

## INDEPENDENT CONTRACTOR AGREEMENT FOR SPECIAL MAGISTRATE SERVICES

This Independent Contractor Agreement (the "Agreement") entered into this 14 day of November 2023, between the City of Marco Island, Florida herein referred to as "the City" and Robert D. Pritt, Attorney, herein referred to as "Contractor".

### RECITALS

**WHEREAS**, on November 14, 2023, the City and Contractor entered into an independent contractor agreement for special magistrate services (the "Agreement"); and

**WHEREAS**, Contractor and the City agree that it is to their mutual advantage to have Contractor provide to the City services as it pertains to the hearing of City code compliance enforcement cases and issuing findings of fact as delineated in City ordinances and resolutions; and

**WHEREAS**, All Contractors serving in the role of Special Magistrate will be paid the same hourly rate for services regardless of when their contracts renew.

**WHEREAS**, Contractor and the City agree that pursuant to Section 14-21 (c) of the City Code provides that any special magistrate shall be eligible for reappointment by City Council; and

**NOW, THEREFORE**, in consideration of the mutual covenants and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties to the terms of this agreement as outlined below:

### AGREEMENT

**A. DESCRIPTION OF WORK AND COMPENSATION:** The Contractor agrees to provide the City with consulting services pertaining to Special Magistrate services. Contractor agrees to advise the City on an "as Needed" basis. Contractor's services shall be provided at such place and time and in a manner as mutually agreed upon by Contractor and the City. Contractor will perform its services to the highest professional standards customarily accepted within the Contractor's industry or field. In the Contractor's performance of its services hereunder, the Contractor is not required to maintain any specified daily or weekly schedule and is not required to meet any quotas. However, Contractor must ensure that he is available to provide consulting services to the City promptly. Contractor is not required or invited to attend any meetings or functions for the City's employees. Contractor may be invited to attend periodic meetings held to provide informational updates regarding code compliance. However, attendance at these meetings is not mandatory.

The services provided for by the Agreement shall be performed by Robert D. Pritt (Contractor). Contractor shall not have discretion to hire others at Contractor's expense to assist in completing services contemplated by this Agreement without the City's written consent.

**B. LICENSES AND CERTIFICATIONS:** Contractor ensures that its employees, representatives or agents shall, at all times during the term of this Agreement, maintain any and all approvals, licenses, and/or certifications required to provide consulting services and shall furnish copies of such documents to the





City. The Contactor shall immediately notify the City if any approvals, licenses, or certifications are restricted, revoked or limited in any way during the term of this Agreement. Contractor further agrees that

at all times, it will comply with any and all applicable laws, rules, regulations and/or ordinances when performing the services and duties contemplated under this Agreement.

**C. PAYMENT:** Contractor shall charge the City (through the City's billing process) for services performed pursuant to this Agreement. Contractor agrees to use independent discretion in providing consulting services to the City. Contractor further expressly agrees that he will charge the City \$215 per hour, rounded up to the nearest quarter hour for his services during the duration of this Agreement:

- Maximum fee for case preparation per case is \$95.00 (one half hour or hourly rate)
- Maximum hourly rate of \$215.00 for conducting case hearing, including continuances and any mitigation hearing, with a minimum charge of \$645 (3 hour minimum) per hearing date.
- Maximum fee to issue findings of facts per case \$95.00 (one half hour of hourly rate)
- External post hearing activities in defense of findings of facts \$47.50 (one quarter hour of hourly rate)
- No additional fees or costs shall be permitted

All Contractors serving in the role of Special Magistrate will be paid the same hourly rate for services regardless of when their contracts renew.

Contractor shall submit invoices for services rendered to the City as necessary. Upon receipt of a proper invoices, the City will process payments according to the following schedule:

- Payment shall be issued pursuant to Chapter 218 of the Florida Statutes.
- Payments will reflect services, on a case-by-case basis, invoiced for the previous month
- Discrepancies shall be reported in writing within 30 days of payment issuance date, or deemed to be waived by the parties to this agreement.

**D. USE OF EQUIPMENT:** Contractor shall be solely responsible for providing any other supplies or materials needed to perform the services set forth in this Agreement. The City will not reimburse Contractor for any expenses that the Contractor incurs pursuant to this Agreement. The City will provide the venue and recording device(s) for the hearing.

**E. RELATIONSHIP OF PARTIES:** This Agreement creates an independent contractor-city relationship. Contractor is also solely responsible for his conduct and work performed. During the term of this Agreement, Contractor will report to the Chief of Police or her designee, who will act as the liaison between Contractor and the City. Contractor is not an agent of the City for any purpose. Contractor is not entitled to any benefits that the City provides its employees, specifically including, but not limited to, sick leave, vacation, workers' compensation, or any other insurance coverage. Contractor shall be solely responsible for withholding and paying any and all Federal, State, and local taxes, Social Security payments, and any other applicable deductions, taxes, or payments, including, but not limited to, unemployment and other payroll taxes. This is not an exclusive agreement. Contractor is free to contract with other parties for similar services.

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F. **LIABILITY:** Contactor assumes all risk connected with the work performed pursuant to this Agreement. Contactor shall be fully and solely responsible for providing, at its own cost and expense, any

and all equipment not otherwise identified in section D that is required in the performance of its duties hereunder. Contactor also accepts all responsibility for the condition of tools and equipment used in the performance of this Agreement, whether or not provided by Contactor. Contactor does hereby absolutely release, waive, discharge, covenant not to sue, and agree to indemnify, defend and hold harmless the City and its members, council, owners, officers, directors, employees, and agents, and subsidiary and affiliated companies or organizations, and their respective predecessors, successors, and assigns from all liability to Contactor or its employees, representatives or agents, for any and all losses, expenses or damages, and any claim for damages on account of death, personal injuries or property damage sustained by Contactor or its employees, representatives or agents, or any claims by third parties arising out of the action or failure to act of Contactor or its employees, representatives or agents, while rendering services under this Agreement.

G. **DURATION:** Either party may terminate this Agreement for any reason within 30 days written notice. The City may terminate this Agreement immediately if Contactor breaches its obligations under this Agreement or engages in conduct which is immoral, illegal, or which the City deems to adversely affect the reputation of the City. If not earlier terminated, the Agreement shall remain in force commencing on December 4, 2023 through December 4, 2025. In accordance with Section 14-21(c) of the City Code, this Agreement may be renewed for additional two-year terms with City Council approval.

**TERMINATION:** Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other. Should the Contractor be deemed or found to have failed to perform services herein in a professional manner satisfactory to the City in accordance with standards of practice in the industry, and/or the terms and requirements of this Agreement, the City may terminate said Agreement immediately for cause. Moreover, the City may terminate this Agreement for convenience with a seven (7) day written notice to the Contractor. The City shall be the sole judge of non-performance or cause.

H. **NO AUTHORITY TO BIND:** Contactor shall have no authority to for or legally bind the City with respect to any matter, including but not limited to the subject matter of the Agreement.

I. **CHOICE OF LAW AND JURY TRIAL WAIVER:** This Agreement and all related matters shall be governed by, construed, and enforced in accordance with the laws of the State of Florida. Contactor and the City agree to waive any right to a trial by jury in any litigation over this Agreement or any supplement thereto, including any arising out of Contactor's independent contractor status.

J. **SURVIVAL:** All representations and other relevant provisions of this Agreement shall survive and thereby continue in full force and effect, notwithstanding any termination or expiration of this Agreement under paragraph G or otherwise.

K. **ENTIRE AGREEMENT:** This Agreement constitutes the entire understanding and agreement of the parties, and shall not be altered, modified, or amended unless such alteration, modification, or amendment is set forth in writing and signed by the parties.

L. **ATTORNEY'S FEES:** In the event that any of the parties institutes any action or proceeding against the other party (including such affiliates) relating to this Agreement, the prevailing party shall be entitled

to reimbursement for all costs and expenses incurred in connection therewith, including payment of all reasonable attorney's fees and costs through all appellate levels.

By: \_\_\_\_\_

City of Marco Island

Michael A. McNees, City Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_

Contractor

Robert D. Pritt