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ARDYTH WALKER
STAFF GENERAL COUNSEL

August 1, 2011

Albert Argudin
Vice-President
ADA Engineering
8550 N.W. 33rd Street
Suite 101
Doral, FL 33122

REQUEST FOR ADVISORY OPINION-RQO 11-19

Dear Mr. Argudin:

On July 26, 2011, the Ethics Commission ratified the preliminary draft opinion that was previously provided to you. Please find attached the final formal opinion that was approved.

If you have any questions regarding this opinion, please call the undersigned or Ardyth Walker, Staff General Counsel at (305) 579-2594.

Sincerely Yours,

ROBERT MEYERS
Executive Director



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8550 N.W. 33rd Street
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REQUEST FOR ADVISORY OPINION-RQO 11-19

Dear Mr. Argudin:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 26, 2011 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether ADA Engineering may provide construction engineering and inspection services for the Wharf Strengthening project at the Port of Miami. ADA Engineering is currently serving as a subconsultant to HDR Engineering.

The Seaport recently issued 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 federally-funded Phase III dredging project and construction is slated 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.

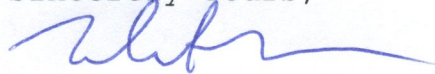
HDR Engineering is the architect of record for the Wharf Strengthening Program. As a subconsultant to HDR, ADA Engineering has been responsible for assisting with topographic and hydrologic surveys; providing utilities and drainage designs during the preliminary engineering phase and permitting. ADA is also slated to provide construction management, bid support and project closeout services during the construction phase.

ADA may not provide CEI services for the wharf strengthening program because it will compromise the firm's independence of judgment in the performance of its official responsibilities. In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest. For example, 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. ADA may not provide CEI services because it may compromise its independence of judgment in assessing any design or quality assurance issues during the construction phase. Moreover, ADA will have overlapping responsibilities since ADA has construction phase responsibilities under the design agreement. Finally, the Seaport is restricting participation on the CEI contract to firms that are not serving on the design or construction team. Therefore, ADA may not provide CEI services for the wharf strengthening program.

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 Ardyth Walker, Staff General Counsel, at (305) 579-2594.

Sincerely Yours,



ROBERT MEYERS
Executive Director

cc: Mike Ramos, Office of Capital
Improvements