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October 31, 2008

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ARDYTH WALKER
STAFF GENERAL COUNSEL

Charles Nostra
Associate Corporate Counsel
Post, Buckley, Schuh and Jernigan
2001 N.W. 107th Avenue
Miami, FL 33172

RE: REQUEST FOR ADVISORY OPINION 08-46

Dear Mr. Nostra:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 30, 2008 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether PBSJ may serve as consultant on the Port of Miami 2035 Master Plan.

In your request, you advised the Commission that the Seaport is currently seeking a firm to develop a 2035 Master Plan to assess the Seaport's long-term capital development needs. The Master Plan must address current and future market demands including security concerns, cruise and cargo traffic, concession and retail needs, information technology upgrades and berthing areas for cruise and cargo areas. The selected firm must incorporate input from all Seaport stakeholders as well as develop a preliminary implementation schedule with cost estimates.

PBSJ is currently serving as Program Management Consultant for the Seaport. In that capacity, PBSJ is responsible for providing staff to serve as Project Managers, Program Managers and support staff on Seaport capital projects. Additionally, PBSJ has been assigned other planning work such as cost

estimates for a parking garage and a traffic access study for the port.

The Commission found that PBSJ may provide AE services for the development of the Port Of Miami 2035 Master Plan. PBSJ's current responsibilities as Program Management Consultant do not conflict with the anticipated scope of responsibilities under the 2035 Master Plan because the firm does not have overlapping oversight or planning responsibilities.

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County.

Under the Ethics Commission's prior opinions, PBSJ does not have a conflict because the firm will not have oversight responsibility over the firm selected to update the master plan. Further, although PBSJ has performed planning studies under the Program Management Consultant contract, the studies have been limited in scope and are not the comprehensive long-range planning study contemplated for the master plan update. Therefore, PBSJ will not have overlapping oversight or planning responsibilities and may provide AE services for the Port of Miami 2035 Master Plan.

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,

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

ROBERT MEYERS
Executive Director

cc: Luisa Millan Donovan, OCI