

RESOLUTION NO. 2011-51

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AUTHORIZING THE VILLAGE MANAGER TO EXTEND THE SERVICES OF RICHARD L. DOODY, ESQ. FOR AN ADDITIONAL PERIOD OF ONE (1) YEAR TO SERVE AS THE CODE ENFORCEMENT SPECIAL MASTER FOR THE VILLAGE OF PALMETTO BAY AT AN ESTIMATED ANNUAL COST OF \$7,000; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the powers granted by the Florida constitution, and applicable sections of Chapter 1666 of the Florida Statutes, the Mayor and Council adopted Ordinance No. 03-08 on June 2, 2003, creating a code enforcement chapter entitled, " Code Enforcement Procedures"; and

WHEREAS, according to the rules and procedures set forth in Ordinance No. 03-08, the Mayor and Council have the power to appoint a Special master provided that certain qualifications are met; and

WHEREAS, the Village published a Request for Qualifications (RFQ No. 09-PZ-01) Seeking proposals from qualified individuals or firms to provide Special Master Services for code compliance to the Village; and

WHEREAS, based on the qualifications detailed in the proposal submitted by Richard L. Doody, Esq., the Village appointed Mr. Doody as per Resolution No. 09-57, to the position of Special Master for code compliance for a period not to exceed two (2) years with two (2) additional one (1) year options to extend; and

WHEREAS, the first two (2) years of the contract shall expire on July 13, 2011 and Mr. Doody is eligible for the first of two (2) optional contract extensions; and

WHEREAS, Mr. Doody has presided competently and consistently at the Village's Special Master hearings, and approval of a one (1) year extended contract would be appropriate in light of his service; and

WHEREAS, the contract provides for a minimum payment of three (3) hours of Special Master services per month at a rate of \$100 an hour; and

WHEREAS, the estimated annualized total cost of Special Master services based upon prior years is approximately \$7,000 and said amount has been budgeted.

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

Section 1. The above recitals are included herein by reference.

Section 2. In accordance with the rules and procedures of Ordinance No. 03-08 and Resolution No. 09-57, Richard L. Doody, Esq., is hereby reappointed to serve as Special Master for

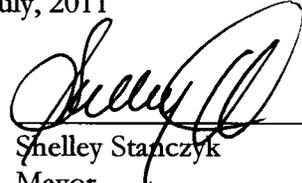
the Village of Palmetto Bay for a period of one (1) year with one (1) remaining one (1) year extension option.

Section 3. This Resolution shall take effect immediately upon approval.

PASSED and ADOPTED this 11th day of July, 2011

Attest


Meighan Alexander
Village Clerk


Shelley Stanczyk
Mayor

APPROVED AS TO FORM:


Eve A. Boutsis,
FIGUEREDO & BOUTSIS, P.A., as Office
of the Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore	<u>YES</u>
Council Member Howard J. Tendrich	<u>YES</u>
Council Member Joan Lindsay	<u>YES</u>
Vice-Mayor Brian W. Pariser	<u>YES</u>
Mayor Shelley Stanczyk.	<u>YES</u>

**CONTRACT BETWEEN VILLAGE OF PALMETTO BAY
AND MR. RICHARD L. DOODY, ESQ.**

This contract is made and entered into this 13th day of July, 2009, between the Village of Palmetto Bay (Village), a Florida municipal corporation, located at 8950 SW 152 Street, Palmetto Bay, Florida 33157 and Mr. Richard L. Doody, Esq., individually, located at Law Offices Richard L. Doody, Esq., P.A., 800 East Broward Boulevard, Suite 710, Cumberland Building, Fort Lauderdale, Florida 33301 (Consultant).

WITNESSETH:

WHEREAS, the Village issued a Request for Qualifications (RFQ) for Special Master Services and the Consultant is the sole bidder and qualified candidate which was selected by the Village Council.

WHEREAS, the Village desires to engage and retain the services of the Consultant to perform Special Master Services as described in this contract and the Consultant desires to accept the engagement; and,

NOW THEREFORE, in consideration of the sum of \$10.00 the mutual promises and covenants contained in this contract, 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 contract.

2. STATEMENT OF WORK

2.1 The statement of work for this project shall be as provided in the RFQ for Special Master Services, which is attached as exhibit 1, and is incorporated and made a part of this contract. **In the event of any conflict, the terms of this contract will govern over the provisions of any incorporated documents.**

3. COMMENCEMENT DATE AND TERM

3.1 The term shall commence upon the date of the execution of this contract and expire in two (2) years. Upon the expiration of two (2) years of service, the Consultant may be reappointed for two additional one (1) year options to extend, provided that such reappointment be recommended by the Village Manager and be approved by a majority vote of the Village Council.



Village


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3.2 Work shall commence upon the issuance of a written task order by the Village. Work shall proceed in substantial compliance with the schedule of services contained in the statement of work.

4. PAYMENT

4.1 The Village shall pay the Consultant \$100.00 per hour as provided in the RFQ, which is attached as exhibit 1. The parties agree that the Consultant shall be entitled to a minimum of three billable hours in any month in which the Consultant is required to attend at least one hearing, meeting, or proceeding as part of Consultant's Special Master duties.

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's contract officer specifically authorizes the extra or additional work, in a written task order before the commencement of the work.

5. TRANSFER AND ASSIGNMENT

5.1 None of the work or services under this contract shall be subcontracted unless the Consultant obtains prior written consent from the Village. Approved subcontractors shall be subject to each provision of the contract and the Consultant shall be responsible and indemnify the Village for all subcontractors' acts, errors or omissions.

5.2 The Consultant shall not assign, transfer or pledge any interest in this contract without the prior written consent of the Village; provided, however, that claims for money by the Consultant from the Village under this contract 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 performance that does not alter the scope of work. Changes, including any increase or decrease in the amount of the Consultant's compensation, shall be incorporated in written amendments to this contract.

6.2 If any changes cause an increase or decrease in the price charged, the maximum amount of the contract, or the time required for conditions of this contract, the Village shall make an equitable adjustment to the maximum amount, the price(s), the delivery schedule, or other affected terms, and shall modify the contract with a written change order.

7. TERMINATION FOR DEFAULT

7.1 Either party may terminate this contract prior to the expiration of the initial term or any subsequent renewal term on account of a material breach of this contract by the

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other party, which has not been cured within 10 days from the date of receipt of written notice of breach from the party seeking termination.

7.2 Termination shall be effective as of the end of the notice period in the case of any uncured material breach.

7.3 The Consultant may terminate this contract prior to the expiration of the initial term or any subsequent renewal term upon not less than 10-days prior written notice to the Village in the event that the Consultant is unable to complete the services identified in paragraph 2.1 due to causes beyond the Consultant's control.

7.4 The Village shall have no liability to the Consultant for future profits or losses in the event of termination for default.

7.5 The rights and remedies of the Village provided in this provision shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

7.6 Should the Consultant provide the Village with written notice of cancellation of contract, the Consultant will be required to refund a pro-rata share of the compensation identified in paragraph 4.

8. TERMINATION FOR DELAY

8.1 If the project is suspended or the Consultant's services are delayed by the Village for more than 30 consecutive days, the Consultant may terminate this contract by giving not less than 10 days written notice.

8.2 The liability of the Village upon termination by the Consultant for suspension or delay of the project shall be for the value of services performed pursuant to the schedule contained in the statement of work rendered by the Consultant to the time of termination by the Consultant. The Village shall not be liable for future profits or losses.

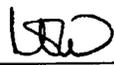
9. TERMINATION FOR CONVENIENCE

9.1 The Village may terminate this contract for convenience at any time by giving 10 days notice in writing to the Consultant. The Consultant will be paid for the value of services performed pursuant to the schedule contained in the statement of work, up to and including the termination date. The Consultant will be permitted to complete on-going investigations and shall be paid for all satisfactory work completed. The Village shall not be liable for future profits or losses.

9.2 In the event that the Village improperly terminates the contract for default under paragraph 7, the termination shall be deemed a termination for convenience under this paragraph.

10. TERMINATION FOR LACK OF FUNDS

10.1 Notwithstanding any other provisions of the contract, if the funds anticipated by the Village for the for the payment of work under this contract are at any time not



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forthcoming, through the failure of the Village to appropriate funds, the failure of Miami-Dade County, the Florida Legislature, or the U.S. Congress to appropriate funds, or the refusal of the administrative branch of the federal or county government to release funds, or due to any other reason for the unavailability of funds in succeeding fiscal years, or the discontinuance or material alteration of the program under which funds are to be provided, the Village shall have the right to terminate the contract without penalty by giving not less than 10 days written notice of the lack of available funding

10.2 In the event the Village declines to appropriate funds for payment of the contract for future fiscal years, the Consultant shall be paid for work performed under the contract with funds that are appropriated for the current fiscal year. The liability of the Village to the Consultant shall be limited to the obligation to budget and appropriate funds for work performed during the current fiscal year.

10.3 For any portion of the work that is funded by county, state or federal appropriations or grants, the liability of the Village to the Consultant shall be limited to payment for services when payment is received by the Village from the county, state or federal authority. The Village shall submit all required documents requesting payment within a reasonable time. The Village shall not be liable to the Consultant for work performed in the event that payment is not received by the Village from the county, state or federal funding authority. This is a pay-when-paid clause.

11. INTEREST PAYMENTS DUE TO LATE PAYMENT

11.1 The Village shall make payment to the Consultant within 30 days of receipt of the original written invoice and sufficient backup documentation and acceptance of the work by the Village. Interest shall accrue on unpaid invoices as provided by Section 218.74, Florida Statutes.

11.2 The Consultant shall not be entitled to any carrying charges or finance fees due to late payment by the Village.

12. LIENS

12.1 The Consultant, subcontractors, suppliers and laborers are prohibited from placing a lien on Village's property.

13. INDEPENDENT CONTRACTOR

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

14. INDEMNIFICATION

14.1 The Consultant shall defend, indemnify and hold the Village harmless from any and all claims, liability, losses, expenses and causes of action arising solely out of any intentional misconduct or negligence.

15. MEDIATION

15.1 Any claim or dispute arising out of or related to this contract 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.

15.2 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.

15.3 Contracts reached in mediation shall be enforceable as settlement contracts in the circuit court for the 11th judicial circuit for the State of Florida.

16. JURISDICTION AND VENUE

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

17. SOVEREIGN IMMUNITY AND ATTORNEY'S FEES

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

18. NOTICES

18.1 All notices given or required under this contract 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 contract, unless either party shall specify to the other party a different address for the giving of the notices.



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19. CONTRACTING OFFICER REPRESENTATION

19.1 For the purposes of this contract, the contracting officers are as follows:

To the Village: Village of Palmetto Bay
8950 SW 152 Street
Palmetto Bay, Florida 33157
Attention: Village Manager

To the Consultant: Law Offices Richard L. Doody, Esq., P.A.
800 East Broward Boulevard
Suite 710, Cumberland Building
Fort Lauderdale, Florida 33301
Attention: Richard L. Doody, Esq.

20. EXAMINATION AND RETENTION OF CONTRACTOR'S RECORDS

20.1 The Village, or any of their duly authorized representatives, shall, until 3 years after final payment under this contract, 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 contract for the purpose of making audit, examination, excerpts, and transcriptions.

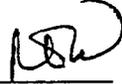
20.2 The right to access and examination of records in subparagraph 24.1 shall continue until disposition of any mediation, claims, litigation or appeals.

21. OWNERSHIP OF DOCUMENTS

21.1 All documents, reports, plans, specifications or other records, including electronic records, resulting from the professional services rendered by the Consultant under this contract 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 contract shall be public records, and shall be subject to the public inspection and copying, as provided by Florida Statutes chapter 119. Upon conclusion of this contract 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.

22. SEVERABILITY

22.1 Should any paragraph or any part of any paragraph of this contract 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 contract.



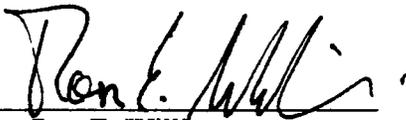
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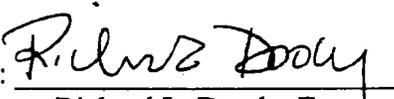

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IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized officers,
have executed this contract as of the date first above written.

The Village of Palmetto Bay

Consultant

By: 
Ron E. Williams,
Village Manager

By: 
Richard L. Doody, Esq.

ATTEST:

VILLAGE CLERK

By: 
Meighan J. Rader,
Village Clerk

Approved as to form:

By: 
Eve A. Boutsis,
Office of Village Attorney


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