

**CITY OF GAINESVILLE, FLORIDA
CONTRACT FOR SPECIAL MAGISTRATE
FOR CODE ENFORCEMENT HEARINGS**

This CONTRACT ("CONTRACT") made and entered into between the CITY OF GAINESVILLE, FLORIDA ("CITY"), Jefferson M. Braswell ("MAGISTRATE") and Scruggs & Carmichael, P.A., as the employer of MAGISTRATE ("FIRM".)

WHEREAS, CITY is desirous of appointing Jefferson M. Braswell to serve as a special magistrate to hold quasi-judicial hearings and issue orders in matters involving certain violations of the City Code of Ordinances in accordance with Chapter 2, Article V, Division 8 of the City Code of Ordinances and Chapter 162, Florida Statutes; and

WHEREAS, Jefferson M. Braswell is willing and capable of performing such services.

NOW, THEREFORE, CITY, FIRM and MAGISTRATE agree as follows:

I. APPOINTMENT OF MAGISTRATE

Commencing on October 1, 2015, Jefferson M. Braswell is appointed as a Code Enforcement Special Magistrate of the City of Gainesville for the purpose of holding quasi-judicial hearings and issuing orders in matters involving certain violations of the City Code of Ordinances in accordance with Chapter 2, Article V, Division 8 of the City Code of Ordinances and Chapter 162, Florida Statutes. The MAGISTRATE shall have the same status, jurisdiction and authority as the Code Enforcement Board as set forth in Sections 2-391, 2-383, 2-385, 2-387 and 2-388.1 of the City Code of Ordinances and Chapter 162, Florida Statutes. This appointment is personal to Jefferson M. Braswell and the duties and services described herein may not be performed or assigned to any other member or employee of the FIRM. This appointment shall continue until such time as this CONTRACT expires or is terminated.

II. SCOPE OF SERVICES

The services to be provided by the MAGISTRATE are as follows (the "SERVICES"):

The MAGISTRATE shall hold quasi-judicial hearings and issue orders in matters involving certain violations of the City Code of Ordinances in accordance with Chapter 2, Article V, Division 8 of the City Code of Ordinances and Chapter 162, Florida Statutes.

The MAGISTRATE shall adequately prepare for each hearing, including but not limited to, reviewing the agenda and all back-up material provided, familiarizing himself with the applicable City Codes and researching other applicable legal issues. The agenda and all back-up documents will be provided to the Magistrate electronically either via email or the City's website, unless otherwise agreed to by the CITY and the Magistrate.

The MAGISTRATE shall convene a hearing at least once per month (provided there are cases to be heard) on a regular schedule. The preferred schedule is the second Thursday of each month at 9 AM. Each hearing shall be held in the City Hall Auditorium located at 200 East University Avenue, Gainesville, Florida. Additional hearings shall be convened if the case volume requires more frequent hearings.

The MAGISTRATE shall issue such written orders as are necessary for the disposition of code enforcement cases. The orders shall be on the forms provided by the City or provided by the MAGISTRATE and approved by the CITY. Final orders shall include findings of fact and conclusions of law. The orders shall become a lien on real property if the property owner fails to bring the violation(s) into compliance with the Code within the timeframe specified by MAGISTRATE.

The City will designate a City employee to serve as the Code Enforcement Hearing Clerk (the "Clerk") for purposes of the quasi-judicial hearings that will be conducted by the MAGISTRATE. The Clerk will provide public notice of each hearing, prepare the hearing agenda (including assembling the back-up materials for each agenda item), establish (in consultation with the MAGISTRATE) a schedule for finalization of each agenda, read agenda items into the record, swear-in witnesses as necessary, receive affidavits, prepare written minutes of the hearing, record the final orders issued by the MAGISTRATE in the public records of Alachua County and maintain the official records of the code enforcement hearings.

III. MINIMUM QUALIFICATIONS

The MAGISTRATE shall at all times maintain the following minimum qualifications to be eligible to continue to serve as a special magistrate as set forth in Section 2-391(b) of the City Code of Ordinances:

- (1) Be an active member in good standing of the Florida Bar; and
- (2) Reside in Alachua County; and
- (3) Not be an employee of the city or hold any office with the city government, nor hold any other elective or appointive office in the county or state while serving as special magistrate; and
- (4) Comply with the Code of Ethics of the State of Florida.

In addition, the CITY further requires the MAGISTRATE to be free of any obligations and interests that might conflict with the interest of the CITY or otherwise create a conflict under the Florida Bar Rules of Professional Conduct. The MAGISTRATE represents that no such conflict

currently exists. If the condition or circumstances change, MAGISTRATE agrees to immediately notify the CITY.

IV. TERM

This CONTRACT shall be effective upon signature of the parties (the "Effective Date") and shall expire on September 30, 2016. At the end of the CONTRACT term, upon satisfactory performance by the MAGISTRATE, the parties may negotiate to extend the CONTRACT for up to 4 additional 1 year periods.

V. COMPENSATION/PAYMENT

A flat rate of \$1,250 shall be charged monthly for the minimum SERVICES outlined in Section II above. An hourly rate of \$185.00 will be charged for additional services that are requested by the CITY and are outside the scope of the minimum SERVICES.

The MAGISTRATE or FIRM shall submit a summary sheet and invoice to the City on or before the fifteenth (15th) day of each month immediately following the month in which the invoiced Services were provided. Each invoice shall describe with reasonable detail the services performed during the billing period. The MAGISTRATE or FIRM shall provide such additional backup and documentation as requested by the CITY to verify the services rendered and invoice amounts. MAGISTRATE or FIRM shall not submit more than one invoice per thirty (30) day period. Upon CITY approval, the invoice will be processed for payment.

The CITY will make payment to the FIRM within thirty (30) days after receipt of the invoice by the CITY. Payment may be withheld by the CITY due to failure by the MAGISTRATE or FIRM to perform in accordance with this CONTRACT. The CITY shall notify the MAGISTRATE and FIRM of any unsatisfactory performance as soon as practicable so that, if possible, it can be corrected without delaying payment. The FIRM shall be paid via electronic funds transfer (EFT).

VI. TERMINATION

This agreement may be terminated for any reason by either party upon thirty (30) days' written notice to the other party.

VII. INDEPENDENT CONTRACTOR

MAGISTRATE shall be an independent contractor and as such shall not be entitled to any right or benefit to which CITY employees are or may be entitled to by reason of employment. MAGISTRATE shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the MAGISTRATE in the full performance of this CONTRACT.

VIII. INDEMNIFICATION

SPECIAL MAGISTRATE and FIRM agree to indemnify and hold harmless the City, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the SPECIAL MAGISTRATE in the performance of the CONTRACT.

IX. SOVEREIGN IMMUNITY

Nothing in this CONTRACT shall be interpreted as a waiver of the CITY'S sovereign immunity as granted under Section 768.28 Florida Statutes.

X. TIMELINESS

The CITY and MAGISTRATE agree time is of the essence in performance of work and that work under this CONTRACT is required to be performed in an expeditious manner and with care reasonably expected of an attorney performing these duties.

XI. VALIDITY

If any provision of this CONTRACT is contrary to, prohibited by, or deemed invalid by applicable law, rules or regulations of any jurisdiction in which it is sought to be enforced, then

such provision shall be deemed inapplicable and omitted, and shall not invalidate the remaining provisions of this CONTRACT.

XII. INSURANCE

The FIRM shall provide the CITY with proof of insurance in the amounts stated below:

Worker's Compensation Insurance providing coverage in compliance with Chapter 440, Florida Statutes.

XIII. VENUE

This CONTRACT shall be governed and construed in accordance with the laws of the State of Florida. In the event of any legal proceedings arising from or related to this CONTRACT, venue for such proceedings shall be in Alachua County, Florida.

IX. COMPLIANCE WITH LAWS

The MAGISTRATE and FIRM shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. The MAGISTRATE and FIRM are presumed to be familiar with all Federal, State and local laws, ordinances, codes and regulations that may in any way affect the services offered and performed.

X. RECORDS/AUDIT

The MAGISTRATE and FIRM shall maintain records sufficient to document the services performed pursuant to this CONTRACT. These records shall be subject at all reasonable time to review, inspect, copy and audit by persons duly authorized by the City. These records shall be

kept for a minimum of three (3) years after completion of the CONTRACT. Records which relate to any litigation, appeals or settlements of claims arising from performance under this CONTRACT shall be made available until a final disposition has been made of such litigation, appeals, or claims.

XI. FLORIDA PUBLIC RECORDS ACT

Florida has a very broad public records law. By entering into this CONTRACT with the City, the MAGISTRATE and FIRM acknowledge they will comply with the Florida Public Records Act (Chapter 119, Florida Statutes). In complying with the Florida Public Records Act, the MAGISTRATE and FIRM shall:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service;
- b) Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided by law;
- c) Ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- d) Meet all requirements for retaining public records and transfer, at no cost, to the CITY all public record in possession of the MAGISTRATE and FIRM upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in Microsoft Word format or such other format as is agreed to by CITY and MAGISTRATE.

Failure to comply with the Florida Public Records Act, including failure to provide a public record upon request, is a breach of this CONTRACT. CITY may pursue all remedies for breach of this CONTRACT.

XII. DISCRIMINATION PROHIBITION

No person shall, on the grounds of race, color, religion, gender, national origin, marital status, sexual orientation, age, disability, and gender identity, be subjected to discrimination under any activities resulting from this RFQ.

XIII. CONTACT PERSONS

The parties hereto designate the following persons to be contacted regarding the performance of the CONTRACT and for the giving of notices pursuant to the CONTRACT. Any notices required to be given hereunder shall be effective upon being sent by either facsimile, hand-delivery, by certified or registered mail (return receipt requested) or via overnight delivery service to the following addresses:

CITY

FIRM and MAGISTRATE

Christopher Cooper
Code Enforcement Manager
Mail Station 10A
P.O. Box 490
Gainesville, Florida 32627
352-393-8477

Jefferson M. Braswell
Scruggs & Carmichael, P.A.
1 SE 1st Avenue
Gainesville, Florida 32601
352-376-5242

XIV. ENTIRE CONTRACT and AMENDMENTS

This CONTRACT constitutes the entire CONTRACT between the parties. Any amendments shall be in writing and executed by all parties prior to becoming effective.

IN WITNESS WHEREOF, the parties hereto have executed this CONTRACT the day and year written below.

Signed, sealed and delivered
In the presence of the following witness:

CITY:
CITY OF GAINESVILLE

Helen Harris

Print Name: Helen Harris

Russ Blackburn

Russ Blackburn, City Manager

Signed, sealed and delivered
In the presence of the following witness:

Audra Burrell
Print Name: Audra Burrell

MAGISTRATE:

Jefferson M. Braswell
Jefferson M. Braswell

APPROVED AS TO FORM AND LEGALITY

By: Paula R. [Signature]

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