

Jeffrey Fuller

THIS AGREEMENT made MARCH 20, 2018, by and between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter "PINELLAS COUNTY" and JEFFREY R Fuller, whose address is POST OFFICE BOX 47668 ST. PETERSBURG, FL 33743, hereinafter referred to as "SPECIAL MAGISTRATE," together referred to as "party" or "parties."

WITNESSETH

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

1. SPECIAL MAGISTRATE, by executing this Agreement, warrants that he or she is fully qualified to perform the function of SPECIAL MAGISTRATE as prescribed herein, and that SPECIAL MAGISTRATE meets all necessary qualifications to perform this function as outlined in Pinellas County Code §2-620.

2. The contract term shall be for three (3) years commencing April 9, 2018 and ending April 9, 2021. This Agreement may be renewed at the discretion of the Board of County Commissioners. There is no limit to the number of terms the SPECIAL MAGISTRATE may serve. PINELLAS COUNTY or SPECIAL MAGISTRATE may terminate this Agreement without cause at any time by furnishing written notice of its intent to terminate to the other party at least ten (10) calendar days prior to the actual date of termination. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

3. Upon commencement of the Agreement, SPECIAL MAGISTRATE hereby agrees to perform the services of a hearing officer, hearing and deciding all cases assigned to him or her by PINELLAS COUNTY involving alleged violations of the Pinellas County Code as they may be amended from time to time. SPECIAL MAGISTRATE shall be required to hear all matters assigned to him or her through completion and be prepared to issue or review Orders containing findings of fact and conclusions of law.

4. PINELLAS COUNTY administrative staff shall be responsible for scheduling hearings before the Special Magistrates and drafting Orders that include findings of fact and conclusions of law, based upon the SPECIAL MAGISTRATE's findings, conclusion, and decision as announced on the record at the hearing. The SPECIAL MAGISTRATE shall review such draft Orders and make appropriate modifications as needed prior to execution.

5. The location of the hearings shall be in Pinellas County, Florida. PINELLAS COUNTY shall provide an appropriate location to conduct the proceedings. Costs for documented long distance telephone calls to PINELLAS COUNTY staff to fulfill the responsibilities as a Special Magistrate, and incurred by SPECIAL MAGISTRATE, shall be reimbursed after submittal of an itemized monthly statement. Travel reimbursement is limited to expenses incurred only for travel outside Pinellas County necessary to determine a decision. No other expenses shall be reimbursable. All typical office and overhead expenses including, but not limited, to local telephone expenses, travel to or from the County to serve as SPECIAL MAGISTRATE, legal research, etc. shall be borne by SPECIAL MAGISTRATE.

6. SPECIAL MAGISTRATE shall be paid the sum of \$175.00 dollars per hour for each hour, or pro-rated for each fraction thereof, inclusive of Hearings, Orders and Reduction Orders services rendered for code enforcement hearings, said sum not to exceed \$13,750.00 per PINELLAS COUNTY fiscal year, unless the Parties agree to increase this sum by written amendment as authorized in Section 22 of this Agreement. SPECIAL MAGISTRATE shall submit invoices for payments due as provided herein and authorized reimbursable expenses incurred with such documentation as required by PINELLAS COUNTY. Invoices shall be submitted monthly, by the 15th day of the following month, to the County Administrator. Payment by PINELLAS COUNTY shall be in compliance with the Florida Prompt Payment Act as it may be amended from time to time.

SPECIAL MAGISTRATE shall not be prohibited from handling privately retained cases in his or her private practice so long as it does not otherwise interfere with SPECIAL MAGISTRATE'S obligations under this Agreement. SPECIAL MAGISTRATE shall promptly notify PINELLAS COUNTY of any ethical conflicts that may arise or if for some reason SPECIAL MAGISTRATE feels it would be inappropriate for him or her to hear and deliberate about any alleged violation or violations.

7. SPECIAL MAGISTRATE shall comply with the following conflict of interest provisions of this section; failure to comply with these provisions shall constitute grounds for removal by PINELLAS COUNTY:

- a. Upon appointment, SPECIAL MAGISTRATE shall comply with the disclosure requirements imposed by Florida law, including sections 112.313 and 112.3145, Florida Statutes.

- b. Additionally, SPECIAL MAGISTRATE shall comply with the voting requirements imposed by Florida law, including sections 286.012 and 112.3143, Florida Statutes.
- c. For a period of one (1) year from the date of termination of office as a SPECIAL MAGISTRATE, such person is hereby expressly prohibited from acting as agent or attorney in any proceedings, petition or other matter before a Pinellas County Special Magistrate.
- d. No person who is or may become a party to a hearing before a Special Magistrate shall communicate *ex parte* with any Special Magistrate concerning that violation. This restriction shall extend to any person appearing or interceding on behalf of a party, including PINELLAS COUNTY, whether or not such person may have a direct personal or financial interest in the property subject of the alleged violation.
- e. SPECIAL MAGISTRATE shall not communicate *ex parte* on his or her own volition with any party, representative of a party, or interceding person concerning an alleged violation; however, SPECIAL MAGISTRATE may consider a request regarding the scheduling or continuance of hearings when such request is made in writing.

8. PINELLAS COUNTY and SPECIAL MAGISTRATE intend that the relationship between them created by this Agreement is that SPECIAL MAGISTRATE is an independent contractor and is not an agent, employee, or servant of PINELLAS COUNTY. No agent, employee, or servant of the SPECIAL MAGISTRATE shall be or shall be deemed to be the agent, employee or servant of PINELLAS COUNTY. None of the benefits provided by PINELLAS COUNTY to their employees including, but not limited to, Worker's Compensation Insurance and Unemployment Insurance, are available from PINELLAS COUNTY to the employees, agents, or servants of SPECIAL MAGISTRATE. This is not an exclusive Agreement and does not guarantee SPECIAL MAGISTRATE will receive a minimum payment each month or that he or she will have cases to be heard each month or duties to perform. Further, PINELLAS COUNTY reserves the right to hire other individuals as Special Magistrates during the term of this Agreement.

9. SPECIAL MAGISTRATE signing this Agreement shall perform the legal services described herein. At no time shall an associate or substitute counsel perform the Special Magistrate

services. SPECIAL MAGISTRATE shall not delegate or assign his or her right or obligations hereunder either in whole or in part without the prior written consent of PINELLAS COUNTY. SPECIAL MAGISTRATE agrees and covenants that he or she shall perform the legal services described herein while at all times complying with all the current requirements of the Code of Professional Responsibility and the Disciplinary Rules of the Florida Bar. Any actions by SPECIAL MAGISTRATE or his agents that do not comport with the Code of Professional Responsibility and the Disciplinary Rules of the Florida Bar shall be the sole responsibility and liability of SPECIAL MAGISTRATE.

10. PINELLAS COUNTY, at its discretion, may audit or inspect SPECIAL MAGISTRATE books and financial records, ledgers, time sheets, other records relating to services under this Agreement. All records, books, and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, chapter 119, Florida Statutes. All payments shall be made in accordance with the requirements of Section 218.70 et seq., Florida Statutes, "The Local Government Prompt Payment Act." PINELLAS COUNTY may dispute any payments invoiced by the SPECIAL MAGISTRATE in accordance with PINELLAS COUNTY'S Invoice Payments Dispute Resolution Process established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with PINELLAS COUNTY'S Dispute Resolution Process.

11. The failure of either party to comply with the terms of this Agreement shall constitute a material breach of this Agreement by said party. In addition to any remedies authorized by law, the non-breaching party shall have the right to terminate this Agreement immediately upon the occurrence of such material breach. Failure to exercise this right of termination shall not constitute a waiver of such right, which may be exercised at any subsequent time. At the option of PINELLAS COUNTY, this Agreement shall terminate upon the occurrence of any of the following:

- a. Violation of any material provision of the Agreement.
- b. Discovery by PINELLAS COUNTY that this Agreement was obtained through fraud by commission or omission.
- c. Any assignment of the rights or responsibilities under this Agreement without PINELLAS COUNTY's approval in writing.

- d. The institution of disciplinary proceedings against SPECIAL MAGISTRATE by the Florida Bar or any other jurisdiction's professional regulatory body.
- e. The commencement of criminal prosecution of SPECIAL MAGISTRATE in any court anywhere.
- f. Failure to disclose to PINELLAS COUNTY the institution of any criminal or administrative disciplinary proceedings against SPECIAL MAGISTRATE.
- g. Incompetence, rendering of unsatisfactory service, neglect of duty or any other conduct unbecoming an officer of the court.

12. In the event SPECIAL MAGISTRATE is unable to perform under this Agreement due to a permanently disabling injury, a continuing disabling sickness, or for other similar causes beyond the control of SPECIAL MAGISTRATE, SPECIAL MAGISTRATE shall be released from any and all obligations under this Agreement. In the event of circumstances beyond the control of PINELLAS COUNTY such as a judicial decision, administrative action, or other similar circumstances which prevent PINELLAS COUNTY from fulfilling its obligation under this Agreement, SPECIAL MAGISTRATE agrees that in the aforementioned circumstances, PINELLAS COUNTY will be released from any and all responsibility hereunder.

13. This Agreement is not a general obligation of PINELLAS COUNTY. It is understood that neither this Agreement nor any representation by any PINELLAS COUNTY employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by PINELLAS COUNTY, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by PINELLAS COUNTY for any or all of this Agreement, PINELLAS COUNTY shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify SPECIAL MAGISTRATE in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the County.

14. No waiver by either party of any existing default by the other party shall be deemed to waive any subsequent default of such party.

15. All rights hereunder are cumulative, not alternative, and are in addition to any other rights given by law.

16. This Agreement supersedes any prior Agreements between the parties and is the sole basis for Agreement between the parties.

17. Any notice required to be given under any provision of this Agreement shall be deemed given if sent to SPECIAL MAGISTRATE at the following address:

POST OFFICE BOX 47665  
ST. PETERSBURG, FL 33743

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or PINELLAS COUNTY at the following address:

c/o County Administrator  
315 Court St.  
Clearwater, Florida 33756

provided such notice is given by placing the notice in an envelope with postage prepaid at the then current rates and addressed to the individuals at the preceding addresses. This does not preclude notice given by other means, but to be effective for purposes of this provision, the notice must be given as stated herein, and notice of termination shall be delivered by certified mail, return receipt requested, or in person with proof of delivery, as outlined in Paragraph 2 of this Agreement. Changes to notice addresses may be made in writing and mailed as noted above or by hand delivery of written notice.

19. Each party to this Agreement represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the Party is authorized to do so; and (iii) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

20. The parties hereto acknowledge and agree that there are no third party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third party beneficiaries hereto.

21. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in or for Pinellas County, Florida. This choice of venue is intended by the

Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this section. Each Party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section.

22. This Agreement expresses the entire understanding of the parties concerning all matters covered herein. No addition to, or alteration of, the terms of this Agreement whether by written or verbal understanding of the parties, their officers, agents or employees shall be valid unless made in the form of a written amendment to this Agreement and formally approved by the parties.

*Signature Page Follows.*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

**PINELLAS COUNTY, FLORIDA**  
by and through its County Administrator

By: Mark S. Woodard  
Mark S. Woodard

**SPECIAL MAGISTRATE:**

By: [Signature]  
Print Name: Jeffrey J. Fuller

**APPROVED AS TO FORM**

By: \_\_\_\_\_  
Office of the County

**WITNESS:**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_

**APPROVED AS TO FORM**

By: [Signature]  
Office of the County Attorney