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**ETHICS COMMISSIONERS** April 25, 2008

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Faith Samuels  
Office of Capital Improvements  
111 N.W. First Street  
Suite 2130  
Miami, FL 33128

**RE: REQUEST FOR ADVISORY OPINION RQO 08-18**

Dear Ms. Samuels:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 24, 2008 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether two firms may provide AE services to the Department of Water and Sewer (WASD) on a contract for the replacement of a 54 inch sanitary sewer main and force main.

In your request, you advised the Commission that the Office of Capital Improvements (OCI) recently issued a Notice to Professional Consultants (NTPC) for an architectural and engineering 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.

One of the proposers, Lockwood, Andrews and Newman (LAN), has a project employee who managed the 2004 Government Cut Feasibility Study. The study was provided to proposers as part of an addendum to the solicitation. Specifically, the 2004 Government Cut Feasibility Study provided an analysis of various alternatives for replacing the existing 54 inch force main and connecting the main to the Central District Wastewater Treatment Plant.

Another proposer, Jordan, Jones and Goulding (JJG) has also done planning studies related to the project. Specifically, the firm performed studies related to the relocation of the existing force main for WASD due to the federal government's plans to perform various upgrades to the shipping lanes in the area. JJG performed a geological study of the Government Cut Channel, evaluation of various methods of construction and drafted construction documents relating to relocation of the force main.

The Commission found that the two firms, LAN and JJG, may perform the requested design services for the replacement of the 54 inch sanitary sewage force main and the 20 inch force main. The Ethics Commission has consistently held that a firm may provide services although the firm provided earlier planning studies related to the project.

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, LAN and JJG may provide design criteria for the replacement of the force mains although they have done extensive planning work related to the relocation and replacement of the existing force main. The previous scope of work does not overlap with the proposed scope of work under this agreement and does not require any oversight or evaluation of the firm's previous work. Therefore, LAN and JJG may perform services under this agreement.

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