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October 1, 2009

Luisa Millan
Chief, Professional Services Division
Office of Capital Improvements
111 N.W. First Street
Suite 2130
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 09-31

Dear Ms. Donovan:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 30, 2009 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether consultants who have or are providing planning studies regarding renovations at Vizcaya may provide design services on related renovations.

In your request, you advised the Commission that the Office of Capital Improvements recently issued a Notice to Professional Consultants for design and contract administration for Vizcaya's Main House, Gardens, Village and a schematic design for a visitor's center and underground parking garage. The prime consultant must provide an affidavit for three historical projects with a minimum value of twenty million dollars within the past ten years.

The scope of services for the project includes research into the history of Vizcaya and creation of as-built drawings for the

In several prior opinions, the Ethics Commission has opined that work on planning studies does not preclude participation on the design phase of a project. In RQO 02-166, the Ethics Commission opined that a seaport contractor could work on the construction phase of a project where the firm had previously done studies related to the same project. In RQO 05-60 the Ethics Commission opined that MC Harry could perform work on a courthouse renovation project although it had performed the original studies that led to the current agreement. In RQO 07-41, the Ethics Commission opined that a firm who worked on a master plan for Metrozoo could perform design work on improvements that were included in the master plan.

Accordingly, Heisenbottle's previous work on planning studies for Vizcaya does not preclude him from providing design work on the project. Further, Heisenbottle's current work on unrelated projects at Vizcaya does not preclude him from providing design services on the renovations. The scope of work under the two project phases will not overlap and therefore does not pose a conflict.

Heritage Landscape may similarly provide design services for the renovation. In the first instance, the Ethics Commission has held that a firm may not be disqualified from county contracts by contracts for outside entities. In RQO 04-24, the Ethics Commission opined that proposers for a transit contract may not be excluded due to contracts on related projects with other entities such as FDOT, MPO and MDX. Similarly, the outside contract does not prevent Heritage from providing design services. Moreover, as with Heisenbottle, Heritage's work on planning studies does not prohibit the firm from providing design services. Therefore, Heritage may provide design services on the Vizcaya renovation project.

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Accordingly, Heisenbottle's previous work on planning studies for Vizcaya does not preclude him from providing design work on the project. Further, Heisenbottle's current work on unrelated projects at Vizcaya does not preclude him from providing design services on the renovations. The scope of work under the two project phases will not overlap and therefore does not pose a conflict.

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Accordingly, Heisebottle and Heritage may provide design services for the renovation of Vizcaya's Main House, Gardens and Village.

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