



October 25, 2007

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STAFF GENERAL COUNSEL

Joseph Lovermi  
Construction Manager 2  
Department of Parks and Recreation  
275 N.W. 2<sup>nd</sup> Street  
Suite 407  
Miami, FL 33128

**RE: REQUEST FOR ADVISORY OPINION RQO 07-51**

Dear Mr. Lovermi:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 24, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Lea and Elliot may providing planning and evaluation services regarding the Metrozoo monrail system and subsequently provide design services for recommended upgrades. Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors.

In your letter, you advised the Commission that the Department of Parks and Recreation is requesting the services of Lea and Elliot to provide an evaluation of the current Metrozoo monorail system and provide recommendations for necessary upgrades. Specifically, the scope of services requests the firm to provide technical expertise in evaluating the system and the subsystem component conditions for the traction power distribution system and the structure(guideway and the three monorail passenger systems). Lea and Elliot will identify areas that require modernization

/rehabilitation and provide a draft condition report and cost estimates to Parks and Recreation for future implementation.

Subsequently, the Department of Parks and Recreation will retain a consultant to provide architectural and engineering services for the identified modernization/rehabilitation projects. The consultant will also provide bid services to the department.

The Ethics Commission found Lea and Elliot may provide evaluation services and provide design services during the next phase of the project. Section 2-11.1(j) of the Code of Miami-Dade County 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.

The Ethics Commission has consistently held that a firm may work on a project where the firm worked on a prior phase of the project as long as the work does not involve oversight or review of the prior work. In RQO 02-166, the Ethics Commission opined that a contractor could serve as a gantry crane consultant where the firm had previously provided related services on an earlier phase of the same project. In RQO 03-36, the Ethics Commission opined that a conflict is not created by continuation of prior work as long as the scope of work does not overlap. In RQO 05-60, the Ethics Commission opined that MC Harry could provide courthouse renovation design and construction management services although the firm had performed the original studies that led to the contract. In RQO 07-41, the Ethics Commission opined that a firm could provide design services for Metrozoo Improvements although the firm drafted the master plan for Metrozoo Improvements.

Accordingly, Lea and Elliot may provide evaluation services regarding necessary upgrades to the Metrozoo monorail and provide design services for the identified modernization/rehabilitation projects.

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 black ink, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS  
Executive Director