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STAFF GENERAL COUNSEL

March 27, 2009

Ramona Phillips  
President and CEO  
Phillips Consulting Group  
1221 Brickell Avenue  
9<sup>th</sup> Floor  
Miami, FL 33131

**RE: REQUEST FOR ADVISORY OPINION RQO 09-13**

Dear Ms. Phillips:

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

You requested an opinion regarding your quarterly reporting requirement.

In your request, you advised the Commission that Phillips Consulting Group is one of the subconsultants on the Program Management Consultant team for the People's Transportation Plan. The Program Management Consultant (PMC) is responsible for providing various services to Miami-Dade Transit in support of the People's Transportation Plan (PTP). Among the services provided by the PMC are short and long range transportation planning, project programming, creating design criteria and community outreach efforts required by federal transit regulations. The PTP includes a number of projects including Metrorail and Metromover upgrades, additional bus lines and public works projects. In 2004, the plan included three Metrorail extensions: Orange Line Phase I between the Earlington Heights Station and

the Miami Intermodal Center; Orange Line Phase II which included a northern extension along N.W. 27<sup>th</sup> Avenue and Orange Line Phase III which would run parallel to State Road 836.

Phillips Consulting Group has been responsible for providing staff to work on the community outreach portion for federal transportation funding for Orange Line Phases II and III. Late last year, the County received notice that the County did not receive funding for these two projects for the next federal funding cycle. Accordingly, the PMC has ceased utilization of the firm. Phillips Consulting had already exceeded the portion of funding contemplated under the 2005 contract.

The 2005 contract between Miami-Dade County and Parsons Brinckerhoff required the Prime Consultant to furnish quarterly reports in accordance with a 2004 Ethics Commission opinion. Under the Ethics Commission's 2004 opinion, the Prime Consultant was required to furnish quarterly reports from the date of the Notice to Proceed to the end of the project. PB Americas, the Prime Consultant, incorporated the reporting requirement into its subconsultant agreements. Accordingly, Phillips Consulting has provided quarterly reports to the Ethics Commission.

The Ethics Commission found Phillips Consulting is only required to provide quarterly reports when the firm is providing services as a member of the Program Management Consultant team. Since the firm is not providing general oversight or management services related to the contract, the firm will only have a conflict with other county work during the period when the firm is actually providing services to the PMC. Therefore, a subcontractor is only required to provide reports during the phases of the project where the subcontractor is providing services as long as the prime provides

reports related to which subcontractors are being utilized during every phase of the project. Accordingly, Phillips Consulting is not required to continue to provide quarterly reports as long as the firm is not providing any services as a member of the PMC team.

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", followed by a long horizontal line extending to the right.

ROBERT MEYERS  
Executive Director

cc: William Smith, PB Americas  
Jesus Valderamma, Miami-Dade Transit