

11/1/2018 CAB II-15

AGREEMENT FOR SPECIAL MAGISTRATE (PD 17-18.077)

THIS AGREEMENT is made and entered into 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 John B. Trawick, P.L.L.C., FEI/EIN Number 81-4718282 (hereinafter referred to as "Special Magistrate"), with a principal address of 139 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 Special Magistrates (PD 17-18.077) on an as-needed basis; and

WHEREAS, in response to the solicitation, the Special Magistrate submitted a response demonstrating that the Special Magistrate was qualified to provide such services; 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 **County Administrator.** The term "Administrator" as used herein 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.** The term "Board of County Commissioners" as used herein 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 **Escambia County.** The term "County" as used herein is intended to mean Escambia County, a political subdivision of the State of Florida.

1.4 **Special Magistrate.** The term "Special Magistrate" as used herein is intended to mean the party to this Agreement, 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. **John B. Trawick** is selected to perform the services of Special Magistrate pursuant to this Agreement, and **John B. Trawick** 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

Date: 12/13/18
Verified By: 

2.1 The Special Magistrate hereby agrees to perform the services as outlined in Escambia County's Request for Letters of Interest for Special Magistrate (RLI), Specification Number PD 17-18.077, and as further provided in this Agreement. In the event of any conflict between the terms of the RLI and this Agreement, the terms of this Agreement shall prevail.

2.2 The Special Magistrate agrees to perform the functions specifically set forth in Chapter 30, Article II, Sec. 30-31 through 30-38, Escambia County Code of Ordinances, to include conducting hearings relating to violations of county codes and ordinances.

2.3 The Special Magistrate agrees to perform the functions specifically set forth in Chapter 10, Article I, Sec. 10-14, Escambia County Code of Ordinances, to include conducting hearings relating to dangerous dog determinations.

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

ARTICLE 3
COMPENSATION AND METHOD OF PAYMENT

3.1 The County shall pay the Special Magistrate a fee of One Hundred and Fifty-Five Dollars (\$155.00) per hour for the performance of the Special Magistrate's duties and a fee of Seventy-Five Dollars (\$75.00) per hour for the performance of any paralegal services as may be reasonably required for the proper performance of the Special Magistrate's duties. The aforementioned hourly fees include all costs and expenses. The volume of services required each month may fluctuate, and no minimum amount will be guaranteed during the term of this Agreement.

3.2 The Special Magistrate may request payment from the County on a monthly basis by the submission of a properly executed 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. Invoices shall be submitted in duplicate to:

Clerk of the Circuit Court
Attention: Accounts Payable
221 Palafox Place
Pensacola, FL 32502

Payments under this agreement and interest on any late payments shall be governed by and construed in accordance with the Local Government Prompt Payment Act, §§218.70, et seq., Florida Statutes, as amended.

ARTICLE 4
CHANGES IN SCOPE OF WORK

The County or the Special Magistrate may request changes that would increase, decrease, or otherwise modify the scope of the services to be provided under this Agreement. Any such changes to the scope of services or 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 date last executed and continue for a term of twelve (12) months. Upon mutual agreement of the parties, the term may be renewed for up to two (2) additional twelve (12) month terms. The total duration of this Agreement, including the exercise of all options to renew will not exceed the duration of thirty-six (36) months.

5.2 **Termination.** The County retains the right to terminate this Agreement immediately for cause at any time during the term of the Agreement. This Agreement may be terminated for convenience by either party upon providing thirty (30) days' prior written notice of such termination to the non-terminating party. In the event of termination by either party as provided herein, the Special Magistrate shall be paid 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 the Special Magistrate without the prior written consent of County. However, the Agreement shall run to the County 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 **Independent Contractor Status.** In the performance of this Agreement hereunder, the Special Magistrate is an independent contractor and shall not be construed as an employee of the County. The Special Magistrate shall not hold himself out as an employee, agent, or servant of the County; and the Special Magistrate shall not have the power or authority to bind the County in any promise, agreement or representation, other than as specifically provided in this Agreement or as may be expressly provided hereafter in writing by an authorized official of the County.

5.6 **Notice.** 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:

ESCAMBIA COUNTY:
County Administrator
221 Palafox Place, Suite 420
Pensacola, Florida 32502

SPECIAL MAGISTRATE:
John B. Trawick, P.L.L.C.
139 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 written notice of the address change.

5.7 Conflict of Interest. The Special Magistrate affirms that his 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.

5.8 Indemnification. The Special Magistrate shall indemnify and hold harmless Escambia County, its elected and appointed officials, employees, volunteers, representative and agents for any and all claims, suits, actions, damages, liability and expenses arising from or relating to any wrongful act or omission, whether or not the same constitutes a breach of this Agreement or is committed in the course of performing the duties hereunder, including but not limited to those acts or omissions which are considered defamatory, libelous, discriminatory, or otherwise unlawful under applicable laws and any act or omission relating to the Special Magistrate's failure to maintain required insurance or to properly report or pay any applicable federal, state or local fees or taxes.

5.9 Insurance. During the term of this Agreement, the Special Magistrate shall procure and maintain, at its sole expense, the following insurance:

- (a) Commercial General Liability, Form 1, with \$1,000,000 minimum per occurrence. Excess or umbrella insurance may be purchased to make up the difference, if any, between the policy limits of the underlying policies.
- (b) Automobile Liability with \$1,000,000 per occurrence minimum combined single limits for all hired, owned, and non-owned vehicles.
- (c) Professional Liability with \$1,000,000 per occurrence minimum limit.
- (d) Florida statutory workers' compensation.

It is understood and agreed by the parties that in the event that the Special Magistrate is affiliated with a joint venture, partnership, or other association of professional or business firms, each such firm shall be required to individually carry the above cited coverages.

Special Magistrate agrees all liability coverage shall be through carriers admitted to do business in the State of Florida. Carriers shall be "A" or other Secure Best Rating with a minimum financial size of "VII", according to the A.M. Best Key Rating Guide Latest Edition. The insurance policies shall be endorsed to provide at least 30 days advance notice of cancellation, nonrenewal or adverse change. Such notices shall be mailed to Escambia County, Office of Purchasing, Post Office Box 1591, Pensacola, Florida 32591.

The Board of County Commissioners and Escambia County shall be endorsed as "additional insureds" on all liability policies (except Workers' Compensation and professional liability). Certificates of Insurance shall be provided to Office of Purchasing, Post Office Box 1591, Pensacola, Florida 32591 prior to commencement of work hereunder. Certificates shall reflect

the additional insured status of Escambia County. The Board of County Commissioners and Escambia County shall also be the certificate holders.

5.10 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.

5.11 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. The Special Magistrate shall maintain all such public records and, upon request, provide a copy of the requested records or allow the records to be inspected within a reasonable time. The Special Magistrate shall also ensure that any public records that are exempt or exempt and confidential from disclosure are not disclosed except as authorized by law. Upon the expiration or termination of the Agreement, the Special Magistrate agrees to maintain all public records for a minimum period of five (5) fiscal years in accordance with the applicable records retention schedules established by the Florida Department of State. 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 providing seven (7) days' written notice, during which period the Special Magistrate still fails to allow access to such documents, terminate the contract.

IF THE SPECIAL MAGISTRATE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**Escambia County
Office of the County Administrator
221 Palafox Place, Suite 420
Pensacola, Florida 32502
(850) 595-4947**

5.12 Compliance with Laws. The Special Magistrate agrees to comply with all federal, state, and local laws, codes, statutes, ordinances, rules, regulations and requirements related to the performance of this Agreement.

5.13 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.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature:

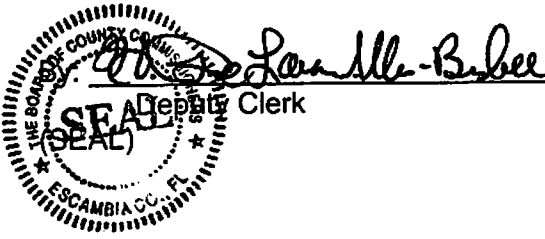
COUNTY:
BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA

ATTEST: PAM CHILDERS
Clerk of the Circuit Court

By: Jeff Bergosh
-Jeff Bergosh, Chairman Luron May, Chairman

Date: 12/13/2018

BCC Approved: 11-1-2018



SPECIAL MAGISTRATE:
JOHN B. TRAWICK, P.L.L.C.

By: John B. Trawick
John B. Trawick

Date: 12/3/18

Kelly M. Gony
Witness

Timothy Z. Voth
Witness

Approved as to form and legal
sufficiency.
By/Title: [Signature]
Date: 10/23/18