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ETHICS COMMISSIONERS

March 27, 2008

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ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

RE: REQUEST FOR ADVISORY OPINION RQO 08-11

Dear Mr. Nogaj:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 26, 2008 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Hazen and Sawyer may serve as member of a design team to provide AE services related to the design of sanitary sewer force main between Miami Beach and the Central District Wastewater Treatment Plant. Hazen and Sawyer is currently preparing the Wastewater Facilities Master Plan for WASD.

In your request, you advised the Commission that the Office of Capital Improvements (OCI) recently issued a Notice to Professional Consultants (NTPC) for an AE firm to provide design criteria for the replacement of a sanitary sewage force main from Miami Beach to the Central District Wastewater Treatment Plant and the replacement of a water main from Port Island to Fisher Island. Specifically, the scope of services provides that the selected team will prepare the design criteria package including evaluating sanitary sewage conveyance alternatives, finalizing preliminary route selection and

methodology of installation, construction permitting, surveying, geotechnical testing and other necessary services for design of the mains. The pipeline will completely replace the existing pipeline which serves the communities of Miami Beach, Surfside, Bay Harbor, Bal Harbor and North Bay Village.

The firm of Hazen and Sawyer was retained in 2006 to prepare the Wastewater Facilities Master Plan Update for the Department of Water and Sewer. The Wastewater Facilities Master Plan reviews the wastewater system's ability to handle peak flows at each existing and future pump station. The plan also evaluates operations at all County wastewater facilities and provides a plan for necessary capital improvements and upgrades to meet the projected needs of the next 20 years. The force main between Miami Beach and the Central District Wastewater Treatment Plant is one of the improvements contained in the Wastewater Facilities Master Plan.

The Commission found the firm of Hazen and Sawyer may provide design criteria services for the replacement of a sewage force main between Miami Beach and the Central District Wastewater Treatment Plant even though the force main is a recommended upgrade contained in the firm's Wastewater Facilities Master Plan for WASD. The Ethics Commission has consistently held that a firm may work on a project where the firm worked on a prior phase of the project as long as the work does not involve oversight or review of the prior work.

In RQO 03-36, the Ethics Commission opined that a conflict is not created by continuation of prior work as long as the scope of work does not overlap. In RQO 05-60, the Ethics Commission opined that MC Harry could provide courthouse renovation design and construction management services although the firm had performed the original studies that led to the contract. In RQO 06-06 and

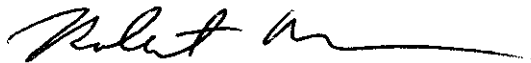
06-11, the Ethics Commission opined that an airport contractor could bid on work in the North Terminal where the firm had previously done design work. In RQO 07-41, the Ethics Commission opined that a firm could provide design services for recommended projects contained in the firm's Master Plan for the Parks and Recreation Department.

Similarly, in the instant case, Hazen and Sawyer may provide design criteria for the replacement mains although one of the projects is a recommended upgrades in the Wastewater Facilities Master Plan. The scope of services under the two projects does not overlap and the firm will not be required to perform oversight or review of its own work. Therefore, Hazen and Sawyer may serve as a member of a team on this project.

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

cc: Faith Samuels, Office of Capital
Improvements