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**RESOLUTION NO. 07-33**

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; APPOINTING MR. RICHARD L. DOODY, ESQ. TO SERVE AS A SPECIAL MASTER FOR CODE COMPLIANCE FOR THE VILLAGE OF PALMETTO BAY FOR A PERIOD OF TWO (2) YEARS WITH TWO ADDITIONAL ONE (1) YEAR OPTIONS TO EXTEND; ESTABLISHING THE RATE OF PAY FOR SUCH POSITION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the constitutional powers granted by the Florida constitution, and applicable sections of Chapter 166 of the Florida Statutes, the Mayor and Council adopted Ordinance No. 03-08 on June 2<sup>nd</sup>, 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 has the power to appoint a Special Master provided that certain qualifications are met; and

WHEREAS, the term of the existing contract for Special Master Services is expiring and in accordance with its procurement policy, the Village published a Request for Qualifications (RFQ No. 07-CD-02) 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 Mr. Richard L. Doody, Esq., the Village wishes to appoint Mr. Doody to the position of Special Master for code compliance for a period not to exceed two (2) years with two additional one (1) year options to extend.

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

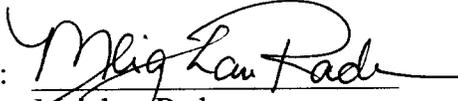
Section 1. In accordance with the rules and procedures of Ordinance No. 03-08, Mr. Richard L. Doody, Esq. is hereby appointed to serve as the Special Master for the Village of Palmetto Bay for a period not to exceed two (2) years with two additional one (1) year options to extend.

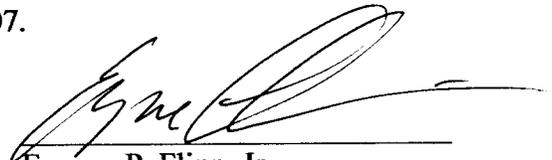
Section 2. The rate of pay for such services shall not exceed one hundred twenty five dollars (\$125) per hour for attendance at hearings and preparation of orders of the Special Master.

1            Section 3.      This resolution shall take effect immediately upon approval.

2  
3            PASSED and ADOPTED this 9<sup>th</sup> day of April, 2007.

4  
5            Attest:

6              
7            Meighan Rader  
8            Village Clerk

9              
10           Eugene P. Flinn, Jr.  
11           Mayor

12           APPROVED AS TO FORM:

13             
14           Eve Boutsis  
15           Village Attorney

16  
17  
18  
19           FINAL VOTE AT ADOPTION:

20  
21           Council Member Ed Feller                    YES  
22           Council Member Paul Neidhart                YES  
23           Council Member Shelley Stanczyk               YES  
24           Vice-Mayor Linda Robinson                    YES  
25           Mayor Eugene P. Flinn, Jr.                      YES

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

This contract is made and entered into this 17<sup>th</sup> day of April, 2007 between the Village of Palmetto Bay (village), a Florida municipal corporation, located at 8950 SW 152nd Street, Palmetto Bay, Florida 33157 and Richard L. Doody, Esq., individually, located at Law Offices of Richard L. Doody, 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 lowest price 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.**

  
\_\_\_\_\_  
village  
  
\_\_\_\_\_  
consultant

### **3. COMMENCEMENT DATE AND TERM**

3.1 The term shall commence upon the date of the execution of this contract and expires in two years. Upon the expiration of the two years of service, the consultant may be reappointed for two additional one year terms, provided that such reappointment be recommended by the village manager and be approved by a majority vote of the village council.

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 \$125.00 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 four billable hours in any month in which the consultant is required to attend at least one hearing, meeting, or preceding 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 this 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.

  
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village  
  
\_\_\_\_\_  
consultant

## 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. 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 change causes an increase or decrease in the price charged, the maximum amount of the contract, or the time required for performance of any part of the work under this contract, or otherwise affects the 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 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 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 a 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 an 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 11<sup>th</sup> 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.

**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 152nd Street  
Palmetto Bay, Florida 33157  
Attention: Village Manager

To the Consultant: Law Offices of Richard L. Doody  
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 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.

**23. ENTIRE CONTRACT**

23.1 The contract, when signed by all of the parties, constitutes the full and complete understanding and contract of all parties and may not be in any manner interpreted or fulfilled in contradiction of its express terms. This contract and the incorporated attachments constitute the entire understanding between the parties and integrates by its terms all previous contracts or understandings, oral or written, between the parties.

**24. CONTINGENCY FEE AND CODE OF ETHICS WARRANTY**

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

24.2 The consultant warrants that neither it, nor any principal, employee, agent, representative or family member has procured, or attempted to procure, this contract 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.

24.3 A violation of this paragraph will result in the termination of the contract and forfeiture of funds paid, or to be paid, to the consultant.

**25. WARRANTY OF AUTHORITY**

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

  
village  
RC  
consultant

**26. MISCELLANEOUS**

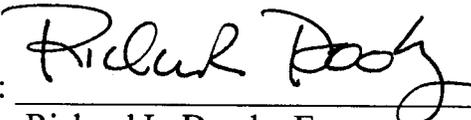
26.1 In the event a court must interpret any word or provision of this agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this agreement.

**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:   
Charles D. Scurr,  
Village Manager

By:   
Richard L. Doody, Esq.

ATTEST:

VILLAGE CLERK

By:   
Merghan J. Rader

Approved as to form:

By:   
Eve A. Boutsis, Village Attorney's Office  
The Village of Palmetto Bay



**REQUEST FOR QUALIFICATIONS  
for  
CODE COMPLIANCE  
SPECIAL MASTER SERVICES**

**RFQ #07-CD-02**

Village of Palmetto Bay  
8950 SW 152<sup>nd</sup> Street  
Palmetto Bay, FL 33157

Issued February 7<sup>th</sup>, 2007

Sealed responses will be received by the Village Clerk, Village Hall,  
8950 SW 152<sup>nd</sup> Street, Palmetto Bay, FL 33157, on or before  
**Friday, March 9<sup>th</sup>, 2007 no later than 3:00 pm.**

**VILLAGE OF PALMETTO BAY  
REQUEST FOR QUALIFICATIONS  
CODE COMPLIANCE SPECIAL MASTER SERVICES  
RFQ #07-CD-02**

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**VILLAGE OF PALMETTO BAY  
NOTICE OF REQUEST FOR QUALIFICATIONS  
CODE COMPLIANCE SPECIAL MASTER SERVICES  
RFQ #07-CD-02**

The Village of Palmetto Bay is currently soliciting qualifications from qualified individuals to provide code compliance special master services to the Village.

Sealed qualifications will be received by the Village Clerk, 8950 SW 152<sup>nd</sup> Street, Palmetto Bay, FL 33157, on or before Friday, March 9<sup>th</sup>, 2007, no later than 3:00 pm, at which time they will be publicly opened and announced. To be considered, all interested parties must request a copy of the Request for Qualifications (RFQ) and submit one (1) original and five (5) copies of the required information and documents in one (1) sealed envelope, entitled "RFQ #07-CD-02: CODE COMPLIANCE SPECIAL MASTER SERVICES." Late submittals and facsimile submissions will not be considered. The respondent shall bear all costs associated with the preparation and submission of the response to the RFQ.

The "Cone of Silence" specifically prohibits communication in regard to this RFQ with the Village of Palmetto Bay except by written means with a copy filed with the Village Clerk. This Cone of Silence takes effect upon advertisement of the RFQ and terminates when the Village Manager makes a recommendation for award to the Village Council. In addition to any other penalties provided by law, violation of the Cone of Silence shall render any submission disqualified.

The Village reserves the right to reject any or all qualifications, to terminate the process at any time, to waive any informalities or irregularities in any submittal, to award in whole or in part to one or more respondents or take any other such actions that may be deemed in the best interest of the Village.

Interested, qualified individuals can obtain a copy of this RFQ by contacting the Department of Community Development at (305) 259-1261.

**VILLAGE OF PALMETTO BAY  
REQUEST FOR QUALIFICATIONS  
CODE COMPLIANCE SPECIAL MASTER SERVICES  
RFQ #07-CD-02**

**SECTION 1. INTRODUCTION**

**1.01 Purpose**

The Village of Palmetto Bay ("Village") is seeking qualifications from qualified individuals ("Respondent") to provide special master services to the Village for code compliance cases.

**1.02 Requests for Information/Clarification of Requirements**

To facilitate answering requests for information or clarification of requirements and to make the information available to all potential Respondents, Respondents must submit questions in writing, at least five (5) business days prior to the due date of submissions. Email communication is allowed and encouraged. Please address written requests to:

Arleen Weintraub  
Director, Department of Community Development  
8959 SW 152 Street  
Palmetto Bay, FL 33157  
Fax: 305-259-1290  
[aweintraub@palmettobay-fl.gov](mailto:aweintraub@palmettobay-fl.gov)

**1.03 Amendments to the RFQ**

All pertinent information relative to this RFQ developed by the Village, subsequent to its issuance and prior to the established date for receipt of submissions, will be issued to all prospective Respondents on record in the form of a written amendment hereto.

**1.04 Eligibility**

To be eligible to respond to this Request for Qualifications (RFQ), the Respondent must be a non-resident of the Village of Palmetto Bay and be a retired Florida judge or a member in good standing of the Florida Bar, with at least five (5) years experience in zoning, land use, code enforcement, real estate transactions or litigation. Further, the Respondent must have successfully completed engagements of similar nature for a municipal government within the past three (3) years.

Each Respondent shall meet all legal, technical and professional requirements for providing such services as detailed in this RFQ.

#### **1.06 Presentation Costs**

The Village shall not be liable for any costs, fees, or expenses incurred by any Respondent in completing this RFQ, subsequent inquiries or presentations relating to a response.

#### **1.07 Certification**

The signer of the response to this RFQ must declare that the only person(s), company or parties interested in the project as principals, are named therein; that the submittal is made without collusion with any other person(s), company or parties submitting qualifications; that the submittal of qualifications is in all respects fair and in good faith without fraud or collusion; and that the signer of the submittal has full authority to bind the principals.

#### **1.08 Public Records**

Florida law provides that municipal records should be open for inspection by any person under Section 119, F.S. Public Records Law. All information and materials received by the Village in connection with responses shall become property of the Village and shall be deemed to be public records subject to public inspection.

#### **1.09 Retention of Submissions**

The Village reserves the right to retain all submittals and to use any ideas contained in a response to this request, regardless of whether that Respondent is selected.

#### **1.10 Submission of Responses to this RFQ**

All submittals of qualifications and other documents comprising a full and complete response must be received by the Village Clerk, Village of Palmetto Bay, 8950 S.W. 152 Street, Palmetto Bay, FL 33157 by **3:00 p.m. on Friday, March 9<sup>th</sup>, 2007**, at which time they will be publicly evaluated by the Village Manager or his designee(s).

The submittal of qualifications shall be signed by a representative who is authorized to contractually bind the Respondent.

Each submittal shall be prepared simply and economically, providing straightforward, concise delineation of the Respondent's capabilities to satisfy the requirements of the RFQ. The emphasis must be on completeness and clarity of content. In order to expedite the evaluation of submittal in response to the issuance of this RFQ, it is essential that Respondents follow the format and instructions contained herein.

If the Respondent so wishes, qualifications may be accompanied by supplemental materials that will further detail the Respondent's relative experience and expertise. However, submission requirements must be followed as listed above.

One (1) original and five (5) copies of a response shall be submitted in one sealed package, clearly marked on the outside **"RFQ #07-CD-02, CODE COMPLIANCE SPECIAL MASTER SERVICES."** Further information concerning submission format, evaluation process and selection is provided in Section 4 of this RFQ.

### **1.11 Submission Content**

The content of the RFQ and the successful Respondent's submission will become an integral part of the negotiated contract for services, but may be modified by provisions of the contract. Respondents must agree to include any information in an contract provided either in response to this RFQ or received subsequently during the selection process. The information received will be considered contractual in nature and will be used in evaluation of submissions and in subsequent contractual action.

### **1.12 Imposition of "Cone of Silence"**

- a) Definitions: "Cone of Silence," as used herein, means a prohibition on any communication regarding a particular Request for Proposal ("RFP"), Request for Qualification ("RFQ") or bid, between: a potential vendor, service provider, Contractor, bidder, lobbyist, or consultant, the Village Councilmembers, Village's professional staff including, but not limited to, the Village Manager and his staff, any member of the Village's selection or evaluation committee.
- b) Restriction; Notice: A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the Village Manager or his or her designee shall provide for public notice of the Cone of Silence by posting a notice at the Village Hall. The Village Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Village Clerk, with a copy thereof to each Village Councilmember, and shall include in any public solicitation for goods or services a statement disclosing the requirements of this section.
- c) Termination of Cone of Silence: The Cone of Silence shall terminate at the beginning of the Village Council meeting (whether regular, special or Committee of the Whole meeting) at which the Village Manager makes his or her written recommendation to the Village Council. However, if the Village Council refers to the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be re-imposed until such time as the Manager makes a subsequent written recommendation.
- d) Exceptions to Applicability: The provisions of this section shall not apply to:

1. oral communications at pre-bid conferences;
  2. oral presentations before selection or evaluation committees;
  3. public presentations made to the Village Councilmembers during any duly noticed public meeting;
  4. communications in writing at any time with any Village employee, unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or Contractor shall file a copy of any written communication with the Village Clerk. The Village Clerk shall make copies available to any person upon request;
  5. communications regarding a particular RFP, RFQ or Bid between a potential vendor, service provider, Contractor, bidder, lobbyist or consultant and the Village's Purchasing Agent or Village employee designated responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
  6. communications with the Village Attorney and his or her staff;
  7. duly noticed site visits to determine the competency of the bidders regarding a particular bid during the time period between the opening of bids and the time the Village Manager makes his or her written recommendation;
  8. any emergency procurement of goods or services pursuant to Village Code;
  9. responses to the Village's request for clarification or additional information;
  10. contract negotiations during any duly noticed public meeting;
  11. communications to enable Village staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, Contractor, bidder, lobbyist, or consultant and any member of the Village's professional staff including, but not limited to, the Village Manager and his or her staff are in writing or are made at a duly noticed public meeting.
- e) Penalties: Violation of this section by a particular bidder or Contractor shall render any RFP award, RFQ award or bid award to said bidder or Contractor voidable by the Village Council or Village Manager. Any person who violates a provision of this section may be prohibited from serving on a Village selection or evaluation committee. In addition to any other penalty provided herein, violation of any provision of this section by a Village employee may subject said employee to disciplinary action.

## **SECTION 2. PROJECT DESCRIPTION**

### **2.01 Background Information**

The Village of Palmetto Bay was incorporated in September, 2002, as the 33<sup>rd</sup> municipality in Miami-Dade County. The current population is approximately 25,000. The Village is located within Miami-Dade County with the Village of Pinecrest to the north, the Village of Cutler Bay to the south and Miami-Dade County to the west.

The Code Compliance Division is one of three divisions of the Department of Community Development. The other divisions include planning & zoning and building & permitting. Since July 2004, the Village has contracted with a private firm to provide code compliance services. The division is staffed by two code officers and one administrative assistant. The Village utilizes a system of progressive code action against code violators with a focus on achieving compliance. A special master hearing is held once a month for property owners who have appealed their citation (no hearing is held in the months of August and December). The average number of cases per month brought before the special master is twelve. For the past two years, the Village has also contracted with a private individual to provide special master services at these monthly hearings. The term of the contract is nearing its expiration date. The Village is again seeking experienced and qualified individuals to provide special master services as detailed in Section 2.02 below.

### **2.02 Scope of Work**

- a. Enforce the occupational license, building, zoning, sign, and other related codes and ordinances of the Village and all ordinances of Miami-Dade County and statutes of the state of Florida that the Village is authorized to enforce.
- b. Attend hearings and prepare orders of the special master.
- c. Hear *de novo* appeals by alleged violators from civil citations; affirm in whole or in part, or reverse, the charge of violation; and affirm or modify the order of corrections and fine levied in the citation.
- d. Conduct hearings.
- e. Subpoena and swear witnesses.
- f. Take evidence under oath.
- g. Issue orders having the force of law to command action to correct a violation.
- h. Assess costs, including reasonable attorney's fees, against violators in proceedings before the special master and enforce compliance with citations and orders of the special master.
- i. Authorize the Village attorney to request the issuance of inspection warrants.
- j. Initiate civil actions for declaratory and injunctive relief, order to compel, and take any other civil action in the Village's name,

upon approval by the Council members, to enforce applicable laws against violators.

- k. Mitigate, compromise and settle fines and penalties.
- l. Take any action that is necessary to effectuate the powers of the special master consistent with the rules, regulations, and applicable ordinances of the Village of Palmetto Bay.

### **SECTION 3. SPECIAL CONDITIONS**

#### **3.01 Term of Contract**

The contract term shall be for a period of two (2) years with two additional one (1) year options to extend.

#### **3.02 Compensation for Services**

Compensation will be a negotiated price for services, but shall not exceed \$125 per hour.

#### **3.03 Assistance Provided by Village**

The Village Attorney shall serve as counsel to the Village in the defense of appeals to the special master. Village code compliance staff shall prepare agendas for special master hearings, prepare case files for hearings, mail final orders, and provide general administrative support to the special master hearing process.

#### **3.04 Permits, Taxes, Licenses**

The Respondent shall at its own expense obtain all necessary permits, pay all licenses, fees and taxes required to comply with all local ordinances, state and federal laws, rules, regulations and professional standards that would apply to this contract.

#### **3.05 Laws, Ordinances**

The Respondent shall observe and comply with all federal, state and local laws, ordinances, rules, regulations and professional standards that would apply to this contract.

### **3.06 Insurance**

- a. Prior to execution of an agreement with the Village, the successful Respondent shall provide certificates evidencing insurance coverage as follows:
  - 1. Comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect it from claims for damages for bodily and personal injury, including death, as well as from claims for property damages, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the successful Respondent or by anyone directly or indirectly employed by the successful Respondent..
  - 2. Workers' Compensation Insurance in compliance with Chapter 440, Florida Statutes, as presently written or hereafter amended, and applicable federal law.
- b. The underwriter of such insurance shall be qualified to do business in Florida, be Best rated A-8 or better, and have agents upon whom service of process may be made in the State of Florida.
- c. The Certificates shall clearly indicate that the successful Respondent has obtained insurance of the type, amount, and classification as required and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the Village's representative, and shall include the Village of Palmetto Bay as an additional insured.

### **3.07 Special Terms and Conditions**

- a. The Village reserves the right to accept or reject any submission in the best interest of the Village. In making such a determination, the Village reserves the right to investigate the financial capability, integrity, experience and quality of performance of each Respondent, including officers, principals and senior management and supervising personnel assigned to the work. The Village also reserves the right to waive minor variations or irregularities.
- b. The Respondent shall be an independent Contractor under this Contract.

- c. The Respondent shall not have a vested interest in any aspect of the Village.
- d. The Respondent shall not have any conflicts of interest with regard to any other work performed for the Village. Disclosure of any potential conflict of interest due to any other clients, contracts or property interests is required.
- e. The Respondent acknowledges that he/she has not been convicted of public entity crime or placed on the convicted vendor list.
- f. The Village reserves the right to delete or modify the services and scope of work under this contract at any time with or without cause.
- g. The Village reserves the right to negotiate the compensation proposed by the Respondent under this RFQ.

## **SECTION 4. SUBMISSION FORMAT, EVALUATION PROCESS & SELECTION**

### **4.01 Selection**

All responsive Proposals submitted in response to this RFQ will be evaluated by a selection committee, appointed by the Village Manager, based upon the criteria specified in Section 4.03. Respondents may be requested to make a presentation to the selection committee for the purpose of reviewing the submittal and further evaluation of the response. Additional information may be requested. Respondents shall be ranked by the committee. The Village Manager will present a final recommendation for approval of the top ranked individual(s) to the Village Council at a public meeting. Upon approval by the Village Council, a final contract for services shall be negotiated with the Village Manager.

### **4.02 Submission Format**

Each Respondent shall submit one (1) and five (5) copies of the following:

- a. A cover letter indicating an interest in providing special master services to the Village.
- b. Respondent's Qualifications, Related Experience and References:

Provide the professional qualifications of the Respondent.

Describe the professional experience of the Respondent in zoning, land use, code enforcement, real estate transactions or litigation.

Describe the professional expertise and experience of the Respondent in performing special master services for local governments over the past three (3) years. Describe familiarity with the special master appeal system and municipal code enforcement system as authorized by the Florida statutes, Chapters 162 and 166, and the Village's code compliance and special master functions.

Include a list of municipal clients services, description of services of a similar nature provided, case load handled, length of time service was provided, contact names and phone numbers.

c. Charge/Compensation for Services:

Present proposed charge for services to be used as the basis for negotiation of compensation to successful Respondent.

d. Documentation of business structure (corporation, joint venture, partnership), incorporation by the Secretary of State of Florida, and contact name, address and telephone number(s). If a joint venture, identify Respondent that is to serve as the principal and able to commit on behalf of the joint venture.

e. Affirmative statement and documentation that Respondent shall be an independent contractor of the Village and currently licensed to practice in the State of Florida

f. Documentation that all assigned professional staff are properly licensed/certified to practice in Florida and are qualified to perform the desired scope of services as provided for in the submittal.

g. Provide information of the circumstances and status of any disciplinary action taken or pending against the Respondent during the past three (3) years with any state regulatory bodies or professional organizations.

h. Provide an explanation of all pending litigation, major disputes, contract defaults and liens over the last five (5) years.

- i. Include signed response signature page wherein the Respondent acknowledges and warrants that he/she has read and agrees with all of the terms and conditions contained herein.

#### **4.03 Evaluation Criteria**

The following represents the principal selection criteria which will be considered during the evaluation process upon submission of a complete response to this RFQ:

	<u>Points</u>
a. Qualifications of Respondent	25
b. Professional Expertise and Experience	25
c. Related Experience	25
d. Proposed Compensation for Services	<u>25</u>
TOTAL:	100

**APPENDIX A**

**RESPONDENT WARRANTIES**

- A. Respondent warrants that it is willing and able to comply with State of Florida laws with respect to foreign (non-State of Florida) corporations.
- B. Respondent warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof.
- C. Respondent warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the Council.
- D. Respondent warrants that all information provided by it in connection with this submission is true and accurate.
- E. **CONTINGENCY FEE AND CODE OF ETHICS WARRANTY:**

Respondent warrants that neither it, nor any principal, employee, agent, representative or family member has promised to pay, and Respondent has not, and will not pay a fee, the amount of which is contingent upon the Village awarding this contract. Respondent warrants that neither it, nor any principal, employee, agent, representative has procured, or attempted to procure, this contract in violation of any of the provisions of the Miami-Dade County and the Village of Palmetto Bay conflict of interest and code of ethics ordinances. Further, Respondent acknowledges that a violation of this warranty will result in the termination of the agreement and forfeiture of funds paid, or to be paid, to the Respondent, if the Respondent is chosen for performance of the contract.

Signature of Official: \_\_\_\_\_

Name (typed): \_\_\_\_\_

Title: \_\_\_\_\_

Respondent: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX B**

**SWORN STATEMENT PURSUANT TO SECTION 287.133 (3)(a),  
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the VILLAGE OF PALMETTO BAY by:

\_\_\_\_\_ [print individual's name and title]

for \_\_\_\_\_ [print name of entity submitting sworn statement]

whose business address is \_\_\_\_\_

\_\_\_\_\_ and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_).

2. I understand that a "public entity crime" as defined in Paragraph 287.133 (1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to , any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133 (1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133 (1)(a), Florida Statutes, means:

a. A predecessor or successor of a person convicted of a public entity crime; or

b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in any person, or

a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133 (1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

\_\_\_\_\_ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

\_\_\_\_\_ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent of July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. {attach a copy of the final order.]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY, AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
Signature

STATE OF FLORIDA        )

)

COUNTY OF MIAMI-DADE    )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, before me, the undersigned Notary Public of the State of Florida, personally appeared (Name(s) of individual(s) who appeared before notary)\_\_\_\_\_ and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Florida

NOTARY PUBLIC:  
SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: print, stamp or type as commissioned.)

\_\_\_\_\_ Personally known to me, or

\_\_\_\_\_ Personal identification:

\_\_\_\_\_  
(Type of Identification Produced)

\_\_\_\_\_ Did take an oath, or

\_\_\_\_\_ Did Not take an oath

**APPENDIX C**

**NON-COLLUSION AFFIDAVIT**

STATE OF FLORIDA            )

)

COUNTY OF MIAMI-DADE    )

\_\_\_\_\_ being first duly sworn, deposes and  
says that:

- (1) He/She/They is/are the  
\_\_\_\_\_  
(Owner, Partner, Officer, Representative or Agent) of  
\_\_\_\_\_  
the Respondent that has submitted the attached submission;
- (2) He/She/They is/are fully informed respecting the preparation and contents of the attached submission and of all pertinent circumstances respecting such submission;
- (3) Such submission is genuine and is not a collusive or sham submission;
- (4) Neither the said Respondent nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Respondent, firm, or person to submit a collusive or sham Respondent in connection with the Work for which the attached has been submitted; or to refrain from submitting in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Respondent, firm, or person to fix any overhead, profit, or cost elements of the submission or of any other submission, or to fix any overhead, profit, or cost elements of the submission or the submission of any other Respondent, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;
- (5) The price or prices quoted in the attached submission are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Respondent or any other of its agents, representatives, owners, employees or parties of interest, including this affiant.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Witness \_\_\_\_\_  
Print Name and Title

STATE OF FLORIDA )

)

COUNTY OF MIAMI-DADE )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, before me, the undersigned Notary Public of the State of Florida, personally appeared (Name(s) of individual(s) who appeared before notary) \_\_\_\_\_ and whose name(s) is/are subscribed to the within Affidavit of Non-Collusion, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public, State of Florida

NOTARY PUBLIC:  
SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: print, stamp or type as commissioned)

\_\_\_\_ Personally known to me, or

\_\_\_\_ Did take an oath, or

\_\_\_\_ Personal identification:

\_\_\_\_ Did Not take an oath.

\_\_\_\_\_  
Type of Identification Produced

**APPENDIX D**

**ACKNOWLEDGEMENT**

State of Florida  
County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, before me, the undersigned Notary Public of the State of Florida personally appeared \_\_\_\_\_ and whose name(s) is/are subscribed to the within instrument, and he/she/they acknowledge that he/she/they executed it.

WITNESS my hand  
and official seal

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

NOTARY PUBLIC  
SEAL OF OFFICE:

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp or Type as commissioned.)

- Personally known to me, or
- Produced identification:

\_\_\_\_\_  
(Type of Identification Produced)

- Did take an oath, or
- Did not take an oath.

