



FILE COPY

ETHICS COMMISSIONERS

Kerry E. Rosenthal, CHAIRPERSON
Dawn E. Addy, VICE CHAIRPERSON
Magda Abdo-Gomez
Judge Seymour Gelber
Erica Wright

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

October 1, 2009

Maria Nunez-Lopez
Ben Lopez and Associates
340 Minorca Avenue
Suite 9-10
Coral Gables, FL 33134

RE: REQUEST FOR ADVISORY OPINION-RQO 09-32

Dear Mrs. Lopez:

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 your firm's ability to provide construction inspection services for Miami-Dade County.

In your letter, you advised the Commission that the Office of Capital Improvements recently issued a Notice to Professional Consultants to provide Construction Inspection Services for several county departments including Aviation, Seaport, GSA, Public Works, Water and Sewer and DERM. Two firms will be selected to provide the services. The firms who previously provided any services on the South Terminal were required to request an advisory opinion.

The scope of services for the Construction Inspection Services requires the consultants to oversee, coordinate and inspect the work of design consultants, surveyors and construction contractors. The work may include review of change orders, schedules,

claims and requests for compensations by contractors and consultants. The work will include construction inspection services for new building construction, renovations, airfields and roadways. The South Terminal program consisted of construction of a new Concourse J and renovation to existing Concourse H. The project was substantially completed in 2007 although final close-out will not take place until later this year.

Ben Lopez and Associates previously worked on the tenant relocations project. The firm did interior space planning for the various airlines that now occupy the South Terminal.

The Ethics Commission found that Ben Lopez and Associates may provide construction inspection services under the proposed agreement. The Ethics Commission has found that 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 on responsibilities between various members of a team (i.e. a member serves as prime contractor on one contract and as a subcontractor to another contractor on another contract) or if there are overlapping scopes of work between two agreements.

The Commission found that Ben Lopez may provide construction inspection services for the various departments, including Aviation, because the firm will not be responsible for reviewing its own work or have any overlapping responsibilities. Therefore, Ben Lopez may provide construction inspection services.

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.

ROBERT MEYERS
Executive Director

cc: Luisa Millan, Office of Capital
Improvements