Improvements recently issued a Notice to Professional Consultants (NTPC) to provide program management services at the Seaport. Specifically, the scope of services provides that the consultant will furnish personnel to support the Seaport in a variety of functions including long and short planning; facilities planning; oversight of design and system consultants; oversight of construction management consultants; value engineering; estimating; contract administration; claims

administration and project management on several selected projects.

DMJM Harris is currently serving as bond engineer for the Seaport. In that capacity, DMJM Harris performs a number of functions including furnishing an annual report that details the current condition of port facilities, necessary maintenance and repairs that should be undertaken. The bond engineer is also required to inspect buildings, wharfs and roadways. DMJM Harris has also provided additional personnel to the Seaport.

DMJM Harris is also serving as the Owner's Representative on the Master Development Contract administered by P&O Ports. As Owner's Representative, DMJM Harris provides a number of personnel to administer the master development agreement including project managers, construction inspectors and clerical personnel.

The Bond Engineering Agreement between DMJM Harris and the Seaport states that the firm is precluded from performing any design work for the duration of the agreement. The NTPC for the Program Management Consultant specifically provides that the duties do not include design work.

The Commission found DMJM Harris may serve as Program Management Consultant for the Seaport as long as the firm has completed all work under the Owner's representative contract.

The scope of services under both agreements similarly provides that the consultant will provide personnel to provide oversight to design, engineering and construction personnel as well as program management on several projects. Therefore, there is the potential for conflict between the two agreements.

However, since DMJM Harris should have completed all work under the Owner's

Representative contract prior to commencement of work under the Program Management consultant contact, DMJM Harris may serve as Program Management Consultant.

There are fewer potential conflicts with the Bond Engineering contract as long as the Seaport assigns other consultants to conduct any inspections that will be overseen by program management consultant personnel.

Accordingly, DMJM Harris may serve as Program Management Consultant at the Seaport as long as the firm has completed all work under the Owner's Representative agreement prior to commencement of work under the Program Management Consultant agreement.

The Ethics Commission also held that, if DMJM Harris is awarded the contract, DMJM Harris must provide the Seaport and the Ethics Commission's Executive Director with a written report regarding its compliance with any restrictions contained in this advisory opinion related to the prime or any subcontractors within ninety days of the issuance of the Notice to Proceed or the issuance of the first work order.

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 the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS  
Executive Director