

**IN THE DISTRICT COURT OF APPEAL OF FLORIDA,
FOURTH DISTRICT**

CASE NO. 4D12-4325

**SHERYL STECKLER, in her official capacity
as Inspector General of Palm Beach County,
Florida,**

Appellant,

V.

**TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, TOWN OF MAGNONIA PARK,
CITY OF PALM BEACH GARDENS, TOWN OF
HIGHLAND BEACH, TOWN OF LAKE PARK,
CITY OF WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
Corporations of the State of Florida,
PALM BEACH COUNTY, a political subdivision,
And SHARON R. BOCK, in her Official capacity
as the Clerk & Comptroller of Palm Beach
County, Florida,**

Appellees.

APPENDIX

**VOLUME 1
R001-R179**

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

50 2011 CA 01 7953 XXIV
CIVIL DIVISION
CASE NO:

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH,
TOWN OF JUPITER, CITY OF DELRAY
BEACH, TOWN OF PALM BEACH SHORES,
TOWN OF MANALAPAN, VILLAGE OF
WELLINGTON, TOWN OF MANGONIA PARK,
CITY OF PALM BEACH GARDENS, TOWN OF
HIGHLAND BEACH, TOWN OF LAKE PARK,
CITY OF WEST PALM BEACH, TOWN OF
OCEAN RIDGE, CITY OF BOCA RATON,
municipal corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

SUMMONS

THE STATE OF FLORIDA:
To Each Sheriff of the State:

YOU ARE COMMANDED to serve this summons and a copy of the complaint or petition in this
action on defendant:

PALM BEACH COUNTY, a political subdivision

By Serving: Karen T. Marcus, Chair of the Palm Beach County Commission
12th Floor Governmental Center
301 North Olive Avenue
West Palm Beach, Florida 33401

Each defendant is required to serve written defenses to the complaint or petition on **Douglas N. Yeargin, Assistant City Attorney**, Attorney for the Plaintiff, City of West Palm Beach, whose address is Office of the City Attorney, City of West Palm Beach, P.O. Box 3366, West Palm Beach, FL 33402; **John C. Randolph, Esquire**, Attorney for the Plaintiff, Town of Gulf Stream, whose address is Jones, Foster, Johnson & Stubbs, P.A., P.O. Box 3475, West Palm Beach, FL

000001

33402-3475; **Keith W. Davis, Esquire**, Attorney for Plaintiffs, Village of Tequesta, Town of Palm Beach Shores, and Town of Mangonia Park whose address is Corbett and White, P.A., 1111 Hypoluxo Road, Suite 207, Lantana, Florida 33462-4271; **Pamala Hanna Ryan, City Attorney**, Attorney for Plaintiff City of Rivera Beach, whose address is City of Rivera Beach Attorney's Office, 600 W. Blue Heron Boulevard, Riviera Beach, Florida 33404-4311; **Thomas Jay Baird, Esquire**, Attorney for Plaintiffs Town of Jupiter and Town of Lake Park, whose address is Jones, Foster, Johnson & Stubbs, P.A., 801 Maplewood Drive, Suite 22A, Jupiter, Florida 33458-8821; **R. Brian Shutt, City Attorney**, Attorney for Plaintiff City of Delray Beach, whose address is City of Delray Beach, 200 NW 1st Avenue, Delray Beach, Florida 33444-2768; **Trela J. White, Esquire**, Attorney for Plaintiff Town of Manalapan, whose address is Corbett and White, P.A., 1111 Hypoluxo Road, Suite 207, Lantana, Florida 33462-4271; **Jeffrey S. Kurtz, Esquire**, Attorney for Plaintiff Village of Wellington, whose address is The Law offices of Glen J. Torcivia and Associates, 701 Northpoint Parkway, Suite 209, West Palm Beach, Florida 33407-1956; **R. Max Lohman, Esquire**, Attorney for Plaintiff City of Palm Beach Gardens, whose address is Corbett and White, P.A., 1111 Hypoluxo Road, Suite 207, Lantana, Florida 33462-4271; **Thomas Edward Sliney, Esquire**, Attorney for Plaintiff, Town of Highland Beach, whose address is Buckingham, Doolittle & Burroughs LLP, 5355 Town Center Road, Suite 900, Boca Raton, Florida 33486-1069; **Kenneth G. Spillias, Esquire**, Attorney for Plaintiff Town of Ocean Ridge, whose address is Lewis Longman & Walker, 515 N. Flagler Drive, Suite 1500, West Palm Beach, Florida 33401-4327; and **Diana Grub Frieser, City Attorney**, Attorney for Plaintiff City of Boca Raton, whose address is City of Boca Raton, 201 W. Palmetto Park Road, Boca Raton, Florida 33432-3730, within 20 days after service of this summons on that defendant, exclusive of the day of service, and to file the original of the defenses with the clerk of this court either before service on plaintiffs' attorney or immediately thereafter. If a defendant fails to do so, a default will be entered against that defendant for the relief demanded in the complaint or petition.

NOV 14 2011

DATED on _____, 2011

Sharon R. Bock, as Clerk of the Court

By: NIKECIA ARMSTRONG
As Deputy Clerk

SHARON R. BOCK
Clerk & Comptroller
P.O. Box 4067
West Palm Beach, Florida
33407-4067

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I. CASE STYLE

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

CIVIL DIVISION
CASE NO.

TOWN OF GULF STREAM, VILLAGE OF TEQUESTA, CITY OF RIVIERA BEACH, TOWN OF JUPITER, CITY OF DELRAY BEACH, TOWN OF PALM BEACH SHORES, TOWN OF MANALAPAN, VILLAGE OF WELLINGTON, TOWN OF MANGONIA PARK, CITY OF PALM BEACH GARDENS, TOWN OF HIGHLAND BEACH, TOWN OF LAKE PARK, CITY OF WEST PALM BEACH, TOWN OF OCEAN RIDGE, CITY OF BOCA RATON, municipal corporations of the State of Florida,

50 2011 CA 01 7953 XXXZ

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

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NOV 14 2011

SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

II. TYPE OF CASE

- Condominium
- Contracts and indebtedness
- Eminent domain
- Auto negligence
 - Negligence—other
 - Business governance
 - Business torts
 - Environmental/Toxic tort
 - Third party indemnification
 - Construction defect
 - Mass tort
 - Negligent security
 - Nursing home negligence
 - Premises liability—commercial
 - Premises liability—residential
- Products liability
- Real property/Mortgage foreclosure
 - Commercial foreclosure \$0 - \$50,000
 - Commercial foreclosure \$50,001 - \$249,999
 - Commercial foreclosure \$250,000 or more
- Homestead residential foreclosure \$0 - \$50,000
- Homestead residential foreclosure \$50,001 - \$249,999
- Homestead residential foreclosure \$250,000 or more
- Nonhomestead residential foreclosure \$0 - \$50,000
- Nonhomestead residential foreclosure \$50,001 - \$249,999
- Nonhomestead residential foreclosure \$250,000 or more
- Other real property actions \$0 - \$50,000
- Other real property actions \$50,001 - \$249,999
- Other real property actions \$250,000 or more
- Professional malpractice
 - Malpractice—business
 - Malpractice—medical
 - Malpractice—other professional
- Other
 - Antitrust/Trade regulation
 - Business transactions
 - Constitutional challenge—statute or ordinance
 - Constitutional challenge—proposed amendment
 - Corporate trusts
 - Discrimination—employment or other

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- Other (continued)
 - Insurance claims
 - Intellectual property
 - Libel/Slander
 - Shareholder derivative action
 - Securities litigation
 - Trade secrets
 - Trust litigation
 - Declaratory Relief

III. REMEDIES SOUGHT (check all that apply):

- monetary
- nonmonetary declaratory or injunctive relief
- punitive

IV. NUMBER OF CAUSES OF ACTION: [4]

(Specify): Declaratory Relief Unlawful Tax as to Municipalities

Declaratory Relief Unlawful Funding Mechanism Due to Payment for Same Service Twice

Declaratory Relief Lack of Charter Authority

Declaratory Relief Unlawful Conflict with General Law

V. IS THIS CASE A CLASS ACTION LAWSUIT?

- Yes
- No

VI. HAS NOTICE OF ANY KNOWN RELATED CASES BEEN FILED?

- No
- Yes. If "yes", list all related cases by name, case number and court.

VII. IS JURY TRIAL DEMANDED IN COMPLAINT?

- Yes
- No

I CERTIFY that the information I have provided in this cover sheet is accurate to the best of my knowledge and belief.

Date: November 14, 2011

By *Douglas N. Yeargin*
 Douglas N. Yeargin, Assistant City Attorney
 City Attorney
 Florida Bar No. 777560
dyeargin@wppb.org

And

/s/

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Jones, Foster, Johnson & Stubbs, P.A.
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Attorney for Plaintiff Town of Gulf Stream

And

/s/

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Attorney for Plaintiffs Village of Tequesta,
Town of Palm Beach Shores, and
Town of Mangonia Park

And

/s/

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Attorney for Plaintiff City of Riviera Beach

And

/s/

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And

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And

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And

/s/
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Attorney for Plaintiff City of Boca Raton

IN THE CIRCUIT COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

NOV 20 2011 CA 017953 XXXZ
CASE NO:

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, VILLAGE OF WELLINGTON,
TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND
BEACH, TOWN OF LAKE PARK, CITY OF
WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

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SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs, TOWN OF GULF STREAM, VILLAGE OF TEQUESTA, CITY OF RIVIERA BEACH, TOWN OF JUPITER, CITY OF DELRAY BEACH, TOWN OF PALM BEACH SHORES, TOWN OF MANALAPAN, VILLAGE OF WELLINGTON, TOWN OF MANGONIA PARK, CITY OF PALM BEACH GARDENS, TOWN OF HIGHLAND BEACH, TOWN OF LAKE PARK, CITY OF WEST PALM BEACH, TOWN OF OCEAN RIDGE, CITY OF BOCA RATON, municipal corporations of the State of Florida, ("Municipalities"), sue Defendant, PALM BEACH COUNTY (the "County"), for declaratory relief as follows:

GENERAL ALLEGATIONS

1. This is an action for declaratory relief pursuant to Chapter 86, Florida Statutes.

2. This action arises from the County's demand that the Municipalities pay a portion of the costs associated with the countywide Office of Inspector General Program. The Municipalities do not bring this action to overturn the Inspector General Program. Instead, the Municipalities bring this action solely to contest the funding mechanism for the Program. The funding mechanism is unlawful and unenforceable against the Municipalities given that it is contrary to law. For the funding of the Inspector General Program to be lawful, the County must fund it in its entirety.

3. The County is a political subdivision of the State of Florida.

4. The Municipalities are municipal corporations of the State of Florida.

5. This court has jurisdiction over the parties and the subject matter as all parties are located in Palm Beach County, the ordinances at issue were adopted in Palm Beach County and this lawsuit seeks declaratory relief.

6. Venue is proper in Palm Beach County.

7. Pursuant to Ch. 164, Fla. Stat., the Municipalities will file a motion to abate this proceeding until the parties can participate in the statutory conflict resolution procedure.

FACTS COMMON TO ALL COUNTS

History of Countywide Programs in Palm Beach County

8. Palm Beach County adopted a "home rule" Charter in 1985 ("the Charter"). Article I, Section 1.3 of the Charter sets forth the relationship between County ordinances or regulations and Municipal ordinances or regulations which conflict with one another. In accordance with this Charter section, Municipal ordinances prevail over County ordinances to the extent of any conflict, except in instances where the voters of both the County and the Municipalities have voted in a referendum to amend the County Charter to create a "countywide" regulation on a particular subject matter.

9. The approval of a "countywide" regulation by referendum vote makes that regulation applicable in both the County and the Municipalities within the County. The referendum process is initiated by a "Charter Ordinance," which has been adopted by the Board of County Commissioners ("BCC") and which describes the proposed "countywide" regulation to be voted on.

10. Prior to 2010, five amendments to the Charter occurred. All of these amendments were initiated by the BCC, and were the subject of a Charter Ordinance.

11. Each of these amendments proposed countywide regulation on a particular subject matter over which the County wanted to achieve uniform regulation within the municipalities as well as the unincorporated portions of the County. Each of these amendments was approved by the voters in both the Municipalities and the unincorporated portions of the County after a referendum vote. These amendments included:

- A. The Protection of Wells and Wellfields;
- B. Countywide Impact Fees;
- C. The creation of a Countywide Planning Council and Land Use Element (repealed);
- D. The establishment of a countywide level of service for certain roads; and
- E. Voluntary Annexation.

12. Each countywide program enumerated above has been and continues to be entirely funded by appropriations from the BCC. All were administered and staffed by the County Administrator through the appropriate County Department, with the exception of the Countywide Planning Council, which had its own staff.

13. The Municipalities are not required to share in the costs of any of these countywide programs.

14. The Countywide Planning Council was an independent agency with an Executive Director, planners, administrative personnel, and a General Counsel. Article VII, Section 7.15 of

the County's Charter provided: "*The planning council shall annually adopt a budget and submit it to the board of county commissioners... The county shall fund the planning council each year in an amount reasonably sufficient to permit the planning council to accomplish its responsibilities.*" Accordingly, although the Countywide Planning Council was an independent agency, it was at all times entirely funded by an annual appropriation by the BCC until the program was repealed.

**New Ethics Regulations in Palm Beach County and the Creation
of the Office of Inspector General**

15. Following the conviction of three County Commissioners for crimes they committed while in office and related to their official duties, the BCC initiated and adopted ordinances intended to more strictly regulate themselves and County employees (collectively referred to as the "Ethics Regulations").

16. The Ethics Regulations included Ordinances establishing a new Code of Ethics, a Commission on Ethics to enforce the Code of Ethics, and an Office of Inspector General (the "Inspector General"), which was designed to detect misconduct involving abuse, corruption, fraud, waste, inefficiencies and mismanagement in County government.

Implementation of the Ethics Regulations Via Four (4) Inconsistent Ordinances

A. Original Ordinance

17. The Inspector General's Original implementing Ordinance (Ordinance No. 2009-049), which was applicable only in the unincorporated portions of Palm Beach County, was adopted by the BCC on December 15, 2009 (the "Original Ordinance"). A copy of the Original Ordinance is attached hereto as Exhibit 1 and incorporated herein by reference.

18. Section 2(B)(4) of the Original Ordinance described the County's funding mechanism for the Inspector General as follows:

The costs of reviews, audits, inspections and investigations by the Inspector General shall be **defrayed in part** by imposition of a fee which shall be equal to one quarter of one percent (0.25%) of the contract price (hereinafter "IG contract fee). [emphasis added.]

19. The County imposed the IG contract fee on vendors and contractors that had contracts with the County unless an exception applied.

20. Section 2(B)(4) of the Original Ordinance provided that the IG contract fee did not apply to the following contracts:

- a. Contracts for legal services;
- b. Auditing contracts;
- c. Contracts under one thousand dollars (\$1,000), except for decentralized purchase orders as set forth in the Palm Beach County Purchasing Ordinance, section 2-51(f)(1)(l);
- d. Federal, state and local government-funded grants;
- e. Interlocal agreements;
- f. Revenue-generating contracts; and
- g. Purchases made pursuant to the State of Florida Department of Revenue approved Sales Tax Recovery Program.

21. Section 2(H) of the Original Ordinance, entitled "Financial Support and Budgeting" established the County's sole responsibility to appropriate for and fund the Inspector General during fiscal year 2009-2010 as follows:

In order to ensure adequate funding for the prompt establishment of the Inspector General pending implementation, the Board of County Commissioners hereby approves an amount equal to three hundred twenty thousand dollars (\$320,000) to fund all Inspector General operations for the remainder of the 2009-2010 fiscal year.

B. Amended Ordinance

22. On September 28, 2010, the BCC adopted Ordinance No. 2010-041 to, among other things, amend the funding mechanism that was contained in the Original Ordinance (the "Amended Ordinance"). A copy of the Amended Ordinance is attached hereto as Exhibit 2 and incorporated by reference.

23. Section 2-423(4) of the Amended Ordinance provided that the funding mechanism for the Inspector General would now be as follows:

The costs of reviews, audits, inspections and investigations by the inspector general shall be funded at minimum in an amount equal to one quarter of one (0.25) percent of contracts entered into by the county, as may be adjusted as necessary (hereinafter "minimum funding percentage"). [emphasis added.]

24. This new funding mechanism eliminated the IG contract fee imposed on vendors and contractors to fund the Inspector General Program and instead stated that the County itself would fund the Program in an amount equal to one quarter of one percent (0.25%) of County contracts.

25. The same contracts mentioned in paragraph 20 above were exempt from the new minimum funding percentage.

26. Section 2-429 of the Amended Ordinance again confirmed that the County was solely responsible to fund the Inspector General for the remainder of the 2009-2010 fiscal year in an amount equal to \$320,000.00.

C. Ballot Question Ordinance

27. Prior to and after its adoption of the Ethics Regulations, the BCC unilaterally determined that it was necessary to extend the Ethics Regulations to the Municipalities. To do so, the BCC adopted Ordinance No. 2010-019 on July 20, 2010 (the "Ballot Ordinance"). A copy of the Ballot Ordinance is attached hereto as Exhibit 3 and incorporated herein by reference.

28. The Ballot Ordinance called for a referendum to be held at the next election to ask the voters of Palm Beach County whether to amend the County Charter and create a countywide Code of Ethics, a countywide Commission on Ethics and a countywide Office of Inspector General. Once approved, these countywide programs would be applicable in all municipalities in addition to the unincorporated areas of the County where they were already in effect.

29. With respect to the proposed countywide Commission on Ethics and its funding, Section 8.2 of the Ballot Ordinance provided: "The Commission on Ethics shall be *adequately funded by the County Commission and all other governmental entities that elect to be subject to the authority of the Commission on Ethics pursuant to interlocal agreement.*" [emphasis added.]

30. The Ballot Ordinance did not require the Municipalities to pay a proportionate share of the funding for the operation of the Commission on Ethics if the referendum were passed.

31. Rather, the Ballot Ordinance only contemplated that the County and any governmental entities who *elected* to enter into interlocal agreements with the County to voluntarily come under the jurisdiction of the Commission on Ethics would share in the funding of this Office.

32. The use of the language "that elect to" was intended to apply to the Constitutional Offices, the School District of Palm Beach County, the Health Care District or other governmental entities should those entities elect to enter into interlocal agreements with the County to share in the funding of the Commission on Ethics.

33. The Ballot Ordinance's funding mechanism for the Commission on Ethics, to the extent it did not require the Municipalities to share in the cost of the program, was consistent with the previously adopted countywide programs mentioned in paragraph 11 above.

34. With respect to the funding for the countywide Inspector General Program, the Ballot Ordinance proposed a funding mechanism that was materially different than the one used for the Commission on Ethics. The Ballot Ordinance proposed Section 8.3 of the Ballot Ordinance, entitled "Inspector General," contains the following statement at line 10:

The Office of Inspector General shall be funded at minimum in an amount equal to one quarter of one percent of contracts of the County and all other governmental entities subject to the authority

of the Inspector General (the "Funding Base") as determined by the Implementing Ordinance.

35. According to Section 8.3 of the Ballot Ordinance, Municipalities, for the first time since the County became a Charter County, would be required to share in the cost of a countywide program.

36. Sections 8.3 and 8.4(a) of the Ballot Ordinance also contained provisions demonstrating that the County retained the exclusive authority to fund the Office of the Inspector General and that the Municipalities were powerless to determine the funding that was to be expended for this Office. Section 8.3 provides:

The Board of County Commissioners may increase or decrease the Funding Base upon a showing of need for such adjustment based upon criteria contained in the Implementing Ordinance but in no event shall the Funding Base be reduced below one quarter of one percent unless the request for such reduction is made by the Inspector General.

Section 8.4 further provides:

The Board of County Commissioners has adopted ordinances establishing and providing for the funding, authority and powers of the Palm Beach County Commission on Ethics and the Office of Inspector General (the "Existing Ordinances").

37. With respect to the actual ballot language to be presented to the voters, Part 2 of the Ballot Ordinance, entitled "Referendum and Ballot Language," stated:

On November 2, 2010, a general election is to be held, and in accordance with the requirements of the Constitution and Laws of Florida, the following question shall be placed on the ballot by the Supervisor of Elections:

REQUIRING COUNTY CODE OF ETHICS, INDEPENDENT ETHICS COMMISSION AND INDEPENDENT INSPECTOR GENERAL

Shall the Palm Beach County Charter be amended to require the Board of County Commissioners to establish by ordinances applicable to Palm Beach County and all municipalities approving

this amendment: a Code of Ethics, an independent Commission on Ethics funded by the County Commission, and an independent Inspector General funded by the County Commission and all other governmental entities subject to the authority of the Inspector General?

YES
NO

38. The actual ballot language was silent as to the specific method to be used in funding the Inspector General Program.

39. Both the Ballot Ordinance and actual ballot language were silent as to the anticipated budget for, or the estimated annual costs to be paid by the County and the Municipalities to fund the Inspector General program.

40. Both the Ballot Ordinance and actual ballot language were silent as to what contracts would be included in calculating the amount equal to 0.25% of contracts to fund the Inspector General program.

41. Since the Ballot Ordinance and ballot language were silent on the issue of estimated costs and what contracts would be included in the 0.25% of contracts calculation, the only ordinances available for review by the voters prior to the referendum that discussed these issues were the Original Ordinance and the Amended Ordinance. The current cost of the Inspector General Program is more than 8 times higher than what was shown in these Ordinances.

42. On November 2, 2010, the referendum vote on the Ethics Regulations was held. A majority of the voters of each of the 38 Municipalities and of Palm Beach County as a whole approved the Ballot as presented in the preceding paragraph 37.

D. Implementing Ordinance

43. On May 17, 2011, the County Commission adopted the ordinance implementing the newly approved countywide Inspector General Program and providing for the funding for said Program (the "Implementing Ordinance"). The Implementing Ordinance repealed the Original Ordinance (Ordinance No. 2009-049). A copy of the Implementing Ordinance is attached hereto as Exhibit 4 and incorporated herein by reference.

44. The Implementing Ordinance proposed an entirely different method to fund the Inspector General's Office than what had been utilized in the Original Ordinance (Ordinance No. 2009-049), the Amended Ordinance (Ordinance No. 2010-041), and the Ballot Ordinance (Ordinance No. 2010-019).

45. The Implementing Ordinance provides that the County and Municipalities' proportionate share for the costs of the Inspector General Office are to be based on the actual expenses of the County and each Municipality as reported to the Florida Department of Financial Services Local Government Electronic Reporting System ("LOGGER"). In this regard, Section 2-429(1) and (2) of the Implementing Ordinance, entitled "Financial support and budgeting," provides as follows:

(1) The county and municipalities shall fund the inspector general's office proportionately, based on the **actual expenses** of each governmental entity as recorded in the most recent audited year and reported in the Florida Department of Financial Services Local Government Electronic Reporting system (LOGGER), pursuant to section 218.32, Florida Statutes, as may be amended.

(2) The County and each municipality's proportionate share shall be based on each entity's actual expenses as defined in the then current Uniform Accounting System Manual, published by the State of Florida, Department of Financial Services, Bureau of Local Government, and shall include the following Object Categories: 30 - Operating Expenditures/Expenses; 60 - Capital Outlay; and 80 - Grants and Aids. Notwithstanding the above, however, law enforcement, pension funds, electric utility services,

fire control and intergovernmental transfer costs shall not be included in the proportionate share calculation.

(emphasis added).

46. The Implementing Ordinance contains a contradictory statement that the funding base for the Inspector General's Office is not based on "actual expenses," but is based on an amount equal to one quarter of one percent (0.25%) of contracts as was provided for in the Ballot Ordinance. Section 2-429.1(1) and (2) of the Implementing Ordinance, entitled "Funding Base," provides in relevant part:

(1) The funding base is a minimum level of funding, determined as a percentage of contract activity of the governmental entities subject to the authority of the inspector general ... The funding base is currently set at an amount equal to one quarter of one percent (0.25%) of the contracts as described in section 2-429(2)

(2) ... In no event shall the funding base be reduced below one quarter of one percent unless such reduction is made by the inspector general.

47. The Implementing Ordinance does not describe how the funding base, which is based on contract amounts, relates to the County and Municipality's proportionate share calculation, which is based on actual expenses.

48. Section 2-429(8) of the Implementing Ordinance further provides that:

The county and each municipality's proportionate share for the period of June 1, 2011 through September 30, 2011 shall be as set forth in Exhibit A which is attached hereto and incorporated herein by reference. The Office of the Clerk and Comptroller shall invoice the County, upon adoption of this ordinance, \$946,764. This amount is based on the estimated expenses through June 1, 2011 of \$483,333, plus the County's proportionate share as reflected on Exhibit A. The Office of the Clerk and Comptroller shall invoice each municipality for their proportionate share as set forth in subsection (7) beginning with the first invoice on October 10, 2011.

49. Exhibit A referred to in Sec. 2-429(8) provides that the Municipalities' proportionate share of funding for the Inspector General for the period June 1, 2011 through September 30, 2011 is \$327,898.

50. There is no provision in the Implementing Ordinance which gives the Municipalities the right to control their proportionate share of the funding for the Inspector General's Office.

51. The County issued its first invoice to the Municipalities for the Inspector General funding on October 10, 2011.

COUNT I - DECLARATORY RELIEF
(UNLAWFUL TAX AS TO MUNICIPALITIES)

52. The Municipalities reallege and incorporate by reference paragraphs 1 through 51 as if fully stated in this count.

53. The County is currently requiring the Municipalities to pay their proportionate share for the Countywide Inspector General Program.

54. The County's imposition of cost sharing on the Municipalities is not lawful.

55. The required municipal shares do not constitute a user fee.

56. There is no rational nexus between the service being performed by the Inspector General and the share charged. In fact, the Inspector General may never review, audit or investigate a contract that is the subject of the funding base or that constitutes an actual expense of the Municipality even though the County contends the proportionate share is based on these items. Additionally, the proportionate share is not voluntary under the Countywide Program; the Municipalities are required to pay their proportionate share.

57. The required municipal shares do not constitute a special assessment. Special assessments are tied to special benefits for real property. The shares are not related to any benefit to real property.

58. Given that the Municipalities' required shares do not constitute a user fee or a special assessment, they can only be a tax.

59. There has been no provision by general law or the State Constitution authorizing the County to levy this tax. Therefore, this tax is unlawful and unenforceable.

60. The voters approved the ballot question making the Municipalities subject to the Inspector General Program. The fact that the voters approved the ballot question, however, does not make it legal. *See Gaines v. City of Orlando*, 450 So.2d 1174 (Fla. 5th DCA 1984) (a charter provision that conflicts with the state constitution or state law is not any more lawful simply because the charter provision was adopted by the electorate).

61. As an alternative to the current funding method for the Inspector General Program, the County has previously stated that it can require County and municipal vendors to pay a 0.25% contract fee on every contract they enter into with the County or Municipalities (the "IG Contract Fee").

62. Under this alternative funding method, the County has stated that the Municipalities would be responsible for imposing the IG Contract Fee on their respective vendors and collecting said Fee.

63. This IG Contract Fee is the same one that the County previously followed pursuant to the Original Ordinance (Ordinance No. 2009-049), but repealed pursuant to the Amended Ordinance (Ordinance No. 2010-041).

64. The Implementing Ordinance (Ordinance No. 2011-009), which contains the current funding mechanism, does not mention that the Inspector General Program will be funded pursuant to the IG Contract Fee.

65. The County cannot unilaterally change the current funding mechanism to something different than that which was set forth in the Ballot Ordinance.

66. Further, the County's imposition of the IG Contract Fee on vendors to fund the Inspector General Program constitutes an unlawful tax and is unenforceable for the same reasons as set forth in paragraphs 55-59 above.

67. There are no legal means by which the Municipalities can pass this cost on to vendors or collect this unlawful Fee from vendors.

68. The Municipalities cannot be compelled to implement a program to collect an unlawful tax.

69. The Municipalities are in doubt as to their rights and the effect of the County's actions as described above.

70. There is a real and present controversy concerning the legality of the County's actions regarding the funding for the Inspector General Program.

71. There exists a bona fide actual present and practical need for a declaration regarding these issues since the County sent invoices to the Municipalities on October 10, 2011, demanding payment from each Municipality.

WHEREFORE, the Municipalities respectfully request that this Court enter a judgment declaring that:

- a. The Municipalities shall not be required to share in the expenses of the Inspector General Program;
- b. The Municipalities shall not be required to implement a program to collect the IG Contract Fee from its vendors to fund the Inspector General Program;

- c. Any and all expenses relating to the Inspector General Program shall be paid for solely by the County;
- d. Any efforts by the County to charge the Municipalities for the expenses of the Inspector General Program are unlawful and unenforceable; and
- e. The Municipalities are awarded their costs incurred in the prosecution of this action and are granted such other and further relief as deemed just and proper under the circumstances.

COUNT II – DECLARATORY RELIEF
(UNLAWFUL FUNDING MECHANISM DUE TO PAYMENT
FOR THE SAME SERVICES TWICE)

72. The Municipalities reallege and incorporate by reference paragraphs 1 through 51 as if fully stated in this count.

73. The Ballot Ordinance and Implementing Ordinance both require that Municipalities pay a proportionate share for the Countywide Inspector General Program.

74. The required proportionate cost sharing is unlawful and unenforceable.

75. Municipal residents, whether individuals or businesses, pay the same ad valorem county taxes as those residents living in unincorporated areas.

76. A portion of these ad valorem county taxes paid by municipal residents go toward paying for the County's share of the Inspector General Program.

77. Municipal residents, therefore, already pay for the Inspector General Program through their payment of ad valorem county taxes.

78. Under the current funding mechanism, these same municipal residents also are required to pay ad valorem municipal taxes, a portion of which goes toward the Municipalities' share of the Inspector General Program.

79. Under the current funding mechanism, municipal residents are required to pay for the services of the Inspector General twice while the residents of the unincorporated areas of the County are only required to pay for the services of the Inspector General once.

80. A taxpayer receives the same services from the IG, whether he or she is within an incorporated municipality or the unincorporated areas of the County. A municipal taxpayer receives no additional services in exchange for paying more.

81. The funding for the Inspector General Program is inequitable to municipal residents. The Municipalities are being forced to take taxpayer monies away from municipal programs to fund the Inspector General Program when municipal residents have already paid their share of ad valorem county taxes.

82. The County should be required to pay for the entire countywide Inspector General Program as it has done for all other countywide programs approved by referendum.

83. The Municipalities are in doubt as to their rights regarding the payment of the amounts demanded by the County to fund the countywide Inspector General Program.

84. There is a real and present controversy concerning the lawfulness of the County's actions regarding the funding for the Inspector General Program.

85. There exists a bona fide actual present and practical need for a declaration regarding these issues since the County sent invoices to the Municipalities on October 10, 2011, demanding payment from each Municipality.

WHEREFORE, the Municipalities respectfully request that this Court enter a judgment declaring that:

- a. Municipal residents are entitled to pay a single fee for the Inspector General's services, rather than a county fee and a municipal fee for these services;

- b. The Municipalities shall not be required to pay an additional share of the expenses for the Inspector General Program over and above the county taxes already expended for this Program;
- c. Any and all expenses relating to the Inspector General Program shall be paid for solely by the County;
- d. Any efforts by the County to charge the Municipalities for the expenses of the Inspector General Program are unlawful and unenforceable; and
- e. The Municipalities are awarded their costs incurred in the prosecution of this action and are granted such other and further relief as deemed just and proper under the circumstances.

COUNT III - DECLARATORY RELIEF
(LACK OF CHARTER AUTHORITY)

86. The Municipalities reallege and incorporate by reference paragraphs 1 through 51 as if fully stated in this count.

87. Pursuant to the Implementing Ordinance (Ordinance No. 2011-009), Municipalities are required to fund the Inspector General Program via the LOGER System even though this was not the funding method approved by the voters by their passage of the Ballot Question in November, 2010.

88. The Ballot Ordinance (Ordinance No. 2010-019) approved by the voters stated that the Inspector General Program would be funded at minimum in an amount equal to one quarter of one percent (0.25%) of contracts.

89. The Ballot Ordinance did not mention the LOGER System.

90. None of the past Ordinances dealing with the Office of Inspector General in fact have mentioned the LOGER System as the funding mechanism for the Program.

91. The first mention of the LOGER System to fund the Inspector General Program occurred on May 17, 2011, when the BCC adopted the Implementing Ordinance (Ordinance 2011-009). This was more than 6 months after the voters approved the Ballot Question.

92. The LOGER System is quite different than the funding method of utilizing an amount equal to one quarter of one percent (0.25%) of contracts as outlined in the Ballot Ordinance or its predecessor Ordinances. The LOGER System calculates the amount available to fund the Inspector General each year based on the County and the Municipalities' actual expenses rather than on contracts amounts.

93. The actual expenses calculation provides for a much broader funding base than the one outlined in the Ballot Ordinance or its predecessor Ordinances.

94. Given that the funding mechanism contained in the Implementing Ordinance is so different from the funding mechanism contained in the Ballot Ordinance that was considered by the voters, there is no charter authority for the County to require the Municipalities to remit payment for their share of the Inspector General Program via the LOGER system.

95. The Municipalities are in doubt and uncertain as to what amount (if any) they should remit to Palm Beach County to pay for their proportionate share of the funding for the Inspector General because the LOGER System was not mentioned in the Ballot Ordinance, was not submitted to the voters for approval, and was not mentioned by ordinance until the adoption of the Implementing Ordinance (Ordinance No. 2011-009) in May, 2011.

96. There is a real and present controversy concerning the lawfulness of the County's actions regarding the funding for the Inspector General program.

97. There exists a bona fide actual present and practical need for a declaration regarding these issues since the County sent invoices to the Municipalities on October 10, 2011, demanding payment from each Municipality.

WHEREFORE, the Municipalities respectfully request that this Court enter a judgment declaring that:

- a. There is no charter authority allowing the County to calculate the funding available to the Inspector General or the Municipalities' proportionate share of that funding based on the LOGER System;
- b. Any efforts by the County to charge the Municipalities for the expenses of the Inspector General Program via the LOGER System are unlawful and unenforceable; and
- c. The Municipalities are awarded their costs incurred in the prosecution of this action and are granted such other and further relief as deemed just and proper under the circumstances.

COUNT IV – DECLARATORY RELIEF
(UNLAWFUL CONFLICT WITH GENERAL LAW)

98. The Municipalities reallege and incorporate by reference paragraphs 1 through 51 as if fully stated in this count.

99. The Florida Constitution authorizes municipalities to “exercise any power for municipal purposes except as otherwise provided by law.” Art. VIII, Sec. 2(b), Fla. Const.

100. Under Chapter 166 of the Florida Statutes, the Municipal Home Rule Powers Act, Municipalities are expressly empowered to exercise any power for municipal purposes, except when expressly prohibited by law.

101. Budgeting and the appropriation of taxes collected by municipalities are activities or powers which may be exercised by municipal corporations under Chapter 166, Florida Statutes.

102. In particular, Section 166.241, Florida Statutes, provides the statutory framework for municipalities to adopt and amend their budgets.

103. By requiring the Municipalities to fund the Inspector General Program, the County is attempting to compel the Municipalities to adopt budgets, which appropriate funds to carry out the functions of the Program.

104. The County imposes an amount on the Municipalities to pay each year based on the funding base and demands that the Municipalities appropriate the necessary monies to cover this amount without regard to what municipal programs will lose funding or face budget cuts as a result.

105. Pursuant to the Florida Constitution and the Municipal Home Rule Powers Act, municipalities retain the exclusive right to appropriate funds as each municipality finds necessary in responsible operation of municipal government.

106. Pursuant to Fla. Stat. 166.241, only the governing body of a municipality can appropriate funding to carry out the services and programs for its citizens. The County does not have the authority to compel the Municipalities to appropriate funds.

107. The County's demand that the Municipalities appropriate funds for the Inspector General Program is unlawful and unenforceable given that it takes the authority to control municipal budgets and the appropriation of funds away from the Municipalities.

108. The Municipalities' loss of budgetary control is compounded by the fact that Section 8.3 of the County's Charter and Section 2-429.1(2) of the Implementing Ordinance allow the BCC to increase the funding base for the Inspector General Program after a showing of need for such adjustment.

109. Neither the County's Charter or the Implementing Ordinance permit the Municipalities to participate in the decision to increase the funding base.

110. The Implementing Ordinance provides that the Municipalities are bound by the decision of the BCC and must appropriate funds accordingly if the funding base is increased.

111. Section 2-429.1(1)(a) of the Implementing Ordinance also permits the Inspector General to submit supplemental budget requests to the BCC for approval during the course of a fiscal year.

112. The Implementing Ordinance does not permit the Municipalities to participate in the decision on whether to grant the supplemental budget requests even though the Municipalities will already have approved their budgets for that fiscal year.

113. The Implementing Ordinance provides that the Municipalities are bound by the decision of the BCC and must appropriate funds accordingly if the supplemental budget requests are approved.

114. The Municipalities are in doubt as to their rights regarding the lawfulness of the requirement that they appropriate funds through their budgets to pay the amounts demanded by the County to fund the Inspector General Program.

115. There exists a bona fide actual present and practical need for a declaration regarding these issues since the County sent invoices to the Municipalities on October 10, 2011, demanding payment from each Municipality and the Municipalities have refused to pay these invoices or have paid under protest.

116. There is a real and present controversy concerning the legality of the County's actions because the mandatory funding provisions of the County Charter and Implementing Ordinance unconstitutionally usurps municipal home rule powers and conflicts with general law.

WHEREFORE, the Municipalities respectfully request that this Court enter a judgment declaring that:

- a. The Municipalities shall not be required to pay the expenses of the Inspector General Program;
- b. Any and all expenses relating to the Inspector General Program shall be paid for solely by the County;
- c. Any efforts by the County to require the Municipalities to appropriate funds to pay for the expenses of the Inspector General Program are unlawful and unenforceable;

- d. Section 8.3 of the Charter and subsequent Implementing Ordinance are unconstitutional as they are in conflict with the powers and duties granted to the Municipalities under the Florida Constitution and Chapter 166, Florida Statutes;
- e. Section 8.3 of the Charter and subsequent Implementing Ordinance are unconstitutional as they are in conflict with the budgeting powers granted to the Municipalities pursuant to Chapter 166.0241, Florida Statutes; and
- f. The Municipalities are awarded their costs incurred in the prosecution of this action and are granted such other and further relief as deemed just and proper under the circumstances.

Dated this 14th day of November, 2011.

Respectfully submitted,

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ORDINANCE NO. 2009- 049

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, PROVIDING FOR TITLE; CREATING AND ESTABLISHING THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on May 21, 2009, the Palm Beach County Grand Jury issued a final presentment in the investigation of Palm Beach County governance and public corruption issues; and

WHEREAS, the Grand Jury recommended that the Board of County Commissioners of Palm Beach County enact an ordinance establishing an independent Office of Inspector General with the ability to obtain any and all records from Palm Beach County governmental entities, vendors doing business with the County, and entities funded in whole or in part by County tax dollars; and

WHEREAS, the Board of County Commissioners agrees with the Grand Jury's recommendation that an independent Palm Beach County Office of Inspector General should now be created and established by ordinance to provide independent oversight of County operations; and

WHEREAS, the Board of County Commissioners is committed to the highest standards of integrity, honesty, efficiency and accountability; and

WHEREAS, misconduct involving abuse, corruption, fraud, and mismanagement by elected and appointed County officials and employees, County agencies and instrumentalities, contractors, and other parties doing business with the County and/or receiving County funds, undermines public confidence in County government and prevents the County from operating honestly, efficiently and effectively; and

WHEREAS, it is critically important that County elected and appointed officials and employees discharge their duties and responsibilities in a lawful and ethical manner and be held accountable for their misconduct, inefficiency and ineffectiveness; and

WHEREAS, imposing the duty on all elected and appointed County officials and employees to cooperate with and report misconduct to the Inspector General will broaden and strengthen the

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1 Inspector General's ability to detect, investigate, eliminate, and deter misconduct by County officials
2 and employees, vendors and County-funded entities and promote integrity, honesty and efficiency in
3 County government; and

4 WHEREAS, this Ordinance will send an unmistakable message to the public about the
5 County's commitment to rooting out and eliminating abuse, corruption, mismanagement and fraud.

6
7 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
8 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

9
10 SECTION 1. TITLE.

11 This Ordinance shall be titled the "Palm Beach County Office of Inspector General
12 Ordinance."

13 SECTION 2. PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL CREATED
14 AND ESTABLISHED.

15 A. Created and established. There is hereby established the Palm Beach County Office of
16 Inspector General which is created in order to detect misconduct involving abuse, corruption, fraud,
17 waste, inefficiencies, and mismanagement by elected and appointed County officials and employees,
18 County agencies and instrumentalities, contractors, and other parties doing business with the County
19 and/or receiving County funds. The Inspector General shall head the Office of Inspector General.
20 The organization and administration of the Office of Inspector General shall be independent to
21 assure that no interference or influence external to the Office of Inspector General adversely affects
22 the independence and objectivity of the Inspector General.

23 B. Functions, Authority and Powers.

24 (1) The Inspector General shall have the authority to: (a) make investigations of County
25 matters and publish the results of such investigations; (b) review and audit past, present
26 and proposed County programs, accounts, records, contracts, change orders and
27 transactions; and (c) prepare reports and recommendations to the Board based on such
28 investigations. All elected and appointed County officials and employees, County
29 agencies and instrumentalities, contractors and other parties doing business with the
30 County and/or receiving County funds shall fully cooperate with the Inspector General.

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(2) The Inspector General shall have the power to conduct audits of, require reports from, and receive full and unrestricted access to the records of the Board, County Administrator, all elected and appointed County officials and employees, County departments, divisions, agencies and instrumentalities, contractors and other persons and entities doing business with the County and/or receiving County funds regarding any such contracts or transactions with the County. The Inspector General's jurisdiction includes but shall not be limited to all projects, programs, contracts or transactions that are funded in whole or in part by the County. The Inspector General may contract with outside entities deemed necessary to perform the functions of that office. This subsection does not apply to collective bargaining agreements.

(3) In the case of a refusal to obey a request by the Inspector General for documents or for an interview, the Inspector General shall have the power to subpoena witnesses, administer oaths, and require the production of records. Seventy-two hours prior to serving a subpoena, the Inspector General shall provide written notice to the State Attorney and the U.S. Attorney for the Southern District of Florida. The Inspector General shall not interfere with any ongoing criminal investigation or prosecution of the State Attorney or the U.S. Attorney for the Southern District of Florida. When the State Attorney or the U.S. Attorney for the Southern District of Florida has explicitly notified the Inspector General in writing that the Inspector General's investigation is interfering with an ongoing criminal investigation or prosecution, the Inspector General shall suspend service of subpoena, examination of witnesses, or other investigative activities as set forth in the notice. In the case of a refusal to obey a subpoena served to any person, the Inspector General may make application to any circuit court of this State which shall have jurisdiction to order the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony touching on the matter in question.

(4) The costs of reviews, audits, inspections and investigations by the Inspector General shall be defrayed by imposition of a fee which shall be equal to one quarter of one percent (0.25%) of the contract price, as may be adjusted as necessary (hereinafter "IG contract fee"). The IG contract fee shall not apply to the following contracts:

- a. Contracts for legal services;

- b. Auditing contracts;
- c. Contracts under one thousand dollars (\$1,000), except for decentralized purchase orders as set forth in the Palm Beach County Purchasing Ordinance, section 2-51(3)(1)(i);
- d. Federal, state and local government-funded grants;
- e. Interlocal agreements;
- f. Revenue-generating contracts; and
- g. Purchases made pursuant to the State of Florida Department of Revenue approved Sales Tax Recovery Program.

Notwithstanding the foregoing, the Board may authorize the inclusion of the IG contract fee in any contract. Nothing contained in this subsection shall in any way limit the powers of the Inspector General provided for in this Ordinance to perform audits, inspections, reviews and investigations on all County contracts including, but not limited to, those contracts specifically exempted from the IG contract fee.

- (5) Where the Inspector General suspects a possible violation of any state, federal or local law, or rule, regulation or policy, he or she shall notify the appropriate civil, criminal or administrative agencies, including the Palm Beach County Commission on Ethics. In the case of a possible violation of a rule, regulation or policy governing a County employee, the Inspector General shall also notify the County Administrator and the head of the Department for which the employee works. After referring the matter to the appropriate entity for fact-finding, the Inspector General may assist the entity in conducting the investigation.
- (6) The Inspector General shall have the power without limitation to audit, investigate, monitor, inspect and review the operations, activities, performance, and procurement processes including, but not limited to, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff, and officials, in order to ensure compliance with contract specifications and detect corruption and fraud.
- (7) The Inspector General shall have the power to receive, review and investigate any complaints regarding County-funded projects, programs, contracts or transactions. The

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Inspector General shall establish a "hotline" to receive complaints, from either anonymous or identified persons.

(8) The Inspector General may exercise any of the powers contained this Ordinance upon his or her own initiative.

(9) The Inspector General shall be notified in writing prior to any meeting of a selection committee where any matter relating to the procurement of goods or services by the County is to be discussed. The notice required by this subsection shall be given to the Inspector General as soon as possible after a meeting has been scheduled, but in no event later than one business day prior to the scheduled meeting. The Inspector General may, at his or her discretion, attend all duly noticed County meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General.

(10) It is anticipated that municipalities, special districts, and other public officials and entities will recognize and desire to benefit from the services of the Palm Beach County Office of Inspector General. The Inspector General may negotiate agreements or memoranda of understanding with other public entities which would authorize the Inspector General to exercise any and all authority, functions and powers set forth in this Ordinance for the benefit of such public entity. The memorandum of understanding or agreement shall include a provision for fees to be paid to the Inspector General from the public entity in exchange for such benefits. Such fee shall be based on a rate established by the Inspector General and shall include, but not be limited to, the IG contract fee. Any such agreement or memorandum of understanding is subject to final approval of the Board, but such approval shall not be unreasonably withheld. For the purposes of the removal procedure set forth in Section 2.I. of this Ordinance, a "Funding Entity" shall mean a public entity that has entered into an agreement or memorandum of understanding to receive services of the Inspector General, and has provided funding in exchange for such services equal to at least 25% of the total annual budget of the Inspector General for Palm Beach County's fiscal year immediately preceding the fiscal year in which the removal procedure takes place.

(11) The Inspector General's records related to active investigations are confidential and exempt from disclosure, as provided by section 112.3188(2), Florida Statutes.

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(12) The Inspector General is considered "an appropriate local official" of the County for purposes of whistleblower protection provided by section 112.3188(1), Florida Statutes.

(13) The Inspector General may recommend remedial actions and may provide prevention and training services to County officials, employees, and any other persons covered by this Ordinance. The Inspector General may follow up to determine whether recommended remedial actions have been taken.

(14) The Inspector General shall establish policies and procedures and monitor the costs of investigations undertaken. The Inspector General shall cooperate with other governmental agencies to recover such costs from other entities involved in willful misconduct in regard to County funds.

(15) Nothing herein shall abridge employees' constitutional right to collective bargaining.

C. Minimum Qualifications, Selection and Term of Office.

- (1) Minimum qualifications. The Inspector General shall be a person who:
- a. Has at least ten (10) years of experience in any one or a combination of the following fields:
 - (i) as a federal, state or local law enforcement officer/official;
 - (ii) as a federal or state court judge;
 - (iii) as a federal, state or local government attorney with expertise in investigating fraud, mismanagement and corruption;
 - (iv) as an inspector general, certified public accountant, or internal auditor;
 - (v) as a person with progressive supervisory and managerial experience in an investigative public agency similar to an inspector general's office;
 - b. Has managed and completed complex investigations involving allegations of fraud, theft, deception or conspiracy;
 - c. Has demonstrated the ability to work with local, state and federal law enforcement agencies and the judiciary;
 - d. Has a four-year degree from an accredited institution of higher learning;
 - e. Has not been employed by Palm Beach County or any other governmental entity subject to the authority of the Inspector General Office during the two-year period immediately prior to selection;

f. Highly qualified candidates will also have audit-related skills and/or hold one or more of the following professional certifications at the time of selection: certified inspector general (CIG), certified inspector general investigator (CIGI), certified inspector general auditor (CIGA), certified public accountant (CPA), certified internal auditor (CIA), or certified fraud examiner (CFE).

(2) Selection. No official or employee of any governmental entity subject to the authority of the Office of Inspector General shall participate in the selection of the Inspector General. Responsibility for selecting the Inspector General shall be vested solely with the Inspector General Selection Committee ("Selection Committee"). The Selection Committee shall be comprised of the Commission on Ethics as established in Palm Beach County Ordinance 2009-XXXX, the State Attorney for the Fifteenth Judicial Circuit or his or her designee, and the Public Defender for the Fifteenth Judicial Circuit or his or her designee. The chairperson of the Selection Committee shall be chairperson of the Commission on Ethics. After thoroughly reviewing qualifications, background information, and personal and professional referrals, the Selection Committee shall notify the County Attorney of its selection. The County Attorney shall promptly notify the Board that a selection has been made. The County Attorney shall assist the Commission on Ethics to negotiate the terms of an employment contract with the selected Inspector General as set forth in Section 2.D.

a. Initial Selection. Within thirty (30) days of the effective date of this Ordinance, the Human Resources Department will solicit qualified candidates. Within one hundred twenty (120) days of the effective date of this Ordinance, the Selection Committee shall in good faith endeavor to select the Inspector General.

(3) Staffing of Selection Committee. The Human Resources Department shall provide staff to the Selection Committee and as necessary will advertise the acceptance of resumes for the position of Inspector General. All resumes received by the Human Resources Department will be forwarded to the Selection Committee for consideration. The Human Resources Department shall contract with an appropriate entity to ensure that background checks are conducted on the candidates selected for interview by the Selection Committee. The results of the background checks shall be provided to the Selection Committee prior to the interview of candidates. Following the initial selection

1 of the Inspector General, the Selection Committee, for future selection processes as
2 described in subsection C.(2) above, may continue to employ the services of the Human
3 Resources Department or may utilize its own staff to solicit candidates for Inspector
4 General. All advertisements for the acceptance of resumes for Inspector General shall
5 include a salary range commensurate with public officials of like experience and
6 expertise.

7 (4) Term. The Inspector General shall serve for a term of four (4) years. At least six (6)
8 months prior to the end of each contract term, the Selection Committee will determine
9 whether or not to renew the contract for an additional term of four (4) years, and shall
10 promptly notify the Inspector General of its decision. In the event the Selection
11 Committee elects not to renew the contract, the Selection Committee shall promptly
12 convene as necessary to solicit candidates for and to select a new Inspector General in
13 the same manner as described in subsection C.(2) above. The incumbent Inspector
14 General may submit his or her name as a candidate to be considered for selection. The
15 incumbent Inspector General shall serve until a successor is selected and assumes office.

16 (5) Vacancy. In case of a vacancy in the position of Inspector General, the chairperson of
17 the Selection Committee may appoint a member of the Inspector General's Office as
18 interim Inspector General within ten (10) days of the vacancy occurring, until such time
19 as a successor Inspector General is selected and assumes office. A successor Inspector
20 General shall be selected in the same manner as described in subsection C.(2) above,
21 except for the following specific time constraints: (a) solizitation for qualified
22 candidates for selection should be published within twenty (20) days, but no later than
23 forty (40) days of the date the vacancy occurs; and (b) the Selection Committee must in
24 good faith endeavor to convene and select an Inspector General within ninety (90) days
25 of the date the vacancy occurs.

26 B. Contract. The Commission on Ethics with the assistance of the County Attorney shall
27 negotiate a contract of employment with the Inspector General substantially consistent with the
28 terms included in contracts of other contractual employees of Palm Beach County. The Inspector
29 General shall be paid at a rate commensurate with public officials of like experience and expertise.
30 Before any contract shall become effective, the contract must be approved by a majority of the Board
31 present at a regularly scheduled Board meeting. The contract will cover the entire four-year term

ORDINANCE NO. 2009 049

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1 subject to the removal provisions in subsection 2.I. of this Ordinance. The contract will include a
2 provision requiring the Selection Committee to provide notice of its decision to renew or not to
3 renew the contract at least six (6) months prior to the termination of the contract. The contract shall
4 provide that the Inspector General may not represent a political party or be on any executive
5 committee thereof, or seek public office during his or her term of service or for four (4) years
6 thereafter. That limitation does not include seeking selection as Inspector General for a subsequent
7 term. The contract shall further provide that the Inspector General may not be a Lobbyist, as defined
8 in Palm Beach County Code, Section 2-352, for two years after term of service.

9 **E. Physical Facilities and Staff.**

10 (1) The County shall provide the Office of Inspector General with appropriately located
11 office space and sufficient physical facilities together with necessary office supplies,
12 equipment and furnishings to enable the Inspector General to perform his or her
13 functions.

14 (2) The Inspector General shall have the power to appoint, employ, and remove such
15 assistants, employees and personnel, and establish personnel procedures as deemed
16 necessary for the efficient and effective administration of the activities of the Office of
17 Inspector General.

18 **F. Procedure for Finalization of Reports and Recommendations Which Make Findings**
19 **as to the Person or Entity Being Reviewed or Inspected.** The Inspector General shall publish and
20 deliver finalized reports and recommendations to the Board and to the Palm Beach County
21 Commission on Ethics. Notwithstanding any other provision of this Ordinance, whenever the
22 Inspector General determines that it is appropriate to publish and deliver a report or recommendation
23 which contains findings as to the person or entity being reported on or who is the subject of the
24 recommendation, the Inspector General shall provide the affected person or entity a copy of the
25 report or recommendation. Such person or entity shall have fifteen (15) working days to submit a
26 written explanation or rebuttal of the findings before the report or recommendation is finalized.
27 Such timely submitted written explanation or rebuttal shall be attached to the finalized report or
28 recommendation. The requirements of this subsection shall not apply when the Inspector General, in
29 conjunction with the State Attorney or U.S. Attorney, determines that supplying the affected person
30 or entity with such report will jeopardize a pending criminal investigation.

ORDINANCE NO. 2009 049

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1 **G. Reporting.** The Inspector General shall annually prepare and publish a written report
2 concerning the work and activities of the Office of Inspector General including, but not limited to,
3 statistical information regarding the disposition of closed investigations, audits and other reviews.
4 The annual report of the Inspector General shall be posted promptly on Palm Beach County's public
5 website.

6 **H. Financial Support and Budgeting.** Pursuant to its annual budget process, the County
7 shall provide sufficient financial support for the Inspector General's Office to fulfill its duties as set
8 forth in this Ordinance. In order to ensure adequate funding for the prompt establishment of the
9 Inspector General pending implementation, the Board of County Commissioners hereby approves an
10 amount equal to three hundred twenty thousand dollars (\$320,000) to fund all Inspector General
11 operations for the remainder of the 2009-2010 fiscal year. The Inspector General shall timely
12 deliver to the Board of County Commissioners a budget request including a reasonable estimate of
13 operating and capital expenditures, and shall include revenues, including, but not limited to,
14 projected IG contract fee revenues to be collected from the County and any other participating local
15 governments and public agencies. The Inspector General's budget request shall not be implemented
16 until approved by the Board of County Commissioners. The Inspector General shall establish a
17 fiscal year which coincides with that of Palm Beach County. Nothing contained herein shall be
18 construed to prohibit the Inspector General from transmitting to the County Commission
19 supplemental budget requests which, if approved by the Commission, shall constitute amendments to
20 the county budget.

21 **I. Removal.** The Inspector General may be removed only for cause based upon specified
22 charges of the following: neglect of duty, abuse of power or authority, discrimination, or ethical
23 misconduct. The removal process shall be initiated at a duly noticed public hearing of either the
24 Board, the Selection Committee, or a Funding Entity as described in Section 2.B.(10) of this
25 Ordinance. An affirmative vote of five (5) members of the Board, an affirmative vote of five (5)
26 members of the Selection Committee, or an affirmative supermajority vote of a Funding Entity shall
27 be required to present the Inspector General with the charges and to proceed to final public hearings.
28 The Board, Selection Committee, or the initiating Funding entity, as appropriate, shall transmit a
29 copy of the charges to the Inspector General at least sixty (60) days prior to all final public hearings
30 which shall be convened by the Board, all Funding Entities, and the Selection Committee. The
31 Inspector General shall have an opportunity to be heard in person and by counsel at the final public

10
ORDINANCE NO. 2009 049

1 hearings prior to the votes being taken on his or her removal. The Inspector General may only be
2 removed upon the affirmative vote of five (5) members of the Board, five (5) members of the
3 Selection Committee, and a supermajority of all Funding Entities. A record of the proceedings,
4 together with the charges and findings thereon, shall be filed with the Clerk to the Board. The
5 Inspector General shall be removed without a public hearing in the event the Inspector General is
6 convicted of or enters a guilty plea or *nolo contendere* plea to a state or federal felony.

7 **SECTION 3. REPEAL OF LAWS IN CONFLICT.**

8 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
9 repealed to the extent of such conflict.

10 **SECTION 4. SEVERABILITY.**

11 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
12 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
13 holding shall not affect the remainder of this Ordinance.

14 **SECTION 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

15 The provisions of this Ordinance shall become and be made a part of the Palm Beach County
16 Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the
17 word "ordinance" may be changed to "section," "article," or other appropriate word.

18 **SECTION 6. ENFORCEMENT.**

19 This Ordinance is enforceable by all means provided by law, including seeking injunctive
20 relief in the Fifteenth Judicial Circuit Court in and for Palm Beach County.

21 **SECTION 7. PENALTY.**

22 Any person who:

23 A. retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate
24 against, punish, threaten, harass, or penalize any person for assisting, communicating or cooperating
25 with the Inspector General, or

26 B. who interferes, obstructs, impedes or attempts to interfere, obstruct or impede in any
27 investigation conducted by the Inspector General

28 shall be guilty of a violation of this Ordinance and punished, pursuant to section 125.59,
29 Florida Statutes, in the same manner as a second degree misdemeanor. Any potential violation of
30 this section shall be referred to the State Attorney for possible investigation and prosecution.

1 SECTION 8. CAPTIONS.


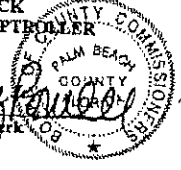

2 The captions, section headings, and section designations used in this Ordinance are for
3 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

4 SECTION 9. EFFECTIVE DATE.

5 The provisions of this Ordinance shall become effective January 1, 2010.


6
7 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
8 County, Florida, on this the 15th day of December, 2009.

9
10 SHARON R. BOCK PALM BEACH COUNTY, FLORIDA, BY ITS
11 CLERK & COMPTROLLER BOARD OF COUNTY COMMISSIONERS

12
13 By:  Deputy Clerk  By:  Burt Anderson, Chair

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20 (SEAL)

21
22
23 APPROVED AS TO FORM
24 AND LEGAL SUFFICIENCY

25
26
27 By:  County Attorney

28
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31
32 EFFECTIVE DATE: Filed with the Department of State on the 18th day of
33 December, 2009.

12
ORDINANCE NO. 2009 049

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ORDINANCE 2010- 041

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL ORDINANCE, PALM BEACH COUNTY CODE CHAPTER 2, ARTICLE XII (ORD: 2009-049) AS FOLLOWS: AMENDING SECTION 2-423 FUNCTIONS, AUTHORITY AND POWERS; AMENDING 2-425 CONTRACT; AMENDING 2-427 PROCEDURE FOR FINALIZATION OF REPORTS AND RECOMMENDATIONS; AMENDING 2-429 FINANCIAL SUPPORT AND BUDGETING; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to its authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida Statutes, the Palm Beach County Charter, adopted the Palm Beach County Office of Inspector General Ordinance; and

WHEREAS, the Board of County Commissioners and the Inspector General have reviewed said Ordinance and recommend the changes set forth in this amending ordinance; and

WHEREAS, the Board of County Commissioners hereby determines that the amendments set forth herein advance the purposes and intent of the Palm Beach County Office of Inspector General Ordinance; and

WHEREAS, the Board of County Commissioners has conducted a duly noticed public hearing to consider these amendments as required by law.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Palm Beach County, Florida, that:

Part 1. Sec. 2-423. Functions, authority and powers, is hereby amended as follows:

(4) The costs of reviews, audits, inspections and investigations by the inspector general shall be ~~defrayed by imposition of a fee which shall be~~ funded at minimum in an amount equal to one quarter of one percent (0.25%) of the contracts entered into by the County ~~price~~, as may be



37 adjusted as necessary (hereinafter "~~IG contract fee~~" "minimum funding percentage"). The IG
38 ~~contract fee~~ minimum funding percentage shall not apply to the following contracts:
39 a. Contracts for legal services;
40 b. Auditing contracts;
41 c. Contracts under one thousand dollars (\$1,000.00), ~~except for decentralized purchase orders as~~
42 ~~set forth in the county purchasing ordinance, section 2-51(f)(1)(i);~~
43 d. Federal, state and local government-funded grants;
44 e. Interlocal agreements;
45 f. Revenue-generating contracts; and
46 g. Purchases made pursuant to the State of Florida Department of Revenue approved Sales Tax
47 Recovery Program.

48 Notwithstanding the foregoing, the board may ~~authorize the inclusion of the IG contract fee in~~
49 apply the minimum funding percentage to any contract to ensure the Inspector General receives
50 sufficient funding to perform the functions and duties set forth in this ordinance. Nothing
51 contained in this subsection shall in any way limit the powers of the inspector general provided
52 for in this article to perform audits, inspections, reviews and investigations on all county
53 contracts including, but not limited to, those contracts specifically exempted from the minimum
54 funding percentage ~~IG contract fee~~.

55 (5) Where the inspector general suspects a possible violation of any state, federal or local law,
56 or rule, regulation or policy, he or she shall notify the appropriate civil, criminal or
57 administrative agencies, ~~including the county commission on ethics.~~ In the case of a possible
58 violation of a rule, regulation or policy governing a county employee, the inspector general shall
59 also notify the county administrator and the head of the department for which the employee
60 works. ~~After referring the matter to the appropriate entity for fact finding, the inspector general~~
61 ~~may assist the entity in conducting the investigation.~~

62 * * *

63 (8) The inspector general may exercise any of the powers contained in this article upon his or
64 her own initiative.

65 * * *

66 (10) It is anticipated that municipalities, special districts, and other public officials and entities
67 will recognize and desire to benefit from the services of the county office of inspector general.

68 The inspector general may negotiate agreements or memoranda of understanding with other
69 public entities which would authorize the inspector general to exercise any and all authority,
70 functions and powers set forth in this article for the benefit of such public entity. The
71 memorandum of understanding or agreement shall include a provision for fees to be paid to the
72 inspector general from the public entity in exchange for such benefits. Such fee shall be based
73 on a rate established by the inspector general and shall include, but not be limited to, the
74 minimum funding percentage IG-contract-fee. Any such agreement or memorandum of
75 understanding is subject to final approval of the board, but such approval shall not be
76 unreasonably withheld. For the purposes of the removal procedure set forth in section 2-430, a
77 "funding entity" shall mean a public entity that has entered into an agreement or memorandum of
78 understanding to receive services of the inspector general, and has provided funding in exchange
79 for such services equal to at least twenty-five (25) percent of the total annual budget of the
80 inspector general for the county's fiscal year immediately preceding the fiscal year in which the
81 removal procedure takes place.

82 * * *

83 **Part 2. Sec. 2-425. Contract, is hereby amended as follows:**

84 The commission on ethics with the assistance of the county attorney shall negotiate a
85 contract of employment with the inspector general substantially consistent with the terms
86 included in contracts of other contractual employees of the county. The inspector general shall
87 be paid at a rate commensurate with public officials of like experience and expertise. Before any
88 contract shall become effective, the contract must be approved by a majority of the board present
89 at a regularly scheduled board meeting. The contract will cover the entire four-year term subject
90 to the removal provisions in section 2-430. The contract will include a provision requiring the
91 selection committee to provide notice of its decision to renew or not to renew the contract at least
92 six (6) months prior to the termination of the contract. The contract shall provide that the
93 inspector general may not represent a political party or be on any executive committee thereof, or
94 seek public office during his or her term of service, and shall not seek public office or
95 employment with any public entity subject to the jurisdiction of the Inspector General ~~or~~ for four
96 (4) years thereafter. That limitation does not include seeking selection as inspector general for a
97 subsequent term. The contract shall further provide that the inspector general may not be a
98 lobbyist, as defined in section 2-352 of this Code, for two (2) years after term of service.

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100 Part 3. Sec. 2-427. Procedure for finalization of reports and recommendations which
101 make findings as to the person or entity being reviewed or inspected, is hereby amended as
102 follows:

103 The inspector general shall publish and deliver finalized reports and recommendations to
104 the board and to the county commission on ethics. Notwithstanding any other provision of this
105 article, whenever the inspector general determines that it is appropriate to publish and deliver a
106 report or recommendation which contains findings as to the person or entity being reported on or
107 who is the subject of the recommendation, the inspector general shall provide the affected person
108 or entity a copy of the findings report or recommendation. Such person or entity shall have
109 fifteen (15) working days to submit a written explanation or rebuttal of the findings before the
110 report or recommendation is finalized. Such timely submitted written explanation or rebuttal
111 shall be attached to the finalized report or recommendation. The requirements of this subsection
112 shall not apply in matters subject to the State of Florida's Whistle-blower's Act, or when the
113 inspector general, in conjunction with the state attorney or U.S. Attorney, determines that
114 supplying the affected person or entity with such report will jeopardize a pending criminal
115 investigation.

116

117 Part 4. Sec. 2-429. Financial support and budgeting, is hereby amended as follows:

118 Pursuant to its annual budget process, the county shall provide sufficient financial
119 support for the inspector general's office to fulfill its duties as set forth in this article. In order to
120 ensure adequate funding for the prompt establishment of the inspector general pending
121 implementation, the board of county commissioners hereby approves an amount equal to
122 three hundred twenty thousand dollars (\$320,000) to fund all inspector general operations for the
123 remainder of the 2009-2010 fiscal year. The inspector general shall timely deliver to the board
124 of county commissioners a budget request including a reasonable estimate of operating and
125 capital expenditures, and shall include revenues, including, but not limited to, projected
126 minimum funding percentage IG-contract-fee revenues to be collected from the county and any
127 other participating local governments and public agencies. The inspector general's budget
128 request shall not be implemented until approved by the board of county commissioners. The
129 inspector general shall establish a fiscal year which coincides with that of the county. Nothing

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130 contained herein shall be construed to prohibit the inspector general from transmitting to the
131 county commission supplemental budget requests which, if approved by the commission, shall
132 constitute amendments to the county budget.

133 **Part 5. Repeal of Laws in Conflict.**

134 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
135 repealed to the extent of such conflict. The Palm Beach County Code of Ethics adopted by
136 Resolution 94-693 as amended by Resolution 2003-0962, is hereby repealed in its entirety.

137 **Part 6. Severability.**

138 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
139 reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect
140 the remainder of this Ordinance.

141 **Part 7. Inclusion in the Code of Laws and Ordinances.**

142 The provisions of this Ordinance shall become and be made a part of the Code of Laws
143 and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be
144 renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to
145 "section," "article," or other appropriate word.

146 **Part 8. Effective Date.**

147 The provisions of this Ordinance shall become effective October 1, 2010.

148 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
149 County, Florida, on this the 28 day of September, 2010.

150 SHARON R. BOCK

151 CLERK & COMPTROLLER

152

153

154 By: 

155 Deputy Clerk

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158 (SEAL)

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161 APPROVED AS TO FORM AND

162 LEGAL SUFFICIENCY

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165 By: 

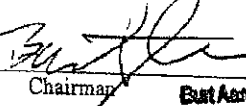
166 County Attorney

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PALM BEACH COUNTY, FLORIDA, BY ITS

BOARD OF COUNTY COMMISSIONERS

By: 

Chairman

Eurt Antonson

Filed with the Department of State on the 5th day of October, 2010.

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ORDINANCE NO. 2010- 019

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHARTER OF PALM BEACH COUNTY, FLORIDA; PERTAINING TO ETHICS REGULATION, THE ESTABLISHMENT OF A COUNTY CODE OF ETHICS, AN INDEPENDENT COMMISSION ON ETHICS, AND AN INDEPENDENT OFFICE OF INSPECTOR GENERAL; PROVIDING FOR CHARTER AMENDMENT LANGUAGE; PROVIDING FOR REFERENDUM AND BALLOT LANGUAGE; PROVIDING FOR FORM OF NOTICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 1(c), Article VIII of the Constitution of the State of Florida provides that by general law a county government may be established by charter; and

WHEREAS, the voters of Palm Beach County adopted the Charter of Palm Beach County on November 6, 1984, effective January 1, 1985; and

WHEREAS, the Charter of Palm Beach County provides that the Board of County Commissioners may propose a charter amendment by ordinance subject to voter approval; and

WHEREAS, the Board of County Commissioners of Palm Beach County has determined it is in the best interest of the citizenry of the County and will promote confidence in government to place a charter amendment on the ballot which will require the County to adopt by ordinance an independently appointed County Commission on Ethics adequately funded by the County Commission and an independently selected Office of Inspector General adequately funded by the County Commission and other governmental entities subject to the authority of the Inspector General; and

EXHIBIT

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WHEREAS, passage of this Ordinance will allow the residents of Palm Beach County to vote on the proposed charter amendment at the general election held on November 2, 2010.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

PART I. AMENDMENT OF CHARTER

Subject to the approval of the electorate as required by the Constitution and Laws of Florida, the Charter of Palm Beach County shall be amended by adding a new subparagraph (6) to Sec. 1.3. Scope of County Ordinances; Conflict with Municipal Ordinances; by amending Sec. 3.2. Prevention of Conflict of Interest; and by adding Article VIII, Ethics Regulation, Sec. 8.1 County Code of Ethics, Sec. 8.2 Commission on Ethics, Sec. 8.3 Inspector General, and Sec. 8.4 Ordinance Preparation, Adoption and Amendment, as follows:

Sec. 1.3. Scope of County Ordinances; Conflict with Municipal Ordinances.

Municipal ordinances shall prevail over county ordinances to the extent of any conflict, regardless of the time of passage of the municipal ordinances, except that the county ordinances shall prevail over conflicting municipal ordinances:

(6) In matters related to the Ethics Regulation in accordance with Article VIII of this Charter: The Palm Beach County Code of Ethics, Palm Beach County Commission on Ethics and the Office of Inspector General in municipalities where the charter amendment is approved by a majority of voters in that municipality voting in the referendum as set forth in Sec. 6.3 of this Charter.

Sec. 3.2. Prevention of conflict of interest.

The Board of County Commissioners shall take whatever action is necessary on behalf of its residents to ensure that the County government's appointed officials, elected officials and employees abide by the code of ethics as set out in state law and the ethics regulations adopted by the Board of County Commissioners.

ARTICLE VIII. ETHICS REGULATION

Sec. 8.1. County Code of Ethics.

The County shall, by ordinance, adopt a Palm Beach County Code of Ethics, which shall be at least as stringent as Chapter 112, Part III, Florida Statutes, the Code of Ethics for Public Officers and Employees. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below.

Sec. 8.2 Commission on Ethics.

The County shall, by ordinance, establish an independent Commission on Ethics, comprised of a minimum of five members not appointed by or subject to removal by the County Commission or by any other entity subject to the jurisdiction of the Commission on Ethics, with the authority to review, interpret, render advisory opinions and to enforce the Palm Beach County Code of Ethics, and to provide ethics training to local governments, citizen groups and the general public of Palm Beach County. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below. The Commission on Ethics shall be adequately funded by the County Commission and all other governmental entities that elect to be subject to the authority of the Commission on Ethics pursuant to interlocal agreement.

Sec. 8.3. Inspector General.

The County shall, by ordinance, establish an Office of Inspector General to provide independent oversight of publicly funded transactions, projects, and other local government operations. The ordinance shall be prepared, adopted, and amended pursuant to the procedures in Section 8.4 below (hereinafter "Implementing Ordinance"). The Implementing Ordinance shall provide that the Inspector General shall be selected by a Selection Committee, comprised of the Commission on Ethics, the State Attorney or designee, and the Public Defender or designee. The Implementing Ordinance shall further provide that the Inspector General shall serve a fixed term, and prior to completion of that term, may be removed only for cause and pursuant to a procedure requiring, at a minimum, supermajority votes at duly noticed public hearings of the Board of County Commissioners and the Selection Committee. The Office of Inspector General shall be funded at minimum in an amount equal to one quarter of one percent of contracts of the County and all other governmental entities subject to the authority of the Inspector General (the "Funding Base") as determined by the Implementing Ordinance. The Board of County Commissioners may increase or decrease the Funding Base upon a showing of need for such adjustment based upon criteria contained in the Implementing Ordinance but in no event shall the Funding Base be reduced below one quarter of one percent unless the request for such reduction is made by the Inspector General. The demonstration of need shall be subject to review and recommendation by the Review Committee, which recommendation shall only be overruled by a supermajority vote of the Board of County Commissioners. No adjustment shall occur if such adjustment results in the Office of the Inspector General not being adequately funded.

Sec. 8.4. Ordinance Preparation, Adoption, and Amendment.

Ordinances providing for implementation and funding of Article 8, Ethics Regulation, of the Palm Beach County Charter shall be prepared, adopted, and amended in the following manner:

(a) The Board of County Commissioners has adopted ordinances establishing and providing for the funding, authority and powers of the Palm Beach County Commission on Ethics and the Office of Inspector General (the "Existing Ordinances"). The drafting committee described below shall develop the ordinances enabling this Charter Amendment by beginning with the Existing Ordinances and making those changes necessary to conform the Existing Ordinances to the requirements of this Charter Amendment and proposing other such changes deemed necessary and proper by the drafting committee.

(b) Each ordinance shall be developed by a drafting committee consisting of two representatives appointed by the Board of County Commissioners; two representatives appointed by the Palm Beach County League of Cities, Inc. (the "League") or any successor entity to the League; the County Attorney or his or her designee; and the General Counsel for the League or his or her designee. In addition, the committee will include the Executive Director of the Palm Beach County Commission on Ethics for matters pertaining to the Code of Ethics and Commission on Ethics Ordinances, and will include the Inspector General for matters pertaining to the Inspector General Ordinance ("the Initial Ordinance Drafting Committee"). The Initial Ordinance Drafting Committee may by majority vote agree to add up to three additional members representing other governmental entities that are subject to the regulation of the Inspector General, the Commission on Ethics, or both.

(c) The Board of County Commissioners may adopt any ordinance recommended by the Initial Ordinance Drafting Committee (the "Recommended Ordinance") by an affirmative vote of four members of the Board. If the Board of County Commissioners desires to change any Recommended Ordinance, the Board shall refer all proposed changes to the Initial Ordinance Drafting Committee, which shall either modify the Recommended Ordinance to include a proposed change or recommend that a proposed change not be adopted. Adoption of any change to a Recommended Ordinance requires an affirmative vote of five members of the Board. If the Initial Ordinance Drafting Committee fails to submit the Recommended Ordinance to the Board of County Commissioners within 90 days of effective date of this charter amendment or fails to take action on a proposed change within 30 days of receipt of such change from the Board, the Board of County Commissioners may take action to adopt the ordinance by an affirmative vote of four members.

(d) Amendments to any of the ordinances adopted pursuant to Section 8 of the Charter may be proposed by the Board of County Commissioners, the League, the Ethics Commission, the Inspector General, or the Executive Director of the Commission on Ethics. All proposed amendments must be reviewed by a committee with the same make-up as the Initial Ordinance Drafting Committee (the "Review Committee"). The Review Committee's recommendation shall be forwarded to the Board of County Commissioners. Any change recommended by the Review Committee may be adopted by an affirmative vote of four members of the Board of County Commissioners. Adoption of any change not recommended by the Review Committee requires an affirmative vote of five members of the Board of County Commissioners. If the Review Committee fails to submit an ordinance amendment to the Board of County Commissioners within 90 days after referral of an amendment from one of the above parties, the

Board of County Commissioners may adopt the amendment by an affirmative vote of four members of the Board.

PART 2. REFERENDUM AND BALLOT LANGUAGE

On November 2, 2010, a general election is to be held, and in accordance with the requirements of the Constitution and Laws of Florida, the following question shall be placed on the ballot by the Supervisor of Elections:

REQUIRING COUNTY CODE OF ETHICS, INDEPENDENT ETHICS COMMISSION AND INDEPENDENT INSPECTOR GENERAL

Shall the Palm Beach County Charter be amended to require the Board of County Commissioners to establish by ordinances applicable to Palm Beach County and all municipalities approving this amendment: a Code of Ethics, an independent Commission on Ethics funded by the County Commission, and an independent Inspector General funded by the County Commission and all other governmental entities subject to the authority of the Inspector General?

YES _____

NO _____

PART 3. FORM OF NOTICE

The form of notice of the election by which this Charter shall be submitted to a referendum shall contain the complete text of Parts 1 and 2 of this Ordinance.

PART 4. SEVERABILITY

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

PART 5. INCLUSION IN THE CHARTER

In the event this proposed amendment is approved by referendum, Part 1 of this Ordinance shall become and be made a part of the Home Rule Charter of Palm Beach County, Florida. The Articles or Sections of this Charter Amendment Ordinance may be renumbered or relettered to accomplish such, and the word "amendment" may be changed to "section," "article," or any other appropriate word.

PART 6. EFFECTIVE DATE

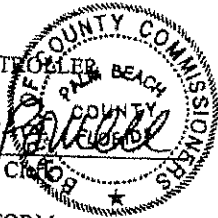
This Ordinance shall become law on January 1, 2011, if approved by a majority of those electors voting on the matter.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the 20th day of July, 2010.

SHARON R. BOCK
CLERK AND COMPTROLLER

By: 

Deputy Clerk



PALM BEACH COUNTY, FLORIDA,
BOARD OF COUNTY COMMISSIONERS

By: 

Burt Anderson Chair

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: 

County Attorney

Filed with the Department of State on the 23rd day of July, 2010.

ORDINANCE NO. 2011- 009

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL ORDINANCE, ORDINANCE 2009-049, AS AMENDED, AND ADOPTING A NEW COUNTYWIDE OFFICE OF INSPECTOR GENERAL, PALM BEACH COUNTY, FLORIDA ORDINANCE; PROVIDING FOR TITLE AND APPLICABILITY; CREATING AND ESTABLISHING THE OFFICE OF INSPECTOR GENERAL, PALM BEACH COUNTY, FLORIDA; PROVIDING FOR FUNCTIONS, AUTHORITY, AND POWERS; PROVIDING FOR OUTREACH; PROVIDING FOR MINIMUM QUALIFICATIONS, SELECTION AND TERM OF OFFICE; PROVIDING FOR CONTRACT; PROVIDING FOR PHYSICAL FACILITIES AND STAFF; PROVIDING FOR PROCEDURE FOR FINALIZATION OF REPORTS AND RECOMMENDATIONS; PROVIDING FOR REPORTING; PROVIDING FOR FINANCIAL SUPPORT AND BUDGETING; PROVIDING FOR FUNDING BASE; PROVIDING FOR REMOVAL; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR RETROACTIVITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, based on a referendum on November 2, 2010, concerning proposed amendments to the Palm Beach County Charter, a majority of voters in the County and in every municipality in Palm Beach County elected to require the Board of County Commissioners to adopt an ordinance to establish a countywide office of inspector general to provide independent oversight of publicly funded transactions, projects and other local government operations; and

WHEREAS, the Board of County Commissioners is committed to the highest standards of integrity, honesty, efficiency and accountability; and

WHEREAS, misconduct involving abuse, corruption, fraud, and mismanagement by elected and appointed County and municipal officials and employees, agencies and instrumentalities, contractors, and other parties doing business with the County and municipalities, undermines public confidence in local government and prevents these governments from operating honestly, efficiently and effectively; and

WHEREAS, it is critically important that County and municipal elected and appointed officials and employees discharge their duties and responsibilities in a lawful and ethical manner and be held accountable for their misconduct; and



1
2 WHEREAS, the Board of County Commissioners hereby determines that the Ordinance set
3 forth herein advances the purposes and intent of the Palm Beach County Charter amendments
4 approved by the electorate on November 2, 2010; and

5 WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to its
6 authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida Statutes, the
7 Palm Beach County Charter, hereby adopts the Palm Beach County Office of Inspector General
8 Ordinance; and

9 WHEREAS, the Board of County Commissioners has conducted a duly noticed public
10 hearing to consider these amendments as required by law.

11 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
12 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

13 **SECTION 1. THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL**

14 The Palm Beach County Office of Inspector General Ordinance, Ordinance 2009-049, as
15 amended, is hereby repealed, and the new countywide Office of Inspector General, Palm Beach
16 County, Florida Ordinance is hereby adopted as set forth in Exhibit 1, which is attached hereto and
17 made a part hereof.

18 **SECTION 2. SAVINGS CLAUSE.**

19 All investigations, audits, reviews, reports and all other activities performed by the Office of
20 Inspector General pursuant to its functions, authority and powers, initiated or completed pursuant to
21 Ordinance 2009-049, as amended, shall remain in full force and effect. The term of office of the
22 Inspector General selected pursuant to Ordinance 2009-049 shall remain as originally established.

23 **SECTION 3. RETROACTIVITY.**

24 Section 2-429(3) of the Office of Inspector General, Palm Beach County, Florida Ordinance
25 is expressly declared retroactive to April 1, 2011.

26 **SECTION 4. REPEAL OF LAWS IN CONFLICT.**

27 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
28 repealed to the extent of such conflict.

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1 SECTION 5. SEVERABILITY.

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
3 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
4 holding shall not affect the remainder of this Ordinance.

5 SECTION 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

6 The provisions of this Ordinance shall become and be made a part of the Palm Beach County
7 Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the
8 word "ordinance" may be changed to "section," "article," or other appropriate word.

9 SECTION 7. CAPTIONS.

10 The captions, section headings, and section designations used in this Ordinance are for
11 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

12 SECTION 8. EFFECTIVE DATE.

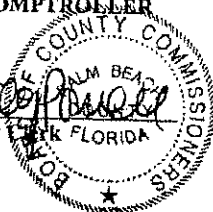
13 The provisions of this Ordinance shall become effective June 1, 2011.

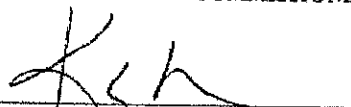
14 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
15 County, Florida, on this the 17th day of May, 2011.

16
17 SHARON R. BOCK
18 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS


19
20
21
22 By: 
23 Deputy Clerk
24
25



By: 
Karen T. Marcus, Chair

26
27 (SEAL)

28
29
30
31 APPROVED AS TO FORM
32 AND LEGAL SUFFICIENCY

33
34
35
36 By: 
37 County Attorney
38

39 EFFECTIVE DATE: Filed with the Department of State on the 25th day of
40 May, 2011.

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2
3 **ARTICLE XII. INSPECTOR GENERAL**
4

5 **Sec.2-421. Title and Applicability.**
6

7 (1) This article shall be titled the "Office of Inspector General, Palm Beach County,
8 Florida Ordinance."

9 (2) The Office of Inspector General, Palm Beach County, Florida Ordinance shall apply
10 to the following:

11 a. The board of county commissioners (hereinafter "the board") and all county
12 departments;

13 b. The thirty eight (38) municipalities that approved the charter amendment in the
14 countywide referendum held November 2, 2010;

15 c. Any other public entity that elects to be bound by this article by entering into a
16 memorandum of understanding or other agreement in accordance with section 2-423(9);
17 and

18 d. Any municipality formed after January 1, 2011, except to the extent that an ordinance
19 adopted by that municipality at any time conflicts with this ordinance.

20
21 **Sec. 2-422. Office created and established.**

22 There is hereby established the office of inspector general which is created in order to
23 promote economy, efficiency, and effectiveness in the administration of and, as its priority, to
24 prevent and detect fraud and abuse in programs and operations administered or financed by the
25 county or municipal agencies. The inspector general shall initiate, conduct, supervise and
26 coordinate investigations designed to detect, deter, prevent and eradicate fraud, waste,
27 mismanagement, misconduct, and other abuses by elected and appointed county and municipal
28 officials and employees, county and municipal agencies and instrumentalities, contractors, their
29 subcontractors and lower tier subcontractors, and other parties doing business with the county or
30 a municipality and/or receiving county or municipal funds. The inspector general shall head the
31 office of inspector general. The organization and administration of the office of inspector general
32 shall be independent to assure that no interference or influence external to the office of inspector
33 general adversely affects the independence and objectivity of the inspector general.
34

35 **Sec. 2-423. Functions, authority and powers.**

36 (1) The inspector general shall have the authority to: (a) make investigations of county or
37 municipal matters and publish the results of such investigations; (b) review and audit past,
38 present and proposed county or municipal programs, accounts, records, contracts, change orders
39 and transactions; and (c) prepare reports and recommendations to the board, or the subject
40 municipality, or participating entities subject to section 2-421 (2) based on such audits or
41 investigations. All elected and appointed county and municipal officials and employees, county

42 and municipal agencies and instrumentalities, contractors, their subcontractors and lower tier
43 subcontractors, and other parties doing business with the county or a municipality and/or
44 receiving county or municipal funds shall fully cooperate with the inspector general in the
45 exercise of the inspector general's functions, authority and powers. Such cooperation shall
46 include, but not be limited to providing statements, documents, records and other information,
47 during the course of an investigation, audit or review. The inspector general may obtain sworn
48 statements, in accordance with Florida Statutes, of all persons identified in this subsection as
49 well as other witnesses relevant to an investigation, audit or review. Such audits shall be
50 conducted in accordance with the current International Standards for the Professional Practice of
51 Internal Auditing as published by the Institute of Internal Auditors, Inc., or where appropriate, in
52 accordance with generally accepted governmental auditing standards. Such investigations will
53 comply with the General Principles and Standards for Offices of Inspector General as published
54 and revised by the Association of Inspectors General. The office of inspector general shall
55 develop and adhere to written policies in accordance with the accreditation standards set forth by
56 the Commission on Florida Law Enforcement Accreditation, Inc.

57 (2) The inspector general shall have the power to conduct audits of, require production of
58 documents from, and receive full and unrestricted access to the records of the board, each
59 municipality, county administrator, city administrator, city manager or other municipal
60 executive, all elected and appointed county and municipal officials and employees, county and
61 municipal departments, divisions, agencies and instrumentalities, contractors, their
62 subcontractors and lower tier subcontractors, and other persons and entities doing business with
63 the county or a municipality and/or receiving county or municipal funds regarding any such
64 contracts or transactions with the county or a municipality. Except as otherwise limited in this
65 subsection (2), the inspector general's jurisdiction includes but shall not be limited to all projects,
66 programs, contracts or transactions that are funded in whole or in part by the county or any
67 municipality. The inspector general may contract with outside entities deemed necessary to
68 perform the functions of that office. Any such contract is subject to final approval by the board,
69 but such approval shall not be unreasonably withheld. The inspector general may conduct
70 investigations and audits, issue reports, and make recommendations regarding collective
71 bargaining agreements. The inspector general shall conduct investigations and audits in
72 accordance with applicable laws, rules, regulations, policies and past practices. The inspector
73 general shall not interfere with collective bargaining negotiations.

74 (3) As provided in subsection (1), the inspector general can: require all county and municipal
75 officials and employees, contractors, their subcontractors and lower tier subcontractors, and other
76 persons and entities doing business with the county or a municipality and/or receiving county or
77 municipal funds to provide statements; administer oaths; and, require the production of
78 documents, records and other information. In the case of a refusal by an official, employee or
79 other person to obey a request by the inspector general for documents or for an interview, the
80 inspector general shall have the power to subpoena witnesses, administer oaths, and require the
81 production of documents. Seventy-two (72) hours prior to serving a subpoena, the inspector
82 general shall provide written notice to the state attorney and the U.S. Attorney for the Southern
83 District of Florida. The inspector general shall not interfere with any ongoing criminal
84 investigation or prosecution of the state attorney or the U.S. Attorney for the Southern District of
85 Florida. When the state attorney or the U.S. Attorney for the Southern District of Florida has
86 explicitly notified the inspector general in writing that the inspector general's investigation is
87 interfering with an ongoing criminal investigation or prosecution, the inspector general shall

88 suspend service of subpoena, examination of witnesses, or other investigative activities as set
89 forth in the notice. In the case of a refusal to obey a subpoena served to any person, the inspector
90 general may make application to any circuit court of this state which shall have jurisdiction to
91 order the witness to appear before the inspector general and to produce evidence if so ordered, or
92 to give testimony relevant to the matter in question.

93 (4) Where the inspector general suspects a possible violation of any state, federal, or local law,
94 he or she shall notify the appropriate law enforcement agencies. The county administrator and
95 each municipal manager, or administrator, or mayor where the mayor serves as chief executive
96 officer, shall promptly notify the inspector general of possible mismanagement of a contract
97 (misuse or loss exceeding \$5,000 in public funds), fraud, theft, bribery, or other violation of law
98 which appears to fall within the jurisdiction of the inspector general, and may notify the
99 inspector general of any other conduct which may fall within the inspector general's jurisdiction.
100 The county administrator and each municipal manager, or administrator, or mayor where the
101 mayor serves as chief executive officer, shall coordinate with the inspector general to develop
102 reporting procedures for notification to the inspector general.

103 (5) The inspector general shall have the power without limitation to audit, investigate, monitor,
104 inspect and review the operations, activities, performance, and procurement processes including,
105 but not limited to, bid specifications, bid submittals, activities of the contractor, their
106 subcontractors and lower tier subcontractors, its officers, agents and employees, lobbyists,
107 county and municipal staff and officials, in order to ensure compliance with contract
108 specifications and detect corruption and fraud.

109 (6) The inspector general shall have the power to receive, review and investigate any complaints
110 regarding any municipal or county-funded projects, programs, contracts or transactions. The
111 inspector general shall establish a "hotline" to receive complaints, from either anonymous or
112 identified persons.

113 (7) The inspector general may exercise any of the powers contained in this article upon his or her
114 own initiative.

115 (8) The inspector general shall be notified in writing prior to any duly noticed public meeting of a
116 procurement selection committee where any matter relating to the procurement of goods or
117 services by the county or any municipality is to be discussed. The notice required by this
118 subsection shall be given to the inspector general as soon as possible after a meeting has been
119 scheduled. The inspector general may, at his or her discretion, attend all duly noticed county or
120 municipal meetings relating to the procurement of goods or services as provided herein, and may
121 pose questions and raise concerns consistent with the functions, authority and powers of the
122 inspector general. The failure by the county or municipality to give written notice required by
123 this section does not constitute grounds for a protest regarding such procurement and shall not be
124 the cause for the stay of any procurement, and shall not be the basis to overturn the award of a
125 contract.

126 (9) It is anticipated that special districts and other public officials and entities will recognize and
127 desire to benefit from the services of the county office of inspector general. The inspector
128 general may negotiate agreements or memoranda of understanding with other public entities
129 which would authorize the inspector general to provide independent oversight of any or all of the
130 public entity's transactions, projects and operations, and to exercise any and all authority,
131 functions and powers set forth in this article for the benefit of such public entity. The
132 memorandum of understanding or agreement shall include a provision for fees to be paid to the
133 inspector general from the public entity in exchange for such benefits. Such fees shall be based

134 on a rate established by the inspector general to cover the cost of such benefits and shall include,
135 but not be limited to, one quarter of one percent of the contracts as described in section 2-429(2)
136 (hereafter the "funding base") subject to inspector general review under the agreement. The
137 funding base shall be subject to adjustment as set forth in section 2-429.1. Any such agreement
138 or memorandum of understanding is subject to final approval of the board, but such approval
139 shall not be unreasonably withheld. For the purposes of the removal procedure set forth in
140 section 2-430, a "funding entity" shall mean a public entity that has entered into an agreement or
141 memorandum of understanding to receive services of the inspector general, and has provided
142 funding in exchange for such services equal to at least twenty-five (25) percent of the total
143 annual budget of the inspector general for the county's fiscal year immediately preceding the
144 fiscal year in which the removal procedure takes place.

145 (10) The inspector general's records related to active audits, investigations and reviews are
146 confidential and exempt from disclosure, as provided by §112.3188(2) and Chapter 119, Florida
147 Statutes.

148 (11) The inspector general is considered "an appropriate local official" of the county and of any
149 municipality for purposes of whistleblower protection provided by §112.3188(1), Florida
150 Statutes.

151 (12) The inspector general may recommend remedial actions and may provide prevention and
152 training services to county and municipal officials, employees, and any other persons covered by
153 this article. The inspector general may follow up to determine whether recommended remedial
154 actions have been taken.

155 (13) The inspector general shall establish policies and procedures and monitor the costs of
156 investigations undertaken. The inspector general shall cooperate with other governmental
157 agencies to recover such costs from other entities involved in willful misconduct in regard to
158 county or municipal funds.

159 (14) Nothing herein shall abridge employees' constitutional right to collective bargaining.
160

161 **Sec. 2-423.1. Outreach.**

162 The inspector general will coordinate with the county administrator and municipal
163 manager or administrator to develop public awareness strategies to inform government officials
164 and employees, as well as the general public, of the authority and responsibilities of the office of
165 the inspector general. Such strategies shall include but not be limited to inclusion in the
166 government's web page with a link to the office of inspector general website, publication of
167 notices in the government's newsletters, and posting information about the office of inspector
168 general in government employee break rooms and other common meeting areas. The inspector
169 general shall provide on its website examples that illustrate fraud, waste, mismanagement,
170 misconduct and abuse.
171

172 **Sec. 2-424. Minimum qualifications, selection and term of office.**

173 (1) *Minimum qualifications.* The inspector general shall be a person who:
174 a. Has at least ten (10) years of experience in any one (1) or a combination of the following
175 fields:
176 1. As a federal, state or local law enforcement officer/official;
177 2. As a federal or state court judge;
178 3. As a federal, state or local government attorney with expertise in investigating fraud,
179 mismanagement and corruption;

180 4. As an inspector general, certified public accountant, or internal auditor;
181 5. As a person with progressive supervisory and managerial experience in an investigative
182 public agency similar to an inspector general's office;
183 b. Has managed and completed complex investigations involving allegations of fraud, theft,
184 deception or conspiracy;
185 c. Has demonstrated the ability to work with local, state and federal law enforcement agencies
186 and the judiciary;
187 d. Has a four-year degree from an accredited institution of higher learning;
188 e. Has not been employed by the county, any municipality or any other governmental entity
189 subject to the authority of the inspector general office during the two-year period immediately
190 prior to selection, unless such employment has been with the Office of Inspector General, Palm
191 Beach County, Florida.
192 f. Highly qualified candidates will also have audit-related skills and/or hold one (1) or more of
193 the following professional certifications at the time of selection: certified inspector general
194 (CIG), certified inspector general investigator (CIGI), certified inspector general auditor (CIGA),
195 certified public accountant (CPA), certified internal auditor (CIA), or certified fraud examiner
196 (CFE).

197 (2) *Selection.* No official or employee of any governmental entity subject to the authority of the
198 office of inspector general shall participate on the inspector general committee. Responsibility
199 for selecting the inspector general shall be vested solely with the inspector general committee.
200 The inspector general committee shall be comprised of the commission on ethics as established
201 in section 2-254 et seq. of this Code, the state attorney for the Fifteenth Judicial Circuit or his or
202 her designee, and the public defender for the Fifteenth Judicial Circuit or his or her designee. The
203 chairperson of the inspector general committee shall be chairperson of the commission on ethics.
204 After thoroughly reviewing qualifications, background information, and personal and
205 professional referrals, the inspector general committee shall notify the county attorney of its
206 selection. The county attorney shall promptly notify the board that a selection has been made.

207 (3) *Staffing of inspector general committee.* The county human resources department shall
208 provide staff to the inspector general committee and as necessary will advertise the acceptance of
209 resumes for the position of inspector general. All resumes received by the human resources
210 department will be forwarded to the inspector general committee for consideration. The human
211 resources department shall contract with an appropriate entity to ensure that background checks
212 are conducted on the candidates selected for interview by the inspector general committee. The
213 results of the background checks shall be provided to the inspector general committee prior to
214 the interview of candidates. Following the initial selection of the inspector general, the inspector
215 general committee, for future selection processes as described in subsection (2) above, may
216 continue to employ the services of the human resources department or may utilize its own staff to
217 solicit candidates for inspector general. All advertisements for the acceptance of resumes for
218 inspector general shall include a salary range commensurate with public officials of like
219 experience and expertise.

220 (4) *Term.* The inspector general shall serve for a term of four (4) years. At least six (6) months
221 prior to the end of each contract term, the inspector general committee will determine whether or
222 not to renew the contract for an additional term of four (4) years, and shall promptly notify the
223 inspector general of its decision. In the event the inspector general committee elects not to renew
224 the contract, the inspector general committee shall promptly convene as necessary to solicit
225 candidates for and to select a new inspector general in the same manner as described in

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226 subsection (2) above. The incumbent inspector general may submit his or her name as a
227 candidate to be considered for selection. The incumbent inspector general shall serve until a
228 successor is selected and assumes office.

229 (5) *Vacancy.* In case of a vacancy in the position of inspector general, the inspector general
230 committee may appoint a member of the inspector general's office as interim inspector general
231 within ten (10) days of the vacancy occurring, until such time as a successor inspector general is
232 selected and assumes office. A successor inspector general shall be selected in the same manner
233 as described in subsection (2) above, except for the following specific time constraints: (a)
234 solicitation for qualified candidates for selection should be published within twenty (20) days,
235 but no later than forty (40) days of the date the vacancy occurs; and (b) the inspector general
236 committee must in good faith endeavor to convene and select an inspector general within ninety
237 (90) days of the date the vacancy occurs.

238
239 **Sec. 2-425. Contract.**

240 A designee from the commission on ethics, with the assistance of the county's human
241 resources department and the county attorney's office, shall negotiate a contract of employment
242 with the inspector general substantially consistent with the terms included in contracts of other
243 contractual employees of the county. For the purposes of contract negotiations, such designation
244 by the commission on ethics shall not be deemed a delegation of the commission on ethics'
245 decision making authority. The inspector general shall be paid at a rate commensurate with
246 public officials of like experience and expertise. Before any contract shall become effective, the
247 contract must be approved by a majority of the board present at a regularly scheduled board
248 meeting. The contract will cover the entire four-year term subject to the removal provisions in
249 section 2-430. The contract will include a provision requiring the inspector general committee to
250 provide notice of its decision to renew or not to renew the contract at least six (6) months prior to
251 the termination of the contract. The contract shall provide that the inspector general may not
252 represent a political party or be on any executive committee thereof, or seek public office during
253 his or her term of service, and shall not seek public office or employment with any public entity
254 subject to the jurisdiction of the inspector general for four (4) years thereafter. That limitation
255 does not include seeking selection as inspector general for a subsequent term. The contract shall
256 further provide that the inspector general may not be a lobbyist, as defined in section 2-352 of
257 this Code, for two (2) years after term of service.

258
259 **Sec. 2-426. Physical facilities and staff.**

260 (1) The county shall provide the office of inspector general with appropriately located office
261 space and sufficient physical facilities together with necessary office equipment and furnishings
262 to enable the inspector general to perform his or her functions.

263 (2) The inspector general shall have the power to appoint, employ, and remove such assistants,
264 employees and personnel, and establish personnel procedures as deemed necessary for the
265 efficient and effective administration of the activities of the office of inspector general.

266
267 **Sec. 2-427. Procedure for finalization of reports and recommendations which make**
268 **findings as to the person or entity being reviewed or inspected.**

269 The inspector general shall publish and deliver finalized reports and recommendations to
270 the board or the appropriate municipality, and to the county commission on ethics.
271 Notwithstanding any other provision of this article, whenever the inspector general determines

272 that it is appropriate to publish and deliver a report or recommendation which contains findings
273 as to the person or entity being reported on or who is the subject of the recommendation, the
274 inspector general shall provide the affected person or entity a copy of the findings. Such person
275 or entity, who is the subject of a finding or recommendation resulting from an investigation or
276 review, shall have ten (10) calendar days to submit a written explanation or rebuttal of the
277 findings before the report or recommendation is finalized. In the case of an audit, such person or
278 entity shall have twenty (20) calendar days to submit a written explanation or rebuttal of the
279 audit findings or before the report or recommendation is finalized. The inspector general shall
280 grant reasonable extensions of time for providing a written explanation or rebuttal upon written
281 request. Such timely submitted written explanation or rebuttal shall be attached to the finalized
282 report or recommendation. The requirements of this subsection shall not apply in matters subject
283 to the State of Florida's Whistle-blower's Act, or when the inspector general, in conjunction with
284 the state attorney or U.S. Attorney, determines that supplying the affected person or entity with
285 such report will jeopardize a pending criminal investigation.

286
287 **Sec. 2-428. Reporting.**

288 (1) Not later than December 31 of each year, the Inspector General shall prepare and publish a
289 written annual report summarizing the activities of the office during the immediately preceding
290 fiscal year ended September 30. The report shall be furnished to the inspector general
291 committee, the county administrator and the Palm Beach County League of Cities, Inc., and
292 posted on the inspector general's website. The report shall include, but need not be limited to: a
293 description of significant abuses and deficiencies relating to the administration of programs and
294 operations disclosed by investigations, audits, reviews, or other activities during the reporting
295 period; a description of the recommendations for corrective action made by the inspector general
296 during the reporting period with respect to significant problems, abuses, or deficiencies
297 identified; identification of each significant recommendation described in previous annual
298 reports on which corrective action has not been completed; and a summary of each audit and
299 investigation completed during the reporting period.

300 (2) The inspector general committee will meet with the inspector general every six months to
301 review the previous six month's activities and the inspector general's plans and objectives for the
302 upcoming six months.

303 **Sec. 2-429. Financial support and budgeting.**

304 (1) Pursuant to their annual budgeting processes, the county and each municipality shall
305 provide sufficient financial support for the inspector general's office to fulfill its duties as set
306 forth in this article. The county and municipalities shall fund the inspector general's office
307 proportionately, based on the actual expenses of each governmental entity as recorded in the
308 most recent audited year and reported in the Florida Department of Financial Services Local
309 Government Electronic Reporting system (LOGER), pursuant to section 218.32, Florida Statutes,
310 as may be amended.

311 (2) The county and each municipality's proportionate share shall be based on each
312 entity's actual expenses as defined in the then current Uniform Accounting System Manual,
313 published by the State of Florida, Department of Financial Services, Bureau of Local
314 Government, and shall include the following Object Categories: 30 - Operating
315 Expenditures/Expenses; 60 - Capital Outlay; and 80 - Grants and Aids. Notwithstanding the
316 above, however, law enforcement, pension funds, electric utility services, fire control, and
317 intergovernmental transfer costs shall not be included in the proportionate share calculation.

318 Nothing contained herein shall in any way limit the powers of the inspector general provided for
319 in this Ordinance to perform audits, inspections, reviews and investigations on all county and
320 municipal contracts.

321 (3) The inspector general shall establish and maintain a fiscal year which coincides with
322 that of the county. Beginning May 1, 2011, and every May 1 thereafter, the inspector general
323 shall deliver to the board a budget request including a reasonable estimate of operating and
324 capital expenditures and shall also include, but not be limited to, anticipated revenues from
325 sources other than the county and municipalities, and funds estimated to be received but not
326 expended in the current fiscal year. No later than April 1 of every year, the inspector general
327 shall deliver a preliminary budget request to the Palm Beach County League of Cities, Inc., and
328 be available to discuss the budget request with the League of Cities membership prior to May 1
329 of every year. The board shall meet with a delegation selected by the Palm Beach County League
330 of Cities, Inc., to discuss the budget request for each fiscal year. The county shall endeavor to
331 place the matter on a board agenda prior to June 15 of each year, but in no event later than June
332 30. The parties attending this meeting shall acknowledge the provisions of section 2-429.1(1).

333 (4) No later than the fifth business day in July of each year, the Office of the Clerk and
334 Comptroller shall prepare an allocation schedule based on the most current LOGER system data.
335 The proportionate share to be paid by the county and each municipality shall be reduced
336 proportionately by the anticipated revenues from sources other than the county and
337 municipalities and the amount of funds estimated to be received but not expended by the
338 inspector general in the current fiscal year.

339 (5) In the event the county or a municipality does not submit the most recent fiscal year
340 data in the LOGER system, the proportionate share for that municipality shall be based upon its
341 last LOGER system submittal, subject to an escalator for each year the submittal was not made.
342 The escalator shall be based on the Consumer Price Index for All Urban Consumers, U.S. City
343 Average, as set forth in section 193.155, Florida Statutes, as may be amended.

344 (6) The budget of the inspector general shall be subject to final approval of the board.
345 No later than September 30 of each year, the board shall set the inspector general budget for the
346 coming fiscal year and adjust the proportionate share of the county and each municipality
347 accordingly as described in this section.

348 (7) The Office of the Clerk and Comptroller shall invoice the county and each
349 municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April
350 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty
351 (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of
352 Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is
353 not timely received, the county or any municipality in compliance with this section may pursue
354 any available legal remedy.

355 (8) The county and each municipality's proportionate share for the period of June 1, 2011
356 through September 30, 2011 shall be as set forth in Exhibit A which is attached hereto and
357 incorporated herein by reference. The Office of the Clerk and Comptroller shall invoice the
358 County, upon adoption of this ordinance, \$946,764. This amount is based on the estimated
359 expenses through June 1, 2011 of \$483,333, plus the County's proportionate share as reflected
360 on Exhibit A. The Office of the Clerk and Comptroller shall invoice each municipality for their
361 proportionate share as set forth in subsection (7) beginning with the first invoice on October 10,
362 2011.

363

364 **Sec. 2-429.1 Funding Base**

365

366 (1) The funding base is a minimum level of funding, determined as a percentage of
367 contract activity of the governmental entities subject to the authority of the inspector general.
368 The purpose of establishing the funding base is to ensure the office is adequately funded. The
369 funding base is currently set at an amount equal to one quarter of one percent (0.25%) of the
370 contracts as described in section 2-429(2). Within ten (10) days following establishment of the
371 allocation schedule as described in 2-429(4), the county will determine whether the calculated
372 funding requirement meets the one quarter of one percent (0.25%) funding base. In the event the
373 calculated funding requirement is less than one quarter of one percent (0.25%), but the inspector
374 general's proposed budget is fully funded by the allocation schedule and revenues from sources
375 other than the county and municipalities, the inspector general shall request a reduction of the
376 funding base accordingly for that budget year. Nothing herein shall be construed to:

377 (a) Limit the calculated funding base to one quarter of one percent (0.25%), as may
378 be required to adequately fund the Office of the Inspector General;

379 (b) Limit the inspector general's authority to request a budget that results in a
380 calculated funding base that is less than one quarter of one percent (0.25%) at any time; or

381 (c) Prohibit the inspector general from transmitting to the county supplemental
382 budget requests.

383 No adjustment to the calculated funding base shall occur if such adjustment results in the
384 Office of the Inspector General not being adequately funded.

385 (2) On an annual basis the board of county commissioners may adjust the funding base
386 percentage upon a showing of need which shall be based upon, but need not be limited to, the
387 following criteria:

388 (a) additional expenses in a particular year necessitated by an extraordinarily large
389 investigation or audit;

390 (b) the amount of increases or decreases in budget requests by the inspector general in
391 prior years;

392 (c) the amount and frequency of supplemental budget requests made by the inspector
393 general in prior years;

394 (d) the amount and frequency of surpluses and/or shortfalls in the inspector general's
395 budget in prior years;

396 (e) the ability of the county and each municipality to bear an increase of the funding base
397 percentage in a particular year.

398 The demonstration of need shall be subject to review and recommendation by the review
399 committee as established in the Charter of Palm Beach County, section 8.3. The review
400 committee's recommendation shall only be overruled by a supermajority vote of the board of
401 county commissioners. In no event shall the funding base be reduced below one quarter of one
402 percent unless such reduction is made by the inspector general.

403

404 **Sec. 2-430. Removal.**

405 The inspector general may be removed only for cause based upon specified charges of the
406 following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct.
407 The removal process shall be initiated at a duly noticed public hearing of either the board, the
408 inspector general committee, or a funding entity as described in section 2-423(9). An affirmative
409 vote of five (5) members of the board, an affirmative vote of five (5) members of the inspector

410 general committee, or an affirmative supermajority vote of a funding entity shall be required to
411 present the inspector general with the charges and to proceed to final public hearings. The board,
412 inspector general committee, or the initiating funding entity, as appropriate, shall transmit a copy
413 of the charges to the inspector general at least sixty (60) days prior to all final public hearings
414 which shall be convened by the board, all funding entities, and the inspector general committee.
415 The inspector general shall have an opportunity to be heard in person and by counsel at the final
416 public hearings prior to the votes being taken on his or her removal. The inspector general may
417 only be removed upon the affirmative vote of five (5) members of the board, five (5) members of
418 the inspector general committee, and a supermajority of all funding entities. A record of the
419 proceedings, together with the charges and findings thereon, shall be filed with the clerk to the
420 board. The inspector general shall be removed without a public hearing in the event the inspector
421 general is convicted of or enters a guilty plea or *nolo contendere* plea to a state or federal
422 felony. Based upon specified charges of neglect of duty, abuse of power or authority,
423 discrimination, or ethical misconduct, one or more municipalities may file a petition for removal
424 with the general counsel for the Office of Inspector General. A petition for removal must be
425 duly authorized as a resolution outlining the specific charges and passed by a majority plus one
426 of the governing body. The petition for removal shall be transmitted to the inspector general
427 committee with a copy to the general counsel of the inspector general. The inspector general
428 committee shall decide whether to initiate the removal process or dismiss based on the petition.
429 The inspector general committee may investigate the allegations contained in the petition before
430 deciding whether to initiate the removal process. If the inspector general committee initiates the
431 removal process, the municipality or municipalities making the petition for removal shall have
432 the opportunity to be heard at the final public hearings prior to the votes being taken.
433

434 **Sec. 2-431. Enforcement.**

435 This Ordinance is enforceable by all means provided by law, including seeking injunctive
436 relief in the Fifteenth Judicial Circuit Court in and for Palm Beach County.
437

438 **Sec. 2-432. Penalty.**

439 Any person who:

440 (1) retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate
441 against, punish, threaten, harass, or penalize any person for assisting, communicating or
442 cooperating with the Inspector General, or

443 (2) who knowingly interferes, obstructs, impedes or attempts to interfere, obstruct or
444 impede in any investigation conducted by the Inspector General

445 shall be guilty of a violation of this Ordinance and punished, pursuant to section 125.69, Florida
446 Statutes, in the same manner as a second degree misdemeanor. Any potential violation of this
447 section shall be referred to the State Attorney for possible investigation and prosecution.
448

Inspector General FY 2011 Cost Allocation Schedule
Estimated Costs from June 1 - September 30

County	Total Expenses	CIP Adjustment		Adj. Expenses	Proportionate Share %	Proportionate Share Dollars
		FY 2008 - 4.08%	FY 2009 - 0.6%			
Alamogordo	\$ 1,003,335,667			\$ 1,003,335,667	58.56%	\$ 463,481
Belle Glade	\$ 1,544,714			\$ 1,544,714	0.09%	\$ 713
Boca Raton	\$ 10,601,932			\$ 10,601,932	0.62%	\$ 4,897
Boynton Beach ¹	\$ 87,791,117			\$ 87,791,117	5.12%	\$ 40,550
Brimley Breezes	\$ 60,836,185			\$ 60,836,185	3.55%	\$ 28,126
Cloud Lake	\$ 283,710	\$ 54,754		\$ 283,710	0.07%	\$ 131
Delray Beach	\$ 81,826			\$ 81,826	0.00%	\$ 38
Delray Beach	\$ 84,562,787			\$ 84,562,787	4.94%	\$ 39,099
Slim Ridge	\$ 37,688			\$ 37,688	0.00%	\$ 17
Golf	\$ 1,577,634			\$ 1,577,634	0.09%	\$ 729
Greenacres	\$ 5,142,025			\$ 5,142,025	0.30%	\$ 2,375
Gulf Stream	\$ 1,419,650			\$ 1,419,650	0.08%	\$ 636
Haverhill	\$ 860,512			\$ 860,512	0.05%	\$ 397
Highland Beach	\$ 4,907,298			\$ 4,907,298	0.29%	\$ 2,267
Hypoluxo	\$ 967,976			\$ 967,976	0.06%	\$ 447
Juno Beach	\$ 1,119,758			\$ 1,119,758	0.07%	\$ 517
Jupiter	\$ 29,485,504			\$ 29,485,504	1.72%	\$ 13,619
Jupiter Inlet Colony ¹	\$ 377,579		\$ 340	\$ 377,519	0.07%	\$ 175
Lake Clarke Shores	\$ 2,438,410			\$ 2,438,410	0.14%	\$ 1,176
Lake Park	\$ 6,881,381			\$ 6,881,381	0.40%	\$ 3,178
Lake Worth	\$ 37,483,120			\$ 37,483,120	2.19%	\$ 17,313
Lantana	\$ 6,242,788			\$ 6,242,788	0.36%	\$ 2,833
Loxahatchee Groves	\$ 1,040,871			\$ 1,040,871	0.06%	\$ 481
Munnalapan	\$ 2,117,926			\$ 2,117,926	0.12%	\$ 978
Mangonia Park ²	\$ 1,009,318	\$ 41,180	\$ 945	\$ 1,051,444	0.06%	\$ 486
North Palm Beach	\$ 8,245,936			\$ 8,245,936	0.52%	\$ 4,123
Ocean Ridge	\$ 1,837,819			\$ 1,837,819	0.11%	\$ 849
Pahokee ¹	\$ 4,335,617	\$ 177,750	\$ 4,061	\$ 4,336,448	0.26%	\$ 2,086
Palm Beach	\$ 49,908,700			\$ 49,908,700	2.91%	\$ 23,052
Palm Beach Gardens	\$ 22,964,205			\$ 22,964,205	1.34%	\$ 10,607
Palm Beach Shores	\$ 998,241			\$ 998,241	0.06%	\$ 461
Palm Springs	\$ 9,396,162			\$ 9,396,162	0.54%	\$ 4,312
Riviera Beach	\$ 36,510,480			\$ 36,510,480	2.13%	\$ 16,864
Royal Palm Beach	\$ 10,079,531			\$ 10,079,531	0.59%	\$ 4,656
South Bay	\$ 3,150,486			\$ 3,150,486	0.18%	\$ 1,455
South Palm Beach	\$ 580,349			\$ 580,349	0.03%	\$ 268
Tequesta	\$ 4,940,419			\$ 4,940,419	0.29%	\$ 2,282
Wellington	\$ 38,505,545			\$ 38,505,545	2.25%	\$ 17,785
West Palm Beach	\$ 168,716,553			\$ 168,716,553	9.85%	\$ 77,929
TOTAL	\$ 1,712,959,839	\$ 218,930	\$ 60,131	\$ 1,713,238,899	100.00%	\$ 791,325

¹ 2009 data is not available for these municipalities. 2008 data was used for this chart.
² 2009 & 2008 data is not available for these municipalities. 2007 data was used for this chart.

1 ~~Inspector-General Ordinance as codified (this version also includes sections 6 & 7~~
 2 ~~of Ordinance 2009-040 which was omitted by the municipal code corporation)~~

3
 4
 5 ARTICLE XII. INSPECTOR GENERAL

6
 7 Sec. 2-421.- Title and Applicability.

8
 9 (1) ~~This article shall be titled the "Palm Beach County "Office of Inspector General,~~
 10 ~~Palm Beach County, Florida Ordinance."~~

11 (Ord. No. 2009-040, § 1, 12-15-09 as amended by Ord. No. 2010-41)

12 (2) The Office of Inspector General, Palm Beach County, Florida Ordinance shall apply
 13 to the following:

14 a. The board of county commissioners (hereinafter "the board") and all county
 15 departments;

16 b. The thirty eight (38) municipalities that approved the charter
 17 amendment in the countywide referendum held November 2, 2010;

18 c. Any other public entity that elects to be bound by this article by entering
 19 into a memorandum of understanding or other agreement in accordance with section 2-
 20 423(9); and

21 d. Any municipality formed after January 1, 2011, except to the extent that an ordinance
 22 adopted by that municipality at any time conflicts with this ordinance.

23
 24 Sec. 2-422. Office created and established.

25 There is hereby established the ~~county~~-office of inspector general which is created in
 26 order to promote economy, efficiency, and effectiveness in the administration of and to prevent
 27 and detect misconduct involving fraud and abuse, corruption, in programs and operations
 28 administered or financed by the county or municipal agencies. The inspector general shall
 29 initiate, conduct, supervise and coordinate investigations designed to detect, deter, prevent and
 30 eradicate fraud, waste, inefficiencies, and mismanagement, misconduct, and other abuses by
 31 elected and appointed county and municipal officials and employees, county and municipal
 32 agencies and instrumentalities, contractors, their subcontractors and lower tier subcontractors,
 33 and other parties doing business with the county or a municipality and/or receiving county or
 34 municipal funds. The inspector general shall head the office of inspector general. The
 35 organization and administration of the office of inspector general shall be independent to assure
 36 that no interference or influence external to the office of inspector general adversely affects the
 37 independence and objectivity of the inspector general.

38 (Ord. No. 2009-040, § 2(A), 12-15-09)

39
 40 Sec. 2-423. Functions, authority and powers.

41 (1) The inspector general shall have the authority to: (a) make investigations of county or
42 municipal matters and publish the results of such investigations; (b) review and audit past,
43 present and proposed county or municipal programs, accounts, records, contracts, change orders
44 and transactions; and (c) prepare reports and recommendations to the board, or the subject
45 municipality, or participating entities subject to section 2-421 (2) based on such audits or
46 investigations. All elected and appointed county and municipal officials and employees, county
47 and municipal agencies and instrumentalities, contractors, their subcontractors and lower tier
48 subcontractors, and other parties doing business with the county or a municipality and/or
49 receiving county or municipal funds shall fully cooperate with the inspector general in the
50 exercise of the inspector general's functions, authority and powers. Such cooperation shall
51 include, but not be limited to providing statements, documents, records and other information,
52 during the course of an investigation, audit or review. The inspector general may obtain sworn
53 statements, in accordance with Florida Statutes, of all persons identified in this subsection as
54 well as other witnesses relevant to an investigation, audit or review. Such audits shall be
55 conducted in accordance with the current International Standards for the Professional Practice of
56 Internal Auditing as published by the Institute of Internal Auditors, Inc., or where appropriate, in
57 accordance with generally accepted governmental auditing standards. Such investigations will
58 comply with the General Principles and Standards for Offices of Inspector General as published
59 and revised by the Association of Inspectors General. The office of inspector general shall
60 develop and adhere to written policies in accordance with the accreditation standards set forth by
61 the Commission on Florida Law Enforcement Accreditation, Inc.
62 (2) The inspector general shall have the power to conduct audits of, require ~~reports~~ production
63 of documents from, and receive full and unrestricted access to the records of the board, each
64 municipality, county administrator, city administrator, city manager or other municipal
65 executive, all elected and appointed county and municipal officials and employees, county and
66 municipal departments, divisions, agencies and instrumentalities, contractors, their
67 subcontractors and lower tier subcontractors, and other persons and entities doing business with
68 the county or a municipality and/or receiving county or municipal funds regarding any such
69 contracts or transactions with the county. ~~The or a municipality.~~ Except as otherwise limited in
70 this subsection (2), the inspector general's jurisdiction includes but shall not be limited to all
71 projects, programs, contracts or transactions that are funded in whole or in part by the county or
72 any municipality. The inspector general may contract with outside entities deemed necessary to
73 perform the functions of that office. ~~This subsection does not apply to collective bargaining~~
74 ~~agreements~~ Any such contract is subject to final approval by the board, but such approval shall
75 not be unreasonably withheld. The inspector general may conduct investigations and audits, issue
76 reports, and make recommendations regarding collective bargaining agreements. The inspector
77 general shall conduct investigations and audits in accordance with applicable laws, rules,
78 regulations, policies and past practices. The inspector general shall not interfere with collective
79 bargaining negotiations.
80 ~~(3) In the case of a refusal~~ (3) As provided in subsection (1), the inspector general can: require
81 all county and municipal officials and employees, contractors, their subcontractors and lower tier
82 subcontractors, and other persons and entities doing business with the county or a municipality
83 and/or receiving county or municipal funds to provide statements; administer oaths; and, require
84 the production of documents, records and other information. In the case of a refusal by an
85 official, employee or other person to obey a request by the inspector general for documents or for
86 an interview, the inspector general shall have the power to subpoena witnesses, administer oaths,

87 and require the production of ~~records documents~~. Seventy-two (72) hours prior to serving a
88 subpoena, the inspector general shall provide written notice to the state attorney and the U.S.
89 Attorney for the Southern District of Florida. The inspector general shall not interfere with any
90 ongoing criminal investigation or prosecution of the state attorney or the U.S. Attorney for the
91 Southern District of Florida. When the state attorney or the U.S. Attorney for the Southern
92 District of Florida has explicitly notified the inspector general in writing that the inspector
93 general's investigation is interfering with an ongoing criminal investigation or prosecution, the
94 inspector general shall suspend service of subpoena, examination of witnesses, or other
95 investigative activities as set forth in the notice. In the case of a refusal to obey a subpoena
96 served to any person, the inspector general may make application to any circuit court of this state
97 which shall have jurisdiction to order the witness to appear before the inspector general and to
98 produce evidence if so ordered, or to give testimony touching ~~on relevant to~~ the matter in
99 question.

100 (4) ~~The costs of reviews, audits, inspections and investigations by the inspector general shall~~
101 ~~be funded at minimum in an amount equal to one quarter of one percent (0.25%) of contracts~~
102 ~~entered into by the County, as may be adjusted as necessary (hereinafter "minimum funding~~
103 ~~percentage"). The minimum funding percentage shall not apply to the following contracts:~~

104 a. ~~Contracts for legal services;~~

105 b. ~~Auditing contracts;~~

106 c. ~~Contracts under one thousand dollars (\$1,000.00);~~

107 d. ~~Federal, state and local government funded grants;~~

108 e. ~~Interlocal agreements;~~

109 f. ~~Revenue generating contracts; and~~

110 g. ~~Purchases made pursuant to the State of Florida Department of Revenue approved Sales~~
111 ~~Tax Recovery Program.~~

112 ~~Notwithstanding the foregoing, the board may apply the minimum funding percentage to~~
113 ~~any contract to ensure the Inspector General receives sufficient funding to perform the functions~~
114 ~~and duties set forth in this ordinance. Nothing contained in this subsection shall in any way limit~~
115 ~~the powers of the inspector general provided for in this article to perform audits, inspections,~~
116 ~~reviews and investigations on all county contracts including, but not limited to, those contracts~~
117 ~~specifically exempted from the minimum funding percentage.~~

118 (5) ~~Where the inspector general suspects a possible violation of any state, federal, or local law,~~
119 ~~or rule, regulation or policy, he or she shall notify the appropriate civil, criminal or~~
120 ~~administrative law enforcement agencies. In the case of a possible violation of a rule, regulation~~
121 ~~or policy governing a county employee, the inspector general shall also notify the~~ The county
122 administrator and the head of the department for each municipal manager, or administrator, or
123 mayor where the mayor serves as chief executive officer, shall promptly notify the inspector
124 general of possible mismanagement of a contract (misuse or loss exceeding \$5,000 in public
125 funds), fraud, theft, bribery, or other violation of law which the employee works, appears to fall
126 within the jurisdiction of the inspector general, and may notify the inspector general of any other
127 conduct which may fall within the inspector general's jurisdiction. The county administrator and
128 each municipal manager, or administrator, or mayor where the mayor serves as chief executive
129 officer, shall coordinate with the inspector general to develop reporting procedures for
130 notification to the inspector general.

131 (6) ~~5) The inspector general shall have the power without limitation to audit, investigate,~~
132 ~~monitor, inspect and review the operations, activities, performance, and procurement processes~~
133 ~~including, but not limited to, establishment of bid specifications, bid submittals, activities of the~~
134 ~~contractor, their subcontractors and lower tier subcontractors, its officers, agents and employees,~~

135 lobbyists, county and municipal staff, and officials, in order to ensure compliance with contract
136 specifications and detect corruption and fraud.
137 ~~(7)–(6)~~ The inspector general shall have the power to receive, review and investigate any
138 complaints regarding any municipal or county-funded projects, programs, contracts or
139 transactions. The inspector general shall establish a "hotline" to receive complaints, from either
140 anonymous or identified persons.
141 ~~(8)–(7)~~ The inspector general may exercise any of the powers contained in this article upon his or
142 her own initiative.
143 ~~(9)–(8)~~ The inspector general shall be notified in writing prior to any duly noticed public meeting
144 of a procurement selection committee where any matter relating to the procurement of goods or
145 services by the county or any municipality is to be discussed. The notice required by this
146 subsection shall be given to the inspector general as soon as possible after a meeting has been
147 scheduled, ~~but in no event later than one (1) business day prior to the scheduled meeting.~~ The
148 inspector general may, at his or her discretion, attend all duly noticed county or municipal
149 meetings relating to the procurement of goods or services as provided herein, and may pose
150 questions and raise concerns consistent with the functions, authority and powers of the inspector
151 general. The failure by the county or municipality to give written notice required by this section
152 does not constitute grounds for a protest regarding such procurement and shall not be the cause
153 for the stay of any procurement, and shall not be the basis to overturn the award of a contract.
154 ~~(10)–(9)~~ It is anticipated that ~~municipalities,~~ special districts, and other public officials and
155 entities will recognize and desire to benefit from the services of the county office of inspector
156 general. The inspector general may negotiate agreements or memoranda of understanding with
157 other public entities which would authorize the inspector general to provide independent
158 oversight of any or all of the public entity's transactions, projects and operations, and to exercise
159 any and all authority, functions and powers set forth in this article for the benefit of such public
160 entity. The memorandum of understanding or agreement shall include a provision for fees to be
161 paid to the inspector general from the public entity in exchange for such benefits. Such ~~fees~~
162 shall be based on a rate established by the inspector general to cover the cost of such benefits and
163 shall include, but not be limited to, the minimum one quarter of one percent of the contracts as
164 described in section 2-429(2) (hereafter the "funding percentage base") subject to inspector
165 general review under the agreement. The funding base shall be subject to adjustment as set forth
166 in section 2-429.1. Any such agreement or memorandum of understanding is subject to final
167 approval of the board, but such approval shall not be unreasonably withheld. For the purposes of
168 the removal procedure set forth in section 2-430, a "funding entity" shall mean a public entity
169 that has entered into an agreement or memorandum of understanding to receive services of the
170 inspector general, and has provided funding in exchange for such services equal to at least
171 twenty-five (25) percent of the total annual budget of the inspector general for the county's fiscal
172 year immediately preceding the fiscal year in which the removal procedure takes place.
173 ~~(11)–(10)~~ The inspector general's records related to active audits, investigations and reviews are
174 confidential and exempt from disclosure, as provided by §112.3188(2) and Chapter 119, Florida
175 Statutes, § 112.3188(2).
176 ~~(12)–(11)~~ The inspector general is considered "an appropriate local official" of the county and of
177 any municipality for purposes of whistleblower protection provided by §112.3188(1), Florida
178 Statutes, § 112.3188(1).
179 ~~(13)–(12)~~ The inspector general may recommend remedial actions and may provide prevention
180 and training services to county and municipal officials, employees, and any other persons

181 covered by this article. The inspector general may follow up to determine whether recommended
182 remedial actions have been taken.
183 ~~(44)–(13)~~The inspector general shall establish policies and procedures and monitor the costs of
184 investigations undertaken. The inspector general shall cooperate with other governmental
185 agencies to recover such costs from other entities involved in willful misconduct in regard to
186 county or municipal funds.
187 ~~(45)–(14)~~Nothing herein shall abridge employees' constitutional right to collective bargaining.
188 ~~(Ord. No. 2000-040, § 2(B), 12-15-00)~~
189

190 **Sec. 2-423.f. Outreach.**

191 The inspector general will coordinate with the county administrator and municipal
192 manager or administrator to develop public awareness strategies to inform government officials
193 and employees, as well as the general public, of the authority and responsibilities of the office of
194 the inspector general. Such strategies shall include but not be limited to inclusion in the
195 government's web page with a link to the office of inspector general website, publication of
196 notices in the government's newsletters, and posting information about the office of inspector
197 general in government employee break rooms and other common meeting areas. The inspector
198 general shall provide on its website examples that illustrate fraud, waste, mismanagement,
199 misconduct and abuse.

200
201 **Sec. 2-424. Minimum qualifications, selection and term of office.**

202 (1) *Minimum qualifications.* The inspector general shall be a person who:
203 a. Has at least ten (10) years of experience in any one (1) or a combination of the following
204 fields:
205 1. As a federal, state or local law enforcement officer/official;
206 2. As a federal or state court judge;
207 3. As a federal, state or local government attorney with expertise in investigating fraud,
208 mismanagement and corruption;
209 4. As an inspector general, certified public accountant, or internal auditor;
210 5. As a person with progressive supervisory and managerial experience in an investigative
211 public agency similar to an inspector general's office;
212 b. Has managed and completed complex investigations involving allegations of fraud, theft,
213 deception or conspiracy;
214 c. Has demonstrated the ability to work with local, state and federal law enforcement agencies
215 and the judiciary;
216 d. Has a four-year degree from an accredited institution of higher learning;
217 e. Has not been employed by the county, any municipality or any other governmental entity
218 subject to the authority of the inspector general office during the two-year period immediately
219 prior to selection; unless such employment has been with the Office of Inspector General, Palm
220 Beach County, Florida.
221 f. Highly qualified candidates will also have audit-related skills and/or hold one (1) or more of
222 the following professional certifications at the time of selection: certified inspector general
223 (CIG), certified inspector general investigator (CIGI), certified inspector general auditor (CIGA),
224 certified public accountant (CPA), certified internal auditor (CIA), or certified fraud examiner
225 (CFE).

226 (2) *Selection.* No official or employee of any governmental entity subject to the authority of the
227 office of inspector general shall participate in the selection of the inspector general committee.
228 Responsibility for selecting the inspector general shall be vested solely with the inspector general
229 selection committee ("selection committee"). The selection inspector general committee shall be
230 comprised of the commission on ethics as established in section 2-254 et seq. of this Code, the
231 state attorney for the Fifteenth Judicial Circuit or his or her designee, and the public defender for
232 the Fifteenth Judicial Circuit or his or her designee. The chairperson of the selection inspector
233 general committee shall be chairperson of the commission on ethics. After thoroughly reviewing
234 qualifications, background information, and personal and professional referrals, the
235 selection inspector general committee shall notify the county attorney of its selection. The county
236 attorney shall promptly notify the board that a selection has been made. The county attorney
237 shall assist the commission on ethics to negotiate the terms of an employment contract with the
238 selected (3) *Staffing of inspector general as set forth in section 2-425.*
239 a. *Initial selection.* Within thirty (30) days of the effective date of the ordinance from which this
240 article is derived, the human resources department will solicit qualified candidates. Within one
241 hundred twenty (120) days of the effective date of the ordinance, the selection committee shall
242 in good faith endeavor to select the inspector general.
243 (3) *Staffing of selection committee.* The county human resources department shall provide
244 staff to the selection inspector general committee and as necessary will advertise the acceptance
245 of resumes for the position of inspector general. All resumes received by the human resources
246 department will be forwarded to the selection inspector general committee for consideration. The
247 human resources department shall contract with an appropriate entity to ensure that background
248 checks are conducted on the candidates selected for interview by the selection inspector
249 general committee. The results of the background checks shall be provided to the selection inspector
250 general committee prior to the interview of candidates. Following the initial selection of the
251 inspector general, the selection inspector general committee, for future selection processes as
252 described in subsection (2) above, may continue to employ the services of the human resources
253 department or may utilize its own staff to solicit candidates for inspector general. All
254 advertisements for the acceptance of resumes for inspector general shall include a salary range
255 commensurate with public officials of like experience and expertise.
256 (4) *Term.* The inspector general shall serve for a term of four (4) years. At least six (6) months
257 prior to the end of each contract term, the selection inspector general committee will determine
258 whether or not to renew the contract for an additional term of four (4) years, and shall promptly
259 notify the inspector general of its decision. In the event the selection inspector general committee
260 elects not to renew the contract, the selection inspector general committee shall promptly
261 convene as necessary to solicit candidates for and to select a new inspector general in the same
262 manner as described in subsection (2) above. The incumbent inspector general may submit his or
263 her name as a candidate to be considered for selection. The incumbent inspector general shall
264 serve until a successor is selected and assumes office.
265 (5) *Vacancy.* In case of a vacancy in the position of inspector general, the chairperson of the
266 selection inspector general committee may appoint a member of the inspector general's office as
267 interim inspector general within ten (10) days of the vacancy occurring, until such time as a
268 successor inspector general is selected and assumes office. A successor inspector general shall be
269 selected in the same manner as described in subsection (2) above, except for the following
270 specific time constraints: (a) solicitation for qualified candidates for selection should be
271 published within twenty (20) days, but no later than forty (40) days of the date the vacancy

272 occurs; and (b) the ~~selection~~ inspector general committee must in good faith endeavor to convene
273 and select an inspector general within ninety (90) days of the date the vacancy occurs.
274 (~~Ord. No. 2000-049, § 2(C), 12-15-00~~)
275

276 **Sec. 2-425. Contract.**

277 ~~The~~ A designee from the commission on ethics, with the assistance of the county's
278 human resources department and the county attorney's office, shall negotiate a contract
279 of employment with the inspector general substantially consistent with the terms included in
280 contracts of other contractual employees of the county. For the purposes of contract negotiations,
281 such designation by the commission on ethics shall not be deemed a delegation of the
282 commission on ethics' decision making authority. The inspector general shall be paid at a rate
283 commensurate with public officials of like experience and expertise. Before any contract shall
284 become effective, the contract must be approved by a majority of the board present at a regularly
285 scheduled board meeting. The contract will cover the entire four-year term subject to the removal
286 provisions in section 2-430. The contract will include a provision requiring the
287 ~~selection~~ inspector general committee to provide notice of its decision to renew or not to renew
288 the contract at least six (6) months prior to the termination of the contract. The contract shall
289 provide that the inspector general may not represent a political party or be on any executive
290 committee thereof, or seek public office during his or her term of service, and shall not seek
291 public office or employment with any public entity subject to the jurisdiction of the ~~Inspector~~
292 ~~General~~ inspector general for four (4) years thereafter. That limitation does not include seeking
293 selection as inspector general for a subsequent term. The contract shall further provide that the
294 inspector general may not be a lobbyist, as defined in section 2-352 of this Code, for two (2)
295 years after term of service.
296 (~~Ord. No. 2000-049, § 2(D), 12-15-00~~)
297

298 **Sec. 2-426. Physical facilities and staff.**

299 (1) The county shall provide the office of inspector general with appropriately located office
300 space and sufficient physical facilities together with necessary office ~~supplies,~~ equipment and
301 furnishings to enable the inspector general to perform his or her functions.
302 (2) The inspector general shall have the power to appoint, employ, and remove such assistants,
303 employees and personnel, and establish personnel procedures as deemed necessary for the
304 efficient and effective administration of the activities of the office of inspector general.
305 (~~Ord. No. 2000-049, § 2(E), 12-15-00~~)
306

307 **Sec. 2-427. Procedure for finalization of reports and recommendations which make**
308 **findings as to the person or entity being reviewed or inspected.**

309 The inspector general shall publish and deliver finalized reports and recommendations to
310 the board or the appropriate municipality, and to the county commission on ethics.
311 Notwithstanding any other provision of this article, whenever the inspector general determines
312 that it is appropriate to publish and deliver a report or recommendation which contains findings
313 as to the person or entity being reported on or who is the subject of the recommendation, the
314 inspector general shall provide the affected person or entity a copy of the findings. Such person
315 or entity, who is the subject of a finding or recommendation resulting from an investigation or
316 review, shall have ~~fifteen (15) working~~ ten (10) calendar days to submit a written explanation or
317 rebuttal of the findings before the report or recommendation is finalized. In the case of an audit,

318 such person or entity shall have twenty (20) calendar days to submit a written explanation or
319 rebuttal of the audit findings or before the report or recommendation is finalized. The inspector
320 general shall grant reasonable extensions of time for providing a written explanation or rebuttal
321 upon written request. Such timely submitted written explanation or rebuttal shall be attached to
322 the finalized report or recommendation. The requirements of this subsection shall not apply in
323 matters subject to the State of Florida's Whistle-blower's Act, or when the inspector general, in
324 conjunction with the state attorney or U.S. Attorney, determines that supplying the affected
325 person or entity with such report will jeopardize a pending criminal investigation.
326 (Ord. No. 2009-049, § 2(F), 12-15-09)
327

328 **Sec. 2-428. Reporting.**

329 The inspector general shall annually prepare and publish a written report concerning the
330 work and activities of the office of inspector general including, but not limited to, statistical
331 information regarding the disposition of closed investigations, audits and other reviews. The
332 annual report of the inspector general shall be posted promptly on the county's public website.
333 (Ord. No. 2009-049, § 2(G), 12-15-09)
334

335 (1) Not later than December 31 of each year, the Inspector General shall prepare and publish a
336 written annual report summarizing the activities of the office during the immediately preceding
337 fiscal year ended September 30. The report shall be furnished to the inspector general committee
338 and the Palm Beach County League of Cities, Inc., and posted on the inspector general's website.
339 The report shall include, but need not be limited to: a description of significant abuses and
340 deficiencies relating to the administration of programs and operations disclosed by
341 investigations, audits, reviews, or other activities during the reporting period; a description of the
342 recommendations for corrective action made by the inspector general during the reporting period
343 with respect to significant problems, abuses, or deficiencies identified; identification of each
344 significant recommendation described in previous annual reports on which corrective action has
345 not been completed; and a summary of each audit and investigation completed during the
346 reporting period.

347 (2) The inspector general committee will meet with the inspector general on an annual basis to
348 review the previous year's activities and the inspector general's plans and objectives for the
349 upcoming year.

350 **Sec. 2-429. Financial support and budgeting.**

351 (1) Pursuant to ~~their~~ annual budget process ~~budgeting processes~~, the county and each
352 municipality shall provide sufficient financial support for the inspector general's office
353 to fulfill its duties as set forth in this article. In order to ensure adequate funding for the prompt
354 establishment of the inspector general pending implementation, the board of county
355 commissioners hereby approves an amount equal to three hundred twenty thousand dollars
356 (\$320,000.00) to The county and municipalities shall fund all inspector general operations for
357 the remainder of the 2009-2010 fiscal year. The inspector general shall timely deliver to the
358 board of county commissioners a budget request including a reasonable estimate of operating
359 and capital expenditures, and shall include revenues, including, but not limited to, projected
360 minimum funding percentage to be collected from the county and any other participating local
361 governments and public agencies. The inspector general's budget request general's office
362 proportionately, based on the actual expenses of each governmental entity as recorded in the
363 most recent audited year and reported in the Florida Department of Financial Services Local

364 Government Electronic Reporting system (LOGGER), pursuant to section 218.32, Florida Statutes,
365 as may be amended.

366 (2) The county and each municipality's proportionate share shall be based on each
367 entity's actual expenses as defined in the then current Uniform Accounting System Manual,
368 published by the State of Florida, Department of Financial Services, Bureau of Local
369 Government, and shall include the following Object Categories: 30 - Operating
370 Expenditures/Expenses; 60 - Capital Outlay; and 80 - Grants and Aids. Notwithstanding the
371 above, however, law enforcement, pension funds, electric utility services, fire control, and
372 intergovernmental transfer costs shall not be implemented until approved by the board of county
373 commissioners included in the proportionate share calculation. Nothing contained herein shall
374 in any way limit the powers of the inspector general provided for in this Ordinance to perform
375 audits, inspections, reviews and investigations on all county and municipal contracts.

376 (3) The inspector general shall establish and maintain a fiscal year which coincides with
377 that of the county. ~~Nothing contained herein shall be construed to prohibit Beginning May 1,~~
378 2011, and every May 1 thereafter, the inspector general shall deliver to the board a budget
379 request including a reasonable estimate of operating and capital expenditures and shall also
380 include, but not be limited to, anticipated revenues from sources other than the county and
381 municipalities, and funds estimated to be received but not expended in the current fiscal year.
382 No later than April 1 of every year, the inspector general shall deliver a preliminary budget
383 request to the Palm Beach County League of Cities, Inc., and be available to discuss the budget
384 request with the League of Cities membership prior to May 1 of every year. The board shall meet
385 with a delegation selected by the Palm Beach County League of Cities, Inc., to discuss the
386 budget request for each fiscal year. The county shall endeavor to place the matter on a board
387 agenda prior to June 15 of each year, but in no event later than June 30. The parties attending
388 this meeting shall acknowledge the provisions of section 2-429.1(1).

389 (4) No later than the fifth business day in July of each year, the Office of the Clerk and
390 Comptroller shall prepare an allocation schedule based on the most current LOGGER system data.
391 The proportionate share to be paid by the county and each municipality shall be reduced
392 proportionately by the anticipated revenues from sources other than the county and
393 municipalities and the amount of funds estimated to be received but not expended by the
394 inspector general in the current fiscal year.

395 (5) In the event the county or a municipality does not submit the most recent fiscal year
396 data in the LOGGER system, the proportionate share for that municipality shall be based upon its
397 last LOGGER system submittal, subject to an escalator for each year the submittal was not made.
398 The escalator shall be based on the Consumer Price Index for All Urban Consumers, U.S. City
399 Average, as set forth in section 193.155, Florida Statutes, as may be amended.

400 (6) The budget of the inspector general shall be subject to final approval of the board.
401 No later than September 30 of each year, the board shall set the inspector general budget for the
402 coming fiscal year and adjust the proportionate share of the county and each municipality
403 accordingly as described in this section.

404 (7) The Office of the Clerk and Comptroller shall invoice the county and each
405 municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April
406 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty
407 (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of
408 Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is

409 not timely received, the county or any municipality in compliance with this section may pursue
410 any available legal remedy.

411 (8) The county and each municipality's proportionate share for the period of June 1, 2011
412 through September 30, 2011 shall be as set forth in Exhibit A which is attached hereto and
413 incorporated herein by reference. The Office of the Clerk and Comptroller shall invoice the
414 County upon adoption of this ordinance, \$946,764. This amount is based on the estimated
415 expenses through June 1, 2011 of \$483,333, plus the County's proportionate share as reflected
416 on Exhibit A. The Office of the Clerk and Comptroller shall invoice each municipality for their
417 proportionate share as set forth in subsection (7) beginning with the first invoice on October 10,
418 2011.

419
420 **Sec. 2-429.1 Funding Base**
421

422 (1) The funding base is a minimum level of funding, determined as a percentage of
423 contract activity of the governmental entities subject to the authority of the inspector general.
424 The purpose of establishing the funding base is to ensure the office is adequately funded. The
425 funding base is currently set at an amount equal to one quarter of one percent (0.25%) of the
426 contracts as described in section 2-429(2). Within ten (10) days following establishment of the
427 allocation schedule as described in 2-429(4), the county will determine whether the calculated
428 funding requirement meets the one quarter of one percent (0.25%) funding base. In the event the
429 calculated funding requirement is less than one quarter of one percent (0.25%), but the inspector
430 general's proposed budget is fully funded by the allocation schedule and revenues from sources
431 other than the county and municipalities, the inspector general shall request a reduction of the
432 funding base accordingly for that budget year. Nothing herein shall be construed to:

433 (a) Limit the calculated funding base to one quarter of one percent (0.25%), as may
434 be required to adequately fund the Office of the Inspector General;

435 (b) Limit the inspector general's authority to request a budget that results in a
436 calculated funding base that is less than one quarter of one percent (0.25%) at any time; or

437 (c) Prohibit the inspector general from transmitting to the county commission
438 supplemental budget requests which,

439 No adjustment to the calculated funding base shall occur if approved by the commission,
440 shall constitute amendments to the county budget such adjustment results in the Office of the
441 Inspector General not being adequately funded.
442 (Ord. No. 2009-049, § 2(H), 42-15-09)

443
444 (2) On an annual basis the board of county commissioners may adjust the funding base
445 percentage upon a showing of need which shall be based upon, but need not be limited to, the
446 following criteria:

447 (a) additional expenses in a particular year necessitated by an extraordinarily large
448 investigation or audit;

449 (b) the amount of increases or decreases in budget requests by the inspector general in
450 prior years;

451 (c) the amount and frequency of supplemental budget requests made by the inspector
452 general in prior years;

453 (d) the amount and frequency of surpluses and/or shortfalls in the inspector general's
454 budget in prior years;

455 (c) the ability of the county and each municipality to bear an increase of the funding base
456 percentage in a particular year.
457 The demonstration of need shall be subject to review and recommendation by the review
458 committee as established in the Charter of Palm Beach County, section 8.3. The review
459 committee's recommendation shall only be overruled by a supermajority vote of the board of
460 county commissioners. In no event shall the funding base be reduced below one quarter of one
461 percent unless such reduction is made by the inspector general.
462

463 **Sec. 2-430. Removal.**

464 The inspector general may be removed only for cause based upon specified charges of the
465 following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct.
466 The removal process shall be initiated at a duly noticed public hearing of either the board, the
467 selectioninspector general committee, or a funding entity as described in section 2-423(409). An
468 affirmative vote of five (5) members of the board, an affirmative vote of five (5) members of the
469 selectioninspector general committee, or an affirmative supermajority vote of a funding entity
470 shall be required to present the inspector general with the charges and to proceed to final public
471 hearings. The board, selectioninspector general committee, or the initiating funding entity, as
472 appropriate, shall transmit a copy of the charges to the inspector general at least sixty (60) days
473 prior to all final public hearings which shall be convened by the board, all funding entities, and
474 the selectioninspector general committee. The inspector general shall have an opportunity to be
475 heard in person and by counsel at the final public hearings prior to the votes being taken on his
476 or her removal. The inspector general may only be removed upon the affirmative vote of five (5)
477 members of the board, five (5) members of the selectioninspector general committee, and a
478 supermajority of all funding entities. A record of the proceedings, together with the charges and
479 findings thereon, shall be filed with the clerk to the board. The inspector general shall be
480 removed without a public hearing in the event the inspector general is convicted of or enters a
481 guilty plea or *nolo contendere* plea to a state or federal felony. Based upon specified charges of
482 neglect of duty, abuse of power or authority, discrimination, or ethical misconduct, one or more
483 municipalities may file a petition for removal with the general counsel for the Office of Inspector
484 General. A petition for removal must be duly authorized as a resolution outlining the specific
485 charges and passed by a majority plus one of the governing body. The general counsel shall
486 promptly forward the petition to the inspector general committee. The inspector general
487 committee shall decide whether to initiate the removal process or dismiss based on the petition.
488 The inspector general committee may investigate the allegations contained in the petition before
489 deciding whether to initiate the removal process. If the inspector general committee initiates the
490 removal process, the municipality or municipalities making the petition for removal shall have
491 the opportunity to be heard at the final public hearings prior to the votes being taken.
492 (Ord. No. 2008-046, § 2(4), 12-16-09)

493 See

494 Sec. 2-431-2-440. Reserved.

495
496
497
498 Ordinance 2008-04, sections 6 & 7 below, are substantive provisions of the
499 Inspector General Ordinance which were inadvertently omitted by the Municipal
500 Code Corporation in the codification process.
501

502 ~~Section 6. ENFORCEMENT.~~ Enforcement.
503 This Ordinance is enforceable by all means provided by law, including seeking injunctive
504 relief in the Fifteenth Judicial Circuit Court in and for Palm Beach County.
505
506 ~~Section 7. PENALTY.~~ Sec. 2-432. Penalty.
507 Any person who:
508 ~~A.(1)~~ retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate
509 against, punish, threaten, harass, or penalize any person for assisting, communicating or
510 cooperating with the Inspector General, or
511 ~~B.(2)~~ who knowingly interferes, obstructs, impedes or attempts to interfere, obstruct or
512 impede in any investigation conducted by the Inspector General
513 shall be guilty of a violation of this Ordinance and punished, pursuant to section 125.69, Florida
514 Statutes, in the same manner as a second degree misdemeanor. Any potential violation of this
515 section shall be referred to the State Attorney for possible investigation and prosecution.
516

Brief description of substantive changes

- Added Municipalities to the County Code
- Added Audit and Investigative Standards
- Changed the reporting section to require the county administrator and each municipal manager, or administrator, or mayor, where the mayor serves as chief executive officer, to promptly notify the inspector general of possible mismanagement of a contract (misuse or loss exceeding \$5,000 in public funds), fraud, theft, bribery, or other violation of law which appears to fall within the jurisdiction of the inspector general.
- Clarified jurisdiction to include subcontractors and lower tier subcontractors
- Added Outreach section which includes, in part, public awareness, inclusion of the inspector general's website to each government's web page, posting information about the office of inspector general in common areas, and illustrative examples of fraud, waste, mismanagement, misconduct and abuse on the inspector general website.
- Re-named the inspector general selection committee to the inspector general committee.
- Changed the written explanation/response for investigations from subject(s) of a finding or recommendation to from working 15 days to 10 calendar days and audit to 20 calendar days; with reasonable extensions granted.
- Added the requirement for the inspector general to furnish the annual report to the Palm Beach County League of Cities, Inc.
- Outlined the annual report date to be not later than December 31 of each year and required the inspector general to meet with the inspector general committee on an annual basis to review previous year's activities and plans and objectives for the upcoming year.
- Outlined the funding mechanism for payment of the fee from the county and municipalities.
- Added the requirement of no later than April 1 of every year, the inspector general shall deliver a preliminary budget to the Palm Beach County League of Cities, Inc., and be available to discuss the budget request prior to May 1 of every year.
- Added that the Board of County Commission shall meet with a delegation selected by the Palm Beach County League of Cities, Inc., to discuss the budget request for each fiscal year and that the county shall endeavor to place the matter on a board agenda prior to June 15 of each year, but in no event later than June 30.
- Added the ability of a municipality to file a petition for removal with the general counsel for the Office of Inspector General, based upon specified charges of neglect of duty, abuse of power or authority, discrimination, or ethical misconduct. The general counsel shall promptly forward the petition to the inspector general committee.

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.: 50 2011 CA 017953

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, VILLAGE OF WELLINGTON
TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND
BEACH, TOWN OF LAKE PARK, CITY OF
WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
Corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

SHARON R. BOCK, in her Official Capacity as the
Clerk & Comptroller of Palm Beach County, Florida

Intervenor.

MOTION TO INTERVENE

SHARON R. BOCK, in her official capacity as the Clerk & Comptroller of Palm Beach County ("Clerk & Comptroller"), by and through her undersigned counsel, and in accordance with Rule 1.230, Florida Rules of Civil Procedure, files this Motion for entry of an Order

allowing her to intervene in this proceeding. In support of the Motion, the Clerk & Comptroller states as follows:

FACTUAL BACKGROUND

1. The Clerk & Comptroller seeks to intervene in this action in order to request declaratory relief as to whether her compliance with the financial support and budgeting requirements set forth in section 3 of Ordinance No. 2011-009 (codified at Art. XII, § 2-429, County Code) (the "Ordinance"), as it relates to funding by Palm Beach County municipalities (the "Municipalities"), is consistent with the constitutional, statutory and other duties imposed on the Clerk & Comptroller.

2. The Clerk & Comptroller also seeks relief with respect to funds that have already been invoiced and paid by certain Municipalities pursuant to the Ordinance (the "Payor Municipalities"), and with respect to her continuing obligations and duties under the Ordinance.

3. The Clerk & Comptroller is a neutral third party and takes no position on the merits of the Complaint filed by the Plaintiffs (the "Municipal Plaintiffs"). Rather, the Clerk & Comptroller seeks to ensure that her actions are consistent with law.

The Clerk & Comptroller

4. Established by the Florida Constitution as a constitutional officer who is directly elected and whose fiduciary duties run to Palm Beach County ("County") citizens, the Clerk & Comptroller is a public trustee responsible for safeguarding public records and public funds. *See Green v. City of Pensacola*, 108 So. 2d 897, 900-01 (Fla. 1st DCA 1959).

5. The Clerk & Comptroller is the "watchdog" of all County funds, providing "checks and balances" on the County's budget, revenue and spending. *See* Art. V, § 16 and Art.

VIII, § 1(d), Fla. Const.; *accord Ray v. Wilson*, 10 So. 613 (Fla. 1892) (“it is clearly an official duty of the clerk of the circuit to audit all claims against the county”).

6. As such, statutory law requires the Clerk & Comptroller to serve as the custodian, keeper, accountant, auditor, inspector and examiner of all County accounts, including those funds deposited in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund (the "IG Account"). *See* §§ 28.12, 129.09, 136.08, Fla. Stat.

7. Florida law specifies that the Clerk & Comptroller must attest to every check or warrant drawn on County accounts including the IG Account and may be liable for willfully and knowingly signing a warrant for a charge not authorized by law. *See* §§ 129.09, 136.06, Fla. Stat.

The Ordinance Funding Mechanism

8. As the Municipal Plaintiffs detail in their Complaint (*see* Compl. ¶¶ 17-50), following the conviction of three Palm Beach County Commissioners, the Palm Beach County Board of County Commissioners (“BCC”) adopted an Ordinance establishing the Office of Inspector General (the "IG"), and providing a mechanism for financial support and budgeting for the IG that depends upon a tax levied against the Municipalities. (Compl. ¶¶ 47-50).

9. The Ordinance requires the Clerk & Comptroller to undertake various actions in connection with the Funding Mechanism to include, without limitation, the following:

Sec. 2-429. - Financial support and budgeting.

(4) No later than the fifth business day of July of each year, the office of the clerk and comptroller shall prepare an allocation schedule based on the most current LOGER system data. The proportionate share to be paid by the county and each municipality shall be reduced proportionately by the anticipated revenues from sources other than the county and municipalities and the amount of funds estimated to be received but not expended by the inspector general in the current fiscal year.

(7) The office of the clerk and comptroller shall invoice the county and each municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is not timely received, the county or any municipality in compliance with this section may pursue any available legal remedy.

(8) The county and each municipality's proportionate share for the period of June 1, 2011 through September 30, 2011 shall be as set forth in Exhibit A which is attached to Ordinance 2011-009 and incorporated herein by reference. The office of the clerk and comptroller shall invoice the county, upon adoption of this article, nine hundred forty-six thousand seven hundred sixty-four dollars (\$946,764.00). This amount is based on the estimated expenses through June 1, 2011 of four hundred eighty-three thousand three hundred thirty-three dollars (\$483,333.00), plus the county's proportionate share as reflected on Exhibit A. The office of the clerk and comptroller shall invoice each municipality for their proportionate share as set forth in subsection (7) beginning with the first invoice on October 10, 2011.

Art. XII, § 2-429, County Code.

10. As required by the County Ordinance and Funding Mechanism, the Clerk & Comptroller has taken, inter alia, these steps:

a. Prepared the allocation schedules for Fiscal Year ("FY") 2011 for the period June 1 to September 30, 2011 and for FY2012, based on the most current state Local Government Electronic Reporting ("LOGGER") system data;

b. Invoiced the County \$946,764 for financial support for the IG for FY 2011 and \$384,033 as the County's proportionate share of the financial support for the IG for the first quarter of FY 2012;

c. Invoiced all of the Municipalities \$327,898 for financial support for the IG for FY 2011, and \$315,878 as the Municipalities' proportionate share of the financial support for the IG for the first quarter of FY 2012; and

d. Deposited into the IG Account funds received from the Payor Municipalities totaling \$130,560.

The IG Account

11. All funds in the IG Account, including those paid by the Payor Municipalities pursuant to the Ordinance, are subject to use by the IG to pay bona fide expenditures and obligations. The IG regularly requests the Clerk & Comptroller to pay expenditures from the IG Account.

12. The IG Account contains insufficient funds to fund all of the expenditures that the County budgeted for the IG for FY 2012, because the Municipal Plaintiffs, with the exception of the Town of Ocean Ridge, have not paid the Invoices the Clerk & Comptroller sent to them pursuant to the Ordinance and are not likely to pay future invoices.

13. On or about November 9, 2011, Municipal Plaintiff, the City of West Palm Beach ("City"), notified the County Clerk & Comptroller that it declined to pay its invoices on the grounds that "the funding mechanism for the inspector general program is unlawful." The City reported that the other Municipal Plaintiffs agreed and intended to file the instant lawsuit seeking declaratory relief (the "Lawsuit").

The Instant Lawsuit

14. In the Lawsuit, the Municipal Plaintiffs seek declaratory relief that the County is requiring them to pay an unlawful tax not approved by the electors of Palm Beach County.

15. If the Municipal Plaintiffs are correct, the Clerk & Comptroller may be liable for complying with the Funding Mechanism in the Ordinance by, inter alia,

a. Invoicing the Municipalities;

b. Receiving payments made by the Municipalities pursuant to the Ordinance, and depositing such funds into the IG Account; and

c. Drawing down the amounts in the IG Account received from Municipalities for bona fide expenditures of the IG.

16. Accordingly, the Clerk & Comptroller seeks intervention in this matter not for the mere provision of legal advice by the courts or the answer to questions propounded by curiosity, but because this case involves concrete immunities, powers, privileges, rights and responsibilities of the Clerk & Comptroller which are dependent on the facts of this case or the law applicable to such facts.

17. The Clerk & Comptroller also seeks intervention in this matter, because she has been prevented, in part, from performing her collection duties as prescribed in the Funding Mechanism in the Ordinance by the Municipalities which refuse to make payment required by the Ordinance.

STANDARD FOR INTERVENTION AND LEGAL ARGUMENT

18. In Florida, intervention should be liberally granted. *See, e.g., National Wildlife Fed., Inc. v. Glisson*, 531 So. 2d 996, 998 (Fla. 1988). Rule 1.230 of the Florida Rules of Civil Procedure permits “anyone claiming an interest in pending litigation” to apply for intervention in a pending case.

19. A potential intervenor should be permitted to intervene when its interest pertains to “the matter in litigation, and [is] of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.” *Sullivan v. Sapp*, 866 So. 2d 28, 33 (Fla. 2004) (quoting *Morgareidge v. Howey*, 75 Fla. 234, 238-39 (Fla. 1918)).

20. The intervention standard involves a two-step analysis: (1) the court must determine the interest asserted is appropriate to support intervention, and (2) the court must determine the parameters of intervention. *Union Central Life Ins. Co. v. Carlisle*, 593 So. 2d 505, 507 (Fla. 1992); *see also Hausmann ex. Rel. Doe v. L.M. and J.M.*, 806 So. 2d 511 (Fla. 4th DCA 2001).

21. Once the requisite interest is shown, the court determines whether to permit intervention based on factors such as the derivation of the interest, any pertinent contractual language, the size of the interest, the potential for conflicts or new issues, and any other relevant circumstance. *Union Central*, 593 So. 2d at 507-08.

22. Intervenor Clerk & Comptroller qualifies for intervention under Rule 1.230 and should be granted full participation in the proceedings. *See Greenhunt Const. Co. v. Knott*, 247 So. 2d 517, 519-20 (Fla. 1st DCA 1971) (“an intervenor is a party for all purposes with the same rights and privileges of other parties to the cause”).

23. The Clerk & Comptroller’s interest in the outcome of this case is substantial. Section 2-429(8) of the Ordinance requires that the Clerk & Comptroller invoice all Municipalities for their proportionate share of the IG's support, receive and, by implication, deposit money in the IG Account, affix the corporate seal to money drawn from them to remit payment to the IG and audit and examine the use of funds by the IG.

24. Thus, the determination of rights of the Municipalities and the County with respect to the Ordinance will have a direct effect on the constitutional, statutory and other legal responsibilities of the Clerk & Comptroller. *See, e.g., Citibank, N.A. v. Blackhawk Heating & Plumbing Co.*, 398 So. 2d 984 (Fla. 4th DCA 1981) (reversing denial of intervention and noting that the pending matter “would have a direct effect” on the rights of intervenor).

25. With this in mind, the Clerk & Comptroller has a "direct and immediate" interest in this case and surely "will gain or lose by the direct legal operation of the judgment." *Union Central*, 593 So. 2d at 507; *see also Providence Washington Ins. Co. v. Southern Guarantee Ins. Co.*, 667 So.2d 323, 325 n.3 (Fla. 1st DCA 1995) (reversing denial of intervention in declaratory judgment action).

26. Also, the addition of the Clerk & Comptroller to the case will not inject extraneous issues into the case. The issues relating to the constitutionality and lawfulness of the Funding Mechanism in the Ordinance, the collection and use of funds under the Ordinance, and the further action to be taken (or not taken) by the Clerk & Comptroller, are precisely the same issues that will be litigated between the Municipal Plaintiffs and the County.

27. Permitting the intervention of the Clerk & Comptroller in this case will enhance judicial economy, because it will obviate the need for the Clerk & Comptroller to file a separate action for a declaratory judgment. *See Sweetwater Country Club Homeowners' Ass'n, Inc. v. Huskey Co.*, 613 So.2d 936, 940 (Fla. 5th DCA 1993) (reversing a denial of intervention and noting that "[w]e anticipate that the very issues and evidence initially before the trial court in this case would have to be repeated again in the second case if the order denying intervention were allowed to stand.").

28. Finally, the Clerk & Comptroller is seeking intervention at the very beginning of the case, so that the proceedings will not be delayed or disrupted in any way. *Id.* (reversing a trial court determination that an intervention was untimely because "the record indicates that [the case] had not progressed past the pleading," and because the intervention "would not have delayed any hearing since none had been scheduled").

29. Intervenor are prepared to accept the record and pleadings as they find them, and to adhere fully to any existing briefing schedule without in any manner slowing the proceedings.

WHEREFORE, the Clerk & Comptroller respectfully requests the Court to enter an Order permitting it to intervene in this proceeding, and to serve its Complaint for Declaratory and Other Relief upon the parties. The Clerk & Comptroller's Complaint is attached hereto as Exhibit "1".

I HEREBY CERTIFY that on this the 22nd day of November 2011, a true and correct copy of the foregoing has been furnished by U. S. Mail, to the names on the attached service list.



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Exhibit "1"

Exhibit "1"

000086

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.: 50 2011 CA 017953

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, VILLAGE OF WELLINGTON
TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND
BEACH, TOWN OF LAKE PARK, CITY OF
WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
Corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

SHARON R. BOCK, in her Official Capacity as the
Clerk & Comptroller of Palm Beach County, Florida

Intervenor.

COMPLAINT IN INTERVENTION FOR DECLARATORY AND OTHER RELIEF

Intervenor, Sharon R. Bock, in her official capacity as Clerk & Comptroller of Palm Beach County (the "Clerk & Comptroller"), by and through her undersigned counsel, intervenes as a party-defendant; cross-claims against Defendant/Cross-Defendant, Palm Beach County, a political subdivision (the "County"); and Counterclaims against Plaintiffs/Counter-Defendants, Town of Gulf Stream, Village of Tequesta, City of Riviera Beach, Town of Jupiter, City of Delray Beach, Town of Palm Beach Shores, Town of Manalpan, Village of Wellington, Town of Mangonia Park, City of Palm Beach Gardens, Town of Highland Beach, Town of Lake Park,

City of West Palm Beach, Town of Ocean Ridge, City of Boca Raton, municipal corporations of the State of Florida (collectively, the "Municipal Plaintiffs"), and alleges as follows:

INTRODUCTION

1. The Clerk & Comptroller seeks to intervene in this action in order to request declaratory relief as to whether her compliance with the financial support and budgeting requirements set forth in section 3 of Ordinance No. 2011-009 (codified at Art. XII, § 2-429, County Code) (the "Ordinance"), as it relates to funding by Palm Beach County municipalities (the "Municipalities"), is consistent with the constitutional, statutory and other duties imposed on the Clerk & Comptroller.

2. The Clerk & Comptroller also seeks relief with respect to funds that have already been invoiced and paid by certain Municipalities pursuant to the Ordinance (the "Payor Municipalities"), and with respect to her continuing obligations and duties under the Ordinance.

3. The Clerk & Comptroller is a neutral third party and takes no position on the merits of the Complaint filed by the Plaintiffs (the "Municipal Plaintiffs"). Rather, the Clerk & Comptroller seeks to ensure that her actions are consistent with law.

4. The Florida Constitution establishes a separation of duties among local governmental entities. Executive and legislative powers are bestowed upon the Board of County Commissioners, including the power to authorize the spending of all County funds. However, the Board of County Commissioners does not have access to the County depository or any County funds.

5. As a check and balance, the constitutional responsibility for oversight, custody, auditing and safeguarding of County funds is bestowed upon the Clerk & Comptroller. Prior to executing an expenditure decision of the Board of County Commissioners, the Florida

Constitution requires the Clerk & Comptroller to perform a review of each expenditure to ensure that the payment is lawful, funds are available, and the payment serves a public purpose.

6. The Ordinance requires financial support of the Office of Inspector General ("IG") from the County and Municipalities. The Clerk & Comptroller collects funds pursuant to the Ordinance and deposits them in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund (the "IG Account"), which is a County depository under the custody and control of the Clerk & Comptroller pursuant to Article V, section 16 and Article VIII, section 1(d) of the Florida Constitution.

7. When the IG makes a payment request, the Clerk & Comptroller performs her constitutional and statutory audit and oversight responsibilities and, if proper, issues payment.

JURISDICTION AND VENUE

8. This Court has jurisdiction to grant declaratory relief pursuant to Article V, section 5(b) of the Florida Constitution and section 26.012 and 86.011, Florida Statutes.

9. Venue is proper in Palm Beach County pursuant to section 47.011, Florida Statutes, because all parties are located in Palm Beach County, the Ordinance was adopted in Palm Beach County, and the cause of action accrued in Palm Beach County.

PARTIES

10. The Municipal Plaintiffs are municipal corporations of the State of Florida located in Palm Beach County, Florida.

11. The County is a political subdivision of the State of Florida with its primary offices located at 301 N. Olive Avenue, West Palm Beach, Florida.

12. The Clerk & Comptroller is an independent constitutional officer with administrative and finance offices located at 301 N. Olive Avenue, West Palm Beach, Florida.

13. The Clerk & Comptroller is elected by the electors of Palm Beach County, pursuant to Article V, section 16 and Article VIII, section 1(d) of the Florida Constitution, to serve, inter alia, as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."

14. The Clerk & Comptroller is the independent constitutional auditor for the expenditure of County funds. This constitutional authority, which provides a local check and balance, has been affirmed by *Alachua County v. Powers*, 351 So.2d 32 (Fla. 1977), *Brock v. Board of County Commissioners of Collier County*, 21 So.3d 844 (Fla. 2d DCA 2009) and *W & F Ltd. V. Dunkle*, 444 So.2d 554 (Fla. 4th DCA 1984).

15. The Clerk & Comptroller also has statutory responsibilities, pursuant to section 28.12, Florida Statutes, to serve as, inter alia, the "accountant of the board of county commissioners" who shall "keep ... accounts and perform such other duties as provided by law." As such, the Clerk & Comptroller is the independently elected Chief Financial Officer of Palm Beach County.

16. The Clerk & Comptroller also has statutory responsibilities pursuant to Section 28.12, Florida Statutes, to "have custody of the seal and affix the same to any paper or instrument as required by law." The Clerk & Comptroller's statutory duties include attesting to the legality of all checks or warrants drawn on the IG Account and, if proper, affixing the corporate seal thereto, per section 136.06(1), Florida Statutes.

17. The Clerk & Comptroller has possible personal and criminal liability under section 129.09, Florida Statutes, in the exercise of these duties as follows:

County auditor not to sign illegal warrants.--Any clerk of the circuit court, acting as county auditor, who shall sign any warrant for the payment of any claim or bill of indebtedness against any county funds in excess of the expenditure allowed by law, or county ordinance, or to pay any illegal charge against the

county, or to pay any claim against the county not authorized by law, or county ordinance, shall be personally liable for such amount, and if he or she shall sign such warrant willfully and knowingly he or she shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

§ 129.09, Fla. Stat.

18. Elaborating on the Clerk & Comptroller's audit responsibilities, section 136.08,

Florida Statutes, states:

The accounts of each and every board and the county accounts of each and every depository, mentioned or provided for in this chapter, shall at all times be subject to the inspection and examination by the county auditor and by the Auditor General.

§ 136.08, Fla. Stat.

19. The Clerk & Comptroller has standing to bring this action, because:

- a. The Ordinance requires an expenditure of public funds;
- b. The Clerk & Comptroller may be injured personally by virtue of complying with the Ordinance;
- c. The Clerk & Comptroller has been prevented, in whole or part, from carrying out her duties under the Ordinance; and
- d. The Clerk & Comptroller has a constitutional duty to protect public funds subject to the Ordinance.

GENERAL ALLEGATIONS

20. On May 17, 2011, the County Commission adopted the Ordinance, providing, *inter alia*, the mechanism for financial support and budgeting for the IG (the "Funding Mechanism"), and specifying that the Ordinance is retroactive to April 1, 2011.

21. The Ordinance, a copy of which is annexed as **Exhibit "A"**, requires the Clerk & Comptroller to undertake various actions in connection with the Funding Mechanism to include, without limitation, the following:

Sec. 2-429. - Financial support and budgeting.

(4) No later than the fifth business day of July of each year, the office of the clerk and comptroller shall prepare an allocation schedule based on the most current LOGER system data. The proportionate share to be paid by the county and each municipality shall be reduced proportionately by the anticipated revenues from sources other than the county and municipalities and the amount of funds estimated to be received but not expended by the inspector general in the current fiscal year.

(7) The office of the clerk and comptroller shall invoice the county and each municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is not timely received, the county or any municipality in compliance with this section may pursue any available legal remedy.

(8) The county and each municipality's proportionate share for the period of June 1, 2011 through September 30, 2011 shall be as set forth in Exhibit A which is attached to Ordinance 2011-009 and incorporated herein by reference. The office of the clerk and comptroller shall invoice the county, upon adoption of this article, nine hundred forty-six thousand seven hundred sixty-four dollars (\$946,764.00). This amount is based on the estimated expenses through June 1, 2011 of four hundred eighty-three thousand three hundred thirty-three dollars (\$483,333.00), plus the county's proportionate share as reflected on Exhibit A. The office of the clerk and comptroller shall invoice each municipality for their proportionate share as set forth in subsection (7) beginning with the first invoice on October 10, 2011.

Art. XII, § 2-429, County Code.

22. As required by the County Ordinance and Funding Mechanism, the Clerk & Comptroller has taken, inter alia, these steps:

a. Prepared the allocation schedules for Fiscal Year ("FY") 2011 for the period June 1 to September 30, 2011 and for FY2012, based on the most current state Local Government Electronic Reporting ("LOGGER") system data.¹

b. Invoiced the County \$946,764 for financial support for the IG for FY 2011, and \$384,033 as the County's proportionate share of the financial support for the IG for the first quarter of FY 2012.

c. Invoiced the Municipalities \$327,898 for financial support for the IG for FY 2011, and \$315,878 as the Municipalities' proportionate share of the financial support for the Inspector General for the first quarter of FY 2012.²

d. Deposited in the IG Account \$130,560 in funds received from the Payor Municipalities.

23. All funds in the IG Account, including those paid by the Municipalities pursuant to the Ordinance, are subject to use by the IG to pay bona fide expenditures and obligations. The IG regularly requests the Clerk & Comptroller to pay expenditures from the IG Account.

24. The IG Account contains insufficient revenue to fund all of the expenditures that the County budgeted for the IG for FY 2012, because the Municipal Plaintiffs, with the exception of the Town of Ocean Ridge, have not paid the Invoices the Clerk & Comptroller sent to them pursuant to the Ordinance.

25. On or about November 9, 2011, Municipal Plaintiff, the City of West Palm Beach ("City"), notified the Clerk & Comptroller that it declined to pay its invoices on the grounds that

¹ The Comptroller did not report and was not made aware of any revenues from sources other than the County, Solid Waste Authority and Municipalities, but did slightly adjust the total owing based upon funds received but not expended by the IG.

² The City of Lake Worth and Jupiter Inlet Colony were not invoiced for FY 2011, because they paid the Clerk & Comptroller upon approval of the Ordinance.

"the funding mechanism for the inspector general program is unlawful." The City reported that the other Municipal Plaintiffs agreed and intended to file the instant lawsuit seeking declaratory relief (the "Lawsuit"). A copy of the City's letter is attached and incorporated herein as **Exhibit "B"**.

26. In this Lawsuit, the Municipal Plaintiffs seek declaratory relief that the County is requiring them to pay an unlawful tax not approved by the electors of Palm Beach County.

27. If the Municipal Plaintiffs are correct, the Clerk & Comptroller may be liable for complying with the Funding Mechanism in the Ordinance by, inter alia,

- a. Invoicing the Municipalities; and
- b. Receiving and depositing funds received pursuant to the Ordinance from the Municipalities; allowing use of such funds in the IG Account to pay bona fide expenditures of the IG.

28. Accordingly, the Clerk & Comptroller seeks intervention in this matter not for the mere provision of legal advice by the courts or the answer to questions propounded by curiosity, but because this case involves concrete immunities, powers, privileges, rights, and responsibilities of the Clerk & Comptroller which are dependent on the facts of this case or the law applicable to such facts.

29. The Clerk & Comptroller also seeks intervention in this matter, because she has been prevented, in part, from performing her collection duties as prescribed in the Funding Mechanism in the Ordinance by all Municipalities which have refused to make payment as required by the Ordinance.

30. The Attorney General and the State Attorney for this judicial circuit in which the Lawsuit is pending have been served with a copy of this Complaint as required by Section 86.091, Florida Statutes.

31. All conditions precedent to maintaining this Lawsuit have been performed, have occurred or have been waived.

COUNT I - DECLARATORY RELIEF

32. The allegations in paragraphs 1-31 are realleged and incorporated herein by reference. This is an action for declaratory and other relief.

33. There is a bona fide, actual, present, practical need for this declaration.

34. The Clerk & Comptroller is uncertain whether she should take any of the following actions which are either required by the Funding Mechanism in the Ordinance, or may be required for the Clerk & Comptroller to comply with her constitutional, statutory and other duties;

a. Prepare allocation schedules for the County and the Municipalities based on the most current LOGER system data for future quarters in FY 2012 and beyond, adjusted for revenues from sources other than the County and Municipalities and funds estimated to be received but not expended by the IG;

b. Send Past Due Notices to the Municipalities that have not yet paid their invoices or take other enforcement actions;

c. Invoice the Municipalities for their proportionate share of the financial support budgeted by the County for the IG for future quarters in FY 2012 and beyond;

d. Deposit in the IG Account any funds received in response to invoices mailed to the Municipalities for their proportionate share of the financial support budgeted by the County for the IG for FY 2011 and 2012;

e. Return any funds deposited in the IG Account received in response to invoices mailed to the Municipalities for their proportionate share of the financial support budgeted by the County for the IG for FY 2011 and 2012, or prevent use of such funds pending resolution of this Lawsuit; and

f. Attest to checks or warrants drawn on the IG Account, sign any warrant for the payment of any claim or pay any claim against any County funds in excess of those deposited in the IG Account by any source other than the Municipalities, and affix the corporate seal thereto.

35. The Clerk & Comptroller is subject to civil and/or criminal liability to the extent she must attest to checks or warrants drawn on the IG Account and sign any warrant for the payment of any claim against any County funds in excess of the expenditure allowed by law, pay any claim against the County not authorized by law, or affix the corporate seal thereto.

36. The Clerk & Comptroller is also empowered and required by County electors to audit, inspect and examine the IG Account, but is uncertain as to how to carry out her constitutional and statutory duties and responsibilities, as long as the lawfulness of the Funding Mechanism is in question.

37. The antagonistic and adverse interests are all before this Court by proper process including persons who have, or reasonably may have, an actual, present, adverse, and antagonistic interest in the subject matter, either in fact or law.

WHEREFORE, Intervenor Sharon R. Bock, in her official capacity as Clerk & Comptroller of Palm Beach County, respectfully requests that this Court enter a final declaratory judgment binding on the Municipal Plaintiffs and Counties:

1. Declaring whether the Funding Mechanism of the Ordinance is lawful;
2. If the Funding Mechanism of the Ordinance is not lawful, declaring that the Clerk & Comptroller should:
 - a. permanently cease any further collection efforts (including without limitation, preparing allocation schedules, invoicing, collecting, and depositing funds received into the IG Account) pursuant to the Ordinance with respect to any of the Municipalities;
 - b. return all funds paid by Municipalities pursuant to the Ordinance that have been segregated and maintained pending the resolution of this Lawsuit;
 - c. refrain from processing or attesting to any payments from the IG Account with respect to funds budgeted to be received from the Municipalities pursuant to the Ordinance; and
 - d. otherwise perform her duties with respect to the IG Account in accordance with the remaining provisions of the Ordinance and the constitutional, statutory and other duties imposed on the Clerk & Comptroller under applicable law;
3. Ordering such temporary and permanent injunctive or other relief as may be necessary or proper; and
4. Awarding the Clerk & Comptroller's costs incurred in the prosecution of this action and such other and further relief as deemed just and proper under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 22nd day of November 2011, a true and correct copy of the foregoing has been furnished by U. S. Mail to the names on the attached service list.

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Counsel for Intervenor

Exhibit "A"

Exhibit "A"

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL ORDINANCE, ORDINANCE 2009-049, AS AMENDED, AND ADOPTING A NEW COUNTYWIDE OFFICE OF INSPECTOR GENERAL, PALM BEACH COUNTY, FLORIDA ORDINANCE; PROVIDING FOR TITLE AND APPLICABILITY; CREATING AND ESTABLISHING THE OFFICE OF INSPECTOR GENERAL, PALM BEACH COUNTY, FLORIDA; PROVIDING FOR FUNCTIONS, AUTHORITY, AND POWERS; PROVIDING FOR OUTREACH; PROVIDING FOR MINIMUM QUALIFICATIONS, SELECTION AND TERM OF OFFICE; PROVIDING FOR CONTRACT; PROVIDING FOR PHYSICAL FACILITIES AND STAFF; PROVIDING FOR PROCEDURE FOR FINALIZATION OF REPORTS AND RECOMMENDATIONS; PROVIDING FOR REPORTING; PROVIDING FOR FINANCIAL SUPPORT AND BUDGETING; PROVIDING FOR FUNDING BASE; PROVIDING FOR REMOVAL; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTY; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR RETROACTIVITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, based on a referendum on November 2, 2010, concerning proposed amendments to the Palm Beach County Charter, a majority of voters in the County and in every municipality in Palm Beach County elected to require the Board of County Commissioners to adopt an ordinance to establish a countywide office of inspector general to provide independent oversight of publicly funded transactions, projects and other local government operations; and

WHEREAS, the Board of County Commissioners is committed to the highest standards of integrity, honesty, efficiency and accountability; and

WHEREAS, misconduct involving abuse, corruption, fraud, and mismanagement by elected and appointed County and municipal officials and employees, agencies and instrumentalities, contractors, and other parties doing business with the County and municipalities, undermines public confidence in local government and prevents these governments from operating honestly, efficiently and effectively; and

WHEREAS, it is critically important that County and municipal elected and appointed officials and employees discharge their duties and responsibilities in a lawful and ethical manner and be held accountable for their misconduct; and

1
2 WHEREAS, the Board of County Commissioners hereby determines that the Ordinance set
3 forth herein advances the purposes and intent of the Palm Beach County Charter amendments
4 approved by the electorate on November 2, 2010; and

5 WHEREAS, the Board of County Commissioners of Palm Beach County, pursuant to its
6 authority under Florida Constitution, Article VIII, Section 1(g), Section 125.01, Florida Statutes, the
7 Palm Beach County Charter, hereby adopts the Palm Beach County Office of Inspector General
8 Ordinance; and

9 WHEREAS, the Board of County Commissioners has conducted a duly noticed public
10 hearing to consider these amendments as required by law.

11 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
12 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

13 **SECTION 1. THE PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL**

14 The Palm Beach County Office of Inspector General Ordinance, Ordinance 2009-049, as
15 amended, is hereby repealed, and the new countywide Office of Inspector General, Palm Beach
16 County, Florida Ordinance is hereby adopted as set forth in Exhibit 1, which is attached hereto and
17 made a part hereof.

18 **SECTION 2. SAVINGS CLAUSE.**

19 All investigations, audits, reviews, reports and all other activities performed by the Office of
20 Inspector General pursuant to its functions, authority and powers, initiated or completed pursuant to
21 Ordinance 2009-049, as amended, shall remain in full force and effect. The term of office of the
22 Inspector General selected pursuant to Ordinance 2009-049 shall remain as originally established.

23 **SECTION 3. RETROACTIVITY.**

24 Section 2-429(3) of the Office of Inspector General, Palm Beach County, Florida Ordinance
25 is expressly declared retroactive to April 1, 2011.

26 **SECTION 4. REPEAL OF LAWS IN CONFLICT.**

27 All local laws and ordinances in conflict with any provisions of this Ordinance are hereby
28 repealed to the extent of such conflict.

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1 SECTION 5. SEVERABILITY.

2 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
3 reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such
4 holding shall not affect the remainder of this Ordinance.

5 SECTION 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

6 The provisions of this Ordinance shall become and be made a part of the Palm Beach County
7 Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the
8 word "ordinance" may be changed to "section," "article," or other appropriate word.

9 SECTION 7. CAPTIONS.

10 The captions, section headings, and section designations used in this Ordinance are for
11 convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

12 SECTION 8. EFFECTIVE DATE.

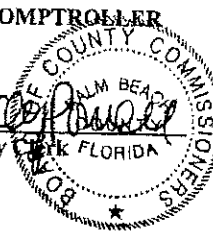
13 The provisions of this Ordinance shall become effective June 1, 2011.

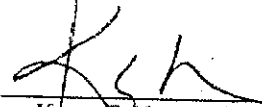
14 APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach
15 County, Florida, on this the 17th day of May, 2011.

16
17 SHARON R. BOCK
18 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

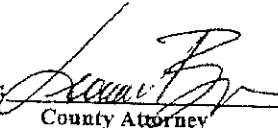
19
20
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22 By: 
23 Deputy Clerk Florida



24 By: 
25 Karen T. Marcus, Chair

26
27 (SEAL)

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31 APPROVED AS TO FORM
32 AND LEGAL SUFFICIENCY

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36 By: 
37 County Attorney

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39 EFFECTIVE DATE: Filed with the Department of State on the 25th day of
40 May, 2011.

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ARTICLE XII. INSPECTOR GENERAL

Sec.2-421. Title and Applicability.

- (1) This article shall be titled the "Office of Inspector General, Palm Beach County, Florida Ordinance."
- (2) The Office of Inspector General, Palm Beach County, Florida Ordinance shall apply to the following:
 - a. The board of county commissioners (hereinafter "the board") and all county departments;
 - b. The thirty eight (38) municipalities that approved the charter amendment in the countywide referendum held November 2, 2010;
 - c. Any other public entity that elects to be bound by this article by entering into a memorandum of understanding or other agreement in accordance with section 2-423(9); and
 - d. Any municipality formed after January 1, 2011, except to the extent that an ordinance adopted by that municipality at any time conflicts with this ordinance.

Sec. 2-422. Office created and established.

There is hereby established the office of inspector general which is created in order to promote economy, efficiency, and effectiveness in the administration of and, as its priority, to prevent and detect fraud and abuse in programs and operations administered or financed by the county or municipal agencies. The inspector general shall initiate, conduct, supervise and coordinate investigations designed to detect, deter, prevent and eradicate fraud, waste, mismanagement, misconduct, and other abuses by elected and appointed county and municipal officials and employees, county and municipal agencies and instrumentalities, contractors, their subcontractors and lower tier subcontractors, and other parties doing business with the county or a municipality and/or receiving county or municipal funds. The inspector general shall head the office of inspector general. The organization and administration of the office of inspector general shall be independent to assure that no interference or influence external to the office of inspector general adversely affects the independence and objectivity of the inspector general.

Sec. 2-423. Functions, authority and powers.

(1) The inspector general shall have the authority to: (a) make investigations of county or municipal matters and publish the results of such investigations; (b) review and audit past, present and proposed county or municipal programs, accounts, records, contracts, change orders and transactions; and (c) prepare reports and recommendations to the board, or the subject municipality, or participating entities subject to section 2-421 (2) based on such audits or investigations. All elected and appointed county and municipal officials and employees, county

42 and municipal agencies and instrumentalities, contractors, their subcontractors and lower tier
43 subcontractors, and other parties doing business with the county or a municipality and/or
44 receiving county or municipal funds shall fully cooperate with the inspector general in the
45 exercise of the inspector general's functions, authority and powers. Such cooperation shall
46 include, but not be limited to providing statements, documents, records and other information,
47 during the course of an investigation, audit or review. The inspector general may obtain sworn
48 statements, in accordance with Florida Statutes, of all persons identified in this subsection as
49 well as other witnesses relevant to an investigation, audit or review. Such audits shall be
50 conducted in accordance with the current International Standards for the Professional Practice of
51 Internal Auditing as published by the Institute of Internal Auditors, Inc., or where appropriate, in
52 accordance with generally accepted governmental auditing standards. Such investigations will
53 comply with the General Principles and Standards for Offices of Inspector General as published
54 and revised by the Association of Inspectors General. The office of inspector general shall
55 develop and adhere to written policies in accordance with the accreditation standards set forth by
56 the Commission on Florida Law Enforcement Accreditation, Inc.

57 (2) The inspector general shall have the power to conduct audits of, require production of
58 documents from, and receive full and unrestricted access to the records of the board, each
59 municipality, county administrator, city administrator, city manager or other municipal
60 executive, all elected and appointed county and municipal officials and employees, county and
61 municipal departments, divisions, agencies and instrumentalities, contractors, their
62 subcontractors and lower tier subcontractors, and other persons and entities doing business with
63 the county or a municipality and/or receiving county or municipal funds regarding any such
64 contracts or transactions with the county or a municipality. Except as otherwise limited in this
65 subsection (2), the inspector general's jurisdiction includes but shall not be limited to all projects,
66 programs, contracts or transactions that are funded in whole or in part by the county or any
67 municipality. The inspector general may contract with outside entities deemed necessary to
68 perform the functions of that office. Any such contract is subject to final approval by the board,
69 but such approval shall not be unreasonably withheld. The inspector general may conduct
70 investigations and audits, issue reports, and make recommendations regarding collective
71 bargaining agreements. The inspector general shall conduct investigations and audits in
72 accordance with applicable laws, rules, regulations, policies and past practices. The inspector
73 general shall not interfere with collective bargaining negotiations.

74 (3) As provided in subsection (1), the inspector general can: require all county and municipal
75 officials and employees, contractors, their subcontractors and lower tier subcontractors, and other
76 persons and entities doing business with the county or a municipality and/or receiving county or
77 municipal funds to provide statements; administer oaths; and, require the production of
78 documents, records and other information. In the case of a refusal by an official, employee or
79 other person to obey a request by the inspector general for documents or for an interview, the
80 inspector general shall have the power to subpoena witnesses, administer oaths, and require the
81 production of documents. Seventy-two (72) hours prior to serving a subpoena, the inspector
82 general shall provide written notice to the state attorney and the U.S. Attorney for the Southern
83 District of Florida. The inspector general shall not interfere with any ongoing criminal
84 investigation or prosecution of the state attorney or the U.S. Attorney for the Southern District of
85 Florida. When the state attorney or the U.S. Attorney for the Southern District of Florida has
86 explicitly notified the inspector general in writing that the inspector general's investigation is
87 interfering with an ongoing criminal investigation or prosecution, the inspector general shall

88 suspend service of subpoena, examination of witnesses, or other investigative activities as set
89 forth in the notice. In the case of a refusal to obey a subpoena served to any person, the inspector
90 general may make application to any circuit court of this state which shall have jurisdiction to
91 order the witness to appear before the inspector general and to produce evidence if so ordered, or
92 to give testimony relevant to the matter in question.

93 (4) Where the inspector general suspects a possible violation of any state, federal, or local law,
94 he or she shall notify the appropriate law enforcement agencies. The county administrator and
95 each municipal manager, or administrator, or mayor where the mayor serves as chief executive
96 officer, shall promptly notify the inspector general of possible mismanagement of a contract
97 (misuse or loss exceeding \$5,000 in public funds), fraud, theft, bribery, or other violation of law
98 which appears to fall within the jurisdiction of the inspector general, and may notify the
99 inspector general of any other conduct which may fall within the inspector general's jurisdiction.
100 The county administrator and each municipal manager, or administrator, or mayor where the
101 mayor serves as chief executive officer, shall coordinate with the inspector general to develop
102 reporting procedures for notification to the inspector general.

103 (5) The inspector general shall have the power without limitation to audit, investigate, monitor,
104 inspect and review the operations, activities, performance, and procurement processes including,
105 but not limited to, bid specifications, bid submittals, activities of the contractor, their
106 subcontractors and lower tier subcontractors, its officers, agents and employees, lobbyists,
107 county and municipal staff and officials, in order to ensure compliance with contract
108 specifications and detect corruption and fraud.

109 (6) The inspector general shall have the power to receive, review and investigate any complaints
110 regarding any municipal or county-funded projects, programs, contracts or transactions. The
111 inspector general shall establish a "hotline" to receive complaints, from either anonymous or
112 identified persons.

113 (7) The inspector general may exercise any of the powers contained in this article upon his or her
114 own initiative.

115 (8) The inspector general shall be notified in writing prior to any duly noticed public meeting of a
116 procurement selection committee where any matter relating to the procurement of goods or
117 services by the county or any municipality is to be discussed. The notice required by this
118 subsection shall be given to the inspector general as soon as possible after a meeting has been
119 scheduled. The inspector general may, at his or her discretion, attend all duly noticed county or
120 municipal meetings relating to the procurement of goods or services as provided herein, and may
121 pose questions and raise concerns consistent with the functions, authority and powers of the
122 inspector general. The failure by the county or municipality to give written notice required by
123 this section does not constitute grounds for a protest regarding such procurement and shall not be
124 the cause for the stay of any procurement, and shall not be the basis to overturn the award of a
125 contract.

126 (9) It is anticipated that special districts and other public officials and entities will recognize and
127 desire to benefit from the services of the county office of inspector general. The inspector
128 general may negotiate agreements or memoranda of understanding with other public entities
129 which would authorize the inspector general to provide independent oversight of any or all of the
130 public entity's transactions, projects and operations, and to exercise any and all authority,
131 functions and powers set forth in this article for the benefit of such public entity. The
132 memorandum of understanding or agreement shall include a provision for fees to be paid to the
133 inspector general from the public entity in exchange for such benefits. Such fees shall be based

134 on a rate established by the inspector general to cover the cost of such benefits and shall include,
135 but not be limited to, one quarter of one percent of the contracts as described in section 2-429(2)
136 (hereafter the "funding base") subject to inspector general review under the agreement. The
137 funding base shall be subject to adjustment as set forth in section 2-429.1. Any such agreement
138 or memorandum of understanding is subject to final approval of the board, but such approval
139 shall not be unreasonably withheld. For the purposes of the removal procedure set forth in
140 section 2-430, a "funding entity" shall mean a public entity that has entered into an agreement or
141 memorandum of understanding to receive services of the inspector general, and has provided
142 funding in exchange for such services equal to at least twenty-five (25) percent of the total
143 annual budget of the inspector general for the county's fiscal year immediately preceding the
144 fiscal year in which the removal procedure takes place.

145 (10) The inspector general's records related to active audits, investigations and reviews are
146 confidential and exempt from disclosure, as provided by §112.3188(2) and Chapter 119, Florida
147 Statutes.

148 (11) The inspector general is considered "an appropriate local official" of the county and of any
149 municipality for purposes of whistleblower protection provided by §112.3188(1), Florida
150 Statutes.

151 (12) The inspector general may recommend remedial actions and may provide prevention and
152 training services to county and municipal officials, employees, and any other persons covered by
153 this article. The inspector general may follow up to determine whether recommended remedial
154 actions have been taken.

155 (13) The inspector general shall establish policies and procedures and monitor the costs of
156 investigations undertaken. The inspector general shall cooperate with other governmental
157 agencies to recover such costs from other entities involved in willful misconduct in regard to
158 county or municipal funds.

159 (14) Nothing herein shall abridge employees' constitutional right to collective bargaining.
160

161 **Sec. 2-423.1. Outreach.**

162 The inspector general will coordinate with the county administrator and municipal
163 manager or administrator to develop public awareness strategies to inform government officials
164 and employees, as well as the general public, of the authority and responsibilities of the office of
165 the inspector general. Such strategies shall include but not be limited to inclusion in the
166 government's web page with a link to the office of inspector general website, publication of
167 notices in the government's newsletters, and posting information about the office of inspector
168 general in government employee break rooms and other common meeting areas. The inspector
169 general shall provide on its website examples that illustrate fraud, waste, mismanagement,
170 misconduct and abuse.

172 **Sec. 2-424. Minimum qualifications, selection and term of office.**

173 (1) *Minimum qualifications.* The inspector general shall be a person who:
174 a. Has at least ten (10) years of experience in any one (1) or a combination of the following
175 fields:

- 176 1. As a federal, state or local law enforcement officer/official;
- 177 2. As a federal or state court judge;
- 178 3. As a federal, state or local government attorney with expertise in investigating fraud,
179 mismanagement and corruption;

180 4. As an inspector general, certified public accountant, or internal auditor;
181 5. As a person with progressive supervisory and managerial experience in an investigative
182 public agency similar to an inspector general's office;
183 b. Has managed and completed complex investigations involving allegations of fraud, theft,
184 deception or conspiracy;
185 c. Has demonstrated the ability to work with local, state and federal law enforcement agencies
186 and the judiciary;
187 d. Has a four-year degree from an accredited institution of higher learning;
188 e. Has not been employed by the county, any municipality or any other governmental entity
189 subject to the authority of the inspector general office during the two-year period immediately
190 prior to selection, unless such employment has been with the Office of Inspector General, Palm
191 Beach County, Florida.
192 f. Highly qualified candidates will also have audit-related skills and/or hold one (1) or more of
193 the following professional certifications at the time of selection: certified inspector general
194 (CIG), certified inspector general investigator (CIGI), certified inspector general auditor (CIGA),
195 certified public accountant (CPA), certified internal auditor (CIA), or certified fraud examiner
196 (CFE).
197 (2) *Selection.* No official or employee of any governmental entity subject to the authority of the
198 office of inspector general shall participate on the inspector general committee. Responsibility
199 for selecting the inspector general shall be vested solely with the inspector general committee.
200 The inspector general committee shall be comprised of the commission on ethics as established
201 in section 2-254 et seq. of this Code, the state attorney for the Fifteenth Judicial Circuit or his or
202 her designee, and the public defender for the Fifteenth Judicial Circuit or his or her designee. The
203 chairperson of the inspector general committee shall be chairperson of the commission on ethics.
204 After thoroughly reviewing qualifications, background information, and personal and
205 professional referrals, the inspector general committee shall notify the county attorney of its
206 selection. The county attorney shall promptly notify the board that a selection has been made.
207 (3) *Staffing of inspector general committee.* The county human resources department shall
208 provide staff to the inspector general committee and as necessary will advertise the acceptance of
209 resumes for the position of inspector general. All resumes received by the human resources
210 department will be forwarded to the inspector general committee for consideration. The human
211 resources department shall contract with an appropriate entity to ensure that background checks
212 are conducted on the candidates selected for interview by the inspector general committee. The
213 results of the background checks shall be provided to the inspector general committee prior to
214 the interview of candidates. Following the initial selection of the inspector general, the inspector
215 general committee, for future selection processes as described in subsection (2) above, may
216 continue to employ the services of the human resources department or may utilize its own staff to
217 solicit candidates for inspector general. All advertisements for the acceptance of resumes for
218 inspector general shall include a salary range commensurate with public officials of like
219 experience and expertise.
220 (4) *Term.* The inspector general shall serve for a term of four (4) years. At least six (6) months
221 prior to the end of each contract term, the inspector general committee will determine whether or
222 not to renew the contract for an additional term of four (4) years, and shall promptly notify the
223 inspector general of its decision. In the event the inspector general committee elects not to renew
224 the contract, the inspector general committee shall promptly convene as necessary to solicit
225 candidates for and to select a new inspector general in the same manner as described in

226 subsection (2) above. The incumbent inspector general may submit his or her name as a
227 candidate to be considered for selection. The incumbent inspector general shall serve until a
228 successor is selected and assumes office.
229 (5) *Vacancy.* In case of a vacancy in the position of inspector general, the inspector general
230 committee may appoint a member of the inspector general's office as interim inspector general
231 within ten (10) days of the vacancy occurring, until such time as a successor inspector general is
232 selected and assumes office. A successor inspector general shall be selected in the same manner
233 as described in subsection (2) above, except for the following specific time constraints: (a)
234 solicitation for qualified candidates for selection should be published within twenty (20) days,
235 but no later than forty (40) days of the date the vacancy occurs; and (b) the inspector general
236 committee must in good faith endeavor to convene and select an inspector general within ninety
237 (90) days of the date the vacancy occurs.

238
239 **Sec. 2-425. Contract.**

240 A designee from the commission on ethics, with the assistance of the county's human
241 resources department and the county attorney's office, shall negotiate a contract of employment
242 with the inspector general substantially consistent with the terms included in contracts of other
243 contractual employees of the county. For the purposes of contract negotiations, such designation
244 by the commission on ethics shall not be deemed a delegation of the commission on ethics'
245 decision making authority. The inspector general shall be paid at a rate commensurate with
246 public officials of like experience and expertise. Before any contract shall become effective, the
247 contract must be approved by a majority of the board present at a regularly scheduled board
248 meeting. The contract will cover the entire four-year term subject to the removal provisions in
249 section 2-430. The contract will include a provision requiring the inspector general committee to
250 provide notice of its decision to renew or not to renew the contract at least six (6) months prior to
251 the termination of the contract. The contract shall provide that the inspector general may not
252 represent a political party or be on any executive committee thereof, or seek public office during
253 his or her term of service, and shall not seek public office or employment with any public entity
254 subject to the jurisdiction of the inspector general for four (4) years thereafter. That limitation
255 does not include seeking selection as inspector general for a subsequent term. The contract shall
256 further provide that the inspector general may not be a lobbyist, as defined in section 2-352 of
257 this Code, for two (2) years after term of service.

258
259 **Sec. 2-426. Physical facilities and staff.**

260 (1) The county shall provide the office of inspector general with appropriately located office
261 space and sufficient physical facilities together with necessary office equipment and furnishings
262 to enable the inspector general to perform his or her functions.
263 (2) The inspector general shall have the power to appoint, employ, and remove such assistants,
264 employees and personnel, and establish personnel procedures as deemed necessary for the
265 efficient and effective administration of the activities of the office of inspector general.
266

267 **Sec. 2-427. Procedure for finalization of reports and recommendations which make**
268 **findings as to the person or entity being reviewed or inspected.**

269 The inspector general shall publish and deliver finalized reports and recommendations to
270 the board or the appropriate municipality, and to the county commission on ethics.
271 Notwithstanding any other provision of this article, whenever the inspector general determines

272 that it is appropriate to publish and deliver a report or recommendation which contains findings
273 as to the person or entity being reported on or who is the subject of the recommendation, the
274 inspector general shall provide the affected person or entity a copy of the findings. Such person
275 or entity, who is the subject of a finding or recommendation resulting from an investigation or
276 review, shall have ten (10) calendar days to submit a written explanation or rebuttal of the
277 findings before the report or recommendation is finalized. In the case of an audit, such person or
278 entity shall have twenty (20) calendar days to submit a written explanation or rebuttal of the
279 audit findings or before the report or recommendation is finalized. The inspector general shall
280 grant reasonable extensions of time for providing a written explanation or rebuttal upon written
281 request. Such timely submitted written explanation or rebuttal shall be attached to the finalized
282 report or recommendation. The requirements of this subsection shall not apply in matters subject
283 to the State of Florida's Whistle-blower's Act, or when the inspector general, in conjunction with
284 the state attorney or U.S. Attorney, determines that supplying the affected person or entity with
285 such report will jeopardize a pending criminal investigation.
286

287 **Sec. 2-428. Reporting.**

288 (1) Not later than December 31 of each year, the Inspector General shall prepare and publish a
289 written annual report summarizing the activities of the office during the immediately preceding
290 fiscal year ended September 30. The report shall be furnished to the inspector general
291 committee, the county administrator and the Palm Beach County League of Cities, Inc., and
292 posted on the inspector general's website. The report shall include, but need not be limited to: a
293 description of significant abuses and deficiencies relating to the administration of programs and
294 operations disclosed by investigations, audits, reviews, or other activities during the reporting
295 period; a description of the recommendations for corrective action made by the inspector general
296 during the reporting period with respect to significant problems, abuses, or deficiencies
297 identified; identification of each significant recommendation described in previous annual
298 reports on which corrective action has not been completed; and a summary of each audit and
299 investigation completed during the reporting period.

300 (2) The inspector general committee will meet with the inspector general every six months to
301 review the previous six month's activities and the inspector general's plans and objectives for the
302 upcoming six months.

303 **Sec. 2-429. Financial support and budgeting.**

304 (1) Pursuant to their annual budgeting processes, the county and each municipality shall
305 provide sufficient financial support for the inspector general's office to fulfill its duties as set
306 forth in this article. The county and municipalities shall fund the inspector general's office
307 proportionately, based on the actual expenses of each governmental entity as recorded in the
308 most recent audited year and reported in the Florida Department of Financial Services Local
309 Government Electronic Reporting system (LOGER), pursuant to section 218.32, Florida Statutes,
310 as may be amended.

311 (2) The county and each municipality's proportionate share shall be based on each
312 entity's actual expenses as defined in the then current Uniform Accounting System Manual,
313 published by the State of Florida, Department of Financial Services, Bureau of Local
314 Government, and shall include the following Object Categories: 30 - Operating
315 Expenditures/Expenses; 60 - Capital Outlay; and 80 - Grants and Aids. Notwithstanding the
316 above, however, law enforcement, pension funds, electric utility services, fire control, and
317 intergovernmental transfer costs shall not be included in the proportionate share calculation.

318 Nothing contained herein shall in any way limit the powers of the inspector general provided for
319 in this Ordinance to perform audits, inspections, reviews and investigations on all county and
320 municipal contracts.

321 (3) The inspector general shall establish and maintain a fiscal year which coincides with
322 that of the county. Beginning May 1, 2011, and every May 1 thereafter, the inspector general
323 shall deliver to the board a budget request including a reasonable estimate of operating and
324 capital expenditures and shall also include, but not be limited to, anticipated revenues from
325 sources other than the county and municipalities, and funds estimated to be received but not
326 expended in the current fiscal year. No later than April 1 of every year, the inspector general
327 shall deliver a preliminary budget request to the Palm Beach County League of Cities, Inc., and
328 be available to discuss the budget request with the League of Cities membership prior to May 1
329 of every year. The board shall meet with a delegation selected by the Palm Beach County League
330 of Cities, Inc., to discuss the budget request for each fiscal year. The county shall endeavor to
331 place the matter on a board agenda prior to June 15 of each year, but in no event later than June
332 30. The parties attending this meeting shall acknowledge the provisions of section 2-429.1(1).

333 (4) No later than the fifth business day in July of each year, the Office of the Clerk and
334 Comptroller shall prepare an allocation schedule based on the most current LOGER system data.
335 The proportionate share to be paid by the county and each municipality shall be reduced
336 proportionately by the anticipated revenues from sources other than the county and
337 municipalities and the amount of funds estimated to be received but not expended by the
338 inspector general in the current fiscal year.

339 (5) In the event the county or a municipality does not submit the most recent fiscal year
340 data in the LOGER system, the proportionate share for that municipality shall be based upon its
341 last LOGER system submittal, subject to an escalator for each year the submittal was not made.
342 The escalator shall be based on the Consumer Price Index for All Urban Consumers, U.S. City
343 Average, as set forth in section 193.155, Florida Statutes, as may be amended.

344 (6) The budget of the inspector general shall be subject to final approval of the board.
345 No later than September 30 of each year, the board shall set the inspector general budget for the
346 coming fiscal year and adjust the proportionate share of the county and each municipality
347 accordingly as described in this section.

348 (7) The Office of the Clerk and Comptroller shall invoice the county and each
349 municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April
350 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty
351 (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of
352 Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is
353 not timely received, the county or any municipality in compliance with this section may pursue
354 any available legal remedy.

355 (8) The county and each municipality's proportionate share for the period of June 1, 2011
356 through September 30, 2011 shall be as set forth in Exhibit A which is attached hereto and
357 incorporated herein by reference. The Office of the Clerk and Comptroller shall invoice the
358 County, upon adoption of this ordinance, \$946,764. This amount is based on the estimated
359 expenses through June 1, 2011 of \$483,333, plus the County's proportionate share as reflected
360 on Exhibit A. The Office of the Clerk and Comptroller shall invoice each municipality for their
361 proportionate share as set forth in subsection (7) beginning with the first invoice on October 10,
362 2011.

363

364 **Sec. 2-429.1 Funding Base**

365

366 (1) The funding base is a minimum level of funding, determined as a percentage of
367 contract activity of the governmental entities subject to the authority of the inspector general.
368 The purpose of establishing the funding base is to ensure the office is adequately funded. The
369 funding base is currently set at an amount equal to one quarter of one percent (0.25%) of the
370 contracts as described in section 2-429(2). Within ten (10) days following establishment of the
371 allocation schedule as described in 2-429(4), the county will determine whether the calculated
372 funding requirement meets the one quarter of one percent (0.25%) funding base. In the event the
373 calculated funding requirement is less than one quarter of one percent (0.25%), but the inspector
374 general's proposed budget is fully funded by the allocation schedule and revenues from sources
375 other than the county and municipalities, the inspector general shall request a reduction of the
376 funding base accordingly for that budget year. Nothing herein shall be construed to:

377 (a) Limit the calculated funding base to one quarter of one percent (0.25%), as may
378 be required to adequately fund the Office of the Inspector General;

379 (b) Limit the inspector general's authority to request a budget that results in a
380 calculated funding base that is less than one quarter of one percent (0.25%) at any time; or

381 (c) Prohibit the inspector general from transmitting to the county supplemental
382 budget requests.

383 No adjustment to the calculated funding base shall occur if such adjustment results in the
384 Office of the Inspector General not being adequately funded.

385 (2) On an annual basis the board of county commissioners may adjust the funding base
386 percentage upon a showing of need which shall be based upon, but need not be limited to, the
387 following criteria:

388 (a) additional expenses in a particular year necessitated by an extraordinarily large
389 investigation or audit;

390 (b) the amount of increases or decreases in budget requests by the inspector general in
391 prior years;

392 (c) the amount and frequency of supplemental budget requests made by the inspector
393 general in prior years;

394 (d) the amount and frequency of surpluses and/or shortfalls in the inspector general's
395 budget in prior years;

396 (e) the ability of the county and each municipality to bear an increase of the funding base
397 percentage in a particular year.

398 The demonstration of need shall be subject to review and recommendation by the review
399 committee as established in the Charter of Palm Beach County, section 8.3. The review
400 committee's recommendation shall only be overruled by a supermajority vote of the board of
401 county commissioners. In no event shall the funding base be reduced below one quarter of one
402 percent unless such reduction is made by the inspector general.

403

404 **Sec. 2-430. Removal.**

405 The inspector general may be removed only for cause based upon specified charges of the
406 following: neglect of duty, abuse of power or authority, discrimination, or ethical misconduct.
407 The removal process shall be initiated at a duly noticed public hearing of either the board, the
408 inspector general committee, or a funding entity as described in section 2-423(9). An affirmative
409 vote of five (5) members of the board, an affirmative vote of five (5) members of the inspector

410 general committee, or an affirmative supermajority vote of a funding entity shall be required to
411 present the inspector general with the charges and to proceed to final public hearings. The board,
412 inspector general committee, or the initiating funding entity, as appropriate, shall transmit a copy
413 of the charges to the inspector general at least sixty (60) days prior to all final public hearings
414 which shall be convened by the board, all funding entities, and the inspector general committee.
415 The inspector general shall have an opportunity to be heard in person and by counsel at the final
416 public hearings prior to the votes being taken on his or her removal. The inspector general may
417 only be removed upon the affirmative vote of five (5) members of the board, five (5) members of
418 the inspector general committee, and a supermajority of all funding entities. A record of the
419 proceedings, together with the charges and findings thereon, shall be filed with the clerk of the
420 board. The inspector general shall be removed without a public hearing in the event the inspector
421 general is convicted of or enters a guilty plea or *nolo contendere* plea to a state or federal
422 felony. Based upon specified charges of neglect of duty, abuse of power or authority,
423 discrimination, or ethical misconduct, one or more municipalities may file a petition for removal
424 with the general counsel for the Office of Inspector General. A petition for removal must be
425 duly authorized as a resolution outlining the specific charges and passed by a majority plus one
426 of the governing body. The petition for removal shall be transmitted to the inspector general
427 committee with a copy to the general counsel of the inspector general. The inspector general
428 committee shall decide whether to initiate the removal process or dismiss based on the petition.
429 The inspector general committee may investigate the allegations contained in the petition before
430 deciding whether to initiate the removal process. If the inspector general committee initiates the
431 removal process, the municipality or municipalities making the petition for removal shall have
432 the opportunity to be heard at the final public hearings prior to the votes being taken.
433

434 **Sec. 2-431. Enforcement.**

435 This Ordinance is enforceable by all means provided by law, including seeking injunctive
436 relief in the Fifteenth Judicial Circuit Court in and for Palm Beach County.
437

438 **Sec. 2-432. Penalty.**

439 Any person who:

440 (1) retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate
441 against, punish, threaten, harass, or penalize any person for assisting, communicating or
442 cooperating with the Inspector General, or

443 (2) who knowingly interferes, obstructs, impedes or attempts to interfere, obstruct or
444 impede in any investigation conducted by the Inspector General

445 shall be guilty of a violation of this Ordinance and punished, pursuant to section 125.69, Florida
446 Statutes, in the same manner as a second degree misdemeanor. Any potential violation of this
447 section shall be referred to the State Attorney for possible investigation and prosecution.
448

Attachment A

Inspector General FY 2011 Cost Allocation Schedule
Estimated Costs from June 1 - September 30

County	Total Expenses	Cip Adjustment		Adj. Expenses	Proportionate Share Dollars
		FY 2008 - 4.08%	FY 2009 - .09%		
County	\$ 1,003,335,667			\$ 1,003,335,667	\$ 463,431
Atlantis	\$ 1,544,714			\$ 1,544,714	\$ 713
Belle Glade	\$ 30,601,832			\$ 30,601,832	\$ 4,897
Boca Raton	\$ 87,791,127			\$ 87,791,127	\$ 40,550
Boynton Beach ¹	\$ 60,838,185		\$ 54,754	\$ 60,892,939	\$ 28,126
Briny Breezes	\$ 283,710			\$ 283,710	\$ 131
Cloud Lake	\$ 81,826			\$ 81,826	\$ 38
Delray Beach	\$ 84,562,787			\$ 84,562,787	\$ 39,059
Glen Ridge	\$ 37,698			\$ 37,688	\$ 17
Golf	\$ 1,577,634			\$ 1,577,634	\$ 729
Greenacres	\$ 5,142,025			\$ 5,142,025	\$ 2,375
Gulf Stream	\$ 1,419,650			\$ 1,419,650	\$ 656
Haverhill	\$ 850,512			\$ 850,512	\$ 397
Highland Beach	\$ 4,907,298			\$ 4,907,298	\$ 2,267
Hypoluxo	\$ 967,976			\$ 967,976	\$ 447
Juno Beach	\$ 1,119,758			\$ 1,119,758	\$ 517
Jupiter	\$ 29,485,504			\$ 29,485,504	\$ 13,619
Jupiter Inlet Colony ¹	\$ 377,579		\$ 340	\$ 377,919	\$ 175
Lake Clarke Shores	\$ 2,438,410			\$ 2,438,410	\$ 1,126
Lake Park	\$ 6,881,381			\$ 6,881,381	\$ 3,178
Lake Worth	\$ 37,483,120			\$ 37,483,120	\$ 17,313
Lantana	\$ 6,242,288			\$ 6,242,288	\$ 2,883
Loxahatchee Groves	\$ 1,040,871			\$ 1,040,871	\$ 481
Manalapan	\$ 2,117,926			\$ 2,117,926	\$ 978
Manalapan Park ¹	\$ 1,005,318		\$ 945	\$ 1,051,444	\$ 486
North Palm Beach	\$ 8,925,936			\$ 8,925,936	\$ 4,123
Ocean Ridge	\$ 1,837,819			\$ 1,837,819	\$ 849
Pahokee ¹	\$ 4,356,637		\$ 4,081	\$ 4,338,448	\$ 2,096
Palm Beach	\$ 49,908,700			\$ 49,908,700	\$ 23,052
Palm Beach Gardens	\$ 22,964,205			\$ 22,964,205	\$ 10,607
Palm Beach Shores	\$ 998,241			\$ 998,241	\$ 461
Palm Springs	\$ 9,336,162			\$ 9,336,162	\$ 4,312
Powder Mill	\$ 36,510,490			\$ 36,510,490	\$ 16,864
Royal Palm Beach	\$ 30,079,531			\$ 30,079,531	\$ 4,656
South Bay	\$ 3,150,486			\$ 3,150,486	\$ 1,455
South Palm Beach	\$ 580,349			\$ 580,349	\$ 268
Tequesta	\$ 4,940,419			\$ 4,940,419	\$ 2,282
Wellington	\$ 38,505,545			\$ 38,505,545	\$ 17,785
West Palm Beach	\$ 158,716,553			\$ 158,716,553	\$ 71,929
TOTAL	\$ 3,712,959,839	\$ 218,930	\$ 69,121	\$ 3,712,238,890	\$ 1,712,238,890
					100.00%

¹ 2009 data is not available for these municipalities. 2008 data was used for this chart.
² 2009 & 2008 data is not available for these municipalities. 2007 data was used for this chart.

Exhibit "B"

Exhibit "B"

000124

*The
City
of
West Palm Beach*



OFFICE OF THE CITY ATTORNEY

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"The Capital City of the Palm Beaches"

November 9, 2011

Via email: sbock@mypalmbeachclerk.com

Sharon R. Bock, Esquire
Clerk & Comptroller, Palm Beach County
205 North Dixie Highway
West Palm Beach, Florida 33401

Re: Inspector General Funding

Dear Ms. Bock:

Enclosed please find a copy of the invoices your office recently sent to the City of West Palm Beach. As a courtesy, I am advising you that the City respectfully declines to pay these invoices. The City of West Palm Beach, together with numerous other municipalities, believes that the funding mechanism for the inspector general program is unlawful. The City intends to participate with these other municipalities in a lawsuit against Palm Beach County asking the circuit court to declare the funding for the program unlawful.

I am enclosing a copy of a memorandum that summarizes the legal deficiencies of the program. Put simply, the program is unlawful because (1) it is a tax not authorized by general law; (2) municipal residents already pay for the inspector general's services through their county tax bill, but have to pay again through their municipal tax bill meaning they pay for the same service twice; (3) municipalities have no lawful means to collect the charges through vendor contracts; (4) municipalities have no lawful means to collect the charges through special assessments on vendor contracts; and, (5) there is no legal authority for using the LOGER system to calculate a municipality's share.

Please be advised that the City of West Palm Beach and the other municipalities that are participating in the lawsuit are not challenging the inspector general program. Our challenge is limited to what we believe is an unlawful funding mechanism. In order to be lawful, the municipalities believe that the inspector general program funding should be handled like funding for all of the other countywide programs where the County pays for the program in its entirety. Then each city and unincorporated county taxpayer will pay for the inspector general's services in a lawful manner, the county will retain control over its budget responsibilities, and the municipalities will retain control over their budget responsibilities.

If you have any questions, please give me a call.

Sincerely,

Claudia M. McKenna
Claudia M. McKenna
City Attorney

Enclosures

000125

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.: 50 2011 CA 017953

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, VILLAGE OF WELLINGTON
TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND
BEACH, TOWN OF LAKE PARK, CITY OF
WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
Corporations of the State of Florida,

Plaintiffs,

vs.

CASE NO. 50 2011 CA 017953

PALM BEACH COUNTY, a political subdivision,

Defendant.

SHARON R. BOCK, in her Official Capacity as the
Clerk and Comptroller of Palm Beach County, Florida

Intervenor.

AGREED ORDER GRANTING MOTION TO INTERVENE

THIS MATTER came on to be heard by the Court on Intervenor Sharon R. Bock, in her official capacity as the Clerk and Comptroller of Palm Beach County, Florida's, Motion to Intervene. Having been advised that the parties are in agreement to an Order on the Motion to Intervene, it is hereby **ORDERED AND ADJUDGED THAT:**

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1. Intervenor Sharon R. Bock's Motion to Intervene is **GRANTED** in accordance with the requirements of Fla. R. Civ. P. 1.230.

2. Intervenor Sharon R. Bock's Complaint for Declaratory and Injunctive Relief, attached and incorporated as Exhibit "1" to the Motion to Intervene, is deemed filed and served as of the date hereof.

ORDERED in Chambers at West Palm Beach, Palm Beach County, Florida this _____ day of _____, 2011.

SIGNED & DATED
DEC 9 1 2011
JUDGE JACK SCHRAMM, C.J.

Jack S. Cox
Circuit Court Judge

Copies furnished to:
All Counsel of Record

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IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT OF
FLORIDA, IN AND FOR PALM BEACH
COUNTY

TOWN OF GULF STREAM, et al.,

CASE NO. 50 2011 CA 017953 AN

Plaintiffs,

v.

PALM BEACH COUNTY,

Defendant.

**DEFENDANT PALM BEACH COUNTY'S ANSWER,
AFFIRMATIVE DEFENSES, AND COUNTERCLAIM**

Defendant PALM BEACH COUNTY (County) states as follows for its Answer, Affirmative Defenses, and Counterclaim to Plaintiffs' Complaint for Declaratory Relief (the paragraph numbers of the Answer correspond to those of the Complaint):

ANSWER

1. Admitted.
2. Admitted that this action arises out of the establishment of a Countywide Office of Inspector General; otherwise, denied.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.

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7. Upon information and belief, a motion to abate has been prepared but has not yet been filed. (Hence, this pleading.)
8. Admitted, and the Charter speaks for itself.
9. Admitted.
10. Admitted.
11. Admitted, although none of those amendments are related in any way to the subject of this action.
12. Admitted, except denied that Protection of Wells and Wellfields, and Countywide Impact Fees are entirely funded by the County.
13. Admitted.
14. Admitted.
15. Denied that what are described as Ethics Regulations were solely the result of Commissioner crimes; otherwise, admitted.
16. Admitted, except denied to the extent the descriptions are intended to be complete.
17. Admitted.
18. The ordinance speaks for itself, and without emphasis.
19. Admitted.
20. Admitted; the ordinance speaks for itself.
21. Admitted; except denied that the funding described was for the entire fiscal year.
22. Admitted.
23. The ordinance speaks for itself, and without emphasis.
24. Admitted.

25. Admitted.
26. Admitted; except denied that the funding described was for the entire fiscal year.
27. Admitted that the County adopted what is described as the Ballot Ordinance;
otherwise denied.
28. Admitted.
29. The ordinance speaks for itself, and without emphasis.
30. Admitted.
31. The ordinance speaks for itself, and without emphasis.
32. Admitted.
33. Admitted.
34. Admitted.
35. Denied.
36. Admitted; except denied that the Municipalities were or are powerless to determine
funding.
37. Admitted.
38. The ballot amendment speaks for itself.
39. The ballot amendment speaks for itself.
40. The ballot amendment speaks for itself.
41. Denied that the Ballot Ordinance directed that the voters rely on either the Original
Ordinance or the Amended Ordinance as to estimated costs, included or excluded contracts, or in
any respect; second sentence denied.
42. Admitted.

43. Admitted.
44. Admitted that the Implementing Ordinance is not identical to the Original Ordinance and/or the Amended Ordinance. Denied that any funding mechanism was utilized in the Ballot Ordinance.
45. The ordinance speaks for itself, and without emphasis.
46. The ordinance speaks for itself, and is not contradictory.
47. The ordinance speaks for itself. Denied that the proportionate share calculation is not based on contract amounts.
48. Admitted.
49. Admitted.
50. Denied.
51. Denied. The Clerk & Comptroller invoiced the Municipalities.

COUNT I – ALLEGEDLY UNLAWFUL TAX

52. The County restates and incorporates by reference paragraphs 1-51 of this Answer.
53. Admitted.
54. Denied.
55. Admitted; the municipal shares are a means of apportioning the cost of the program, and are not themselves a fee.
56. Denied.
57. Admitted; the municipal shares are a means of apportioning the cost of the program, and are not themselves a special assessment.
58. Denied.

59. Denied.
60. Admitted.
61. Admitted.
62. Denied to the extent this would be the only alternative.
63. Admitted that they could be similar. Denied to the extent this would be the only alternative.
64. Admitted; the ordinance speaks for itself.
65. Denied.
66. Denied.
67. Denied.
68. Denied there is any unlawful tax involved.
69. Denied.
70. Denied.
71. Denied.

COUNT II - ALLEGED DOUBLE PAYMENT

72. The County restates and incorporates by reference paragraphs 1-51 of this Answer.
73. Admitted as to the Implementing Ordinance; otherwise, denied.
74. Denied.
75. Admitted.
76. Admitted.
77. Denied.

78. Admitted that they pay municipal taxes; denied that such taxes are necessary for funding the Office of Inspector General (OIG, or the program).

79. Denied.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

COUNT III – ALLEGED LACK OF CHARTER AUTHORITY

86. The County restates and incorporates by reference paragraphs 1-51 of this Answer.

87. LOGER is a method of cost apportionment and not a funding requirement; otherwise, admitted.

88. Denied; the Ballot Ordinance provided that the program would be funded at a minimum of 0.25% of contracts, as determined by the Implementing Ordinance.

89. Admitted.

90. Admitted.

91. Denied.

92. Denied they are quite different.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

COUNT IV- ALLEGED CONFLICT WITH GENERAL LAW

98. The County restates and incorporates by reference paragraphs 1-51 of this Answer.

99. Admitted.

100. Admitted.

101. Admitted.

102. Admitted.

103. Denied.

104. Denied.

105. Denied.

106. First sentence admitted; second sentence denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied appropriation is necessary.

111. Admitted.

112. Denied.

113. Denied that appropriation is required.

114. Denied.

115. Denied.

116. Denied.

AFFIRMATIVE DEFENSES

1. Any fees imposed on the Municipalities are regulatory fees lawfully imposed pursuant to the County's police power and do not exceed to cost of the regulatory activity or are reasonably commensurate with the cost of the regulatory activity—i.e., the proper and efficient funding of the OIG.

2. The County Charter, as amended, is valid and provides authority for the subject fees pursuant to the LOGER funding methodology, even though a precise funding methodology was not specifically identified in the ballot ordinance. The ballot title and summary fairly informed the voters of the chief purpose of the amendment (funding of the OIG), and the language of the title and summary did not mislead the public in that they specifically informed the public that the OIG will be funded, in part, by each municipality. Greater specificity is not contemplated or required by Section 101.161(1), Florida Statutes (2010), nor is it legally required to exhaustively explain every ramification of the proposed amendment.

3. The subject ordinance(s) are not inconsistent with general law, but are consistent with general law, specifically, Section 166.221, Florida Statutes (2010), and any fees imposed by the ordinance(s) are consistent therewith.

4. To the extent any fees are imposed on Municipalities by the subject ordinance(s), they are imposed by the expression of a majority of the voting public in the County and in each municipality for funding the OIG. Such fees are not an illegal double tax, as municipal residents already pay both city and County ad valorem taxes, for different purposes; similarly, the benefits of OIG oversight accrue to the benefit of taxpayers in any municipality in different and additional ways than such benefits accrue to voters in unincorporated parts of the County or to voters in

another municipality.

WHEREFORE, the County respectfully requests that this Court enter judgment on Plaintiffs' Complaint in the County's favor, and against Plaintiffs, at Plaintiffs' cost.

COUNTERCLAIM

1. This is an action for breach of County Ordinance No. 2011-009 (codified at Art. XII, sec. 2-429, Palm Beach County Code), a copy of which was attached to Plaintiffs' Complaint as Exhibit 4, and is incorporated herein by reference.

2. The County incorporates by reference paragraphs 2-6 of Plaintiffs' Complaint, and the definition of Municipalities set forth on the first page of the Complaint—i.e., all of the Plaintiffs.

3. Intervenor Sharon R. Block, in her capacity as Clerk & Comptroller of Palm Beach County (Clerk & Comptroller), as alleged in her Motion to Intervene, at paragraph 10, has invoiced the Municipalities for operation of the OIG for Fiscal Year (FY) 2011 and the first quarter of FY 2012.

4. Each of the Municipalities has failed and refused to pay the amounts invoiced.

5. The Inspector General has indicated her intention to fulfill her duties as set forth in Art XII, Sec. 2-423 with respect to the Municipalities, as well as all other governmental entities participating in the OIG program.

6. In the absence of funding from the Municipalities, the oversight by the OIG will be substantially less comprehensive than it would be with full funding of the OIG.

7. The County has been damaged by the OIG's diminished oversight of its vendors and other activities the OIG conducts. The OIG's diminished ability to oversee County vendors and

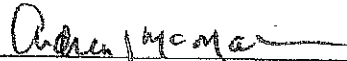
County operations will continue as long as the Municipalities refuse to properly fund the OIG.

8. Art. XII, Sec. 2-431, provides that Ordinance No. 2011-009 is enforceable by all means provided by law, including injunctive relief, in this Court.

WHEREFORE, the County requests that the Court enter a judgment awarding damages to the County for the diminished OIG oversight caused by the Municipalities' refusal to pay to support the OIG, and awarding the County its costs and such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been provided by email and U.S. Mail this 5th day of December , 2011, to those on the attached service list.



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000143

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA
CASE NO.: 50 2011 CA 017953

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, VILLAGE OF WELLINGTON
TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND
BEACH, TOWN OF LAKE PARK, CITY OF
WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
Corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

SHARON R. BOCK, in her Official Capacity as the
Clerk & Comptroller of Palm Beach County, Florida

Intervenor.

COPY
RECEIVED FOR FILING

DEC 15 2011

SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT CIVIL DIVISION

**AMENDED COMPLAINT IN INTERVENTION, CROSS-CLAIM, AND
COUNTERCLAIM FOR DECLARATORY AND OTHER RELIEF**

Intervenor, Sharon R. Bock, in her official capacity as Clerk & Comptroller of Palm Beach County (the "Clerk & Comptroller"), by and through her undersigned counsel, intervenes as a party-defendant; cross-claims against Defendant/Cross-Defendant, Palm Beach County, a political subdivision (the "County"); and Counterclaims against Plaintiffs/Counter-Defendants, Town of Gulf Stream, Village of Tequesta, City of Riviera Beach, Town of Jupiter, City of Delray Beach, Town of Palm Beach Shores, Town of Manalpan, Village of Wellington, Town of

Mangonia Park, City of Palm Beach Gardens, Town of Highland Beach, Town of Lake Park, City of West Palm Beach, Town of Ocean Ridge, City of Boca Raton, municipal corporations of the State of Florida (collectively, the "Municipal Plaintiffs"), and alleges as follows:

INTRODUCTION

1. The Clerk & Comptroller seeks to intervene in this action in order to request declaratory relief as to whether her compliance with Palm Beach County Ordinance No. 2011-009 (codified at Art. XII, § 2-421, *et seq.*, County Code) and, within this ordinance, Article XII, § 2-429, County Code (the "Ordinance"), as it relates to financial support and budgeting by Palm Beach County municipalities (the "Municipalities") of the Office of Inspector General ("IG"), is consistent with the constitutional, statutory and other duties imposed on the Clerk & Comptroller.

2. The Clerk & Comptroller also seeks relief with respect to funds that have already been invoiced and paid by certain Municipalities pursuant to the Ordinance (the "Payor Municipalities"), and with respect to her continuing obligations and duties under the Ordinance.

3. The Clerk & Comptroller is a neutral third party and takes no position on the merits of the Complaint filed by the Plaintiffs (the "Municipal Plaintiffs"). Rather, the Clerk & Comptroller seeks to ensure that her actions are consistent with law.

4. The Florida Constitution establishes a separation of duties among local governmental entities. Executive and legislative powers are bestowed upon the Board of County Commissioners, including the power to authorize the spending of all County funds. However, the Board of County Commissioners does not have access to the County depository or any County funds.

5. As a check and balance, the constitutional responsibility for oversight, custody, auditing and safeguarding of County funds is bestowed upon the Clerk & Comptroller. Prior to executing an expenditure decision of the Board of County Commissioners, the Florida Constitution requires the Clerk & Comptroller to perform a review of each expenditure to ensure that the payment is lawful, funds are available, and the payment serves a public purpose.

6. The Ordinance requires financial support of the IG from the County and Municipalities. The Clerk & Comptroller collects funds pursuant to the Ordinance and deposits them in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund (the "IG Account"), which is a County depository under the custody and control of the Clerk & Comptroller pursuant to Article V, section 16 and Article VIII, section 1(d) of the Florida Constitution.

7. When the IG makes a payment request, the Clerk & Comptroller performs her constitutional and statutory audit and oversight responsibilities and, if proper, issues payment.

JURISDICTION AND VENUE

8. This Court has jurisdiction to grant declaratory relief pursuant to Article V, section 5(b) of the Florida Constitution and section 26.012 and 86.011, Florida Statutes.

9. Venue is proper in Palm Beach County pursuant to section 47.011, Florida Statutes, because all parties are located in Palm Beach County, the Ordinance was adopted in Palm Beach County, and the cause of action accrued in Palm Beach County.

PARTIES

10. The Municipal Plaintiffs are municipal corporations of the State of Florida located in Palm Beach County, Florida.

11. The County is a political subdivision of the State of Florida with its primary offices located at 301 N. Olive Avenue, West Palm Beach, Florida.

12. The Clerk & Comptroller is an independent constitutional officer with administrative and finance offices located at 301 N. Olive Avenue, West Palm Beach, Florida.

13. The Clerk & Comptroller is elected by the electors of Palm Beach County, pursuant to Article V, section 16 and Article VIII, section 1(d) of the Florida Constitution, to serve, inter alia, as "ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of all county funds."

14. The Clerk & Comptroller is the independent constitutional auditor for the expenditure of County funds. This constitutional authority, which provides a local check and balance, has been affirmed by *Alachua County v. Powers*, 351 So.2d 32 (Fla. 1977), *Brock v. Board of County Commissioners of Collier County*, 21 So.3d 844 (Fla. 2d DCA 2009) and *W & F Ltd. v. Dunkle*, 444 So.2d 554 (Fla. 4th DCA 1984).

15. The Clerk & Comptroller also has statutory responsibilities, pursuant to section 28.12, Florida Statutes, to serve as, inter alia, the "accountant of the board of county commissioners" who shall "keep ... accounts and perform such other duties as provided by law." As such, the Clerk & Comptroller is the independently elected Chief Financial Officer of Palm Beach County.

16. The Clerk & Comptroller also has statutory responsibilities pursuant to Section 28.12, Florida Statutes, to "have custody of the seal and affix the same to any paper or instrument as required by law." The Clerk & Comptroller's statutory duties include attesting to the legality of all checks or warrants drawn on the IG Account and, if proper, affixing the corporate seal thereto, per section 136.06(1), Florida Statutes.

17. The Clerk & Comptroller has possible personal and criminal liability under section 129.09, Florida Statutes, in the exercise of these duties as follows:

County auditor not to sign illegal warrants.--Any clerk of the circuit court, acting as county auditor, who shall sign any warrant for the payment of any claim or bill of indebtedness against any county funds in excess of the expenditure allowed by law, or county ordinance, or to pay any illegal charge against the county, or to pay any claim against the county not authorized by law, or county ordinance, shall be personally liable for such amount, and if he or she shall sign such warrant willfully and knowingly he or she shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

§ 129.09, Fla. Stat.

18. Elaborating on the Clerk & Comptroller's audit responsibilities, section 136.08, Florida Statutes, states:

The accounts of each and every board and the county accounts of each and every depository, mentioned or provided for in this chapter, shall at all times be subject to the inspection and examination by the county auditor and by the Auditor General.

§ 136.08, Fla. Stat.

19. The Clerk & Comptroller has standing to bring this action, because:
- a. The Ordinance requires an expenditure of public funds;
 - b. The Clerk & Comptroller may be injured personally by virtue of complying with the Ordinance;
 - c. The Clerk & Comptroller has been prevented, in whole or part, from carrying out her duties under the Ordinance; and
 - d. The Clerk & Comptroller has a constitutional duty to protect public funds subject to the Ordinance.

GENERAL ALLEGATIONS

20. On May 17, 2011, the County Commission adopted the Ordinance, providing, *inter alia*, the mechanism for financial support and budgeting for the IG (the "Funding Mechanism"), and specifying that the Ordinance is retroactive to April 1, 2011.

21. The Ordinance, a copy of which is annexed as Exhibit "A", requires the Clerk & Comptroller to undertake various actions in connection with the Funding Mechanism to include, without limitation, the following:

Sec. 2-429. - Financial support and budgeting.

(4) No later than the fifth business day of July of each year, the office of the clerk and comptroller shall prepare an allocation schedule based on the most current LOGER system data. The proportionate share to be paid by the county and each municipality shall be reduced proportionately by the anticipated revenues from sources other than the county and municipalities and the amount of funds estimated to be received but not expended by the inspector general in the current fiscal year.

(7) The office of the clerk and comptroller shall invoice the county and each municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is not timely received, the county or any municipality in compliance with this section may pursue any available legal remedy.

(8) The county and each municipality's proportionate share for the period of June 1, 2011 through September 30, 2011 shall be as set forth in Exhibit A which is attached to Ordinance 2011-009 and incorporated herein by reference. The office of the clerk and comptroller shall invoice the county, upon adoption of this article, nine hundred forty-six thousand seven hundred sixty-four dollars (\$946,764.00). This amount is based on the estimated expenses through June 1, 2011 of four hundred eighty-three thousand three hundred thirty-three dollars (\$483,333.00), plus the county's proportionate share as reflected on Exhibit A. The office of the clerk and comptroller shall invoice each municipality for their proportionate share as set forth in subsection (7) beginning with the first invoice on October 10, 2011.

Art. XII, § 2-429, County Code.

22. As required by the County Ordinance and Funding Mechanism, the Clerk & Comptroller has taken, inter alia, these steps:

a. Prepared the allocation schedules for Fiscal Year ("FY") 2011 for the period June 1 to September 30, 2011 and for FY 2012, based on the most current state Local Government Electronic Reporting ("LOGGER") system data.¹

b. Invoiced the County \$946,764 for financial support for the IG for FY 2011, and \$384,033 as the County's proportionate share of the financial support for the IG for the first quarter of FY 2012.

c. Invoiced the Municipalities \$327,898 for financial support for the IG for FY 2011, and \$315,878 as the Municipalities' proportionate share of the financial support for the IG for the first quarter of FY 2012.²

d. Deposited in the IG Account \$130,560 in funds received from the Payor Municipalities.

23. All funds in the IG Account, including those paid by the Municipalities pursuant to the Ordinance, are subject to use by the IG to pay bona fide expenditures and obligations. The IG regularly requests the Clerk & Comptroller to pay expenditures from the IG Account.

24. The IG Account contains insufficient revenue to fund all of the expenditures that the County budgeted for the IG for FY 2012, because the Municipal Plaintiffs, with the

¹ The Comptroller did not report and was not made aware of any revenues from sources other than the County, Solid Waste Authority and Municipalities, but did slightly adjust the total owing based upon funds received but not expended by the IG.

² The City of Lake Worth and Jupiter Inlet Colony were not invoiced for FY 2011, because they paid the Clerk & Comptroller upon approval of the Ordinance.

exception of the Town of Ocean Ridge, have not paid the Invoices the Clerk & Comptroller sent to them pursuant to the Ordinance.

25. On or about November 9, 2011, Municipal Plaintiff, the City of West Palm Beach ("City"), notified the Clerk & Comptroller that it declined to pay its invoices on the grounds that "the funding mechanism for the inspector general program is unlawful." The City reported that the other Municipal Plaintiffs agreed and intended to file the instant lawsuit seeking declaratory relief (the "Lawsuit"). A copy of the City's letter is attached and incorporated herein as Exhibit "B".

26. In this Lawsuit, the Municipal Plaintiffs seek declaratory relief that the County is requiring them to pay an unlawful tax not approved by the electors of Palm Beach County.

27. If the Municipal Plaintiffs are correct, the Clerk & Comptroller may be liable for complying with the Funding Mechanism in the Ordinance by, inter alia,

- a. Invoicing the Municipalities; and
- b. Receiving and depositing funds received pursuant to the Ordinance from the Municipalities; allowing use of such funds in the IG Account to pay bona fide expenditures of the IG.

28. Accordingly, the Clerk & Comptroller seeks intervention in this matter not for the mere provision of legal advice by the courts or the answer to questions propounded by curiosity, but because this case involves concrete immunities, powers, privileges, rights, and responsibilities of the Clerk & Comptroller which are dependent on the facts of this case or the law applicable to such facts.

29. The Clerk & Comptroller also seeks intervention in this matter, because she has been prevented, in part, from performing her collection duties as prescribed in the Funding

Mechanism in the Ordinance by all Municipalities which have refused to make payment as required by the Ordinance.

30. The Attorney General is being served with a copy of this Complaint as required by Section 86.091, Florida Statutes.

31. All conditions precedent to maintaining this Lawsuit have been performed, have occurred or have been waived.

COUNT I - DECLARATORY RELIEF

32. The allegations in paragraphs 1-31 are realleged and incorporated herein by reference. *This is an action for declaratory and other relief.*

33. There is a bona fide, actual, present, practical need for this declaration.

34. The Clerk & Comptroller is uncertain whether she should take any of the following actions which are either required by the Funding Mechanism in the Ordinance, or may be required for the Clerk & Comptroller to comply with her constitutional, statutory and other duties:

a. Prepare allocation schedules for the County and the Municipalities based on the most current LOGER system data for future quarters in FY 2012 and beyond, adjusted for revenues from sources other than the County and Municipalities and funds estimated to be received but not expended by the IG;

b. Send Past Due Notices to the Municipalities that have not yet paid their invoices or take other enforcement actions;

c. Invoice the Municipalities for their proportionate share of the financial support budgeted by the County for the IG for future quarters in FY 2012 and beyond;

d. Deposit in the IG Account any funds received in response to invoices mailed to the Municipalities for their proportionate share of the financial support budgeted by the County for the IG for FY 2011 and 2012;

e. Return any funds deposited in the IG Account received in response to invoices mailed to the Municipalities for their proportionate share of the financial support budgeted by the County for the IG for FY 2011 and 2012, or prevent use of such funds pending resolution of this Lawsuit; and

f. Attest to checks or warrants drawn on the IG Account, sign any warrant for the payment of any claim or pay any claim against any County funds in excess of those deposited in the IG Account by any source other than the Municipalities, and affix the corporate seal thereto.

35. The Clerk & Comptroller is subject to civil and/or criminal liability to the extent she must attest to checks or warrants drawn on the IG Account and sign any warrant for the payment of any claim against any County funds in excess of the expenditure allowed by law, pay any claim against the County not authorized by law, or affix the corporate seal thereto.

36. The Clerk & Comptroller is also empowered and required by County electors to audit, inspect and examine the IG Account, but is uncertain as to how to carry out her constitutional and statutory duties and responsibilities, as long as the lawfulness of the Funding Mechanism is in question.


37. The antagonistic and adverse interests are all before this Court by proper process including persons who have, or reasonably may have, an actual, present, adverse, and antagonistic interest in the subject matter, either in fact or law.

WHEREFORE, Intervenor Sharon R. Bock, in her official capacity as Clerk & Comptroller of Palm Beach County, respectfully requests that this Court enter a final declaratory judgment binding on the Municipal Plaintiffs and Counties:

1. Declaring whether the Funding Mechanism of the Ordinance is lawful;
2. If the Funding Mechanism of the Ordinance is not lawful, declaring that the Clerk & Comptroller should:
 - a. permanently cease any further collection efforts (including without limitation, preparing allocation schedules, invoicing, collecting, and depositing funds received into the IG Account) pursuant to the Ordinance with respect to any of the Municipalities;
 - b. return all funds paid by Municipalities pursuant to the Ordinance that have been segregated and maintained pending the resolution of this Lawsuit;
 - c. refrain from processing or attesting to any payments from the IG Account with respect to funds budgeted to be received from the Municipalities pursuant to the Ordinance; and
 - d. otherwise perform her duties with respect to the IG Account in accordance with the remaining provisions of the Ordinance and the constitutional, statutory and other duties imposed on the Clerk & Comptroller under applicable law;
3. Ordering such temporary and permanent injunctive or other relief as may be necessary or proper; and
4. Awarding the Clerk & Comptroller's costs incurred in the prosecution of this action and such other and further relief as deemed just and proper under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 15th day of December 2011, a true and correct copy of the foregoing has been furnished by electronic mail and U. S. Mail to the names on the attached service list.



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Counsel for Intervenor

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND
FOR PALM BEACH COUNTY, FLORIDA

TOWN OF GULF STREAM, VILLAGE OF CASE NO.
TEQUESTA, CITY OF RIVIERA BEACH, 502011CA017953XXXXMAAN
TOWN OF JUPITER, CITY OF DELRAY
BEACH, TOWN OF PALM BEACH SHORES,
TOWN OF MANALAPAN, VILLAGE OF
WELLINGTON, TOWN OF MANGONIA PARK,
CITY OF PALM BEACH GARDENS, TOWN OF
HIGHLAND BEACH, TOWN OF LAKE PARK,
CITY OF WEST PALM BEACH, TOWN OF
OCEAN RIDGE, CITY OF BOCA RATON,
municipal corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

_____ /

STIPULATION TO ABATE

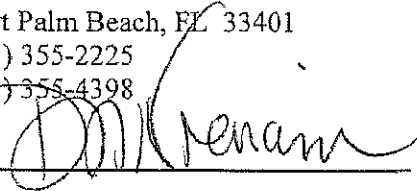
Plaintiffs, TOWN OF GULF STREAM, VILLAGE OF TEQUESTA, CITY OF RIVIERA BEACH, TOWN OF JUPITER, CITY OF DELRAY BEACH, TOWN OF PALM BEACH SHORES, TOWN OF MANALAPAN, VILLAGE OF WELLINGTON, TOWN OF MANGONIA PARK, CITY OF PALM BEACH GARDENS, TOWN OF HIGHLAND BEACH, TOWN OF LAKE PARK, CITY OF WEST PALM BEACH, TOWN OF OCEAN RIDGE, CITY OF BOCA RATON, municipal corporations of the State of Florida, and Defendant, PALM BEACH COUNTY, a political subdivision, by and through their undersigned counsel, hereby stipulate as follows:

1. This action is an action subject to Section 164.1014 of the Florida Governmental Conflict Resolution Act, Chapter 164 Florida Statutes ("the Act").

2. The parties in good faith have agreed to undertake the conflict resolution procedure provided for in the Act.

3. Therefore, the parties stipulate and agree this action shall be abated until conflict resolution proceedings under the Act are completed. The parties shall participate in the conflict resolution procedure provided for in the Act without the necessity of adoption of a resolution. Upon completion of the required dispute resolution procedure specified under the Act, the parties shall notify this Court. If the conflict in this matter is not finally resolved under the Act, then this abatement shall be dissolved, and the Defendants shall have twenty (20) days from the date of the completion of the mediation to file their initial responsive pleading, and the matter shall proceed in accordance with law.

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By: 
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Attorney for Plaintiff City of Boca Raton

COPY

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA
CASE NO.: 50 2011 CA 017953 AN

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN
OF JUPITER, CITY OF DELRAY BEACH,
TOWN OF PALM BEACH SHORES, TOWN OF
MANALAPAN, VILLAGE OF WELLINGTON
TOWN OF MANGONIA PARK, CITY OF PALM
BEACH GARDENS, TOWN OF HIGHLAND
BEACH, TOWN OF LAKE PARK, CITY OF
WEST PALM BEACH, TOWN OF OCEAN
RIDGE, CITY OF BOCA RATON, municipal
Corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

RECEIVED FOR FILING
SEP 15 2011
SHARON R. BOCK
CLERK & COMPTROLLER
CIRCUIT COURT DIVISION

SHARON R. BOCK, in her Official Capacity as the
Clerk & Comptroller of Palm Beach County, Florida

Intervenor.

NOTICE OF CONSTITUTIONAL QUESTION

Intervenor, Sharon R. Bock, in her official capacity as Clerk & Comptroller of Palm Beach County, by and through her undersigned counsel, hereby files her Notice of Constitutional Question, pursuant to Florida Rule of Civil Procedure 1.071 and Section 86.091, Florida Statutes, and states as follows:

Background

1. On or about November 14, 2011, the Plaintiffs filed the instant lawsuit ("Lawsuit") seeking declaratory relief that Defendant Palm Beach County is allegedly requiring

them to pay an unlawful tax not approved by the electors of Palm Beach County by virtue of enacting and implementing Palm Beach County Ordinance No. 2011-009 (codified at Art. XII, § 2-421 et seq.) and, within this ordinance, Article XII, § 2-429 relating to financial support and budgeting for the Office of Inspector General (the "Ordinance") as excerpted below:

Sec. 2-429. - Financial support and budgeting.

(4) No later than the fifth business day of July of each year, the office of the clerk and comptroller shall prepare an allocation schedule based on the most current LOGER system data. The proportionate share to be paid by the county and each municipality shall be reduced proportionately by the anticipated revenues from sources other than the county and municipalities and the amount of funds estimated to be received but not expended by the inspector general in the current fiscal year.

(7) The office of the clerk and comptroller shall invoice the county and each municipality one-fourth of the proportionate share as adjusted on October 10, January 10, April 10 and July 10 of each year. Payment shall be submitted to the board and due no later than thirty (30) days from the date of the invoice. Upon receipt, all funds shall be placed in the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund. In the event payment is not timely received, the county or any municipality in compliance with this section may pursue any available legal remedy.

(8) The county and each municipality's proportionate share for the period of June 1, 2011 through September 30, 2011 shall be as set forth in Exhibit A which is attached to Ordinance 2011-009 and incorporated herein by reference. The office of the clerk and comptroller shall invoice the county, upon adoption of this article, nine hundred forty-six thousand seven hundred sixty-four dollars (\$946,764.00). This amount is based on the estimated expenses through June 1, 2011 of four hundred eighty-three thousand three hundred thirty-three dollars (\$483,333.00), plus the county's proportionate share as reflected on Exhibit A. The office of the clerk and comptroller shall invoice each municipality for their proportionate share as set forth in subsection (7) beginning with the first invoice on October 10, 2011.

Art. XII, § 2-429, County Code.

2. The Clerk & Comptroller is a neutral third party and takes no position on the merits of the Lawsuit filed by the Plaintiffs; however, on December 1, 2011, the Court approved

intervention by the Clerk of the Court in this Lawsuit in light of the obligations and duties imposed on her by the Ordinance and Florida Constitution and statutory law.

Statement of Questions and Paper Raising Them

3. In her Complaint in Intervention for Declaratory and Other Relief ("Complaint in Intervention"), the Clerk & Comptroller has asked the Court to enter a final declaratory judgment binding on the Plaintiffs and County declaring, inter alia, as follows:

a. Declaring whether the mechanism for financial support and budgeting for the Inspector General (the "Funding Mechanism ") in the Ordinance is lawful;

b. If the Funding Mechanism of the Ordinance is not lawful, declaring that the Clerk & Comptroller should:

i. permanently cease any further collection efforts (including, without limitation, preparing allocation schedules, invoicing, collecting, and depositing funds received into the Office of Inspector General, Palm Beach County, Florida Special Revenue Fund ("IG Account")) pursuant to the Ordinance with respect to any of Palm Beach County municipalities;

ii. return all funds paid by any Palm Beach County municipality pursuant to the Ordinance that have been segregated and maintained by the Clerk & Comptroller pending the resolution of this action;

iii. refrain from processing or attesting to any payments from the IG Account with respect to funds budgeted to be received from any Palm Beach County municipality pursuant to the Ordinance; and

iv. otherwise perform her duties with respect to the IG Account in accordance with the remaining provisions of the Ordinance and the constitutional, statutory, and other duties imposed on the Clerk & Comptroller under applicable law.

§ 86.091, Fla. Stat. and Rule 1.071(a), Fla. R. Civ. P.

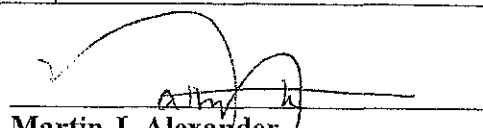
4. Pursuant to section 86.091, Florida Statutes, and Florida Rule of Civil Procedure 1.071(a), the Attorney General or the state attorney of the judicial circuit in which the action is pending must be served with a copy of the complaint and a notice of constitutional question stating the question and identifying the paper that raises it, so that either may be heard; however, service of this Notice of Constitutional Question and the Complaint in Intervention does not require joinder of the Attorney General or the state attorney as a party to this Lawsuit.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 14th day of December 2011, a true and correct copy of the foregoing has been furnished by U. S. Mail to counsel as follows:

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 Tel: (850) 224-7000
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Counsel for Intervenor.

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY,
FLORIDA
CASE NO: 2011CA017953MB AN

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH,
TOWN OF JUPITER, CITY OF DELRAY
BEACH, TOWN OF PALM BEACH SHORES,
TOWN OF MANALAPAN, VILLAGE OF
WELLINGTON, TOWN OF MANGONIA PARK,
CITY OF PALM BEACH GARDENS, TOWN OF
HIGHLAND BEACH, TOWN OF LAKE PARK,
CITY OF WEST PALM BEACH, TOWN OF
OCEAN RIDGE, CITY OF BOCA RATON,
municipal corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

SHARON R. BOCK, in her Official Capacity as the
Clerk and Comptroller of Palm Beach County,
Florida,

Intervenor.

AGREED ORDER OF ABATEMENT

THIS CAUSE having come before the Court upon Stipulation to Abate filed herein; and the Court having examined said Stipulation and being fully advised in the premises, finds that this matter has been stipulated and agreed upon by the parties and shall be abated until all necessary conflict resolution proceedings are completed as agreed upon in the Stipulation to Abate.

IT IS THEREFORE ORDERED that the abating of this action will start with the entry of this order and shall remain abated until further action of this Court.

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SIGNED & DATED

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, on this

DEC 27 2011

_____ day of _____, _____.

JUDGE JACK SCHRAMM COX

Honorable Jack S. Cox
Circuit Court Judge

Copies furnished:

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Town of Palm Beach Shores, and
Town of Mangonia Park

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000187

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Attorney(s) for Intervenor, Sharon R. Bock

IN THE CIRCUIT COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO: 50 2011 CA 017953

TOWN OF GULF STREAM, VILLAGE OF
TEQUESTA, CITY OF RIVIERA BEACH, TOWN OF
JUPITER, CITY OF DELRAY BEACH, TOWN OF
PALM BEACH SHORES, TOWN OF MANALAPAN,
VILLAGE OF WELLINGTON, TOWN OF
MANGONIA PARK, CITY OF PALM BEACH
GARDENS, TOWN OF HIGHLAND BEACH, TOWN
OF LAKE PARK, CITY OF WEST PALM BEACH,
TOWN OF OCEAN RIDGE, CITY OF BOCA RATON,
municipal corporations of the State of Florida,

Plaintiffs,

vs.

PALM BEACH COUNTY, a political subdivision,

Defendant.

FILED
2012 FEB 29 PM 4:47
SHARON R. BOCK, CLERK
PALM BEACH COUNTY
CIRCUIT CIVIL

NOTICE OF CONSTITUTIONAL QUESTION

Plaintiffs, TOWN OF GULF STREAM, VILLAGE OF TEQUESTA, CITY OF RIVIERA BEACH, TOWN OF JUPITER, CITY OF DELRAY BEACH, TOWN OF PALM BEACH SHORES, TOWN OF MANALAPAN, VILLAGE OF WELLINGTON, TOWN OF MANGONIA PARK, CITY OF PALM BEACH GARDENS, TOWN OF HIGHLAND BEACH, TOWN OF LAKE PARK, CITY OF WEST PALM BEACH, TOWN OF OCEAN RIDGE, CITY OF BOCA RATON, municipal corporations of the State of Florida, ("Municipalities"), hereby file their Notice of Constitutional Question, pursuant to Florida Rule of Civil Procedure 1.071 and Section 86.091, Florida Statutes. Service of this notice does not require joinder of the Attorney General as a party to this lawsuit.

Statement of Questions and Paper Raising Them

The Plaintiffs' Complaint for Declaratory Relief raises the following constitutional question:

Whether Palm Beach County Ordinance No. 2011-009 (codified at Art. XII, § 2-421 et seq.), and within this ordinance, Article XII, § 2-429 relating to financial support and budgeting for the Office of the Inspector General (the "Ordinance") is unlawful because:

1. There is no general law authorizing an inspector general fee; the fee is not voluntary, so it is not a user fee; there is no real property involved, so it is not a special assessment; the Inspector General Ordinance does not contain regulations, so it is not a regulatory fee; thus, the fee is an unlawful tax;
2. There is no legal vehicle by which the municipalities can charge a fee to municipal contractors because municipalities are not providing the service;
3. There is no relationship between the LOGER system and the services provided by the Inspector General Program nor is the LOGER funding mechanism consistent with the grant of authority set forth in the Charter Amendment;
4. A municipality is not permitted to subsidize another municipality.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Notice of Constitutional Question was furnished by U.S. Mail to Attorneys for Defendant County, Andrew J. McMahon, Chief Assistant County Attorney, Philip Mugavero, Assistant County Attorney, Post Office Box 1989, West Palm Beach, FL 33402, and to Attorneys for the Intervenor, Martin J. Alexander & Nathan A. Adams at 222 Lakeview Avenue, Suite 1000, West Palm Beach, FL 33401 on this 24th day of February 2012.

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P.O. Box 3366
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(561) 822-1355
(561) 822-1373 (facsimile)

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Douglas N. Yeargin
Assistant City Attorney
Florida Bar No. 777560
dyeargin@wpb.org
Attorneys for Plaintiff, City of West Palm Beach

And

/s/

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And

/s/

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IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.: 502011CA017953XXXXMBAN

TOWN OF GULF STREAM, et al.

Plaintiffs,

v.

PALM BEACH COUNTY

Defendant,

RECEIVED

MAY 23 2012

P.B. COUNTY ATTORNEY

MEDIATION REPORT

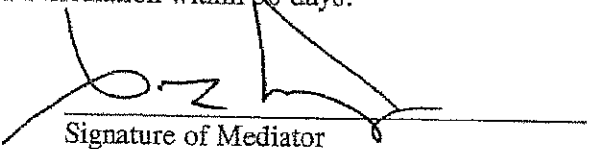
A mediation conference was held on this matter on May 18, 2012

The following were present:

- 1. Plaintiff and Plaintiff's trial counsel.
- 2. If Plaintiff is not an individual, the representative who appeared had total authority.
- 3. Defendant (pro se) failed to appear.
- 4. If Defendant is not an individual, the representative who appeared had total authority.

The result of the conference is as follows:

- The conflict has been completely resolved.
- The conflict has been partially resolved. The parties are submitting a stipulation for the court's approval. Some issues still require court resolution: _____
- The parties have reached a total impasse; all issues require court action.
- The matter has been continued for further mediation within 60 days.



Signature of Mediator
Steven A. Mayans
Certification No.: 5364CR

cc: The Honorable Sandra K. McSorley
Andrew L. McMahan
Philip Mugavero
Claudia M. McKenna
Douglas N. Yeargin

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cc:

(Continued)

Kimberly L. Rothenburg
John C. Randolph, Esquire
Keith W. Davis, Esquire
Pamela Hanna Ryan
Thomas Jay Baird, Esquire
R. Brian Shutt
Terrill Pyburn
Trela J. White, Esquire
R. Max Lohman, Esquire
Thomas Edward Sliney, Esquire
Kenneth G. Spillias, Esquire
Diana Grub Frieser
Martin Alexander, Esquire
Nathan A. Adams, IV, Esquire
Denise Coffman, Esquire

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN
AND FOR PALM BEACH COUNTY,
FLORIDA

CASE NO.:502011CA017953XXXXMBAN

TOWN OF GULF STREAM, et al.

Plaintiffs,

v.

PALM BEACH COUNTY

Defendant,

CORRECTED MEDIATION REPORT

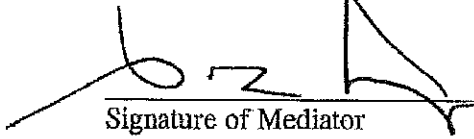
A mediation conference was held on this matter on May 18, 2012

The following were present:

- 1. Plaintiff and Plaintiff's trial counsel.
- 2. If Plaintiff is not an individual, the representative who appeared had total authority.
- 3. Defendant and Defendant's trial counsel.
- 4. If Defendant is not an individual, the representative who appeared had total authority.

The result of the conference is as follows:

- The conflict has been completely resolved.
- The conflict has been partially resolved. The parties are submitting a stipulation for the court's approval. Some issues still require court resolution: _____
- The parties have reached a total impasse; all issues require court action.
- The matter has been continued for further mediation within 30 days.



Signature of Mediator
Steven A. Mayans
Certification No.: 5364CR

cc: The Honorable Sandra K. McSorley
Andrew L. McMahan
Philip Mugavero
Claudia M. McKenna
Douglas N. Yeargin

000174

cc:

(Continued)

Kimberly L. Rothenburg
John C. Randolph, Esquire
Keith W. Davis, Esquire
Pamela Hanna Ryan
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R. Brian Shutt
Terrill Pyburn
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Thomas Edward Sliney, Esquire
Kenneth G. Spillias, Esquire
Diana Grub Frieser
Martin Alexander, Esquire
Nathan A. Adams, IV, Esquire
Denise Coffman, Esquire

**Request for Taxpayer
Identification Number and Certification**

Give Form to the
requester. Do not
send to the IRS.

Name (as shown on your income tax return)
FitzGerald Mayans & Cook, P.A.

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
 Individual/sole proprietor Corporation S Corporation Partnership Trust/estate
 Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ Exempt payee
 Other (see instructions) ▶

Address (number, street, and apt. or suite no.)
Northbridge Centre, Suite 900, 515 North Flagler Drive
City, state, and ZIP code
West Palm Beach, Florida 33401

Requester's name and address (optional)

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note, if the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
				-				

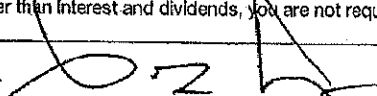
Employer identification number									
6	5	-	0	6	9	4	4	9	1

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here Signature of U.S. person ▶  Date ▶ **1/13/12**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

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The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity, and
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA) name" on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

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Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if Item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

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4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ³ The actual owner ³
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor ³
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ³
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(ii)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DEA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14038.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

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