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STAFF GENERAL COUNSEL

July 9, 2008

Robert Feldman  
Partner  
McGladrey and Pullen  
201 Alhambra Circle  
Suite 810  
Coral Gables, FL 33134

**RE: REQUEST FOR ADVISORY OPINION 08-32**

Dear Mr. Feldman:

The Ethics Commission considered your request for an advisory opinion regarding any conflict between your firm serving as external auditors for the Transit Department and your wife's county employment at its meeting on July 8, 2008. The Ethics Commission opinion supersedes the previously provided staff opinion.

In your letter, you advised me that McGladry and Pullen is seeking to serve as external auditors for the Transit Department. As external auditors, the firm will be responsible for auditing the financial statements of the Transit Department including all funds received from farebox collection for Metrobus, Metrorail and other transit services, grants from the Federal Transit Agency and the Florida Department of Transportation, PTP funds and general fund dollars. The auditors will also review transit expenditures including capital projects, maintenance, personnel and procurement. The external audits are required by grant agencies and for bond sales. The contract will be for a term of three years

with an option to renew for an additional year.

You are a partner with the firm and your wife serves as Systems Analyst with ETSD. Your wife is assigned to work with Child Development Services Division of the Department of Human Services and does not work with the Transit or Finance.

The Conflict of Interest and Code of Ethics ordinance permits you to contract with Miami-Dade County to provide external auditing services. Section 2-11.1 (c) provides that " (n)otwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee...from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract awards or awarding the contract , and 3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including but not limited to its enforcement, oversight, administration, amendment, extension, termination or forbearance.

Section 2-11.1(d) prohibits employees from contracting with their department thorough a corporation in which the employee or a member of their immediate family has a controlling financial interest. Immediate family is defined in the ordinance as spouse, parents and children. A controlling financial interest is defined as ten percent or more of the stock in the corporation. Since your wife

does not work for either Transit or Finance,  
your firm may contract to provide external  
auditing services.

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 black ink, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS  
Executive Director

cc: Scott Voelker, Department of Procurement  
Management