

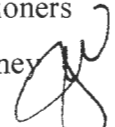


9/25/18 - #31

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**M E M O R A N D U M**

TO: The Honorable Chair and Members of the  
Board of County Commissioners

FROM: Jewel White, County Attorney 

SUBJECT: Conflict Waiver Request - Pinellas County/Harvard Jolly /  
Lendlease (US) Construction / PTAC / Lovell  
Circuit Civil Case No. 18-003625C1

DATE: September 6, 2018

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Attached hereto is a request presented by Carlton Fields Jordan Burt, P.A. (Carlton Fields) for a conflict waiver relating to a conflict that has arisen in the above-referenced case. Carlton Fields serves as Pinellas County's outside counsel in this complex matter and has requested this waiver and consent from one or more of the sureties with which the conflict exists (according to Carlton Fields, only one surety needs to waive and consent under the facts present in this case). The County Attorney's Office recommends that the Board agree to waive this conflict if one or more of the sureties waives the conflict.

Please call me with any questions regarding this matter that involves privileged legal strategy relating to this pending litigation.

ATTORNEYS AT LAW

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**CARLTON  
FIELDS**

Paul J. Ullom  
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pullom@carltonfields.com

August 24, 2018

Atlanta  
Hartford  
Los Angeles  
Miami  
New York  
Orlando  
Tallahassee  
Tampa  
Washington, DC  
West Palm Beach

Pinellas County  
Board of County Commissioners  
c/o Jewel White, County Attorney  
315 Court Street  
Clearwater, FL 33756

**VIA U.S. MAIL**

Subject: Conflict Waiver  
Pinellas County/Harvard Jolly/Lendlease (US) Construction/PTAC/Lovell,  
Case No. 18-003625CI (Circuit Court, Pinellas County)

Dear Ms. White:

We understand that Liberty Mutual, Fidelity & Deposit Company of Maryland, Zurich American Insurance Company, and The Insurance Company of the State of Pennsylvania have jointly issued the performance bond for Lend Lease (US) Construction, Inc., on the construction of Pinellas County's Public Safety Facilities and Centralized Communications Center at 10750 Ulmerton Road, Largo, Pinellas County, FL (Bond No. 018027082/PRF9031772/863606). We understand that Pinellas County would like us to sue Liberty Mutual, whose financial statements indicate more than adequate assets to protect against any judgment in connection with the subject case, as a party defendant on the performance bond in the amended complaint we are preparing in the subject case.

Carlton Fields has present relationships with each of the four bonding companies. In order to expedite conflict clearances, we will proceed to attempt to obtain a conflict waiver from Liberty Mutual.

Because a conflict arises if a law firm represents one client directly adverse to another, even where the matters are totally unrelated, both Pinellas County and Liberty Mutual must agree to waive the conflict of interest before we can work on Pinellas County's claims against Liberty Mutual on the performance bond. We will advise Liberty Mutual of the conflict and will attempt to obtain its consent and conflict waiver. Furthermore, we will advise Liberty Mutual that we will not represent Pinellas County in connection with any claims, allegations or any other type of assertion or defense concerning or related to bad faith, negligence, fraud, extra-contractual damages or punitive damages or recovery against Liberty Mutual.

Should Liberty Mutual withhold its consent and conflict waiver, we could attempt to obtain similar consent and conflict waiver from one of the other three bonding companies on the performance bond.

Carlton Fields Jorden Burt, P.A.

Despite these precautions, Carlton Fields' representation of Pinellas County in the claims against Liberty Mutual or any of other three bonding companies might be considered to give rise to a conflict of interest proscribed by the rules of ethics unless (1) after consideration, we believe that Carlton Fields' independent professional judgment is not likely to be adversely affected; and (2) both Pinellas County and Liberty Mutual consent to this representation after disclosure of the relevant facts. Carlton Fields and I affirm that the exercise of our independent judgment as counsel to Pinellas County will not be adversely affected by Carlton Fields' representation of Liberty Mutual or other sureties in separate unrelated matters with no relationship to the subject litigation.

If you have any questions or concerns, please call me at 813-229-4108 (direct).

If these measures satisfy any concerns you might have with respect to the identified conflict involving Pinellas County and Liberty Mutual, please acknowledge your consent by signing below and returning to me.

I appreciate your consideration in this matter.

Sincerely,



Paul J. Ullom

PJU/bcw

cc: Christy Donovan Pemberton (via email cpemberton@co.pinellas.fl.us)

Accepted and agreed to this 25<sup>th</sup> day of  
September, 2018.

Kenneth T. Wehl  
Name

BCC CHAIRMAN  
Title

Despite these precautions, Carlton Fields' representation of Pinellas County in the claims against Liberty Mutual or any of other three bonding companies might be considered to give rise to a conflict of interest proscribed by the rules of ethics unless (1) after consideration, we believe that Carlton Fields' independent professional judgment is not likely to be adversely affected; and (2) both Pinellas County and Liberty Mutual consent to this representation after disclosure of the relevant facts. Carlton Fields and I affirm that the exercise of our independent judgment as counsel to Pinellas County will not be adversely affected by Carlton Fields' representation of Liberty Mutual or other sureties in separate unrelated matters with no relationship to the subject litigation.

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