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May 2, 2011

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STAFF GENERAL COUNSEL

Rene de los Rios
Associate General Counsel
Atkins North America, Inc.
2001 Northwest 107th Avenue
Miami, FL 33172

RE: REQUEST FOR ADVISORY OPINION-RQO 11-12

Dear Mr. de los Rios:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 28, 2011 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Atkins North America ("Atkins") may provide Construction Engineering and Inspection Services for the Wharf Strengthening program at the Seaport. Atkins is currently serving as Program Management Consultant for the Seaport. The contract is slated to expire at the end of April.

In your request, you advised the Commission that the Seaport is planning to issue a solicitation for Construction Engineering and Inspection Services for the Wharf Strengthening Program. The Wharf Strengthening project is a multiphase project for strengthening the existing cargo wharves and bulkheads to provide additional capacity for future dredged depth of fifty feet or more. The project must be completed in advance of the Phase III Dredging Project. The design phase has been completed and construction is expected to begin in August.

The Construction Engineering and Inspection Consultant will be responsible for assisting

with construction program logistics, planning, schedule development and monitoring, reviewing change orders and payment requests, coordinating and overseeing construction quality and quality assurance testing.

As Program Management Consultant, Atkins is responsible for furnishing personnel to support the Seaport in a variety of functions including long and short term planning; facilities planning; oversight of design and system consultants; oversight of construction management consultants; value engineering; estimating; contract administration; claims administration and project management on several selected projects. One of the projects listed in the PMC agreement is the Phase III Dredging Project.

The Ethics Commission found Atkins may provide Construction Engineering and Inspection Services for the Wharf Strengthening Project as long as the firm has completed all outstanding work orders related to the Phase III Dredging Project prior to the Notice to Proceed.

Under the Ethics Commission's prior line of opinions, a contractor may not provide services if the contractor's current work overlaps with the scope of services under the proposed agreement. Further, a contractor is prohibited from serving if the firm is performing oversight responsibilities under one agreement and performing design or other work that will fall under the oversight of the other agreement because it impairs the contractor's independence of judgment.

Since Atkins should have concluded any work related to the Program Management Consultant contract prior to commencement of work under this agreement, the firm is permitted to serve as Construction Engineering and Inspection Consultant.

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 'R. Meyers', written over a horizontal line.

ROBERT MEYERS
Executive Director