



August 1, 2011

ETHICS COMMISSIONERS

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Samuel Weisman, P.E.
Avart, Amman and Whitley
1150 N.W. 72nd Avenue
Suite 350
Miami, FL 33126

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

REQUEST FOR ADVISORY OPINION-RQO 11-22

Dear Mr. Weisman:

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 Avart, Anman and Whitney ("Avart") 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.

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.

Avart is currently providing services to the Seaport on three projects. Avart is providing AE services related to the roof of Building 1080 including removal and disposal of the current concrete deck, replacing the asphalt and installing insulation between the roof drains and the new roofing system. Avart is also providing AE services for new passenger boarding bridges at Cruise Terminal D and Marine Fenders at Cruise Terminal J. Finally, Avart is providing planning and design services as a subconsultant to the Indigo Corporation for the Cruise Terminal J Improvements. The scope of work includes site investigation, building code and permitting analysis, planning, design and coordination with Port authorities. Avart will also review the construction bid package, respond to RFI requests and provide construction management services.

Avart may provide CEI services for the Wharf Strengthening program at the Port of Miami. The firm's current projects are unrelated to the Wharf Strengthening program or the Phase III Dredging Project. Under the Ethics Commission's prior opinions, a contractor may not provide services if the contractor's current work overlaps with the scope of services under the proposed agreement. Further, a contractor is prohibited from serving if the firm is performing oversight responsibilities under one agreement and performing design or other work that will fall under the oversight of the other agreement because it impairs the contractor's independence of judgment. Since Avart's current work at the Seaport is unrelated to the Wharf Strengthening program, Avart does not have any conflicts and may 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, Staff General Counsel, 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