

Board of County Commissioners Agenda Request

Date of Meeting: January 16, 2024

Date Submitted: December 12, 2023

To: Honorable Chairman and Members of the Board

From: Edward J. Dixon, County Administrator
Roosevelt Morris, Building Official

Subject: Approval of Services Contract for Special Magistrate

Statement of Issue:

This agenda item seeks Board approval of the Services Contract for a Special Magistrate to serve as a code enforcement hearing officer.

Background:

The County is desirous of retaining the services of a Special Magistrate to serve as a code enforcement hearing officer for the County pursuant to Chapter 162, Florida Statutes, and Ordinance No. 2012-005, Gadsden County Code of Ordinances.

The Special Magistrate will perform duties as outlined in the scope of services in the attached contract. Those duties will include conducting hearings at the request of the County code inspectors; reviewing memoranda and other evidence in support of or opposition to the code enforcement hearings; issuing recommended orders for ratification by the County with findings of fact, based on record evidence, and conclusions of law, and affording the proper relief consistent with the powers granted; and providing such other services as appropriate to implement the responsibilities of a Special Magistrate under Chapter 162, Florida Statutes, and the Ordinance.

Analysis:

The County's Code Enforcement Officers will coordinate with the Special Magistrate to schedule hearings of unresolved code enforcement cases. The Magistrate will make himself available at the County's request. It is anticipated that several cases will be scheduled on the same day for cost efficiency and to utilize the time of the Magistrate as effectively as possible. The Building Official has selected attorneys Marva Davis and Paul Arnold to serve as the magistrates.

Fiscal Impact:

The compensation for the Special Magistrate will be at a rate of \$350.00 per hearing. The funds for these services are allocated in the code enforcement budget.

Options:

1. Approve the Services Contracts for the Special Magistrates to serve as a code enforcement hearing officer and authorize the Chairman to execute the contract.
2. Do not approve.
3. Board direction.

County Administrator's Recommendation:

Option 1.

Attachment:

- Services Contract for Special Magistrate

SERVICES CONTRACT FOR SPECIAL MAGISTRATE

This Services Contract, is made as of the _____ day of _____ 2023 (the "Effective Date"), by and between Gadsden County, a political subdivision of the State of Florida, whose address is 9 East Jefferson Street, Quincy, FL 32351 (the "County") and _____, whose address is P.O. Box 752, Chattahoochee, FL 32324 (the "Special Magistrate").

WHEREAS, the County is desirous of retaining the services of the Special Magistrate to serve as a code enforcement hearing officer for the County pursuant to Chapter 162, Florida Statutes, and Ordinance No. 2012-005, Gadsden County Code of Ordinances (the "Ordinance");

WHEREAS, the County and the Special Magistrate are desirous of establishing and maintaining a contractual relationship for the services set forth herein; and

WHEREAS, it is the purpose of this Services Contract to set forth the understanding and agreement of the parties with respect to the provision of services by the Special Magistrate to the County.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the County and the Special Magistrate agree as follows:

1. Qualifications of the Special Magistrate. By executing this Services Contract, the Special Magistrate warrants that he is a natural person who is fully qualified to perform the function of Special Magistrate as prescribed herein and as set forth in Chapter 162, Florida Statutes, and the Ordinance.

2. Tenn. The term of this Services Contract shall be for one (1) year from the Effective Date. Either party may terminate this Services Contract upon thirty (30) days written notice, with or without cause. Upon expiration of the thirty (30) day notice period, the Services Contract will be terminated except that the Special Magistrate shall complete all duties hereunder as prescribed by Chapter 162, Florida Statutes, and the Ordinance with respect to any hearings which were conducted prior to termination.

3. Scope of Services. The Special Magistrate will perform such duties as prescribed by Chapter 162, Florida Statutes, and the Ordinance, including: conducting hearings at the request of the County code inspector; reviewing memoranda and other evidence in support of or opposition to the code enforcement hearings; issuing recommended orders for ratification by the County with findings of fact, based on record evidence, and conclusions of law, and affording the proper relief consistent with the powers granted; and providing such other services as appropriate to implement the responsibilities of a Special Magistrate under Chapter 162, Florida Statutes, and the Ordinance. The Special Magistrate will make himself available for hearings at the County's request.

4. Location and Conduct of Hearings. Hearings shall be held in the Gadsden County Commission Chambers in Quincy, Florida, unless otherwise agreed by the parties. The County shall provide clerical and administrative personnel to make record of the hearings and to perform such other functions as may be reasonably required to assist the Special Magistrate in the performance of his duties.

5. Compensation. The County agrees to compensate the Special Magistrates in the performance of their duties, including holding hearings, reviewing memoranda and other evidence related to the hearings, issuing orders following the hearings, and providing such other services as are appropriate to implement their responsibilities at a rate of \$350.00 per hearing.

The Special Magistrate shall not bill for travel time or expenses. The Special Magistrate shall submit itemized bills to the County at the end of each month in which services are rendered. Any disputes shall be resolved by the County Attorney in consultation with the County Administrator.

6. Subject to Funding. This Services Contract is entered into subject to the amounts budgeted by the Board of County Commissioners as available for expenditure during this fiscal year and the County shall not be liable hereunder for any amounts in excess thereof. Nothing herein contained shall prevent the making of contracts for periods exceeding one year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years.

7. Contractual Relationship. The relationship between the County and the Special Magistrate created by this Services Contract is such that the Special Magistrate shall be an independent contractor for all purposes. Neither the Special Magistrate nor any agent or employee thereof shall be an agent or employee of the County for any reason; and the County shall not be liable for any acts of the Special Magistrate or his agents or employees. The Special Magistrate shall submit a W-9 for payment and shall be paid via 1099.

8. Indemnification. Special Magistrate agrees to indemnify, defend, and hold harmless the County, its agents, employees, attorneys, and officers from and against all liabilities, claims, demands, damages, losses, costs (including, but not limited to, reasonable attorneys' fees), and actions or causes of action of any nature whatsoever that may at any time be made or brought by anyone for the purpose of enforcing a claim due to any injury or damage allegedly caused or occurring to any person or property which was caused by the Special Magistrate, his agents, employees, or officers during the performance of this Services Contract. It is specifically agreed between the parties executing this Services Contract that it is not intended by any of the provisions of any part of the Services Contract to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Services Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Services Contract.

9. Miscellaneous.

A. The Special Magistrate shall not assign or transfer aily work under this Services Contract without the prior written consent of the County.

B. All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in either gender shall extend to and include the other gender.

C. This Services Contract embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Services Contract shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto.

D. It is understood and agreed by the parties hereto that if any part, term or provision of this Services Contract is by the courts held to be illegal or in conflict with any law of the State of Florida, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Services Contract did not contain the particular part, term or provision held to be invalid.

E. This Services Contract shall be governed by and construed in accordance with the laws of the State of Florida.

F. Venue in any legal action related to this Services Contract shall be in Gadsden County.

Executed on the date first above written.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date set forth above.

Approved as to Form

Approved as to Form

Special Magistrate

County Attorney

SPECIAL MAGISTRATE

GADSDEN COUNTY, FLORIDA

[SIGNATURE]

Chairperson, Gadsden County
Board of County Commissioners