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May 1, 2006

Amado Gonzalez
Office of Capital Improvements
111 N.W. First Street
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 06-36

Dear Mr. Gonzalez:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 27, 2006 and rendered its opinion based on the facts stated in your memorandum.

You requested an opinion regarding whether two firms may serve as Bond Engineer for the Department of Water and Sewer (WASD).

In your letter, you advised the Commission that the Office of Capital Improvements recently issued a Notice to Professional Consultants to provide bond engineering services for WASD. The scope of services includes preparing an Annual Report on the water and sewer utility system, setting forth recommendation as to any necessary revisions of rates and charges; determining the amount to be deposited in the renewal and replacement fund during the next fiscal year and conducting an annual inspection of approximately one-third of WASD facilities, rendering a written report as to the state of condition and repair of the system;

generating recommendations, approvals and or certifications in connection with the various sections of the bond ordinance.

Section 1.14 of the NTPC requires firms to seek a Conflict of Interest review prior to award. Section 1.14 of the NTPC provides that "Prime Consultants must identify whether they or any of their subconsultants or members have participated in any way in bond consulting services and/or design or construction management services under previous agreements with Miami-Dade County or Miami-Dade County Water and Sewer Department."

Two firms, Malcolm Pirnie, Inc and URS Southern Corporation, submitted proposals for the bond engineering agreement.

Malcolm Pirnie is currently serving as Bond Engineer for WASD. The contract is slated to expire in 2007. However, the department anticipates that the contracted funds will run out prior to the expiration date of the contract. Pirnie is not performing any other work for WASD.

URS Corporation's team includes URS Corporation Southern, Burton and Associates and Peer Consultants. URS is not currently performing any work for WASD. URS performed construction management services as a subcontractor for DERM and bond engineering services to the Seaport. Peer Consultants previously provided services for the Infiltration/Exfiltration/Inflow program Improvement Program. The firm completed its work in 2004.

The Ethics Commission found that Malcolm Pirnie and URS Southern Corporation may provide Bond Engineering Services for WASD. None of the firms are currently providing any services to WASD that conflict with the scope of work under the Bond Engineering agreement.

Malcolm Pirnie does not have a prohibited conflict because the work under the proposed agreement is a continuation of the work being performed under the current bond engineering agreement. The Ethics Commission has previously opined that the continuation of prior work does not constitute a conflict. Since the firm is not providing any other services to WASD, the firm does not have a conflict of interest.

URS and the other team members are not currently performing any work for WASD. Further, Peer Consultants' prior work for WASD does not conflict with the scope of duties under the bond engineering agreement. The NTPC only prohibits teams from performing if the firm has current design or construction management work with WASD.

Accordingly, Malcolm Pirnie and URS Southern may perform bond engineering services for WASD.

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) 579-2494 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director

cc: Christopher Mazzella, Inspector General