

**TORCIVIA, DONLON,
GODDEAU & RUBIN, P.A.**

701 Northpoint Parkway, Suite 209
West Palm Beach, Florida 33407-1950
561-686-8700 Telephone / 561-686-8764 Facsimile
www.torcivialaw.com

Glen J. Torcivia
Lara Donlon
Christy L. Goddeau*
Leonard G. Rubin*

Jennifer H.R. Hunecke
Susan M. Garrett
Elizabeth V. Lenihan*
Denise A. Mutamba
Kara L. Land
Ruth A. Holmes

*FLORIDA BAR BOARD CERTIFIED
CITY COUNTY AND LOCAL GOVERNMENT ATTORNEY

March 23, 2023

VIA EMAIL ONLY

Mayor and Commissioners
City of Lake Worth Beach
7 North Dixie Highway
Lake Worth, FL 33460
jparham@lakeworthbeachfl.gov

Re: Waiver of possible conflict of interest arising from Torcivia, Donlon, Goddeau & Rubin, P.A.'s ("Firm") legal representation of the City of Lake Worth Beach ("City") regarding the Subregional Wastewater Interlocal Agreement

Dear Mayor and Commissioners:

As you are aware, the City is a member of the Subregional Wastewater System ("Subregional"). In addition to representing the City (City attorney) our firm also represents three other members of the Subregional: The Village of Palm Springs (Village attorney), the Town of South Palm Beach (Town attorney), and the City of Atlantis (Special Counsel-employment law), (collectively "the municipalities"). The City of Lake Worth Beach has requested that we represent them in drafting a proposed amendment to the Agreement.

As a result of our representation of the municipalities, as described above, a conflict of interest within the meaning of the Rules Regulating the Florida Bar would be created if we were to represent the City and any of the municipalities. Specifically, Rule 4-1.7 of the Florida Rules of Professional Conduct states that a lawyer shall not represent a client if: (1) the representation of one client will be directly adverse to another client; or (2) there is a substantial risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. Although the Firm's representation of the City is wholly unrelated to the representation of the municipalities, the representation of the City could create a potential conflict of interest, for example, when the Firm participates in the negotiation of the Subregional Wastewater System Interlocal Agreement on the City's behalf because the municipalities would also be clients of the Firm. The primary risk arising from this type of potential conflict is that the representation of one client may be materially limited or less than zealous due to the representation of another client.

Rule 4-1.7 allows a client to consent to its attorney's representation of another client notwithstanding a conflict. The Rule provides that "Notwithstanding the existence of a conflict of interest...a lawyer may represent a client if: (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; (2) the representation is not prohibited by law; (3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and (4) each affected client gives informed consent, confirmed in writing or clearly state on the record at a hearing." Informed consent is defined in the Rules as "the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct."

We believe that our Firm will be able to provide competent and diligent representation of the City and of the municipalities without resulting in any adverse impacts on any of these working relationships. The Firm's representation of the municipalities is not prohibited by law, and the Firm will not simultaneously represent both the municipalities and the City in any proceeding wherein their respective positions will be adverse to one another. As outlined above, the Firm has provided the information and explanation necessary for the City to provide informed consent hereunder. Under these circumstances, we believe that a waiver of the conflict of interest and the City's consent to our representation of the municipalities would be ethically permissible.

By her signature below, the Mayor, on behalf of the City Commission, acknowledges that the City is providing its informed consent to the Firm's representation of the municipalities in certain matters and is waiving the resulting potential conflict of interest. If, at any time, the City has any concerns regarding our representation of the municipalities, we request that it be brought to our attention immediately. Further, if the City has any questions concerning this letter or otherwise, please do not hesitate to contact me.

Sincerely,



GLEN J. TORCIVIA, ESQ.
GJT/ar

c: Carmen Davis

Agreed to this ____ day of _____, 2023

By: _____

Betty Resch, Mayor
On behalf of the City Commission
of the City of Lake Worth Beach