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July 29, 2009

Lee Casey
Senior Division Director
Department of Solid Waste Management
2525 N.W. 62nd Street
5th Floor
Miami, FL 33147

RE: REQUEST FOR ADVISORY OPINION RQO 09-23

Dear Mr. Casey:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 28, 2009 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any conflicts of interest created by the merger of Malcolm Pirnie, Inc. and the Arcadis Corporation.

In your request, you advised the Ethics Commission that Malcolm Pirnie serves as bond engineer for the Department of Solid Waste. In that capacity, Malcolm Pirnie is responsible for making recommendations and approvals for all landfills including the closure plans in effect with the City of North Miami for the Munisport Landfill.

The Munisport Landfill is a former municipal landfill located in the City of North Miami. In the 1990's the City of North Miami and the Environmental Protection Agency entered into a consent decree for clean-up of the landfill. In 2003, the City of North Miami transferred the property to private developers. The development agreement required the developer

to assume responsibility for the clean-up. Subsequently, in 2004, Miami-Dade County established an escrow fund to pay the City's expenses for cleanup of the Munisport Landfill. The Department of Solid Waste Management (SWM) is responsible for administering this fund.

In 2007, after the Department of Environmental Resource Management (DERM) determined that a proposed treatment plan would not meet required standards, the private developer retained the Arcadis Corporation. The anticipated scope of services between Arcadis and the developer includes development of a new plan for remediation of the landfill, development of a pilot program, permitting, construction and monitoring of the pilot and implementation and monitoring of the full-scale groundwater recovery and treatment system.

In 2008, Arcadis submitted the revised treatment plan to DERM. SWM was asked to approve funding for the pilot from the escrow funds. Malcolm Pirnie evaluated the proposed remediation and funding plan on behalf of SWM. The evaluation has been completed.

Earlier this month, Arcadis merged with Malcolm Pirnie. Malcolm Pirnie is now a wholly owned subsidiary of the Arcadis Corporation.

The Ethics Commission found that Malcolm Pirnie may not perform any bond engineering services related to the Munisport Landfill as long as Arcadis is responsible for creating and implementing the remediation plan on behalf of the City of North Miami. Pursuant to Section 2-11.1(j), Malcolm Pirnie's independence of judgment in making decisions would be compromised by Arcadis' acquisition of Malcolm Pirnie. Therefore, Malcolm Pirnie may not conduct inspections, approve payments or perform any services regarding the Munisport Landfill.

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 extending to the right.

ROBERT MEYERS
Executive Director