

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR PALM  
BEACH COUNTY, FLORIDA

TOWN OF GULF STREAM, et al.,

CASE NO. 502011CA017953XXXXMB

Plaintiffs,

DIVISION: AO

v.

PALM BEACH COUNTY, a political subdivision  
of the State of Florida,

Defendant.

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

Intervenor.

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**DEFENDANT, PALM BEACH COUNTY'S WITNESS AND EXHIBIT LIST**

The Defendant, PALM BEACH COUNTY, hereby files the following Witness and Exhibit List, pursuant to this Court's Order Setting Jury Trial, dated September 11, 2013, and states as follows:

**WITNESS LIST**

1. **Brad Merriman**, Assistant County Administrator  
Palm Beach County Board of County Commissioners  
c/o Philip Mugavero, Esq.  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401
2. **Sheryl Steckler**, Inspector General  
Palm Beach County Office of Inspector General  
c/o Philip Mugavero, Esq.  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401

3. **Joe Doucette**, Chief of Operations  
Palm Beach County Office of Inspector General  
c/o Philip Mugavero, Esq.  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401
  
4. **Patra Liu, Esq.**, Assistant Inspector General/Legal Counsel  
Miami-Dade County Office of the Inspector General  
19 West Flagler Street, Suite 220  
Miami, Florida 33130
  
5. Records Custodian or other qualified witness from the Palm Beach County  
Supervisor of Elections Office.  
c/o Philip Mugavero, Esq.  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401
  
6. All witnesses listed on Plaintiff's witness list.

#### **EXPERT WITNESSES**

1. **Jess R. Santamaria**, Palm Beach County Commissioner, District 6  
Palm Beach County Board of County Commissioners  
c/o Philip Mugavero, Esq.  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401

Based on Commissioner Santamaria's training, education and experience as a business entrepreneur and executive, he will testify as to the following as described on Exhibit "1" attached hereto.

Commissioner Santamaria's curriculum vitae will be provided immediately upon receipt.

2. **John Wilson**, Director, Budget Division (Fact/Expert)  
Palm Beach County Office of Financial Management & Budget  
c/o Philip Mugavero, Esq.  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401

Based on his training, education and experience, Mr. Wilson will testify as to Palm Beach County's budget related matters, including the funding for the Office of Inspector General, if the LOGER funding mechanism set forth in the Inspector General Ordinance has been fully implemented by all municipalities with Palm Beach County.

#### **EXHIBIT LIST**

1. Palm Beach County adopts, as its own, all exhibits listed on the Plaintiff's exhibit list.
2. Transcription of the final meeting of the Office of Inspector General Drafting Committee.
3. Transcription of tape of the final vote of the Office of Inspector General Funding Subcommittee.
4. Certified copies of the November 2, 2010 election results approving Palm Beach County Charter amendment ballot language for the Palm Beach County Inspector General.

#### **GENERAL**

Without waiving any objection, any and all depositions and any attachments or exhibits thereto, taken or to be taken in this matter.

The Defendant reserves the right to revise and supplement the foregoing List of Trial Exhibits pursuant to and in accordance with this Court's Order Setting Non-Jury Trial and Directing Pretrial Procedures, dated September 11, 2013, as well as the Florida Rules of Civil Procedure.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Electronic Mail this 14<sup>th</sup> day of November, 2013, to the counsel listed below:



**Andrew J. McMahon, Esq.**  
Chief Assistant County Attorney  
Florida Bar No. 814636  
Email: [AMcmahon@pbcgov.org](mailto:AMcmahon@pbcgov.org)

**Philip Mugavero, Esq.**  
Sr. Assistant County Attorney  
Fla. Bar No. 931179  
Email: [PMugaver@pbcgov.org](mailto:PMugaver@pbcgov.org)

**Helene C. Hvizd, Esq.**  
Assistant County Attorney  
Fla. Bar No. 868442  
Email: [Hhvizd@pbcgov.org](mailto:Hhvizd@pbcgov.org)  
Attorneys for Palm Beach County  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401

Copies furnished to:

**Claudia M. McKenna, City Attorney, [cmckenna@wpb.org](mailto:cmckenna@wpb.org), Douglas N. Yeargin, Assistant City Attorney, [dyeargin@wpb.org](mailto:dyeargin@wpb.org), Kimberly L. Rothenburg, Assistant City Attorney, [krothenburg@wpb.org](mailto: krothenburg@wpb.org), City of West Palm Beach, P.O. Box 3366, West Palm Beach, Florida 33402.**

**Martin Alexander, Esq., [martin.alexander@hklaw.com](mailto:martin.alexander@hklaw.com), and Nathan A. Adams, IV, Esq., [nathan.adams@hklaw.com](mailto:nathan.adams@hklaw.com), Counsel for Sharon R. Bock, Holland & Knight, LLP, 222 Lakeview Avenue, Suite 1000, West Palm Beach, Florida 33401.**

**Hampton C. Peterson, Esq., [clerk\\_e-service@mypalmbeachclerk.com](mailto:clerk_e-service@mypalmbeachclerk.com), General Counsel for Clerk and Comptroller, Sharon Bock, 301 North Olive Avenue, 9<sup>th</sup> Floor, West Palm Beach, Florida 33401.**

IN THE CIRCUIT COURT OF THE 15<sup>TH</sup>  
JUDICIAL CIRCUIT, IN AND FOR  
PALM BEACH COUNTY, FLORIDA

TOWN OF GULF STREAM, et al.,

CASE NO. 502011CA017953XXXXMB

Plaintiffs,

DIVISION: AO

v.

PALM BEACH COUNTY, a political subdivision  
of the State of Florida,

Defendant.

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

Intervenor.  
\_\_\_\_\_

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NOV 26 2012

SHARON R. BOCK  
CLERK & COMPTROLLER  
CIRCUIT CIVIL DIVISION

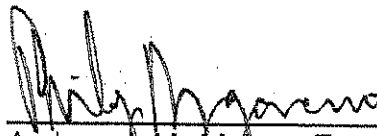
**DEFENDANT, PALM BEACH COUNTY'S, NOTICE OF FILING AFFIDAVIT OF  
JESS R. SANTAMARIA IN OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL  
SUMMARY JUDGMENT AND INCORPORATED MEMORANDUM OF LAW**

COMES NOW Defendant, PALM BEACH COUNTY, a political subdivision of the  
State of Florida, by and through the undersigned counsel, and hereby files this Notice of  
Filing Affidavit of Jess R. Santamaria in Opposition to Plaintiff's Motion for Partial Summary  
Judgment and Incorporated Memorandum of Law pursuant to Florida Rule of Civil  
Procedure 1.510.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and copy of the foregoing has been furnished by  
Hand Delivery this 26<sup>th</sup> day of November, 2012, to the counsel listed below.





Andrew J. McMahon, Esq.  
Chief Assistant County Attorney  
Florida Bar No. 814636  
Email: [AMcmahon@pbcgov.org](mailto:AMcmahon@pbcgov.org)  
Philip Mugavero, Esq.  
Assistant County Attorney  
Fla. Bar No. 931179  
Email: [PMugaver@pbcgov.org](mailto:PMugaver@pbcgov.org)  
Attorneys for Palm Beach County  
Palm Beach County Attorney's Office  
300 N. Dixie Highway, Suite 359  
West Palm Beach, Florida 33401  
Tel. (561) 355-6717  
Fax. (561) 355-4234

Service List:

**Claudia M. McKenna, City Attorney, Douglas N. Yeargin, Assistant City Attorney, Kimberly L. Rothenburg, Assistant City Attorney, City of West Palm Beach, 401 Clematis Street, 5<sup>th</sup> Floor, West Palm Beach, Florida 33401. [cmckenna@wpb.org](mailto:cmckenna@wpb.org), [dveargin@wpb.org](mailto:dveargin@wpb.org), [krothenburg@wpb.org](mailto:krothenburg@wpb.org).**  
**John C. Randolph, Esq., Town of Gulf Stream, Jones, Foster, Johnson & Stubb, P.A., 505 S. Flagler Drive, Suite 1100, West Palm Beach, Florida 33401. [jrandolph@jones-foster.com](mailto:jrandolph@jones-foster.com)**  
**Keith W. Davis, Esq., Village of Tequesta, Town of Palm Beach Shores and Town of Mangonia Park, Corbett and White, P.A., 1111 Hypoluxo Rd, Suite 207, Lantana, FL, 33462. [keith@corbettandwhite.com](mailto:keith@corbettandwhite.com)**  
**Pamala Hanna Ryan, City Attorney, City of Riviera Beach Attorney's Office, 600 W. Blue Heron Boulevard, Riviera Beach, Florida 33404. [pryan@rivierabch.com](mailto:pryan@rivierabch.com)**  
**Thomas Jay Baird, Esq., Town of Jupiter and Town of Lake Park, Jones, Foster, Johnson & Stubbs, P.A., 801 Maplewood Drive, Suite 22A, Jupiter, Florida 33458. [tbaird@jones-foster.com](mailto:tbaird@jones-foster.com)**  
**R. Brian Shuff, City Attorney, Terrill Pyburn, Assistant City Attorney, City of Delray Beach, 200 NW 1<sup>st</sup> Avenue, Delray Beach, Florida 33444. [shuff@MyDelrayBeach.com](mailto:shuff@MyDelrayBeach.com), [pyburn@MyDelrayBeach.com](mailto:pyburn@MyDelrayBeach.com)**  
**Trela J. White, Esq., Town of Manalapan, Corbett & White, P.A., 1111 Hypoluxo Road, Suite 207, Lantana, Florida, 33462. [trela@corbettandwhite.com](mailto:trela@corbettandwhite.com)**  
**R. Max Lohman, Esq., City of Palm Beach Gardens, Corbett and White, P.A., 1111 Hypoluxo Road, Suite 207, Lantana, Florida 33462. [max@corbettandwhite.com](mailto:max@corbettandwhite.com)**  
**Glen J. Torcivia, Esq., Town of Highland Beach, Law Offices of Glen Torcivia & Associates, 701 Northpoint Parkway, Suite 209, West Palm Beach, Florida 33407. [glen@torcivialaw.com](mailto:glen@torcivialaw.com)**  
**Kenneth G. Spillias, Esq., Town of Ocean Ridge, Lewis, Longman & Walker, 515 N. Flagler Drive, Suite 1500, West Palm Beach, Florida 33401. [kspillias@lw-law.com](mailto:kspillias@lw-law.com)**  
**Diana Grub Frieser, City Attorney, City of Boca Raton, 201 W. Palmetto Park Road, Boca Raton, Florida 33432. [dgrub@mvboca.us](mailto:dgrub@mvboca.us)**  
**Martin Alexander, Esq., Nathan A. Adams, IV, Esq., Counsel for Sharon R. Bock, Holland & Knight, LLP, 222 Lakeview Avenue, Suite 1000, West Palm Beach, Florida 33401. [martin.alexander@hklaw.com](mailto:martin.alexander@hklaw.com)  
[Nathan.adams@hklaw.com](mailto:Nathan.adams@hklaw.com).**  
**Denise Coffman, Esq., General Counsel for Clerk and Comptroller, Sharon Bock, 301 North Olive Avenue, 9<sup>th</sup> Floor, West Palm Beach, Florida 33401. [DCOFFMAN@mypalmbeachclerk.com](mailto:DCOFFMAN@mypalmbeachclerk.com)**

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

Plaintiffs,

v.

PALM BEACH COUNTY,

Defendant.

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**AFFIDAVIT OF JESS R. SANTAMARIA**

**STATE OF FLORIDA  
COUNTY OF PALM BEACH**

BEFORE ME, the undersigned authority, personally appeared **JESS R. SANTAMARIA**, who being first duly sworn, on oath, deposes and says:

1. My name is Jess R. Santamaria. I am a resident of the State of Florida, Palm Beach County, and am over the age of 18. I make this affidavit on my own personal knowledge.
2. I am the elected Commissioner for District 6 of Palm Beach County, and in that capacity I am a member of the Board of County Commissioners of Palm Beach County (the BCC). I was initially elected to my position in November 2006 and I was reelected in November 2010.
3. I obtained a Bachelor of Science degree in Chemical Engineering from La Salle University in 1962. I obtained a Master of Business Administration degree from the Wharton Business School of the University of Pennsylvania in 1970.

4. I have **ten years of business management experience** working for two of the largest international companies in the world – **IBM and Exxon Corporations**.

5. As a **real estate developer/builder** in Palm Beach County from 1974 through 2002, I **built over 3000 homes** and some **thirty (30) commercial projects** (office buildings, shopping centers, a hotel, etc.)

6. A copy of my Resume is attached to this affidavit as Exhibit A. My business ventures were all highly successful and profitable. Using my engineering and business education, corporate training and extensive highly successful **entrepreneurial background for over thirty (30) years**, I am an expert in accurate costing and pricing of products and services, thus assuring corporate profitability.

7. As a Contractor for over thirty (30) years, my company always **built into our standard sales price a minimum of twenty percent (20%) gross profit**. Based on my knowledge and business experience, this 20% minimum gross profit is **typical in most industries**, and in many cases the gross and net profit is significantly higher than 20%. That is why we often paid 5% or more as commission to real estate and general business brokers. Again, this is common practice in most businesses - paying a sales commission of 5% or more on sales contracts.

8. The **1/4 of 1% built-in proprietary fee** recommended by the Palm Beach Grand Jury in their May 21, 2009 final report to be included in all vendor contracts to help fund the **Office of Inspector General** is truly a **minuscule amount** that will have absolutely **no effect on any contractor's sales price**, especially where contract bidding is required by a government entity on multiple bidding contractors. Example: On a **\$1 Million contract**, a 1/4 of 1% fee for the operation of the Office of Inspector General is a mere **\$2,500!** Compare this to a typical 5% commission in the general market would result in paying a broker a \$50,000 fee. Once again, I repeat, "a 1/4 of 1% (or



even ½%) would be an **insignificant amount** to a contractor, and therefore, would have **no effect** on the **final sales price** of products or services.

9. Further examples of recent actual bid prices submitted by contractors to Palm Beach County are as follows:

(a) In March 2011, Palm Beach County Solid Waste Authority received bids for the design, construction and operation of a new Waste-to-Energy facility as follows:

	<u>Total Net Present Value of Vendors Bid</u>	<u>Price Difference Compared to Lowest Bidder</u>
B & W	\$500,266,106	N/A
Wheelabrator	\$626,624,870 + \$126,369,784	(25.3% higher)
Covanta	\$779,553,082 + \$279,297,976	(55.8% higher)

At the open public meeting, the Board of County Commissioners voted the **\$500,255,106** bid of B&W as the **winning bid**. At the end of the public deliberations, the two losing bidders both offered to reduce their submitted bids as follows:

	<u>Price Reduced to:</u>
Wheelabrator	\$560,000,000 (\$66,000,000 less) Equivalent to a 10.5% price reduction
Covanta	\$676,000,000 (103,000,000 less) Equivalent to a 13.2% price reduction

Once again, the above example, confirms that the ¼ of 1% fee (even a ½% fee) is an **insignificant amount** to most all contractors bidding for government contracts, and therefore, has no effect on the final sales price to government bodies.

(b) In September 2008, Palm Beach County's Solid Waste Authority requested bids for land fill sites needed in Western Palm Beach County. Although three bids were received, the Solid Waste Authority narrowed the final choices to two as follows:

	<u>Acreage</u>	<u>Vendors Bid Price</u>	<u>Appraised Market Value</u>	<u>% Profit Over Appraised Market Value</u>
Smith parcel	1,600	\$62,400,000	\$16,800,000	271%
Hundley parcel	1,477	\$53,541,250	\$15,570,000	244%

As you can easily see from the above actual example, both bidders had potentially **244% and 271% profit** based on the true market value calculated by one the most reputable appraisers in Palm Beach County - Callaway & Price, Inc.

If the Hundley parcel owner had gotten their **\$53,541,250 bid price**, they would have had little concern about paying the **1/4% fee** amounting to **\$133,853.12** with a **profit of \$37,971,250!**

The above examples pertain to very large government contracts. What would be the effect of **1/4 of 1%** on a small **\$100,000 contract**? The fee would be **\$250** – another **insignificant amount** to a small vendor!

10. In conclusion, the Office of Inspector General can easily be fully funded by a combination of the fee charged to vendors of the County, all of its municipalities, and other participating entities, plus the cost savings that are identified on a regular basis by the Office of

Inspector General. No portion of the cost of operating the Office of Inspector General need be paid by any County taxpayers through ad valorem taxes, nor from the general revenues of either the County or its municipalities.

FURTHER AFFIANT SAYETH NOT.

*Jess R. Santamaria*  
JESS R. SANTAMARIA

STATE OF FLORIDA

COUNTY OF PALM BEACH

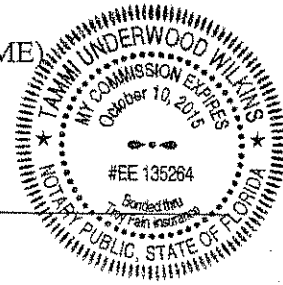
The foregoing instrument was acknowledged before me this 21 day of November 2012, by JESS R. SANTAMARIA, who is personally known to me or has submitted \_\_\_\_\_, as identification, and did/did not take an oath.

*Tammi Underwood Wilkins*  
NOTARY STATE OF FLORIDA

*Tammi Underwood Wilkins*  
(PRINT NOTARY'S NAME)

COMMISSION NO. \_\_\_\_\_

My Commission Expires:





## **Jess R. Santamaria**

Married to Victoria Santamaria (Real Estate Broker) since 1968  
Children: Christopher (Attorney at Law)  
Michelle (Attorney at Law)  
Vincent (Information Systems Consultant)

### **Education:**

B.S. Chemical Engineering, La Salle University (1962)  
MBA, Wharton Business School, University of Pennsylvania (1970)

### **Business Experience:**

- Exxon and IBM, ten years business management
- 1974-2002: Real Estate Developer in Palm Beach County
- Built 3,000+ mostly workforce affordable homes
- Built, owns and manages shopping centers and a hotel

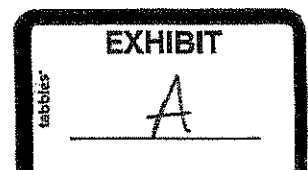
Note: Never lobbied elected government officials or requested special consideration to accomplish the above from 1974 to the present

### **Community Involvement:**

- Wellington Regional Medical Center, Board of Governors (2002-present)
- Palms West Hospital, Chairman of the Board of Trustees (1986-1992)
- Palms West Chamber of Commerce, President (2000-2001), founding member (1982)
- Chairman's Club, Chairman (1997-2005)
- Royal Palm Beach Elementary, School Advisory Council (2003-present)
- Crestwood Middle School, School Advisory Council (1992-1996)
- Royal Palm Beach High School, School Advisory Council (1997-2000)
- Crestwood Performing Arts League, Co-Founder (1983-Present)
- Citizens for Open Government, Co-Founder (1984-2001)
- Royal Palm Beach Lions Club, Director (1979-2002)
- Royal Palm Beach Jaycees (1979-1994)
- Neighborhood Crime Watch, Organizer and supporter (1985-2006)
- My Brother's/Sister's Keeper Scholarship Foundation, Founder (1996-present)
- My Brother's/Sister's Keeper Charitable Trust, Founder (2005-present)
- We the People, United; Founder (2002-present)

### **Awards & Honors:**

- Excellence in Enterprise for entire Palm Beach County (1995) by the Northwood University
- Reaching for the Stars Award/Top CEO in Palm Beach County (1995) by the Center for Family Services
- Man of the Year (1985) by the Royal Palm Beach Lion's Club
- Man of the Year (1987) by the Citizens for Open Government
- Leader of the Year (1992) by the West County Political Coalition
- Man of the Year (2000) by the South Florida Opera Company



- Citizen of the Year (2003) by the Boy Scouts, Gulfstream Council
- Outstanding Citizen of the Year (2005) by the Caribbean-American for Community

**Involvement:**

- Education Benefactor Award (1989) by the Florida Education Foudnation
- Hall of Fame (1999) by the Palms West Chamber of Commerce
- Hall of Fame (1988) by the Crestwood Performing Arts League
- Frank Gladney Community Service (2001) by the Wellington Rotary
- Resolution by Village of Royal Palm Beach (1985) for contribution & services
- Resolution by Village of Wellington (1999) for contribution & services
- 2009 Award for Ending Homelessness in Palm Beach County by The Lord's Place
- 2009 Champion of the Everglades by The Arthur Marshall Foundation & The Florida Environmental Institute
- 2010 Man of the Year by the Philippine American Society

**Current Priorities:**

- Reasonable managed growth; protection of the environment
- Affordable workforce housing
- Ending homelessness in Palm Beach County
- Expediting economic growth in the Tri-City Glades area
- Crime prevention and control throughout Palm Beach County
- Demanding honesty in government and business and strict adherence to the Sunshine Law
- Supporting the Ethics Commission & The Office of the Inspector General in fulfilling the objectives of their respective jobs.