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October 1, 2009

Maria Molina
President
Nova Consulting
10486 N.W. 31st Terrace
Miami, FL 33172

RE: REQUEST FOR ADVISORY OPINION RQO 09-29

Dear Mrs. Molina:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 30, 2009 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your firm's ability to provide construction inspection services for Miami-Dade County.

In your letter, you advised the Commission that the Office of Capital Improvements recently issued a Notice to Professional Consultants to provide Construction Inspection Services for several county departments including Aviation, Seaport, GSA, Public Works, Water and Sewer and DERM. Two firms will be selected to provide the services. The firms who previously provided any services on the South Terminal were required to request an advisory opinion.

The scope of services for the Construction Inspection Services requires the consultants to oversee, coordinate and inspect the work of design consultants, surveyors and construction contractors. The work may include review of change orders, schedules,

claims and requests for compensations by contractors and consultants. The work will include construction inspection services for new building construction, renovations, airfields and roadways. The South Terminal program consisted of construction of a new Concourse J and renovation to existing Concourse H. The project was substantially completed in 2007 although final close-out will not take place until later this year.

Nova Consulting previously provided construction management services to Burns and McDonnell. The work included review of construction documents, quality assurance and quality control and review of monthly progress reports. The firm also provided oversight services for the dual taxiway which included testing of soil samples and other miscellaneous environmental testing. The firm did not provide any design or construction services on the South Terminal project.

The Ethics Commission found that Nova Consulting may provide construction inspection services under the proposed agreement. The Ethics Commission has found that a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project). Further, a conflict may exist if there are overlapping roles on responsibilities between various members of a team (i.e. a member serves as prime contractor on one contract and as a subcontractor to another contractor on another contract) or if there are overlapping scopes of work between two agreements.

The Commission found that Nova does not have any conflict with its prior work done on the South Terminal because the firm did not

provide design or construction services on the South Terminal. Further, there is no overlap between the scope of the prior work and the proposed CIS scope of services. Therefore, Nova may provide construction inspection 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 the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director

cc: Luisa Millan, Office of Capital
Improvements