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March 23, 2009

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

RE: REQUEST FOR ADVISORY OPINION RQO 09-09

Dear Mr. Ramos:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on February 26, 2009 opinion based on the facts stated in your letter.

You requested an opinion regarding whether PEER Consultants and The Corradino Group may serve as members of a team to provide design services for a Park and Ride Lot in Florida City. 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.

In your request, you advised the Commission that the Office of Capital Improvements is

seeking a consultant to provide design services for a park and ride lot at S.W. 344 Street and the terminus of the South Dade Busway. Specifically, the scope of services provides that the consultant will provide final design, public involvement activities, biddable construction documents, technical specifications, an engineer's construction cost estimate and construction phase services. The work also includes soils investigation, environmental studies and environmental mitigation services. Finally, the consultant will be responsible for coordination with other agencies including the Florida Department of Transportation (FDOT), Florida City and the Department of Public Works.

The Corradino Group has previously done planning studies related to the South Dade Busway and the Park and Ride lot as a consultant for the Metropolitan Planning Organization (MPO) and Miami-Dade Transit. In 2006, the Corradino Group prepared the Southlink study which examined long-range transit alternatives from Dadeland south to Florida City. The work included a review of existing conditions, including environmental issues, as well as a review of proposed improvements for the transportation corridor.

PEER Consulting has also done work related to the Park and Ride Facility in Florida City. PEER recently completed a Phase 1 Environmental Assessment for the Transit Department on environmental conditions at the 14 lots that will comprise the Park and Ride facility. The Phase 1 Assessment primarily consisted of a visual inspection and review of historical and agency documents related to any known environmental conditions in the vicinity of the project. The Transit Department is currently in the process of requesting additional services including soil testing, collection of groundwater samples and analysis of the environmental conditions at the site.

The Corradino Group

The Ethics Commission found that The Corradino Group may perform design services for the Park and Ride Lot in Florida City. The Ethics Commission has consistently opined that a firm may do design work on a project on which the firm has previously done planning studies. In RQO 5-60, The Ethics Commission opined that MC Harry could provide courthouse renovation design and construction management services although the firm had performed the original study that led to the contracts. In 07-41, the Ethics Commission opined that a firm could provide design services for improvements at a Metrozoo exhibit although the firm drafted the Master Plan for Metrozoo Improvements. In 07-51, the Ethics Commission opined that a firm could evaluate the need for modernization and rehabilitation of the existing zoo monorail and perform design services for the necessary upgrades. Accordingly, the Corradino Group may provide design services for the Park and Ride Lot in Florida City.

PEER Consultants

The Ethics Commission also found that Peer Consultants may provide design services for the Park and Ride Lot as long as the firm has completed any existing related work for Transit prior to the issuance of a Notice to Proceed on the design phase of the project or as long as the firm is not responsible for environmental testing in their capacity as a member of the design team for the Park and Ride Lot. Otherwise, under the Ethics Commission's prior opinions, the firm would have overlapping responsibilities under the two agreements. Therefore, PEER may only provide design services if the firm has completed the work under the pending work order or is providing unrelated work as a member of the design team.

Accordingly, the Corradino Group and PEER Consultants may provide design services subject to the restrictions contained herein.

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

ROBERT MEYERS
Executive Director