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CIRCUIT COURT OF
JEFFERSON COUNTY, ALABAMA
JACQUELINE ANDERSON SMITH, CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

ARCADIS U.S., INC.,	)	
	)	
Plaintiff,	)	
	)	
	)	**Civil Action No:**
	)	
CITY OF BIRMINGHAM REGIONAL WATER WORKS, D/B/A CENTRAL ALABAMA WATER,	)	
	)	
	)	
Defendant.	)	

COMPLAINT

Comes now Arcadis U.S., Inc. ("Arcadis"), and submits the following complaint seeking to recover damages from the City of Birmingham Regional Water Works, d/b/a Central Alabama Water ("CAW").

DOCUMENT 2

PARTIES AND JURISCITION

1. Plaintiff Arcadis is a Delaware corporation registered to conduct business in the State of Alabama. Arcadis is the successor entity to Malcolm Pirnie, Inc.

2. CAW is an Alabama public corporation with its principal place of business in Jefferson County, Alabama.

3. Venue is proper in Jefferson County, Alabama because the parties conduct business in Jefferson County, Alabama and the contract executed by the parties was executed in Jefferson County, Alabama.

FACTUAL BACKGROUND

4. On August 4, 2003 Malcolm Pirnie, Inc. and The Water Works and Sewer Board of the City of Birmingham entered into an Agreement for Malcolm Pirnie, Inc. to be the

independent engineer for the public water utility. (Exhibit A) The Agreement provided that Malcolm Pirnie, Inc. "shall provide the Board with professional engineering services in all phases of the Board's operation of its water and sewer systems."

5. Arcadis subsequently acquired Malcolm Pirnie, Inc. The Water Works and Sewer Board of the City of Birmingham subsequently became CAW.

6. The Agreement was for a term of one (1) year and renewed annually unless terminated by the parties.

7. Paragraph 4 of the Agreement provides that either party may terminate the Agreement by providing ninety (90) days prior written notice.

8. In the event the contract is terminated, "the Board agrees to pay Malcolm Pirnie, Inc. for all services rendered and expenses incurred through and including the date of termination."

DOCUMENT 2

8. For more than twenty-two (22) years, Arcadis and CAW operated under the terms of the August 4, 2003 contract and any addendums thereto.

9. In October 2025 Jeffery F. Thompson was hired as the CEO of CAW.

10. On January 26, 2026 Mr. Thompson issued written notice to Arcadis stating:

> This letter serves as formal notice that Central Alabama Water (the successor public corporation to The Water Work Board of the City of Birmingham) has elected to terminate the Professional Services Agreement with Malcolm Pirnie, Inc./Arcadis U.S., originally executed on August 4, 2003, and Agreement for construction management services dated August 28, 2024.

(Exhibit B).

11. The Agreement for construction management services dated August 28, 2024, relates to the Lake Purdy Dam project.

12. The termination notice also provided that no additional work could be performed by Arcadis without the express written permission of CAW.

13. CAW stated in its January 26, 2026 termination letter that:

> In accordance with the Agreement, Central Alabama Water will compensate Malcolm Pirnie, Inc./Arcadis U.S. for services rendered and reimbursable expenses incurred and including the effective date of termination, consistent with the terms and rates set forth in Exhibit A. Please submit all outstanding invoices for services rendered by the termination date.

14. In accordance with the January 26, 2026 termination letter and the Agreement, Arcadis prepared its invoices and timely submitted them to CAW. On March 10, 2026, Arcadis wrote CAW and demanded timely payment on the outstanding balance of $1,388,858.55 for invoices from October 2025 through January 26, 2026, the date of the termination notice. Arcadis then submitted an additional invoice for $4,033.23 for services specifically requested by CAW after the termination notice and in accordance with the requirements of that termination notice. The total outstanding amount of the invoices owed to Arcadis is $1,392,891.78.

15. Of the outstanding balance owed to Arcadis, more than $600,000 is owed to subcontractors retained by Arcadis and approved by CAW. Those subcontractors are now preparing to file suit against Arcadis for non-payment of their invoices.

16. CAW has confirmed that all deliverables related to the Lake Purdy Dam construction management agreement have been provided. CAW now refuses to pay any of Arcadis's invoices on the theory that it is entitled to "all" documents in Arcadis's possession, regardless of relevancy to any particular project or issue, and will not pay Arcadis's invoices until "all" documents are produced.

DOCUMENT 2

17. Over the course of Arcadis's decades long relationship with CAW, Arcadis always provided CAW with final documentation of its services and engineering documents for all projects performed by it or others under its direction. CAW cannot deny payment to Arcadis on a newly invented extra contractual desire that it receive "all" documents again.

18. Arcadis has made it clear to CAW that it may be willing to search and produce documents CAW failed to previously retain or is unwilling to search for on its own, but it is not willing to engage in extra contractual work for CAW when it has not been paid for work previously performed.

19. CAW has made no payments to Arcadis since it terminated the Agreement in violation of its terms, including monies due on the Lake Purdy Dam project which CAW has admitted it has received all deliverables.

DOCUMENT 2

COUNT I – BREACH OF CONTRACT

20. Arcadis adopts and incorporates all prior factual allegations as if fully set forth herein.

21. Arcadis and CAW entered into an Agreement for CAW to pay Arcadis for its professional services and expenses in accordance with the August 3, 2023 Agreement. In addition, CAW entered into a Lake Purdy Dam construction management services Agreement on August 28, 2024. That Agreement also provided for CAW to pay Arcadis for its construction management services related to the Lake Purdy dam.

22. CAW has breached these agreements by failing to pay Arcadis for these services pursuant to the terms of the Agreements.

23. As a proximate result of CAW's breach of the Agreements, Arcadis has been damaged and is owed in excess of $1,392,891.78.

WHEREFORE, PREMISES CONSIDERED, Arcadis demands judgment against CAW in the amount of $1,392,891.78 for compensatory damages, interest to be determined by struck jury and all other relief this Court deems just and reasonable.

Respectfully submitted,

s/ Donald R. James, Jr.
Donald R. James, Jr. (JAM016)

s/ Joel E. Dillard
Joel E. Dillard (DIL005)

OF COUNSEL
Dillard, McKnight, James & McElroy, LLP
P.O. Box 530333
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jdillard@dillardmcknight.com

DOCUMENT 2

s/ U. W. Clemon
U. W. Clemon
2001 Park Place, 10th Floor
Birmingham, AL 35203
Phone: (205) 506-4524
uwclemon1@gmail.com

PLAINTIFF REQUESTS THAT THE CLERK SERVE DEFENDANT BY CERTIFIED MAIL AS FOLLOWS:

CENTRAL ALABAMA WATER
C/O Jeffrey Thompson
3600 First Avenue North
Birmingham, Alabama 35222

EXHIBIT A

DOCUMENT 2

COUNTY OF JEFFERSON)
)
STATE OF ALABAMA)

AGREEMENT BETWEEN THE WATER WORKS AND SEWER BOARD OF THE CITY OF BIRMINGHAM AND MALCOLM PIRNIE, INC.

THIS AGREEMENT, made and entered into on this the 4 day of August, 2003, by and between The Water Works and Sewer Board of the City of Birmingham, a public corporation (hereinafter referred to as the "Board"), and Malcolm Pirnie, Inc, a private corporation created under the laws of the State of New York (hereinafter referred to as "Malcolm Pirnie") (both of which are hereinafter sometimes collectively referred to as the "Parties").

DOCUMENT 2

W I T N E S S E T H

WHEREAS, the Board is in need of professional engineering services, as well as the services of a firm to serve as the Independent Engineer, as that term is defined under that certain Trust Indenture dated as of December 1, 1998, as supplemented, between the Board (as successor to the City of Birmingham, Alabama) and J.P. Morgan Trust Company National Association (as successor to the Chase Manhattan), as Trustee, as said Trust Indenture may be supplemented and amended from time to time (hereinafter the "Indenture");

WHEREAS, the Board is desirous of retaining Malcolm Pirnie to provide said engineering services to the Board; and,

WHEREAS, Malcolm Pirnie is desirous of providing said engineering services to the Board upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which each of the Parties hereto acknowledge, the Parties agree as follows:

1. Subject to the terms and conditions contained herein, Malcolm Pirnie shall provide the Board with professional engineering services in all phases of the Board's operation of its water and sewer systems. These services shall include performing the duties and responsibilities as are required by the Indenture, and, when approved by the Board, engineering services, consultation and advice, including, but not limited to, furnishing customary civil, structural, mechanical, environmental and electrical engineering services and customary architectural services incidental thereto. Malcolm Pirnie shall perform the professional engineering services under this Agreement at the level customary for competent and prudent engineers performing such services at the time and place where the services are provided. With the approval of the Board, Malcolm Pirnie shall be authorized to engage the services of agents or assistants that Malcolm Pirnie deems proper as well as employ, engage, or retain the services of such persons or corporations to aid or assist Malcolm Pirnie in the proper performance of its duties and obligations under this Agreement. These services will be provided by licensed engineers and other professionals and individuals skilled in other technical disciplines, as appropriate.

2. This Agreement is not a contract of employment. No relationship of employer and employee exists between Malcolm Pirnie and the Board, or between the Board and any agent or employee of Malcolm Pirnie. Malcolm Pirnie shall at all times be deemed an

DOCUMENT 2

independent contractor. The Board shall not be liable for any acts of Malcolm Pirnie, its agents or employees.

3. Unless otherwise agreed to by the Parties, Malcolm Pirnie shall be compensated for services performed pursuant to this Agreement on the basis of time spent and expenses incurred. The hourly rates and expenses charged by Malcolm Pirnie shall be as set forth on Exhibit "A".

4. The term of this Agreement shall be for a period of one (1) year, commencing on the date first written above and shall continue thereafter for additional periods of one (1) year, until either party terminates this Agreement by giving ninety (90) days prior written notice to the other party. In the event that this Agreement is terminated, the Board agrees to pay Malcolm Pirnie for all services rendered and expenses incurred through and including the date of termination.

DOCUMENT 2

5. Malcolm Pirnie shall submit bills for expenses and services rendered monthly and shall describe on each bill the nature of the services rendered and the persons rendering such services.

6. Malcolm Pirnie agrees to maintain such insurance as will fully protect both Malcolm Pirnie and the Board from any and all claims under any worker's compensation act or employer's liability laws. Malcolm Pirnie further agrees to maintain professional liability insurance and general liability in the aggregate amount of $ 5,000,000.00 and automobile liability insurance in the aggregate amount of $500,000.00, insuring the Board from any and all claims of whatsoever kind or nature made by anyone whomsoever that may arise from operations carried on under this Agreement, either by Malcolm Pirnie or by any one directly engaged or employed by

Malcolm Pirnie. It is agreed that such insurance shall be obtained from companies acceptable to the Board and that the Board will be provided with certificates evidencing the required coverage.

7. To the fullest extent permitted by law, the Parties hereby agree to indemnify, hold harmless, and defend each other, their officers, directors, and employees from any and all claims, damages, losses, liabilities and expenses of every nature arising from their intentional, willful, wanton or negligent acts or omissions, including, but not limited to damages to real or personal properties, damages for bodily injury, including sickness, disease or death at any time resulting therefrom, reasonable attorney fees, judgments, demands and causes of action arising out of or incidental to, or in any way connected with, this Agreement, including, without limitation, consequential damages. The indemnification obligation of the Parties hereunder shall not extend to claims based upon the negligence or willful misconduct of the other Party.

DOCUMENT 2

8. Malcolm Pirnie agrees that it will maintain, staff and operate a permanent regional office within the corporate limits of the City of Birmingham within the area south of United States Interstate No. 59, bounded by United States Interstate No. 65, U.S. Highway No. 280 and 16th Avenue South so long as this Agreement is in effect.

9. It is expressly agreed that Malcolm Pirnie shall have no right or authority at any time to make any contract or binding promise of any nature on behalf of the Board, whether oral or written, without the express consent of the Board.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

11. This Agreement may only be modified by written amendment executed by the Parties hereto.

12. Written notices may be delivered in person or by certified mail, or by facsimile, or by courier. All notices shall be effective upon the date of receipt by the other Party.

13. This Agreement, including any exhibits, is the entire agreement between the Parties. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect.

14. A waiver or breach of any term, condition, or covenant by either of the Parties shall not constitute a waiver or breach of any other term, condition or covenant of this Agreement. If any court of competent jurisdiction declares a provision of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

15. This Agreement is personal to the Parties hereto and may not be assigned by either in whole or in part, without the prior written consent of the other.

IN WITNESS WHEREOF, The Water Works and Sewer Board of the City of Birmingham has caused this Agreement to be executed by its duly authorized Chairman-President and Malcolm Pirnie has caused this Agreement to be executed by its duly authorized officer, all as of the first date above written.

WITNESS:

THE WATER WORKS AND SEWER BOARD OF THE CITY OF BIRMINGHAM

By: Anthony L. Barnes
Its: Chairman

DOCUMENT 2

WITNESS:

MALCOLN PIRNIE, INC.

By: W. Scott Phillips,
Its: Regional Vice President

DOCUMENT 2

Exhibit "A"

The Board shall pay Malcolm Pirnie for the services rendered an amount equal to Malcolm Pirnie's Direct Labor Costs (as that term is hereinafter defined) times a factor of 3.15 for services rendered by employees of Malcolm Pirnie, plus Reimbursable Expenses (as that to term is hereinafter defined) times a factor of 10%.

For purposes of this Agreement, "Direct Labor Costs" shall mean and refer to the salaries and wages paid to all Malcolm Pirnie personnel engaged to work directly on a project, including, but not limited to, engineers, architects, scientists, surveyors, designers, draftsmen, specification writers, cost estimators, planners, consultants, and other technical and business personnel, but excluding indirect payrolls related costs or fringe benefits. "Direct Labor Costs" shall be based on the current actual hourly rate of the Malcolm Pirnie employees providing the services, but shall not include any incentive, bonus or overtime premium paid to any employee of Malcolm Pirnie.

For purposes of this Agreement, " Reimbursable Expenses" shall mean and refer to the actual expenses incurred, directly or indirectly, by Malcolm Pirnie in connection with an approved project and transportation and subsistence incidental thereto (as long as said transportation and subsistence expenses are incurred substantially in compliance with the Board's travel expense reimbursement policy).

DOCUMENT 2

EXHIBIT B

DOCUMENT 2

Central Alabama Water

January 26, 2026

Mr. Patrick Flannely, PE
Arcadis U.S., Inc.
1143 1st Ave S, Suite 109
Birmingham, AL 35233

Re: Agreement dated August 4, 2003, between The Water Works and Sewer Board of the City of Birmingham, a public corporation, and Malcom Pirnie, Inc., as amended by Letter dated July 9, 2021, from Arcadis, Inc., successor to Malcom Pirnie, Inc, and The Water Work Board of the City of Birmingham, successor to The Water Works and Sewer Board of the City of Birmingham

Agreement dated August 28, 2024, your reference number: 030035349.00; Subject: Scope of Services for Lake Purdy Dam Stability Improvements Construction Management Services

DOCUMENT 2

Dear Mr. Flannelly,

This letter serves as formal notice that Central Alabama Water (the successor public corporation to The Water Work Board of the City of Birmingham) has elected to terminate the Professional Services Agreement with Malcolm Pirnie, Inc./Arcadis U.S., originally executed on August 4, 2003, and the Agreement for construction management services dated August 28, 2024.

Pursuant to Section 4 of the Malcom Pirnie Agreement, which provides that the contract "shall continue thereafter for additional periods of one (1) year, until either party terminates this Agreement by giving ninety (90) days' prior written notice to the other party," Central Alabama Water hereby provides ninety (90) days' written notice of termination, effective as of the date of this letter. The Agreement shall terminate at the conclusion of this ninety-day period.

During the notice period, all activities performed by Arcadis or its subconsultants shall be undertaken solely at the explicit direction of Central Alabama Water. No work, task order activity, expenditure, or continuation of services shall proceed without prior written authorization from Central Alabama Water. Central Alabama Water reserves the right, at its sole discretion, to direct Arcadis to suspend or cease work on any or all existing task orders and to require the immediate turnover of all associated work product.

In accordance with the Agreement, Central Alabama Water will compensate Malcolm Pirnie, Inc./Arcadis U.S. for services rendered and reimbursable expenses incurred through and including the effective date of termination, consistent with the terms and rates set forth in Exhibit A. Please submit all outstanding invoices for services rendered by the termination date. As required by Section 5 of the Agreement,

invoices shall be submitted monthly and shall clearly describe the nature of the services performed and the personnel providing such services.

Additionally, within thirty (30) days of the date of this letter, Arcadis shall deliver to Central Alabama Water all records, documents, files, correspondence, and work product of any kind associated with Central Alabama Water and/or its predecessor entities, regardless of format, including but not limited to, all records required to be kept in accordance with the August 28, 2024, Agreement for construction management services on the Lake Purdy Stability Improvements Project. Any records maintained in electronic form shall be transferred in their entirety to Central Alabama Water on electronic media or secure digital storage, as directed by Central Alabama Water. Any records not maintained electronically shall be provided in hard-copy form. This requirement includes, but is not limited to, reports, plans, studies, presentations, specifications, submittals, drawings, correspondence, samples (including communications with EPA and ADEM), and all supporting documentation. In addition, Arcadis shall produce all of the names, addresses, and telephone numbers of all contractors, subconsultants, major suppliers and professionals associated with any ongoing projects at this time.

Central Alabama Water appreciates the professional services provided by Malcolm Pirnie, Inc./Arcadis U.S. over the course of this relationship. However, Central Alabama Water has elected to conclude the engagement within the timeframe and manner permitted under the Agreement.

Should you have questions regarding this notice or require coordination related to the orderly transition and document turnover, please contact me directly.

Thank you in advance for your cooperation during this transition period.

Sincerely,

Jeffrey F. Thompson
Chief Executive Officer
Central Alabama Water

DOCUMENT 2