

TAB 16



City of Palmetto Agenda Item

Meeting Date

8/16/2010

Presenter: Mayor Shirley Groover Bryant

Department: CRA

Title: Extend CRA Contract for 3 months

Background:

Jeff Burton has served as Interim Community Redevelopment Agency Administrator since August, 2009. Recently, the City has taken steps to create the position of Community Redevelopment Director and has been in the process to be prepared to fill that position. While that process is almost complete, some additional time is needed before a Director is named.

Discussion:

A new contract has been prepared for Mr. Burton to serve as Interim Administrator on a fulltime basis for up to three (3) months. Mr. Burton has been serving on a part-time basis. His monthly compensation due to this additional work has been increased from Five Thousand Dollars (\$5,000.00) per month to Six Thousand One Hundred and Sixty-Seven Dollars (\$6,167.00) per month. There are no other significant changes from the prior agreement.

Budgeted Amount:

\$0.00

Budget Page No(s):

Available Amount:

\$0.00

Expenditure Amount:

\$0.00

Additional Budgetary Information:

Additional Funded available from open CRA Director Position - Expenses will be charged to 190.559.3101

Funding Source(s):

CRA

Sufficient Funds Available:

Yes
 No

Budget Amendment Required:

Yes
 No

Source:

City Attorney Reviewed:

Yes
 No
 N/A

Advisory Board Recommendation:

For
 Against
 N/A

Consistent With:

Yes
 No
 N/A

Potential Motion/Direction Requested:

I move to approve the contract for Jeff Burton to serve as Interim CRA Administrator and authorize the Mayor to execute the same.

Staff Contact:

Attachments:

Proposed contract between Jeff Burton and the City of Palmetto.

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT ("Agreement") is entered into this ____ day of _____, 2010, between the City of Palmetto, a municipal corporation ("Palmetto") and Jeff Burton, 1903 14th Avenue West, Palmetto, Florida ("Independent Contractor").

RECITALS:

A. Palmetto desires to employ Independent Contractor to provide services to Palmetto, and the Independent Contractor desires to be employed by Palmetto for such purpose.

B. The parties desire to set forth in writing the terms and conditions of such employment relationship.

NOW THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. Recitals. The above recitals are true and correct.
2. Employment. Palmetto hereby employs Independent Contractor and Independent Contractor hereby accepts such employment with Palmetto upon the terms and conditions set forth herein.
3. Term. The term of this Agreement shall commence on August 17, 2010 (the "Commencement Date"), and shall continue for a term of three (3) months from the Commencement Date unless sooner terminated hereunder (the "Initial Term"). Unless this Agreement is terminated or its term is otherwise modified hereunder, this Agreement may be extended by majority vote of the City Commission for one or more monthly periods.
4. Compensation. Independent Contractor shall receive a sum of Six Thousand One Hundred Sixty-Seven Dollars (\$6,177.00) per month which shall be due and payable on the third day of each month beginning with September 3, 2010. Partial months shall be prorated based on the number of days of service. Independent Contractor shall receive no other compensation or benefits under this Agreement.
5. Duties. Independent Contractor shall serve as Interim Community Redevelopment Agency ("CRA") Administrator for Palmetto and shall perform the duties, times of service and the services with respect to the business of Palmetto as provided for in Exhibit A attached hereto and made a part hereof, and other such duties and services as the Mayor of Palmetto may from time to time direct. During business hours, Independent Contractor shall devote such time, energy and skills to the faithful and diligent performance of Independent Contractor's duties as is necessary for Independent Contractor to complete Independent Contractor's duties hereunder, but in no event shall Independent Contractor devote less than forty (40) hours per week.
6. Termination. This Agreement shall terminate upon the happening of the following events:

6.1. At any time by the written agreement of the parties;

6.2 Upon the Mayor of Palmetto's submission, in its sole and absolute discretion, of written notice of such termination to Independent Contractor, which notice specifies a determinable date of termination, and which notice is submitted to Independent Contractor on or before the fifteenth day prior to such determinable date;

6.3 Upon Independent Contractor's submission of written notice of termination to Palmetto, which notice specifies a determinable date of termination, and which notice is submitted to Palmetto on or before the thirtieth day prior to such determinable date;

6.4 Upon the expiration of any agreed upon term hereof; or

6.5 Upon the death of the Independent Contractor.

7. Confidential Data. Independent Contractor recognizes and acknowledges that many public records are subject to the Florida Public Records Law (Section 119.07, Florida Statutes) and Independent Contractor agrees to comply with such law. However, certain records of Palmetto are confidential or exempt under the Florida Public Records Law and Independent Contractor agrees to comply with the requirements of any applicable confidentiality or exemption under such law.

8. Notices. All notices required to be given under this Agreement shall be in writing, sent by certified mail, return receipt requested, postage prepaid, to the following addresses:

If to Palmetto, then to:

Mayor Shirley Groover Bryant
City of Palmetto
P.O. 1209
Palmetto, Florida 34220

With Copy to: Mark P. Barnebey, Esquire
Kirk Pinkerton, P.A.
1301 6th Avenue West
Bradenton, Florida 34205

If to Independent Contractor, then to:

Jeff Burton
1903 14th Avenue West
Palmetto, Florida 34221

The foregoing addresses may be changed by any of the aforesaid persons, and additional persons may be added thereto by notifying all of the other parties hereto in writing,

and in the manner herein above set forth. Any notice given in accordance herewith shall be considered given on the date that is three (3) days after the date of deposit in the US Mail. In all events, proof of compliance with the foregoing shall be on the party sending such notice.

9. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Palmetto and Independent Contractor consent and agree that Manatee County, Florida, shall be the exclusive, proper, and convenient venue for any legal proceeding in federal or state court relating to this Agreement, and each waives any defense, whether asserted by motion or pleading, that Manatee County, Florida, is an improper or inconvenient venue.

10. Waiver. The waiver by either party hereto of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party hereto.

11. Binding Effect. This Agreement shall be binding upon the parties, their heirs, personal representatives, successors, and assigns.

12. Assignment. This Agreement is not assignable by either party.

13. Severability. None of the provisions of this Agreement is dependent upon the validity of any other provision, and the invalidity, illegality, or unenforceability, in whole or in part, of any provision shall not affect any other provision herein contained.

14. Modification. Neither this Agreement nor any provision hereof shall be amended or modified (or deemed amended or modified), except by an agreement in writing, duly executed and acknowledged with the same formality as this Agreement, except for any extension of the agreement term as provided in Section 3.

15. Independent Covenants. Each of the respective rights and obligations of the parties hereunder shall be deemed independent, and may be enforced independently irrespective of any of the other rights and obligations set forth herein.

16. Counterparts; Facsimile; Email. This Agreement may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, each of which shall be deemed to be one and the same instrument. A facsimile or email transmission of a signature or of initials shall constitute an original.

17. Prevailing Party. The prevailing party in any action hereunder shall be entitled to recover from the other party all attorneys' fees, paralegals' fees, legal assistants' fees, accountants' fees, and costs (including court costs through all levels of appeal) associated with any action to enforce any provision hereof.

18. Waiver of Jury Trial. By its acceptance hereof, Palmetto and Independent Contractor agree that neither they, nor any of their assignees, successors, heirs, or legal representatives (all of whom are hereinafter referred to in this Section 18 as the "Parties"), shall seek a jury trial in any lawsuit, proceeding, counterclaim, or any other litigation procedure based

upon or arising out of this Agreement, any related agreement or instrument, any business conducted by the Parties, or the dealings or the relationship between the Parties. None of the Parties will seek to consolidate any such action, in which a jury trial has been waived with any other action in which a jury trial has not been waived. The provisions of this Section 18 have been fully negotiated, at arm's length, by the Parties. The waiver contained herein is irrevocable, constitutes a knowing and voluntary waiver, and is subject to no exceptions. The Parties have in no way agreed with or represented to all or any of the Parties that the provisions of this Section 18 will not be fully enforced in all instances.

19. Entire Understanding. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof, and there are no representations, warranties, covenants or understandings other than those expressly set forth herein, and replaces any prior Agreement between the parties effective August 17, 2010.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

PALMETTO:

Attest:

City of Palmetto, a Florida Municipal Corporation

By: _____
Shirley Groover Bryant

City Clerk

In the presence of:

INDEPENDENT CONTRACTOR:

Jeff Burton

EXHIBIT A

Duties and Service