

**Meyers, Robert (COE)**

JNG  
05-01

**From:** Meyers, Robert (COE)  
**Sent:** Monday, January 03, 2005 10:01 AM  
**To:** Gonzalez-Hernandez, Amy (Mayor's Office)  
**Subject:** RE: ethics opinion-2

Amy,

Thank you for this information. The relevant facts are as follows: you are employed in the Mayor's Office as the as Director of Policy and Legislative Affairs and your parents are principals of a firm, H & R Paving, which has done business with the County since the late 1980s and is currently transacting business with the County. You have inquired whether the firm's contracts with the County would create a conflict of interest under the County's Code of Ethics Ordinance given your position in the Mayor's Office.

The Conflict of Interest and Code of Ethics Ordinance bars immediate family members of County employees from transacting business or entering into contracts with the County in cases where the contract is entered into with the County employee's department and under circumstances in which the employee is involved in the awarding of the contract, its enforcement, oversight or administration. Generally speaking, the Mayor's Office does not play a role in the County's purchasing and procurement decisions, as the office does not award, enforce or administer contracts. Therefore, I find that no conflict of interest exists that would prohibit your parents' firm from continuing to do business with the County. If, however, matters involving their contracts came to the attention of the Mayor's Office, you would not be permitted to participate in any discussions regarding these contractual matters. Finally, if in the future the Mayor's Office assumes more responsibilities over County contracting and purchasing decisions, it would be advisable for you to seek another opinion.

If you have any questions concerning the above, please do not hesitate to contact me at your earliest convenience.

Sincerely,

Robert Meyers

-----Original Message-----

**From:** Gonzalez-Hernandez, Amy (Mayor's Office)  
**Sent:** Monday, December 27, 2004 12:08 PM  
**To:** Meyers, Robert (COE)  
**Subject:** RE: ethics opinion-2

I have been informed that they have been doing business with the County since the late 1980s. The contracts they have obtained are based on award on a competitive low bid contract price. Contract numbers are as follows;

20030001  
20030002  
20030003  
Cf005003B  
Cf005002B  
630023  
640383- 98% complete  
640384- 98% complete  
640385- 98% complete  
RM-6-01/03  
C-01- DERM EEC

Subcontractors to Southeastern Engineering, and Pilome Engineering.

Their contracts are mainly from the Public Works Department. If you need additional information please let me know thanks again.

Amy Gonzalez-Hernandez, Esq.  
Director of Policy and Legislative Affairs  
Office Mayor Carlos Alvarez  
O - (305) 375-5668  
F - (305) 679-7689

-----Original Message-----

From: Meyers, Robert (COE)  
Sent: Thursday, December 23, 2004 12:01 PM  
To: Gonzalez-Hernandez, Amy (Mayor's Office)  
Subject: RE: ethics opinion-2

Amy,

Before I respond to your request, I have a few questions for you. Is H & R Paving currently doing business with County and if so, can you provide me with the contract number. Is H & R Paving in good standing with the County? In other words, if the company is not currently doing business with the County, is the company eligible to do business with County? Finally, is H & R doing any subcontracting work for a contractor doing business with the County?

I'm leaving the office at noon today, but will return on Monday morning and will provide you with an opinion by the end of the day on Monday.

Thanks and Happy Holidays!

Robert

-----Original Message-----

From: Gonzalez-Hernandez, Amy (Mayor's Office)  
Sent: Monday, December 20, 2004 10:33 AM  
To: Meyers, Robert (COE)  
Subject: ethics opinion-2

Per our conversation, attached is my request. Thanks again for your time and consideration.

Dec. 27, 2004

Robert,

Below is a quick-and-dirty summary of H&R Paving's compliance history and other findings as they relate to Amy Gonzalez-Hernandez's request:

- H&R has done extensive work with county agencies, totaling \$73.8 million since 1994. Most contracts have been awarded by Public Works, Water and Sewer, DERM and through the QNIP bond issue. Approximately 12 contracts worth in excess of \$25 million remain open, according to officials at DBD.
- Compliance records show H&R has been cited for repeated violations of the county's Responsible Wages and Benefits ordinance, and other ordinances monitored by DBD. These violations include submittal of inaccurate payrolls, underpayment of employees, failure to post notices about required wages, failure to allow inspectors to interview employees.
- The most serious allegations prompted DBD to recommend in 2001 that H&R be subject to debarment. (See June 8, 2001, draft report.) Compliance officers at DBD detected \$55,000 in payments that were wrongfully withheld from employees, and H&R paid this amount as part of a mediated settlement. The firm hired lobbyist-attorney Val Screen to represent it during this process. H&R was in effect padding its profits at the expense of its workers, DBD officers found.
- Since the settlement, DBD compliance officers have found evidence of continuing violations. In fact, six of the firm's 13 findings of violation have been reported since that time. DBD officers say additional complaints regarding wages are presently under review, and believe the problem remains widespread.
- Compliance officers say they believe H&R also attempted to skirt the county's ordinance regarding small businesses by certifying the principals' son as a CBSE firm and using his firm as a subcontractor. That firm was later de-certified.
- The firm has retained the services of five lobbyists since 1998, including Screen, Jorge Lopez and Pablo Acosta of the lawfirm Steel, Hector & Davis.

I interviewed Roger Hernstadt, the county's capital improvements coordinator, who has overseen H&R's work on the QNIP contracts. He says the firm generally does "excellent" work. "They're fairly reliable, performance-wise," he said.

I also spoke to police Det. Eric McAndrew, who was formerly OLA's chief analyst and Ms. Gonzalez-Hernandez's supervisor. He says that during the period he worked with her, Ms. Gonzalez-Hernandez made him aware of her parents' business and recused herself from all discussions of issues affecting the firm. McAndrew said she was "insistent" about sitting out all matters relating to paving contracts. She would leave briefings during the agenda item prior to her parents' items, he said.

McAndrew said he feels Gonzalez-Hernandez does have a grasp of the county's ethics ordinance and attempts to adhere to its spirit.

My only caution would be that, should the mayor's office succeed in converting itself into a procurement agency where it would oversee the dispensing of contracts, Ms. Gonzalez-Hernandez's role could make it awkward for her to recommend policy that, however indirectly, could benefit her parents.

Hope that helps.

KR

DRAFT



MEMORANDUM

TO: Aristides Rivera, Director  
Department of Public Works

DATE: June 8, 2001

FROM: Marsha E. Jackman, Director  
Department of Business Development

SUBJECT: Comprehensive Compliance  
Review of Project Nos. 630013Q  
and 630215Q

RECOMMENDATION

The Department of Business Development (DBD) conducted a Comprehensive Compliance Review (CCR) of H & R Paving, Inc.'s (H&R) compliance with the Responsible Wages and Benefits (Ord. 90-143) and Community Small Business Enterprise (CSBE) (Ord. 97-52) Ordinances and their implementing Administrative Orders 3-24 and 3-22 (A.O.) as they apply to Project No. 630013Q Quality Neighborhood Initiative Bond Program (QNIBP) Resurfacing Countywide and Project No. 630215Q QNIBP Sidewalk Countywide. Project No. 630013Q was awarded with a 6% CSBE subcontractor goal.

H&R has repeatedly violated the requirements of Ord. 90-143 on the referenced projects by submitting signed certified payrolls that are false. The payrolls omitted employees and workdays, and misclassified employees into classifications that receive less pay. There are over 40 instances where workdays are not included on certified payrolls and at least 241 instances where employees seen on the job site are not reported. H&R also failed to submit certified payrolls from their subcontractors as required by Ord. 90-143.

Through the adoption of Ord. 90-143, the County Commission mandated that employees working on county construction projects receive responsible wages and benefits, and that contractors accurately report and submit documentation to show they are in compliance with the rules. H&R Paving failed to adhere to these rules. It is the responsibility of DBD to enforce the mandates of Ord. 90-143. Hence based on the findings of the CCR, DBD has determined that H&R has substantially and repeatedly failed to comply with the requirements of Ord. 90-143, and as such is in non-compliance with Ord. 90-143. It is recommended that H&R be required to pay liquidated damages in the amount of \$48,200 to the County and that H&R and its principal owners thereof be prohibited from bidding on or otherwise participating on county contract for a period to be determined by a debarment committee pursuant to the County's Debarment Ordinance (County Code Section 10-38).

BACKGROUND

Pursuant to A.O. 3-24 the successful bidders on construction projects valued greater than \$100,000 must:

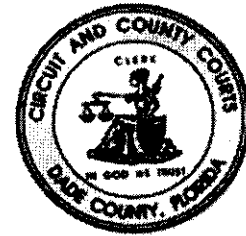
- A. Pay their employees not less than the specified combined hourly wage rates and benefits applicable to the employee classification in which such employees are working on the project. Such payment obligations may be fulfilled by payment of wages, contributions to employees' benefit plans, payments in cash, or any combinations thereof;

Contract #	Project #	Department	Ord.	Amount Identified	Amount Recovered	Specialist	Reason
6/10/2001 7/28/2003	MIA-768A 422801010022	AV-AA PR	90-143 90-143	\$95,019.01 \$19,033.60		Yolanda Bielewovic Freddy Castillo	Underpayment of Employee Underpayment of Employee
6/11/2003	S-700A-9 ER 46975	WS	90-143			Alberto Saffile	Submission of inaccurate payrolls
Greco International Corp. (Violations: Period --> 1) Total --> 1)	DCAD C121A	AV	90-143	\$908.00	\$908.00	Raul Maristany	Underpayment of Employee
1/7/2000						Shelia Hollett	Failed to submit Payrolls
Greyhound Lines Inc. (Violations: Period --> 1) Total --> 1)	6468-306-OTR-LW	XX	99-44				
6/3							
Griffin Dewatering So. Fla. Llc (Violations: Period --> 1) Total --> 1)	9501	CM	90-143	\$118.17	\$118.17	Alecia Anderson	Underpayment of Employee
4/90							
1/16/2001							
Use Development Corp. (Violations: Period --> 3) Total --> 3)							
253	6/28/1999	CM	90-143	\$17,329.49	\$16,661.97	Sylvia Lopez	Underpayment of Employee
270	2/9/2000	CM	90-143	\$8,651.95	\$8,651.95	Jorge Garciga	Underpayment of Employee
422	6/3/2003	CM	90-143	\$327.60	\$327.60	Alecia Anderson	Underpayment of Employee
H & D Electric, Inc. D/b/a Halgren Enterprises, (Violations: Period --> 3) Total --> 3)							
445	5/11/2000	AV	90-143	\$658.42	\$658.42	Yolanda Bielewovic	Underpayment of Employee
7)	6/22/2004	AV	90-143	\$13,629.21		Yvette Duval	Misclassification of employee
792	7/19/2004	AV	90-143	\$5,995.87		Yvette Duval	Failure to maintain apprentices/journeyman ratio
H & J Asphalt, Inc. (Violations: Period --> 10) Total --> 10)							
295	11/15/1999	PW-Q	90-143	\$672.00	\$672.00	Sylvia Lopez	Underpayment of Employee
449	1/13/2000	WS	90-143	\$117.13	\$117.13	Jorge Garciga	Underpayment of Employee
300	2/4/2000	PW-Q	90-143	\$143.82	\$143.82	Sylvia Lopez	Underpayment of Employee
480	9/1/2000	WS	90-143	\$2,027.16	\$2,027.16	Jorge Garciga	Underpayment of Employee
499	3/28/2001	WS	90-143	\$1,128.58		Jorge Garciga	Submission of inaccurate payrolls
349	6/1/2002	PW	90-143			Elio Roman	Underpayment of Employee
174	11/19/2002	PW-Q	90-143			Freddy Castillo	Failed to post Wages at the Job Site
379	3/26/2003	PW-Q	90-143			Alberto Morales	Failed to post Wages at the Job Site
643	8/16/2003	WS	90-143	\$1,713.98	\$1,713.98	Alberto Saffile	Underpayment of Employee
745	5/18/2004	PW-Q	90-143			Martha Garofolo	Failed to post Wages at the Job Site
H & J Foundation (Violations: Period --> 1) Total --> 1)							
159	11/8/2001	CM	90-143	\$491.56	\$491.56	Alecia Anderson	Underpayment of Employee
H & R Paving, Inc. (Violations: Period --> 13) Total --> 13)							
39	5/13/1998	PW	94-96			Angel Castro	Prime failed to meet CSBE subcontractor goal
116	7/17/1998	PW	90-143	\$163.19	\$163.19	Sylvia Lopez	Underpayment of Employee
17	10/24/2000	PW-Q	90-143	\$92.00	\$92.00	Elio Roman	Underpayment of Employee
500	4/1/2001	PW	90-143			Elio Roman	Failure to allow interview of employees
597	9/13/2001	PW	97-52			Elio Roman	Failure to submit Monthly Utilization Report
596	10/16/2001	PW-Q	90-143	\$27,500.00	\$27,500.00	Elio Roman	Submission of inaccurate payrolls
173	10/16/2001	PW-Q	90-143			Freddy Castillo	Failed to post Wages at the Job Site
198	11/21/2002	PW-Q	90-143			Alberto Morales	Failed to post Wages at the Job Site
206	1/28/2003	PW-Q	90-143			Freddy Castillo	Failed to post Wages at the Job Site
378	3/28/2003	PW-Q	90-143			Alberto Morales	Failed to post Wages at the Job Site
695	1/14/2004	PW-Q	90-143			Martha Garofolo	Failed to post Wages at the Job Site

Monday, December 27, 2004

Case of Violation	Project #	Department	Ord.	Amount Identified	Amount Recovered	Specialist	Reason
3/31/2004 6289020 + PW-Q 90-143						Martha Garofolo	Failed to post Wages at the Job Site
9/11/2003 S-700A-9-ER 48975 WS 90-143						Alberto Sanlle	Submission of inaccurate payrolls
6/23/2004 630161Q PW-Q 90-143						Freddy Castillo	Failed to submit Payrolls
4/23/2004 B312W1 2STRUCTURA L STEEL AV-STP 97-52						Yvette Duval	Utilization of non certified CSBE firm for CSBE/Set Aside work
6/14/2004 B312W1 2STRUCTURA L STEEL AV-STP 97-52						Yvette Duval	Failure to submit Monthly Utilization Report
Hc8d (Violations: Period --> 1 Total --> 1) 4/17/1998 W-759, DIV. 1 WSS 90-143				\$1,640.55	\$1,640.55	Rauli Maristany	Underpayment of Employee
Hi - Tech Concrete, Inc. (Violations: Period --> 1 Total --> 1) 10/2/2002 671510 PW 90-143				\$321.84		Elio Roman	Underpayment of Employee
Homesstead Concrete & Drainage, Inc. (Violations: Period --> 3 Total --> 3) 11/2/1999 630114Q PW-Q 90-143				\$80.76	\$80.76	Sylvia Lopez	Underpayment of Employee
7/24/2002 630159Q PW-Q 90-143				\$244.88	\$244.88	Freddy Castillo	Underpayment of Employee
7/15/2004 630159Q PW-Q 90-143						Freddy Castillo	Failed to submit Payrolls
Homesstead Paving Co. (Violations: Period --> 1 Total --> 1) 5/23/2001 662348B PW 90-143				\$69.81	\$69.81	Jesus Lee	Underpayment of Employee
Honeywell, Inc. (Violations: Period --> 1 Total --> 1) 9/15/2004 SSS537-0/02 AV 99-44						Shelia Hollett	Failed to submit Payrolls
Honshy Electric (Violations: Period --> 1 Total --> 1) 7/29/1998 B-227A, TAC-R AV 90-143				\$2,445.36	\$2,445.36	Rita Silva	Underpayment of Employee
Horacio A. Unzueta (Violations: Period --> 3 Total --> 3) 11/20/1997 TAC 94083M54-R AV 90-143				\$1,946.22	\$1,946.22	Angel Castro	Underpayment of Employee
10/1/1998 92087M21 AV 90-143				\$14,110.98	\$11,807.79	Rita Silva	Underpayment of Employee
248 10/1/1998 DCAD 92099A31 AV 90-143				\$21,335.28	\$3,392.18	Rita Silva	Underpayment of Employee
Horizon Contractors, Inc. (Violations: Period --> 5 Total --> 5) 8/10/2000 693141-PHASE II PW 97-52						Alecia Anderson	Prime failed to meet CSBE subcontractor goal
43 8/10/2000 693141-PHASE I PW 97-52						Alecia Anderson	Prime failed to meet CSBE subcontractor goal
495 4/2/2001 693204Q PW 97-52						Elio Roman	Prime failed to meet CSBE subcontractor goal
180 12/18/2002 630126Q-A PW-Q 90-143				\$3,153.43		Freddy Castillo	Failed to post Wages at the Job Site
190 1/22/2003 630118Q PW-Q 90-143						Freddy Castillo	Underpayment of Employee
Horizon Glass & Mirror Corp. (Violations: Period --> 1 Total --> 1) 6/15/1998 DCAD 2056B AV 90-143				\$221.96	\$221.96	Rita Silva	Underpayment of Employee
Horner Electric, Inc. (Violations: Period --> 9 Total --> 9) 9/1/1998 671030A PW 90-143				\$311.92	\$311.92	Sylvia Lopez	Underpayment of Employee
15 1/23/2001 671035 PW 90-143				\$4,566.82	\$4,557.64	Jesus Lee	Underpayment of Employee
517 5/22/2001 671036 PW 97-52						Elio Roman	Modification to terms /prices of payment to CSBE without DBD approval
527 5/22/2001 671036 PW 97-52						Jesus Lee	Modification to terms /prices of payment to CSBE without DBD approval
612 2/7/2002 671030A PW 97-52						Elio Roman	Prime failed to meet CSBE subcontractor goal

Monday, December 27, 2004



## Registration List by Principal

**Principal: H & R PAVING INC**

Lobbyist	Subject	Item	Registration Date
<b>ACOSTA, PABLO</b>			
	MDAD PAVING CONTRACT AWARD		1/29/2002 1:39:00 PM
	Meeting Date: Not Provided	Item Number: Not Provided	Legislative Issue: Not Provided
<b>HOWARD, BARBARA</b>			
	DBD AUDIT PROJECT 630214Q		5/16/2000 12:20:00 PM
	Meeting Date: Not Provided	Item Number: Not Provided	Legislative Issue: Not Provided
<b>LOPEZ, JORGE L.</b>			
	PROJECT 640336 STREET PAVEMENT		4/8/1998
	Meeting Date: Not Provided	Item Number: Not Provided	Legislative Issue: Not Provided
<b>SCREEN, VALRIA</b>			
	REPRESENTATION REGARDING CERTIFIED PAY ROLL		3/8/2001 4:10:00 PM
	Meeting Date: Not Provided	Item Number: Not Provided	Legislative Issue: Not Provided
	MDAD PAVING CONTRACT AWARD		1/29/2002 1:24:00 PM
	Meeting Date: Not Provided	Item Number: Not Provided	Legislative Issue: Not Provided
<b>SHAWDE, JOHN</b>			
	STREET PAVING PROJECT 640336		5/18/1998
	Meeting Date: Not Provided	Item Number: Not Provided	Legislative Issue: Not Provided

*Steel, Hoch + Davis*

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### Miami Herald, The (FL)

June 22, 2000

**Section:** Neighbors WE

**Edition:** Final

**Page:** 2W

**Memo:**WEST KENDALL

### SOME DOUBT THE NEED TO REPAIR SIDEWALKS

*KARL ROSS, [kross@herald.com](mailto:kross@herald.com)*

County public works officials say there is a backlog of communities clamoring to have their sidewalks repaired, but not enough money to go around.

Some West Kendall residents also have a complaint about their sidewalks. They say a private contractor hired by the county to replace broken sidewalks in their neighborhood is bilking taxpayers by tearing up perfectly good pieces of cement.

"What's wrong with this slab?" asked Alberto Rodriguez, an architect who works out of his home on Southwest 68th Terrace, pondering a five-foot-long slab marked for removal.

"Instead of spending a hundred bucks a slab fixing this stuff," said Rodriguez, who is also a state-certified contractor, "they could do something we really need."

The work in question - mostly along 151st Court between 69th Street and 65th Terrace - is part of a \$131,786 repair job being carried out by **H&R Paving**. It is one of a dozen sidewalk projects worth \$2 million the firm has been awarded under the Safe Route to School Program, funded by a \$147-million county bond issue.

Alex Noa, an inspector for the Miami-Dade Public Works Department, is the county official in charge of the project, which snakes around 69th Street to 152nd Avenue and passes in front of Bowman Foster Ashe Elementary School.

Noa examined photos of the work and defended the repairs. He said contractors are only removing "flags" of cement with overlaps more than a quarter-inch high, cracks that cut all the

way to the bottom or badly chipped edges. "We always look at it this way," Noa said. "If a lady was walking with high heel shoes, would she fall?"

Noa said contractors are paid according to the number of five-foot-long pieces of sidewalk they replace - generally at between \$35 and \$45 a piece - but stressed that a county road engineer marks off the pieces slated for replacement.

Angel Rodriguez, a county inspector at the construction site, said at least one of the pieces of cement marked for removal was incorrectly tagged. "I don't know why they marked this one because it doesn't have anything," he said.

Rodriguez said he caught the mistake earlier and "rectified it."

H&R's crew chief, Christian Fredes, walked the length of 151st Court and explained why most of the pieces were earmarked for removal. Only a handful of the pieces overlapped by more than a quarter inch. Most had hairline cracks that did not appear to run very deep. Others had indentations or chips, no larger than a fist.

Twice, looking at seemingly unblemished pieces, Fredes said removal was necessary because a tree root would eventually dislodge it.

Community Council 11 Chairman Robert Curbelo Jr., a former builder, questioned that: "It can take a tree root as long as 20 years to do that."

Curbelo visited the project site a day after The Herald took pictures, only to find freshly poured sidewalks. He said he did peer into a dump truck parked at the site and examined uprooted pieces, all of which appeared to be intact.

"I really don't see the need for doing that sidewalk," said Curbelo, who also examined photos of the marked pieces. "There was only one piece that was chipped, but it didn't even penetrate a quarter inch so nobody was going to trip and fall."

**Illustration:**photo: Sidewalk (A)

**KARL ROSS / HERALD STAFF READY FOR REPAIR:** An employee of **H&R Paving** cuts a section of sidewalk to be replaced on Southwest 67th Terrace. Some sections to be replaced, however, seem to show little sign of wear.

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**Meyers, Robert (COE)**

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**From:** Ross, Karl (COE)  
**Sent:** Thursday, December 23, 2004 3:53 PM  
**To:** Meyers, Robert (COE)  
**Cc:** Ross, Karl (COE)  
**Subject:** H&R Paving

Robert,

I spoke to a compliance officer at DBD today, and he says that while H&R is not on the county's List of Debarred Contractors, the firm was recommended for said list several years ago. That matter, I was told, stemmed from repeated complaints by employees that H&R was paying them less than the required wage, as stipulated in their CBA.

The compliance officer told me H&R entered into a mediated settlement with the county in about 2001 in which the firm acknowledged non-compliance with pay requirements for seven county contracts. He said H&R paid a \$55,000 fine as a result and was reinstated as a contractor in good standing. He says the firm has received additional work since then, and has active contracts. He says DBD recently received another complaint from employees, alleging the same behavior. That complaint is presently under review, he says.

On Monday I will meet with the compliance officer and his boss, and we will pull relevant documents that substantiate the above account. These should include a roster of contracts, past and present; a history of violations; complaints; the letter recommending debarment; and any additional info. I will also check newspaper clips, lobbyists, etc.

Karl