

AGREEMENT FOR SPECIAL MAGISTRATE (PD 14-15.019)

This **AGREEMENT** is made and entered into on this 5th day of March, 2015 (hereinafter "Effective Date"), by and between Escambia County, Florida, a political subdivision of the State of Florida, (hereinafter referred to as "County"), with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502, and Litvak, Beasley, Wilson & Ball, LLP (hereinafter referred to as "Special Magistrate"), with offices located at 226 East Government Street, Pensacola, FL 32502 (each at times being referred to as "Party" or "Parties").

WITNESSETH:

WHEREAS, the County issued a Request for Letters of Interest seeking the services of a Special Magistrate (PD14-15.019); and

WHEREAS, the County desires to enter into an agreement for the provision of such services as provided herein.

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, County and Special Magistrate agree as follows:

ARTICLE 1 **DEFINITIONS**

1.1 **Administrator** Whenever the term Administrator is used herein, it is intended to mean the County Administrator of the Escambia County Government or Designee. The Administrator is the administrative head of all departments of the County Government. In the administration of this contract, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Administrator or Designee.

1.2 **Board of County Commissioners** Whenever the term Board of County Commissioners is used herein, it is intended to mean the Board of County Commissioners of Escambia County, Florida, which is the governing body of the Escambia County Government.

1.3 **County** Whenever the term County is used herein, it is intended to mean Escambia County, a body corporate and politic and a political subdivision of the State of Florida.

1.4 **Special Magistrate** Whenever the term Special Magistrate is used herein, it is intended to mean the Special Magistrate, who will function in a quasi-judicial capacity and shall be subject to the same duties, rights and immunities as other judicial officers, including the duty to operate independently and impartially and to exercise discretion in formulating orders within the parameters of the jurisdiction granted. Robert O. Beasley, Esquire is the person selected to perform the services of Special Magistrate pursuant to this Agreement, and Robert O. Beasley, Esquire is a member of the Florida

Bar, in good standing, and has no less than five (5) years practice experience, which includes courtroom and administrative hearing experience.

ARTICLE 2 **SCOPE OF SERVICES**

2.1 The Special Magistrate hereby agrees to perform the services as outlined in Escambia County's Request for Letters of Interest Specification Number PD14-15.019, attached hereto as Exhibit A and as further provided in this Agreement. In the event of any conflict between the terms of the Exhibit and this Agreement, the terms of this Agreement shall prevail.

2.2 The Special Magistrate agrees to perform the functions specifically set forth in Article II, Chapter 30 of the Code of Ordinances of Escambia County, Florida, to include holding hearings and assessing fines against violators of County codes and ordinances.

2.3 The Special Magistrate agrees to perform the functions specifically set forth in Article I, Chapter 10 of the Escambia County Code of Ordinances, to include holding hearings relating to dangerous dog determinations.

2.4 The Special Magistrate agrees to serve as hearing officer for hearings relating to protested solicitations and awards, specifically set forth in Article II, Chapter 46 of the Escambia County Code of Ordinances.

2.5 County hereby agrees to cooperate expeditiously and provide necessary administrative staff and financial support as may be reasonably required for the proper performance of the Special Magistrate's duties.

ARTICLE 3 **COMPENSATION AND METHOD OF PAYMENT**

3.1 County shall pay Special Magistrate a fee of One Hundred and Fifty Five Dollars (\$155.00) per hour and, in addition, the Special Magistrate may bill at the rate of Seventy Five Dollars (\$75.00) per hour for a paralegal. This fee includes all costs and expenses.

3.2 County agrees that it will make its best efforts to pay Special Magistrate within thirty (30) calendar days of receipt and approval (as to form) of Special Magistrate's invoice. Invoices shall reflect the time, place, date, duration and parties as to each hearing and shall reflect the number of hours expended for each such hearing. Payments under this agreement and interest on any late payments shall be governed by and construed in accordance with the Florida Prompt Payment Act, §§218.70, et seq., Florida Statutes, as amended.

ARTICLE 4
CHANGES IN SCOPE OF WORK

4.1 County or Special Magistrate may request changes that would increase, decrease, or otherwise modify the scope of the services to be provided under this Agreement. Such changes and method of compensation must be agreed upon in writing in a document of equal dignity herewith prior to any deviation from the terms of this Agreement, including the initiation of any extra work. Such changes when properly executed shall become an Amendment to this Agreement.

ARTICLE 5
MISCELLANEOUS

5.1 Term. The term of this Agreement shall commence upon the Effective Date and continue for a term of one (1) year. Upon mutual agreement of the parties, the Agreement may be renewed for two (2) additional one year terms unless terminated as provided herein.

5.2 Termination. This Agreement may be terminated for cause or convenience by either party upon providing thirty (30) days written notice of such termination to the non-terminating party in which event the Special Magistrate shall be paid compensation for services performed to the date of termination.

5.3 Assignment. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by Special Magistrate, without the proper written consent of County. However, the Agreement shall run to the Escambia County Government and its successors.

5.4 All Prior Agreements Superseded. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

5.5 Notices. Any notice, payment or other communication under this Agreement required hereunder or desired by the party giving such notice shall be given in writing and delivered by hand or through the instrumentality of certified mail of the United States Postal Service or private courier service, such as Federal Express. Unless otherwise notified in writing of a new address, notice shall be made to each party as follows:

FOR ESCAMBIA COUNTY:

County Administrator
221 Palafox Place, Suite 420
Pensacola, Florida 32502

FOR SPECIAL MAGISTRATE:

Litvak, Beasley, Wilson & Ball, LLP
226 East Government Street
Pensacola, FL 32502

Rejection, or other refusal by the addressee to accept, or the inability of the courier service or the United States Postal Service to deliver because of a changed address of which no notice was given, shall be deemed to be receipt of the notice sent. Any party shall have the right, from time to time, to change the address to which notices shall be sent by giving the other party at least ten (10) days prior notice of the address change.

5.6 **Conflict of Interest.** Special Magistrate affirms that his/her retention shall not result in an actual or potential conflict of interest with any party who may be affected by the award of this contract. Should any potential or existing conflict be known by the Special Magistrate, said Special Magistrate must specify the party with whom the conflict exists or might arise, the nature of the conflict, and whether the Special Magistrate would or would not step aside or resign from that engagement or representation creating the conflict. Special Magistrate shall not act as counsel to any third party or as an expert witness in any lawsuit in which the County is named as an adverse party.

5.7 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue shall be in the County of Escambia.

5.8 **Public Records.** The Special Magistrate acknowledges that this Agreement and any related financial records, audits, reports, plans correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes. In the event the Special Magistrate fails to abide by the provisions of Chapter 119, Florida Statutes, the County may, without prejudice to any other right or remedy and after giving the Special Magistrate seven days written notice, during which period the Special Magistrate still fails to allow access to such documents, terminate the contract.

5.9 **Miscellaneous.** If any term or condition of this Agreement shall be invalid or unenforceable, the remainder of the terms and conditions of this Agreement shall remain in full force and effect. This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

