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VIA FAX: (305) 716-4154

November 25, 2003

Nigel Grace, P.E.
Malcolm Pirnie, Inc.
5201 Blue Lagoon Drive, 9th Floor
Miami, FL 33126

RE: REQUEST FOR ADVISORY OPINION 03-178

Dear Mr. Grace:

You requested a conflict of interest advisory opinion related to Malcolm Pirnie, Inc. participating as a bond consultant for the Miami-Dade Water & Sewer Department ["WASD"]. As required by WASD, potential bidders must submit to the Ethics Commission requests for conflict of interest determinations for consulting services contracts.

In your letter to the Ethics Commission, you state that Malcolm Pirnie, along with its sub-consultant, Planning and Economics Group ["PEG"], have been providing bond consulting services to WASD since August 2002 under Agreement No.02MAPI001. Under this contract, the services performed include annual report and inspection, process studies, engineering consultant's report, planning and feasibility studies and risk assessment.

The scope of the proposed WASD bond consultant contract, Notice to Professional Consultants ["NTPC"] CICC Project No.E03-WASD-03, includes identical work that is being performed under Malcolm Pirnie's current contract. As stated in your letter, the new contract would commence upon completion of the current contract; in effect, it replaces your existing bond consultant contract.

Section 1.13, "*Conflict of Interest*" of the NTPC for the Bond Consulting Services contract, provides in part,

In identifying themselves or any such sub-consultants, or members, the Prime Consultant must identify the specific

work that they, the sub-consultant, or member performed or work to be performed for bond consulting services and/or design services under previous contracts for the Miami-Dade Water and Sewer Department as well as the work to be performed as part of this solicitation, Bond Consulting Services. Additionally, a statement is required as to **how this work is sufficiently different or that it will cover a different period of time** so as not to pose a conflict of interest.

The Commission on Ethics finds that there is no conflict of interest for Malcolm Pirnie and its sub-consultant PEG, to participate in the proposed bond consultant contract E03-WASD-03. Though the scope of services is identical, it covers a different period of time, as stipulated in the said NTPC. The new contract essentially, will be a continuation of the firm's previous work, thereby averting a conflict. As stated in your letter, the bond consultant selected under this proposed solicitation will have no responsibility to evaluate work conducted by a prior bond consultant. In other words, Malcolm Pirnie and PEG will not evaluate or review its current work. Additionally, the bond consultant's assignments will address a different period of time.

This determination is consistent with previous Ethics Commission opinions related to WASD contracts. [See, RQO 03-36, where there was no conflict for a firm to continue to perform similar work under a new contract and time frame.]

Furthermore, you asked the Ethics Commission to advise you of any potential conflicts additional assignments, such as impact fee assessment or review of construction administration protocols could present. Considering that the scope of activities differs, no conflict of interest is apparent. In the event, however, that these additional assignments involve participation of other firms, Malcolm Pirnie may not supervise a firm with whom it has an affiliation or for whom it has served as a subcontractor.

This opinion construes the Miami-Dade County 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 should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

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