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April 30, 2003

Daniel Perez-Zarraga  
Perez and Perez  
2121 Douglas Road  
Miami, FL 33145

**RE: REQUEST FOR ADVISORY OPINION 03-60**

Dear Mr. Perez:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 29, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your firm's ability to provide supplemental AE services for the South Terminal program.

In your request, you advised the Commission that the Aviation Department recently issued a Notice to Professional Consultants for two architectural and engineering agreements for the South Terminal program. The South Terminal program is composed of eight major capital projects. The scope of services for the two contracts includes contract administration and supplemental design services for concourse buildings as well as aircraft apron and taxiway and taxiway areas. The services will include, but not be limited to aviation planning, architecture, landscape architecture, lighting, acoustics, signage, graphics, industrial design, interior design, engineering, telecommunication systems, baggage systems, security and information systems.

The Notice to Professional Consultants states that " Proposers are hereby advised that no firm that has or will perform services or work as a prime, subconsultant or a member of any tier for the Miami-Dade Aviation Department (MDAD) Miami International Airport for the South Terminal Construction Manager at Risk Contractor, a Joint Venture consisting of Parsons Transportation Group Inc. and Odebrecht Construction Inc. or the MDAD General Consultant Dade Aviation Consultants, a Joint venture comprised of Bechtel Infrastructure Corporation, DMJM Aviation Inc, Spillis Candela DMJM, The Bugdal Group, Poinciana Development Group Inc., Maurice Gray Associates, Inc, Sharpton, Brunson & Company, Inc. and TBI Airport Management Inc. may be included as a prime, subconsultant or member on this agreement. "

Perez and Perez Architects is currently a subcontractor to DMJM Harris (formerly Fredric Harris & Co.) at the seaport on a bond-engineering contract. DMJM Harris is not one of the DMJM divisions that are part of DAC but DMJM Harris does hold current contracts related to the airport capital improvement program. Although Perez and Perez has previously provided services under the port contract, the firm is not currently providing services on any work order under the port contracts but may be used by DMJM Harris on future work at the port.

The Commission found Perez and Perez may not serve on a team for the Supplemental AE contract for the South Terminal program. Although the firm's prior work on Concourse H does not overlap with the scope of work under the supplemental RFP, the firm's current contract with a DMJM partner creates a conflict of interest.

In a series of opinions, the Ethics Commission has delineated the types of relationships that create a conflict of

interest for contractors. The Ethics Commission has previously held that firm may not serve on projects where the scope of work is identical to work previously provided on the same project; may not serve as members of construction inspection teams, CM at risk teams or hold other oversight responsibilities on contracts where the firm has or will provide other services to the project and may not hold oversight or management responsibilities where those responsibilities require the firm to supervise the work of affiliated firms of the company or companies for which the firm is serving as a partner on another project.

In RQO 02-147, the Commission opined that MGE Architects could not include a DMJM affiliated firm as part of its team for the Supplemental AE contract. The Commission found that although the DMJM affiliated firm was not one of the DAC DMJM divisions, the corporate structure created a conflict because all of the DMJM divisions report to a central office in Los Angeles and may share personnel and resources.

Similarly, Perez and Perez Architects may not provide supplemental AE services for the South Terminal program as long as the firm serves as a subcontractor for DMJM Harris on the port contract. Since the Commission has previously held that a firm may not work with a firm with whom it is affiliated on other projects and the Addendum provides that firms related to DAC may not serve as project managers on this project, Perez and Perez may not serve as the supplemental AE firm for the South Terminal project.

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) 350-0616 or the  
undersigned at (305) 579-2594.

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