

RESOLUTION NO. 04-82

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PUBLIC INFORMATION SERVICES; AUTHORIZING THE VILLAGE MANAGER TO RENEW THE CONTRACT WITH GORIN COMMUNICATIONS, INC., FOR PUBLIC INFORMATION SERVICES FOR THE FISCAL YEAR 2004-05 UNDER THE TERMS AND CONDITIONS OF THE CONTRACT ATTACHED; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on July 7, 2003, the Village, pursuant to Resolution 03-58, entered into an agreement with Gorin Communications, Inc., to provide public information services to the Village; and

WHEREAS, the term of the contract was for a period of one year, with monthly extensions being permitted; and

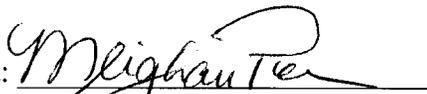
WHEREAS, although two monthly extensions had been provided, it is necessary to renew the contract for an additional year.

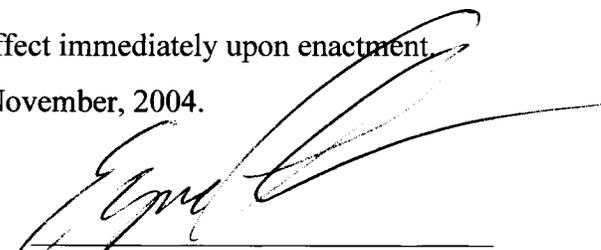
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1: The Village Council approves and authorizes the Village Manager to renew the contract with Gorin Communications, Inc. under the current terms and conditions as provided in the attached executed contract.

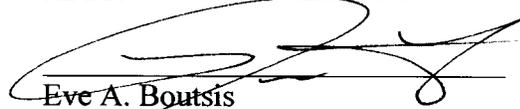
Section 2: This resolution shall take effect immediately upon enactment.

PASSED and ADOPTED this 1st day of November, 2004.

Attest: 
Meighan Pier
Village Clerk


Eugene P. Flinn, Jr.
Mayor

APPROVED AS TO FORM:


Eve A. Boutsis
Office of the Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Ed Feller YES

Council Member Paul Neidhart YES

Council Member John Breder YES

Vice-Mayor Linda Robinson YES

Mayor Eugene P. Flinn, Jr. YES

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**PROFESSIONAL SERVICES AGREEMENT BETWEEN THE VILLAGE OF
PALMETTO BAY AND GORIN COMMUNICATIONS, INC.**

This Agreement is made and entered into this 1st day of August, 2003 between the Village of Palmetto Bay, a Florida municipal corporation, located at 8950 SW 152nd Street, Palmetto Bay, Florida 33157, Gorin Communications, Inc., a Florida corporation located at 8264 SW 177th Terrace, Palmetto Bay, Florida 33157 ("Consultant").

W I T N E S S E T H :

WHEREAS, village desires to engage and retain the services of the Consultant to perform the work described in this Agreement and the Consultant desires to accept the engagement, upon the terms and conditions herein set forth; and,

WHEREAS, the Village Council has approved the selection of the Consultant by adopting Resolution Number 03-58.

NOW THEREFORE, in consideration of \$10.00, and the premises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged by both parties, the parties agree as follows.

1. WHEREAS CLAUSES

1.1. The above whereas clauses are incorporated and made a part of this Agreement.

2. SCOPE OF SERVICES

2.1 The scope of services under this Agreement shall be as provided in Exhibit A, incorporated hereto and made a part of this Agreement.

3. COMMENCEMENT DATE AND TERM

3.1 The term shall commence upon the date of this Agreement and continue for a period of one (1) year, unless sooner terminated by either party by providing written notice at least thirty (30) days prior to the date of termination. The village shall have no liability to the Consultant for future profits or losses in the event of termination.

3.2 Upon mutual agreement of the parties the initial one year term may be extended upon a month-to-month basis, for up to one (1) additional year.

4. PAYMENT

4.1 The village shall pay the Consultant a monthly retainer amount in the sum of \$2,500.00. In exchange, the Consultant shall provide thirty-five (35) hours of service per month.

4.2 The village shall not be liable to pay, and shall not pay, charges for extra work, delay charges, or additional work, unless the Village Manager specifically authorizes the extra or additional work, in a written task order before the commencement of the work. The village shall reimburse the Consultant for reasonable costs and expense incidentals associated with extra or additional work which has been authorized as provided herein and does not exceed \$500 per occurrence. Such costs shall be supplemental to the retainer amount and shall be approved in writing by the Village Manager. The Consultant shall not be entitled to any carrying charges or finance fees.

4.3 The Consultant shall submit monthly invoices for services rendered and reimbursable expenses for extra or additional work which has been authorized as provided in paragraph 4.2. Payment by the village shall be made within fifteen (15) days of receipt of the invoice.

5. TRANSFER AND ASSIGNMENT

5.1 None of the work or services under this Agreement shall be subcontracted unless Consultant obtains prior written consent from the village. Approved sub-consultant shall be subject to each provision of this Agreement and Consultant shall be responsible and indemnify the village for all sub-consultants' acts, errors or omissions.

5.2 The Consultant shall not assign, transfer or pledge any interest in this Agreement without the prior written consent of the village; provided, however, that claims for money by the Consultant from the village under this Agreement may be assigned, transferred or pledged to a bank, trust company, or other financial institution without the village's approval. Written notice of any assignment, transfer or pledge of funds shall be furnished within 10 days by the Consultant to the village.

6. MODIFICATIONS - CHANGE ORDERS

6.1 The village may, at any time, by written change order make changes to the scope of work, and to the means and methods of performing the work. The village may order temporary stoppage of the work or delay in performance that does not alter the scope of work. In the event that modifications cause an increase or decrease in the price charged, the village shall make an equitable adjustment to the maximum price and shall modify the Agreement with a written change order.

7. NO DAMAGES FOR DELAY CLAUSE

7.1 No claim for damages or any claim other than for an extension of time shall be made or asserted against the village by reason of any delays. The



Consultant shall not be entitled to an increase in the contract sum or payment of compensation of any kind from the village for direct, indirect, consequential, impact, mobilization, demobilization, or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever; provided, however, that this provision shall not preclude recovery or damages by the Consultant for hindrances or delays due solely to fraud, bad faith or active interference on the part of the village or its agents. Otherwise, the Consultant shall be entitled only to extension of the contract time as the sole and exclusive remedy for a resulting delay, in accordance with and to the extent specifically provided above.

8. LIENS

8.1 The Consultant, sub-consultant, suppliers and laborers are prohibited from placing a lien on village's property.

9. INDEPENDENT CONSULTANT

9.1 The Consultant is furnishing its services as an independent Consultant and nothing in this Agreement shall create any association, partnership or joint venture between the parties, or any employer-employee relationships.

10. INDEMNIFICATION

10.1 The Consultant shall provide the services based on information and direction provided by village staff. Information collected and prepared by the Consultant shall not be made public until such information is approved by the Village Manager or his designee as to form and content. The Consultant shall therefore not be liable for inaccurate, improper, inadequate or untimely information that has been approved by the Village Manager or other authorized village official for publication or distribution.

10.2 The village shall not be held liable or responsible for any claims which may result from acts, errors or omissions of the Consultant or its sub-consultant, suppliers or laborers. In reviewing, approving or rejecting any submissions or acts of the Consultant, the village in no way assumes responsibility or liability for the acts, errors or omissions of the Consultant or sub-consultant.

11. EQUAL EMPLOYMENT OPPORTUNITY

11.1 The Consultant agrees to remain in compliance with all local, state, and federal Equal Employment Opportunity (EEO) requirements, including Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

11.2 In the event of a determination that the Consultant is not in compliance with this clause, this Agreement may be canceled, terminated, or suspended in whole or in part, and the Consultant may be declared ineligible for further contracts.

11.3 These terms and conditions must be included in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each sub-consultant or vendor.

12. MEDIATION

12.1 Any claim or dispute arising out of or related to this Agreement shall be subject to informal mediation as a condition precedent to the institution of legal or equitable proceedings by either party. Both parties waive any right to arbitration.

12.2 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Miami-Dade County, Florida, unless another location is mutually agreed upon.

12.3 Agreements reached in mediation shall be enforceable as settlement Agreements in the circuit court for the 11th judicial circuit for the State of Florida.

13. JURISDICTION AND VENUE

13.1 For the purposes of this Agreement, Florida law shall govern the terms of this Agreement. Venue shall be in Miami-Dade County, Florida.

14. SOVEREIGN IMMUNITY AND ATTORNEY'S FEES

14.1 The village does not waive sovereign immunity for any claim for breach of Agreement or for an award of prejudgment interest; provided, however, that in any action arising out of or to enforce this Agreement, the prevailing party shall be entitled to its reasonable attorney's fees and costs.

15. NOTICES

15.1 All notices given or required under this Agreement shall be deemed sufficient if sent by certified mail, return receipt requested, to the addresses of the Consultant and to the village specified in this Agreement, unless either party shall specify to the other party a different address for the giving of the notices.



16. CONTRACTING OFFICER REPRESENTATION

16.1 For the purposes of this Agreement, the contracting officers are as follows:

To the Village: Village of Palmetto Bay
Village Manager
8950 SW 152nd Street
Palmetto Bay, FL 33157
Telephone: 305-259-1234

To Consultant: Gorin Communications, Inc.
Edward Gorin, President
8264 SW 177th Terrace
Palmetto Bay, FL 33157
Telephone: 305-256-4262

17. EXAMINATION AND RETENTION OF CONSULTANT'S RECORDS

17.1 The village, or any of their duly authorized representatives, shall, until 3 years after final payment under this Agreement, have access to and the right to examine any of the Consultant's books, ledgers, documents, papers, or other records involving transactions related to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

17.2 The Consultant agrees to include in first-tier subcontracts under this Agreement a clause substantially the same as subparagraph 17.1 above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.

17.3 The right to access and examination of records in subparagraph 17.1 shall continue until disposition of any mediation, claims, litigation or appeals.

18. OWNERSHIP OF DOCUMENTS

18.1 All documents, reports, plans, specifications or other records, including electronic records, resulting from the professional services rendered by the Consultant under this Agreement shall be deemed the property of the village and the village shall have all rights incident to this ownership. The Consultant acknowledges that all documents prepared under this Agreement shall be public records, and shall be subject to public inspection and copying, as provided by Florida Statutes chapter 119. Upon conclusion of this Agreement and any extensions, all documents shall be delivered by the Consultant to the village. The Consultant shall have the right to retain copies of the documents at the Consultant's expense.



19. SEVERABILITY

19.1 Should any paragraph or any part of any paragraph of this Agreement be rendered void, invalid or unenforceable by any court of law, for any reason, the determination shall not render void, invalid or unenforceable any other section or part of any section of this Agreement.

20. ENTIRE AGREEMENT

20.1 The Agreement, when signed by all of the parties, constitutes the full and complete understanding and Agreement of all parties and may not be in any manner interpreted or fulfilled in contradiction of its express terms. This Agreement and the incorporated exhibits constitute the entire understanding between the parties and integrates by its terms all previous Agreements or understandings, oral or written, between the parties. In the event of any conflict, the terms of this Agreement will govern over the provisions of any incorporated documents.

21. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY

21.1 Consultant warrants that neither it, nor any principal, employee, agent, representative or family member has promised to pay, and Consultant has not, and will not, pay a fee the amount of which is contingent upon the village awarding this Agreement to Consultant.

21.2 Consultant warrants that neither it, nor any principal, employee, agent, representative or family member has procured, or attempted to procure, this Agreement in violation of any of the provisions of the Miami-Dade County or the Village of Palmetto Bay conflict of interest and code of ethics ordinances.

21.3 A violation of this paragraph will result in the termination of the Agreement and forfeiture of funds paid, or to be paid, to the Consultant.

22. WARRANTY OF AUTHORITY

22.1 The signatories to this Agreement warrant that they are duly authorized by action of their respective village commission, board of directors or other authority to execute this Agreement and to bind the parties to the promises, terms, conditions and warranties contained in this Agreement.



IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized officers, have executed this Agreement as of the date first above written.

The Village of Palmetto Bay

Consultant

By: Charles D. Scurr
Charles D. Scurr,
Village Manager

By: [Signature]

ATTEST:

VILLAGE CLERK

By: Meighan J. Pier
Meighan J. Pier

Approved as to form:

By: Earl G. Gallop
Earl G. Gallop, Village Attorney
The Village of Palmetto Bay

[Signature]

EXHIBIT "A"

Scope of Services

General Description:

During the term of this agreement, the Consultant shall perform public information functions for the Village of Palmetto Bay.

The Consultant shall agree to be available with reasonable notice to meet with Village officials, attend Village Council and community meetings, represent the interests of the Village, and act as a liaison between the Village and the media. The Consultant shall report to the Village Manager or designee.

Duties and Responsibilities:

- ♦ Write and edit special stories, briefs, press releases, articles and content pertaining to Village events, services, and activities for newspapers, magazines, television, radio and other media sources
- ♦ Assist the Village Council in preparing reports, messages, and articles, including the Mayor's State of the Village address
- ♦ Compose and edit articles for inclusion in the Village newsletter, Palmetto Bay brochures, and other documents as determined by the Village
- ♦ Research, write, and edit news articles for the Village's website. Assist Village officials in preparing messages for the website
- ♦ Develop, write and update the Village's Email Newsletter
- ♦ Cooperate with the local media to ensure the release of public information and Village news, including communicating with reporters and networking with the local newspapers covering the Village of Palmetto Bay
- ♦ Serves, as requested by the Village Manager, as the Village spokesperson
- ♦ Prepare written status reports to the Village. Such reports shall be as detailed as necessary and include updates on the Village's public information program.

