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May 18, 2007

Carmen Morris
Carmen Morris & Associates
15074 S.W. 127th Court
Miami, FL 33186

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RE: REQUEST FOR ADVISORY OPINION 07-13

Dear Ms. Morris:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on May 17, 2007 and rendered its opinion based on the facts stated in your letter.

You requested a reconsideration of RQO 04-46 wherein the Commission opined that Carmen Morris and Associates could not simultaneously provide marketing and public relations services to Miami-Dade Transit and for the Program Management Consultant for the People's Transportation Plan.

In your letter, you stated that Carmen Morris Associates (CMA) currently serves as a consultant to Miami-Dade Transit and PB Americas. PB Americas is the Program Management Consultant for the People's Transportation Plan. CMA's current work orders for Miami-Dade Transit include community outreach efforts to increase ridership on Metrorail and Metrobuses, to increase public awareness of transit programs among the elderly through promotion of the golden passport program; to promote ridership among college-age students and to promote transit programs through a program targeted to places of worship.

CMA is seeking to provide contract management and outreach services to PB Americas. The proposed scope of services includes outreach to DBE firms regarding bid and contracting

opportunities; technical assistance to DBE firms, monitoring DBE participation and tracking compliance with contractual participation goals; monitoring DBE pay and performance and reviewing proposals and construction documents to ensure that DBE's are utilized wherever possible.

In 2004, CMA anticipated that the scope of services for Miami-Dade Transit would include Public Relations, Marketing and Advertising. Similarly, CMA anticipated that the scope of services for PB Americas would include assisting with internal and external communications, community relations and oversight management support. In RQO 04-46, the Commission opined that Carmen Morris could serve as a member of the PB Americas team but the firm could not provide marketing and community outreach services to Transit and the Program Management Consultant.

The Ethics Commission found that CMA may simultaneously provide the services contained in the proposed scope of services for Miami-Dade Transit and PB Americas because the scope of service does not overlap. However, Transit must monitor the scope of services provided under both agreements to ensure that that future proposals do not overlap with any work being provided to PB Americas under the PTP program.

In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. 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). Further a conflict may exist if there are overlapping

roles or responsibilities between two related contracts. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of its contractual obligations.

CMA will not serve in overlapping roles by providing the services included in the Transit work orders and the services contemplated under the PB Americas proposal. CMA's role as a PMC consultant differs from the role originally anticipated. CMA will not assist with community relations or external communications except for providing outreach to DBE firms. Therefore, CMA may serve in both capacities. However, Transit, PB Americas and CMA must coordinate future assignments to ensure that a conflict is not created by other work orders during the term of both agreements. CMA must also seek further guidance if there is a change in the circumstances contemplated in this opinion.

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: Michael DeCossio, Miami-Dade Transit
Lawrence Reuter, PB Americas