

ATTACHMENT

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ADVISORY BOARD MEETING, JUNE 9, 2009

SUMMARY

CRA COMPLIANCE AUDIT

Since December 15, 2008, the mayor, the City Commission and members of the public have requested that a compliance audit be performed with regard to the CRA.

Attached is a request for a budget adjustment and establishment of a requisition to Bryant Miller Olive for the performance of a compliance/legal audit on the CRA, covering the period of January 1, 2001 to present.

On April 6, 2009, the CRA Board considered an expenditure of \$20,000 to Susan Churuti of Bryant, Miller, Olive Law Firm for the completion of said audit. The CRA Board requested additional information. (Minutes attached)

On April 20, 2009, at the continuation of the April 14, 2009 meeting, the CRA Board authorized the Mayor to execute an agreement for \$10,000 for the completion of said audit, pursuant to a letter of agreement that was distributed to the Board members during the meeting. (Minutes attached)

At this time, an invoice has been presented to City Hall for payment for services rendered. This office is not in receipt of this invoice. The invoice cannot be paid until a budget adjustment is complete and authorization is issued for not only the budget adjustment, but also for the encumbrance.

On May 29, 2009, this office received the attached e-mail requesting CRA Advisory Board consideration of the Engagement Letter, dated April 27, 2009 (executed May 29, 2009), as attached.

In that the Advisory Board has not yet had opportunity to recommend the CRA entering into new contracts or agreements, please know that it is normal procedure to issue a notice to proceed after the execution of any contract or agreement. Note that expenses incurred before the execution of an agreement should be carefully considered. The Advisory Board should also ensure a level of comfort with the scope and timeline of the agreement, in that it includes a not-to-exceed cost of \$10,000. Additional action may be necessary on the part of both the Advisory Board and the CRA Board if this amount must be exceeded.



CITY OF PALMETTO
BUDGET ADJUSTMENT FORM

Resolution No _____

BUDGET ADJ #

Date of Request February 20, 2009

This form is to be used to request all budget adjustments.

Move to Account

Account Description	Account Number	Amount in Whole Dollars
Consulting/Contract Services	6905593101	\$10,000.00

Move from Account

Account Description	Account Number	Amount in Whole Dollars
Community Renovation	6905598212	\$10,000.00

Explanation for Adjustment: _____
 Funds required for CRA Compliance Audit _____
 See attached Agreement _____

Bev Minnix 6-2-2009
Person Requesting Change & Date

Department Head Approval & Date

For Finance Use

(stamp)

Finance Approval & Date

City Clerk Approval & Date

Posted By and Date

Tanya Lukowiak

From: Tanya Lukowiak
Sent: Friday, May 29, 2009 2:12 PM
To: Jim Freeman
Cc: Karen Simpson; Beverly Minnix
Subject: RE: CRA legal audit letter

Tracking:	Recipient	Delivery	Read
	Jim Freeman	Delivered: 5/29/2009 2:12 PM	Read: 5/29/2009 2:12 PM
	Karen Simpson	Delivered: 5/29/2009 2:12 PM	Read: 5/29/2009 2:21 PM
	Beverly Minnix	Delivered: 5/29/2009 2:12 PM	Read: 5/29/2009 3:34 PM
	'baprice@prcs-inc.com'		
	'sclcharles@aol.com'		
	'MrNickCo@aol.com'		
	'Sia'		

I will put it on the agenda for the advisory board for June 9th. Thanks.

Tanya

From: Jim Freeman
Sent: Friday, May 29, 2009 12:26 PM
To: Tanya Lukowiak
Cc: Karen Simpson
Subject: CRA legal audit letter

Tanya,

The Mayor asked me to forward this CRA legal audit scope letter to you. We need to establish a PO for payment of services. In addition, I assume you and Karen will coordinate any budget adjustments/amendments as part of the normal process. Let me know if you need anything on this end.

Thanks,

Jim Freeman, CMC, CIA
 City Clerk- City of Palmetto
 516 8th Ave West
 Palmetto, FL 34221
 (Phone) 941.723.4570
 (Fax) 941.723.4576

6/3/2009

April 27, 2009

PERSONAL AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

City Of Palmetto
Attn: Mayor Shirley Groover Bryant
P.O. 1209
Palmetto, FL 34220-1209

Re: Engagement as consultant to review the CRA Program in a Legal Audit

Dear Mayor Bryant:

Thank you for retaining Bryant Miller Olive P.A. to review the CRA Program in a Legal Audit. We look forward to serving your needs in this matter, in addition to our current service with regard to your City on the Manatee School of Arts Project. The scope of the services to be rendered are as follows:

A review of the actions and activities of the CRA since January, 2001 for compliance with state law and city ordinances.

Said review will be inclusive of a review of grants awarded and paid and a review of compliance with state and city conflict of interest and ethics laws during this period.

Said Compliance Audit may require the hiring of additional experts in other fields as needed.

Mayor Shirley Groover Bryant

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April 27, 2009

The purpose of this letter is to confirm our engagement as consulting outside legal counsel at a discounted hourly rate of \$265.00 per attorney, and \$75 per law clerk, with a not-to-exceed amount of \$10,000 without prior written approval. With me, Cari Roth and Suzanne Van Wyk may be called upon to assist with specific issues. We will respond to the questions you have posed by telephone conversation, followed by a written opinion as necessary.


We also want to provide you certain information concerning our fees, billing and collection policies, and other terms that will govern our relationship. Although we do not wish to be overly formal in our relationship with you, we find that it is helpful to confirm with our clients the nature and terms of our representation. Attached to this letter are the terms of this engagement. Please review these and let me know if you have any questions or concerns concerning these terms.

If you agree to proceed with this engagement based on the terms described above and in the attached terms of engagement, please so indicate by signing and returning a copy of this letter.

We look forward to working with you.

Sincerely,

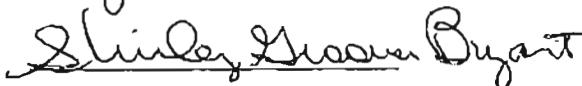
BRYANT MILLER OLIVE P.A.

By: 
Susan H. Churuti

Enclosure

Approved this 29 day of

May, 2009



By:

As its:

J:\wdox\docs\clients\9220\00\agrmnt\00346820.doc

TERMS OF ENGAGEMENT

We appreciate your decision to retain Bryant Miller Olive P.A. as your consultant to review the City of Palmetto CRA program. This document explains certain important terms of our relationship.

1. Scope. Our engagement and the services that we will provide to you are limited to the matter identified in the accompanying letter. Any changes in the scope of our representation as described in the letter must be approved in writing. You will provide us with the factual information and materials we require to perform the services identified in the letter, and you will make such business or technical decisions and determinations as are appropriate. You will not rely on us for business, investment, or accounting decisions or expect us to investigate the character or credit of persons or entities with whom you may be dealing, unless otherwise specified in the letter.

2. Fees. Although fees for engagements of this nature will generally be determined on an hourly basis, we sometimes agree with our clients to perform services on a fixed-fee or other basis that we and the client believe will encourage efficiency and reflect the value of our services in relation to a particular objective. If this engagement is one for which we have specifically agreed in writing on a fixed-fee arrangement, you agree that our fees will not be limited to the fixed amount if you fail to make complete and accurate disclosure of information that we have requested and that we reasonably require for our work, or if there is a material change in the terms, conditions, scope, or nature of the work envisioned when we determined the fixed amount, or as compared with the work normally and customarily involved in similar engagements, resulting in an increase in the scope, complexity or value of services to be provided by us. If any of these events occurs, you agree that our fees will be appropriately increased to account for such changed circumstances based upon the factors described below, unless you and we agree on a revised fixed fee. If the accompanying letter does not provide for a fixed fee, or if we do not otherwise confirm to you in writing a fee arrangement, our fees for services will be determined as described in the following paragraphs.

When establishing fees for services that we render, we are guided primarily by the time and labor required, although we also consider other appropriate factors, such as the novelty and difficulty of the issues involved; the skill required to perform the particular assignment; time-saving use of resources (including research analysis, data and documentation) that we have previously developed; the fee customarily charged for similar services. A retainer is typically required in an amount that is appropriate with respect to the proposed representation. Unless otherwise agreed, the retainer will

be applied to the last statement rendered in connection with the representation, with any unused portion being returned to the client.

3. Out-of-Pocket Expenses. In addition to legal fees, our statements will include out-of-pocket expenses that we have advanced on your behalf and our internal charges for certain support activities.

4. Billing. We bill periodically throughout the engagement for a particular matter, and our periodic statements are due when rendered. If our fees are based primarily on the amount of our time devoted to the matter, our statements will be rendered monthly. In instances in which we represent more than one person with respect to a matter, each person that we represent is jointly and severally liable for our fees and expenses with respect to the representation. Our statements contain a summary of each matter for which legal services are rendered and a fee is charged.

If our statements are not paid in a timely manner, we reserve the right to discontinue services. Additionally, if our statement has not been paid within 30 days from the date of the statement, we reserve the right to impose an interest charge of 1.25 percent per month (a 15 percent annual percentage rate) from the 30th day after the date of the statement until it is paid in full. Interest charges apply to specific monthly statements on an individual basis. Any payments made on past due statements are applied first to the oldest outstanding statement. We shall be entitled to attorneys' fees and expenses if collection activities are necessary.

5. Questions About Our Bills. We invite you to discuss freely with us any questions that you have concerning a fee charged for any matter. We will attempt to provide as much billing information as you require and in such customary form that you desire.

6. Relationships with Other Clients. We are sometimes asked to represent a client with respect to interests that are adverse to those of another client who is represented by the firm in connection with another matter. Just as you would not wish to be prevented in an appropriate situation from retaining a law firm that competes with us, our firm wishes to be able to consider the representation of other persons who may be competitors in your industry or who may have interests that are potentially adverse to yours, but with respect to matters that are unrelated in any way to our representation of you. The ethics rules that govern us permit us to accept such multiple representations, assuming certain requirements are met.

During the term of this engagement, we agree that we will not accept representation of another client to pursue interests that are directly adverse to your interests unless and until we make full disclosure to you of all the relevant facts, circumstances, and implications of our undertaking the two representations, and confirm to you in good faith that we have done so and that the following criteria are met: (i) there is no substantial relationship between any matter in which we are representing or have represented you and the matter for the other client; (ii) any confidential information that we have received from you will not be available to the lawyers and other firm personnel involved in the representation of the other client; (iii) our effective representation of you and the discharge of our professional responsibilities to you will not be prejudiced by our representation of the other client; and (iv) the other client has also consented in writing based on our full disclosure of the relevant facts, circumstances, and implications of our undertaking the two representations. If the foregoing conditions are satisfied, you agree that we may undertake the adverse representation and that all conflict issues will be deemed to have been resolved or waived by you.

**CITY OF PALMETTO
JOINT MEETING OF THE
COMMUNITY REDEVELOPMENT AGENCY (CRA) BOARD
AND CRA ADVISORY BOARD
April 14, 2009**

PLEDGE OF PUBLIC CONDUCT
*We may disagree, but we will be respectful to one another.
We will direct all comments to issues.
We will avoid personal attacks.*

516 8th Avenue West
Palmetto, Florida 34221
<http://www.palmettofl.org>

(841) 723-4570

Shirley Groover Bryant, CRA Board Presiding Officer

CRA Board Members

Tamara Cornwell
Mary Lancaster
Tambra Varnadore
Brian Williams
Alan Zirkelbach

CRA Advisory Board Members

Charles Smith, Chair
Sia Mollanazar, Vice Chair
Betty Ann Price
Nick Costides
Tanya Lukowiak, CRA Director

Anyone wishing to speak before the CRA Board must sign in and be sworn-in prior to the meeting, stating name, address and topic to be addressed. All comments will be limited to two minutes.

ORDER OF BUSINESS

PUBLIC COMMENT: (non-agenda items): Comments will be limited to two minutes.

1. CRA BOARD AND CRA ADVISORY BOARD AGENDA APPROVAL

Action Request: Motion to approve the April 14, 2009 Joint CRA Board and CRA Advisory Board agenda.

2. FY2009 CRA BUDGET (TAB 1)

3. PROJECT REVIEW AND PRIORITIZATION

- | | |
|---|----------|
| A. Riverside Drive and 8th Avenue Traffic Study | (TAB 2) |
| B. Haben Blvd. Gateway Project | (TAB 3) |
| C. 8th & 9th Street at 4th Avenue | (TAB 4) |
| D. Edenfield Property Site Assessment | (TAB 5) |
| E. Affordable Housing Linkage Fee Study | (TAB 6) |
| F. Downtown Stormwater Vault | (TAB 7) |
| G. CBI Property Use | (TAB 8) |
| H. 8th Ave. Drainage Project | (TAB 9) |
| I. 7th Street Extension | (TAB 10) |

4. STOREFRONT GRANT APPLICATION CRITERIA REVIEW FY09-10 (TAB 11)

5. STOREFRONT GRANT APPLICATION #09-04 (TAB 12)

6. CRA BOARD RULES AND PROCEDURES

(TAB 13)

7. COMPLIANCE AUDIT



8. CRA DIRECTOR'S COMMENTS

9. CRA BOARD MEMBERS' COMMENTS

10. PRESIDING OFFICER'S COMMENTS

11. PUBLIC COMMENTS FOR CRA BOARD

Anyone wishing to speak before the CRA Board must complete the Speakers Card, stating name, address, and topic to be addressed, and be sworn in prior to the meeting. All comments will be limited to two minutes.

12. ADJOURNMENT

If any person desires to appeal any decision of the CRA Board, or of any other Board of the City, that person will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Fla. Stat. §286.0105).

The City of Palmetto does not discriminate on the basis of race, color, national origin, sex, religion, age, marital status or handicapped status in employment or in the provision of services. Handicapped individuals may receive special accommodation in services on one working day's notice (Fla. Stat. §286.011(8)). Anyone requiring reasonable accommodation for this meeting as provided for in the Americans with Disabilities Act should contact the City Clerk by telephone at 941-723-4570, fax 941-723-4576 or e-mail jfreeman@palmettofl.org or dponder@palmettofl.org.

POSTED: April 9, 2009

CRA Advisory Board chair Charles Smith stated he and Mrs. Price will be working with Mrs. Lukowiak to develop the agenda and its delivery schedule.

Mayor Bryant recessed the meeting at 9:55 pm on April 14, 2009.

Mayor Bryant reconvened the April 14, 2009 CRA Board meeting on April 20, 2009 at 8:30 pm.

3. COMPLIANCE AUDIT

Mayor Bryant read a definition of a compliance audit. She stated the audit will review of all applicable state, federal and local guidelines. She proposed the audit for the Palmetto CRA to begin January 1, 2001 through January 1, 2009. The audit will encompass CRA grants awarded and paid, projects approved and any litigation initiated on the CRA's behalf.

Mayor Bryant stated she had identified Allison Yurko (withdrew), Richard E. Davis at \$250 per hour and Susan P. Churtil at \$265 per hour. Mayor Bryant recommended retaining the services of Susan P. Churtil, in an amount not to exceed \$10,000 without prior written approval.

Mrs. Lancaster referred to Resolution No. 97-11, which established competitive auditor selection procedures, and inquired if a compliance audit is different. Attorney Bamebey confirmed that even though a portion of the resolution applies to a financial audit of the CRA, it does not apply to the proposed compliance audit.

Discussion ensued on the applicants. Attorney Bamebey confirmed that the ethics violation against Ms. Churtil had been dismissed because no probable cause was found. He also opined both individuals are very strong candidates; he would be comfortable retaining either individual given the nature of the audit; an attorney is more qualified given the scope; and agreed he would also seek a professional outside the area. Mrs. Lancaster requested a copy of the document excusing the charges against Ms. Churtil.

Mr. Freeman and Mrs. Lukowiak discussed possible funding sources for the audit. They also discussed how the monthly legal fee is prorated between the City and CAR. Mr. Freeman explained the allocation as a portion of the fixed annual fee of \$212,000; Finance determined the monthly percentage rate applied to CRA.

Mr. Zirkelbach, as a member of the prior CRA Board, suggested that any action approved by the CRA based on attorney opinion should be considered by the attorney undertaking the audit. He opined that the members of the prior board feel the audit "is fine", but when tapes are not available, the audit should end at that point in time. Attorney Bamebey stated the Board has a defense when relying on legal comments in any action taken.

Mrs. Lancaster stated rules should be developed to address when a project or property is partially in the CRA District. Mayor Bryant stated the property appraiser's office is preparing a map that contains the property identification numbers. Mrs. Lukowiak stated problems have arisen because the original map delineating the CRA District doesn't always match the property identification numbers.

Referring to Mr. Zirkelbach's comments, Mrs. Lukowiak stated she, as well as some of the Board members she has spoken with, favors an auditor who is held to state standards because of the financial issues. She stated she seeks an "unbiased, quantitative measure that will put the CRA Board where it should be and determine how we should be progressing."

Mr. Zirkelbach inquired if the attorney is being given the ability to hire an auditor, if necessary. Attorney Bamebey confirmed the \$10,000 would include a broad review of all actions, perhaps


CRA Board/CRA Advisory Board
Joint Meeting
April 14, 2009
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with a focus placed on issues that have been raised, and would include the hiring of outside professionals.

MOTION: Ms. Varnadore moved, Mr. Williams seconded and motion carried 4-1 to authorize the Mayor to execute an agreement with Susan P. Churtil, not to exceed \$10,000. Mrs. Lancaster voted no.

Meeting adjourned at 9:00 pm on April 20, 2009.

Minutes approved: May 4, 2009


James R. Freeman
City Clerk

Community Redevelopment Board
April 6, 2009 8:30 p.m.

CRA Board Members Present:

Shirley Bryant (Presiding Officer, Non-Member)
Tamara Cornwell
Mary Lancaster
Tambra Varnadore
Brian Williams
Alan Zirkelbach

Staff Present:

James R. Freeman, City Clerk
Mike Mayer, Deputy Chief of Police
Tanya Lukowiak, CRA Executive Director
Mark P. Barnebey, Kirk Pinkerton
Allen Tusing, Public Works Director
Diane Ponder, Deputy Clerk-Administration

Mayor Bryant called the meeting of the Community Redevelopment Board (CRA) to order at 7:15 pm.

There was no public comment.

1. CRA BOARD AGENDA APPROVAL

The March 23, 2009 CRA Board minutes were added to the agenda.

MOTION: Commissioner Cornwell moved, Commissioner Lancaster seconded and motion carried 5-0 to approve the April 6, 2009 CRA Board agenda, with the addition of the March 23, 2009 minutes as Item 1A.

1A. MARCH 23, 2009 MINUTES

Commissioner Lancaster stated she had requested a written ruling on the appropriateness of a non-member of a board acting as a presiding officer and she had never received it; therefore, she would not approve the minutes. Attorney Barnebey stated he would provide her a memo on the topic.

MOTION: Commissioner Williams moved, Commissioner Zirkelbach seconded and motion carried 4-1 to approve the March 23, 2009 minutes. Mrs. Lancaster voted no.

2. APPROVAL: CRA BOARD RULES OF PROCEDURE

Mr. Freeman stated the item was on the agenda because Commissioner Williams requested further discussion. Commissioner Varnadore and Commissioner Williams agreed that the topic was meant to be discussed at the joint CRA Board/CRA Advisory Board meeting scheduled for April 14, 2009.

Commission suggested the following amendments to the Rules:

3.2 Amended to allow the Mayor to request duties to other members of the Board.

3.3 Add language to amend the second sentence so that in the absence of the Mayor and Vice Mayor, the presiding officer of the meeting shall become the senior board member.

4.1.1 The second sentence was deleted.

5.1 Amended by deleting "as Presiding Officer" and added "with the Mayor being the Presiding Officer."

5.1.1 Added "so" at the end of the first sentence. Deleted "which shall not be used to further argue in favor of or against the motion" from the second sentence.

Attorney Barnebey stated that since the Rules have been adopted at a prior meeting, he will make the revisions discussed and bring the document back to Commission at a subsequent meeting.

3. CRA DIRECTOR'S COMMENTS

The agenda is being prepared for the CRA Advisory Board meeting on April 14, 2009. A summary sheet for each "F" projects is being prepared for the CRA Board and CRA Advisory Board joint meeting April 14, 2009.

Discussion has been held with staff regarding mangrove trimming. She explained how the oral quotes were obtained and how a final oral quote was received after the agenda was published. A formalized written policy has been issued, whereby a written request will be issued to vendors and will stipulate a deadline for submitting a quote. Mr. Freeman explained the City's purchasing ordinance still allows staff to orally obtain quotes for items under \$10,000. Commission requested that the purchasing ordinance be moved forward to amend the parameters for obtaining oral quotes. Attorney Barnebey stated the local preference ordinance could be amended before public hearing to incorporate the policy as discussed.

Commissioner Varnadore requested an update of all current storefront grants. Mrs. Lukowiak stated she is in the process of gathering the information.

4. CRA BOARD MEMBERS' COMMENTS

Mrs. Lancaster

Referencing Mr. Smith's comments, Mrs. Lancaster stated that if Mr. Smith had an issued it should have been addressed to the letter's author rather than Commission. She stated she does not want to be accused of directing the NAACP. Inquired if there is going to be a scheduled meeting in Ward 1.

Ms. Cornwell

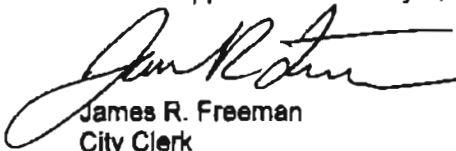
Requested that the CRA budget is established the same as the City budget. Discussion ensued, with Mr. Freeman and Mrs. Lukowiak explaining that the CRA budget is in the same format as the city budget, the only difference being the two "bucket" accounts that the CRA Board must review and prioritize. Mr. Freeman stated the monthly financial reports also contain a breakdown of the CRA budget. The CRA budget was added to the agenda of the joint meeting with the CRA Advisory Board April 14, 2009.

5. PRESIDING OFFICER'S COMMENTS

Requested permission to have the Compliance Audit be performed by Attorney Susan H. Churtili in an amount not to exceed \$20,000. Commission requested that the topic be placed on the April 14, 2009 agenda, with the scope of the audit services and budget funding information included.

Meeting adjourned at 9:45 pm.

Minutes approved: May 4, 2009


James R. Freeman
City Clerk

