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March 7, 2002

Patrick Rebull  
Serralta Rebull Serig, Inc.  
7194 S.W. 47<sup>th</sup> Street  
Miami, Fl 33155

**RE: REQUEST FOR ADVISORY OPINION 02-27**

Dear Mr. Rebull:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 6, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your firm's ability to serve as a subcontractor on a DERM storm drainage contract while serving as a master consultant on another DERM contract.

In your letter, you advised the Commission that on January 10, 2002, the firms of Rebull and Associates and Serralta and Associates merged to become Serralta, Rebull and Serig, Inc. (SRS). Prior to the merger, Rebull and Associates had entered into an agreement to provide master consultant services to the Department of Environmental Resources Management (DERM). As a master consultant, Rebull and Associates has responsibility for overseeing and coordinating the work of engineering, soils, foundations and materials testing, construction management consultants, surveyors and contractors, contract monitoring and record keeping, approving and recommending requisitions for compensation and generating completion certificates of

different disciplines to assure compliance with the FEMA, State and County guidelines on behalf of DERM. The master consultant is also required to report on the status of the work to DERM and the County Manager and his or her designee.

SRS has been approached to serve as a Community Small Business Enterprise (CSBE) subconsultant to Budget Construction on a DERM contract for Storm Drainage and Paving, Project No. COI-DEDM-EEC. The Storm Drainage contracts are for installation of exfiltration drains, catch basins, roadway restoration and miscellaneous drainage systems. The contractors will restore drainage systems damaged by Hurricane Irene.

The Commission found that SRS should not serve as a subconsultant on the DERM storm drainage contract while serving as a master consultant. Although not prohibited by the Conflict of Interest and Code of Ethics ordinance, the dual roles require SRS to provide oversight of the same project on which it is a subconsultant. The Commission has previously held that an inherent conflict exists when a contractor provides oversight of their work or supervises a contractor with whom the company has a business relationship.

In the present case, the conflict is stronger because SRS will simultaneously perform both the engineering and oversight function. As a master consultant, SRS is charged with the responsibility of overseeing the contractors work on the storm drainage project including issuing work and approving change orders and payments. The task will require SRS to make decisions regarding the scope and amount of work given to contractors on the drainage contract and approve payments given to the firm with whom they are associated on the contract. The arrangement would create, at a minimum, the appearance of a conflict of interest and would likely undermine SRS'

independence of judgment in the performance of the master consultant position.

Therefore, SRS should not serve as both a DERM Master Consultant and as a subconsultant on a DERM storm drainage contract.

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 cursive script, appearing to read "Robert Meyers", followed by a horizontal line extending to the right.

ROBERT MEYERS  
Executive Director