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ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

August 1, 2011

Armando Hernandez
Senior Project Manager
MACTEC Engineering and Consulting
5845 N.W. 158th Street
Miami Lakes, FL 33014

REQUEST FOR ADVISORY OPINION-RQO 11-17

Dear Mr. Hernandez:

On July 26, 2011, the Ethics Commission ratified the preliminary draft opinion that was previously provided to you. Please find attached the final formal opinion that was approved.

If you have any questions regarding this opinion, please call the undersigned or Ardyth Walker, Staff General Counsel at (305) 579-2594.

Sincerely Yours,

ROBERT MEYERS
Executive Director



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MICHAEL P. MURAWSKI
ADVOCATE

Dear Mr. Hernandez:

ARDYTH WALKER
STAFF GENERAL COUNSEL

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 26, 2011 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether MACTEC may provide construction engineering and inspection services for the Wharf Strengthening project at the Port of Miami.

The Seaport recently issued a solicitation for Construction Engineering and Inspection Services for the Wharf Strengthening Program. The Wharf Strengthening project is a multiphase project for strengthening the existing cargo wharves and bulkheads to provide additional capacity for future dredged depth of fifty feet or more. The project must be completed in advance of the federally-funded Phase III dredging project and construction is slated to begin in August. HDR Engineering is the architect of record for the Wharf Strengthening Program. As a subconsultant to HDR, MACTEC has been responsible for conducting topographic and hydrographic surveys and performing underwater inspections and structural evaluations. MACTEC does not have any planned

responsibilities during the construction phase.


The Construction Engineering and Inspection Consultant will be responsible for assisting with construction program logistics, planning, schedule development and monitoring, reviewing change orders and payment requests, coordinating and overseeing construction quality and quality assurance testing.

MACTEC may not provide construction engineering and inspection services because it served as a member of the design team. In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest. 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). Accordingly, MACTEC may not provide design services on one phase of the project and CEI services on another. Moreover, the Seaport has restricted participation on the CEI contract to firms that are not serving on the design or construction teams. Therefore, MACTEC may not provide CEI services for the wharf strengthening program.

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 or Ardyth Walker at (305) 579-2594.

Sincerely Yours,

A handwritten signature in blue ink, appearing to read 'R. Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director

cc: Mike Ramos, Office of Capital
Improvements