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June 23, 2011

Samuel E. Nifah, P.E.
President and CEO
Nifah & Partners
8785 S.W. 165th Avenue
Suite 108
Miami, FL 33193

RE: REQUEST FOR ADVISORY OPINION-RQO 11-16

Dear Mr. Nifah:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 23, 2011 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Nifah & Partners ("Nifah") may bid on a contract to provide architectural and engineering services for a runway rehabilitation project at the airport. The firm was a subconsultant on the project book.

In your request, you advised the Commission that the Aviation Department recently issued a solicitation for a firm to provide design services for rehabilitation and renovation of Runway 12/30 and associated taxiways. The project will include design of pavement, rehabilitation of the runways, upgrading of associated utilities, marking and centerline, edge and holdbar lighting. The scope of services includes estimating, project management, quality control and assistance with bidding and award.

URS currently has an aviation planning contract with the Aviation Department. The scope of services provides that URS will provide planning services including airfield, airspace and terminal planning. The consultant is also responsible for providing studies, planning data and support for programs under the airport's Capital Improvement Program(CIP).

URS developed the project book. The project book contained information regarding the present use and condition of the runway, technical specifications of the runway and detailed specifications regarding the planned improvements. The information was provided to all proposers for use in developing their response to the solicitation for the runway rehabilitation project. In RQO 10-26, the Ethics Commission opined that URS could work on the project book and bid on the design services contract for the runway rehabilitation project.

Nifah served as a subcontractor to URS. Nifah was responsible for field verification of the as-built drawings.

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance permits Nifah to provide services on the runway rehabilitation contract. The Ethics Commission has consistently held that a firm is not precluded from bidding on a project because the firm performed planning studies or did related work on an earlier phase of the project. In RQO 09-31, the Ethics Commission opined that an architect who had created a master plan and specifications for Vizcaya renovations could serve as a member of a design team for the renovations. In RQO 04-166, the Ethics Commission opined that a firm could provide services under a contract where the firm had prepared the preliminary master plan for the project. In RQO 03-36, the Ethics Commission opined that a conflict is not created by continuation of prior work


as long as the scope of work does not overlap.

In the instant case, Nifah may perform services on the runway rehabilitation project because there is no overlap between the work under the two agreements.

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

ROBERT MEYERS
Executive Director

cc: Amelia M. Cordova-Jiminez, Office of
Capital Improvements