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March 10, 2006

Mike Uhler  
Bermello, Ajamil and Partners  
2601 South Bayshore Drive  
10<sup>th</sup> Floor  
Miami, FL 33133

**RE: REQUEST FOR ADVISORY OPINION 06-18**

Dear Mr. Uhler:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 9, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your team's ability to provide services under the North Terminal Area Improvements contract with the Aviation Department.

In 1997, Miami-Dade County and American Airlines entered into a contract to construct the North Terminal. The original agreement provided that the project would be constructed with county dollars but American Airlines would manage the construction. American Airlines will be the sole carrier occupying the North Terminal. The North Terminal will consist of a new terminal attached to existing concourses A-D. The project includes a regional commuter facility (American Eagle) domestic and international gates, ticket counters, a

federal inspection services facility, an automated peopled mover and fueling facilities. Due to the complexity of the project and several unanticipated difficulties, the program has experienced significant delays.

In the summer of 2005, pursuant to the Fourth Amendment to the original lease and financing agreement between Miami-Dade County and American Airlines, the County took over management of the North Terminal Development Program. At that time, the County assumed a portion of the outstanding construction and AE contracts between American Airlines and various AE and construction firms. Parson-Odebrecht (POJV) was also retained to serve as general contractor on the project.

The scope of services for the North Terminal Area Improvements provides that the selected team will provide planning, design, construction document preparation, bidding, construction administration related to work at concourses A through D. The scope includes work at terminal buildings, landside and airside facilities including concessions, waiting areas, relocations, ticket counters, information centers, life safety, fire protection and security improvements. Specifically, the Aviation Department will use the consultants to provide any miscellaneous services not covered under existing or amended design and engineering contracts.

The Commission found the Bermello team may provide services under the North Terminal Area Improvements agreement as long as the scope of services does not overlap with the current work being done by team members.

Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment

in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County.

The Bermello team consists of Bermello, Nifah and Partners, BND Engineers, CMS, Cage Inc and Fraga Engineers.

Bermello is currently providing design services on the BC Shell and BC Interior Finish Out as a prime consultant. Since the project is being rephrased, Bermello will amend previous designs related to the Baggage Handling System, security doors, escalators, stairs and guardrails. Bermello will also provide construction documents for the two projects.

Previously, Bermello provided services on the BC utilities demolition and the North Terminal Development Telecommunications project.

Nifah and Partners did threshold inspections for the BC utilities, BC Infill Building Shell and North Terminal Rooftop Telecommunications.

BND Engineers provided civil engineering services on the CD Utilities and worked on the aircraft hydrant fueling system as a subconsultant to Argus Consulting.

Fraga Engineers is the engineer of record for BC Infill Shell, BC Infill Interiors, tenant relocations, demolition and temporary utility relocation. The company's on-going services include bidding and contract administration.

Cage, Inc. served as a baggage system subconsultant to URS.

The Bermello team may perform services related to the North Terminal Area improvements agreement as long as the team does not perform any work that overlaps with the scope of work under an existing agreement.

The Ethics Commission also held that, if the Bermello team is awarded the contract, Bermello must provide the MDAD project manager and the Ethics Commission's Executive Director with a written report regarding its compliance with any restrictions contained in this advisory opinion related to the prime or any subcontractors within ninety days of the issuance of each task assignment or work order.

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,



ROBERT MEYERS  
Executive Director

cc:Amado Gonzalez, Office of Capital  
Improvements

Christopher Mazzella, Inspector General