

**CONTRACT FOR SERVICES AS
PLANNING AND ZONING SPECIAL MASTER AND
BACKUP CODE ENFORCEMENT SPECIAL MASTER**

THIS AGREEMENT (hereinafter referred to as "Agreement") is made and entered into this 23rd day of July, 2019, by and between **Board of Sumter County Commissioners** (hereinafter referred to as "Board," or "County"), whose address is 7375 Powell Road, Wildwood, Florida 34785, and **Zachary T. Broome, Esq.** of the law firm of **Bowen, Schroth, Mazenko & Broome, P.A.** (hereafter referred to as "Special Master"), whose address is 600 Jennings Avenue, Eustis, Florida 32726.

RECITALS

WHEREAS, the County has need of professional services for a **Planning and Zoning Special Master and Backup Code Enforcement Special Master**; and

WHEREAS, the parties desire to enter into a written agreement outlining the duties, responsibilities and compensation of Special Master.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Responsibilities.** The Special Master shall conduct hearings in accordance with Florida law and the Sumter County Land Development Code with such property owners who file applications for amendments or permits pursuant to Chapter 13 of the Sumter County Land Development Code. In accordance with Sec. 13-316 of the Sumter County Land Development Code, the Special Master shall take testimony and make decisions and recommendations to the Sumter County Board of County Commissioners. Special Master shall also serve, as needed, as Sumter County Code Enforcement Special Master and shall conduct hearings in accordance with Chapter 162, Florida Statutes and the Sumter County Code of Ordinances and Sumter County Land Development Code. The decisions and recommendations of the Special Master shall be in writing and contain the findings of fact and conclusions of law upon which the decision or recommendation is based. Proceedings before the Special Master shall meet all basic requirements of a quasi-judicial proceeding.
2. **Term.** The term of this Agreement shall commence on August 1, 2019 and continue in full force for one year up to August 1, 2020 (the " Initial Term") with an option to renew the Agreement annually on mutually agreeable terms, unless otherwise terminated as provided in paragraph four (4) of this Agreement. The term of this Agreement does not relieve the Special Master of any future responsibility as described in paragraph eight (8) of this Agreement.
3. **Termination.** This Agreement may be terminated by either party upon thirty (30) days prior written notice to the other party at the address designated in this Agreement for

receiving such notice. If this Agreement is terminated, Special Master shall be authorized to receive payment for all work performed up to the date of termination.

4. **Compensation.** The Special Master shall provide all services under this Agreement at the hourly rate of \$200.00 per hour. Time shall be based on actual time spent performing any service by the Special Master. Fees for travel time from the offices of the Special Master to Sumter County for all Planning and Zoning Meetings and Code Enforcement Hearings shall be performed at NO CHARGE to the County. The Special Master's services include the time we spend on the County's work including, but not limited to, research, memoranda, correspondence, telephone conversations, and all other work which in our judgment is reasonably required or desirable to perform the duties required.
5. **Billing.** The Special Master will render detailed bills to the County from time to time which will show the nature of the services rendered, the time expended, costs incurred and the balance due to the Special Master, if any. The Special Master's office bills in time increments of .1 hours with no billing event being less than .2 hours. If the County disagrees with any charge for fees and costs, the County must notify us in writing within thirty (30) days after date of mailing, otherwise all charges are agreed by the County to be approved and accepted. All bills are due when rendered.
6. **Costs.** The costs and expenses associated with representing County may include, but are not limited to, photocopying and mailing charges. All such costs shall be paid by County.
7. **General Considerations.**
 - a. Special Master is required to: (i) keep and maintain public records required by County; (ii) upon request from County's custodian of public records, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a reasonable or as otherwise provided by law; (iii) ensure that public records that are exempt or, confidential and exempt, from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if Special Master does not transfer the records to County; (iv) upon completion of this Agreement, transfer, at no cost, to County all public records in possession of Special Master or keep and maintain public records required by County.
 - b. If Special Master transfers all public records to County upon completion of this Agreement, Special Master shall destroy any duplicate public records that are exempt or, confidential and exempt, from public records disclosure requirements. If the Special Master transfers all public records to the County, the If Special Master keeps and maintains public records upon completion of this Agreement, Special Master shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from County's custodian of public records, in a format that is compatible with the information technology systems of County.

- c. Special Master shall, at all times, comply with the Florida Public Records Law, the Florida Open Meeting Law and all other applicable laws, rules and regulations of the State of Florida.
 - d. **IF THE SPECIAL MASTER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SPECIAL MASTERS' DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 352-689-4400, Sumter County County of County Commissioners, 7375 Powell Road, Wildwood, Florida 34785 or via email at Administrative.Services@sumtercountyfl.gov.**
 - e. Upon Special Master' s written request, the County will furnish, or cause to be furnished, such reports, studies, instruments, documents, and other information as Special Master and County mutually deem necessary, and Special Master may rely upon same in performing the services required under this Agreement.
8. The Special Master may be required to provide additional services to the County on challenges, public protests, administrative hearings or similar matters. The Special Master shall be available to the County and to provide supporting documentation as necessary. Should any other professional services be called for by the County that are not otherwise set forth in this Agreement or any of its attachments or exhibits, charges for these services shall be agreed upon in advance by the parties hereto.
9. Special Master shall be solely and entirely responsible for its tortious acts and for the tortious acts of its agents, employees, or servants during the performance of this Agreement. Special Master shall indemnify and save harmless the County, its agents, employees and officers from and against all liabilities, claims, demands, or actions at law and equity including court costs and special Master' s fees that may hereafter at any time be made or brought by anyone for the purposes of enforcing a claim on account of any injury or damage allegedly caused or occurring to any person or property in which was caused in whole or in part by any tortious, wrongful, or intentional acts or omissions of Special Master, its agents, or employees during performance under this Agreement. The foregoing is not intended, and shall not be construed, as a waiver by County of the benefits of Section 768.28, *Florida Statutes*.
10. Special Master is, and shall be, in the performance of all services and activities under this Agreement, an independent contractor, and not an employee, agent, or servant of County; and no provisions of County' s personnel policies shall apply to this Agreement. None of the benefits provided by County to its employees including, but not limited to, worker' s compensation insurance and unemployment insurance, are available from County to Special Master, or its employees, agents or servants. Special Master assumes responsibility for payment of all federal, state and local taxes imposed or required of Special master including but not limited to FICA, FUTA, unemployment insurance, Social Security and income tax laws for which Special master as employer is responsible. Special master shall be solely responsible for any worker' s compensation insurance

required by law and shall provide the County with proof of insurance upon demand. The parties agree that County shall not: (a) pay dues, licenses or membership fees for Special Master; (b) require attendance by Special Master, except as otherwise specified herein; (c) control the method, manner or means of performing under this Agreement, except as otherwise specified herein; or (d) restrict or prevent Special Master from working for any other party.

11. **Force Majeure.** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder)], when and to the extent such failure or delay is caused by or results from the following force majeure events ("**Force Majeure Events**"): (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, warlike operation, insurrection, rebellion, revolution, military or usurped power, sabotage or other civil unrest; (d) strikes, embargoes, blockades, labor stoppages, lockouts or slowdowns or other industrial disturbances or inability to obtain necessary materials or services (e) governmental delay regarding permits or approvals; (f) action by any governmental authority; (g) national or regional emergency; (h) shortage of adequate power or transportation facilities; or (j) other similar events beyond the reasonable control of the party impacted by the Force Majeure Event (the "**Impacted Party**") and provided further, however, that such performance shall be resumed and completed with due diligence and reasonable dispatch as soon as the contingency causing the delay or impossibility shall abate.
12. **Attorney's Fees; and Costs of Enforcement.** In the event suit is commenced to enforce this Agreement, costs of said suit including reasonable attorney fees in all proceedings, trials, investigations, appearances, appeals and in any bankruptcy proceeding or administrative proceeding shall be paid to the prevailing party by the non-prevailing party. In the event of default by either party hereto, the defaulting party shall be liable for all costs and expenses, including reasonable attorney's fees and costs incurred by the other party in enforcing its rights hereunder, whether litigation be instituted or not, at the trial court and appellate court level.
13. **Law of the Agreement; Jurisdiction and Venue.** The Parties agree that the laws of the State of Florida shall govern any dispute arising from or related to this Agreement. The Parties to this Agreement agree that venue and jurisdiction is mandated to lie only in the state courts located in Sumter County, Florida. Removal of this case to federal court is not permitted. Litigation in federal court is precluded by agreement of the parties hereto. If, even though precluded by agreement of the Parties hereto, litigation arising from or based upon this contract should be mandated by a court of competent jurisdiction issued pursuant to a duly noticed hearing giving Sumter County adequate time to respond and all of the benefits of due process to lie in the proper venue or jurisdiction of a federal court, that federal court shall only be in the Middle District of Florida, Ocala Division. The Parties further agree that entry into this agreement constitutes irrevocable consent that the exclusive venue for any such dispute shall lie solely in the state or county courts in and for Sumter County, Florida. The Parties expressly and irrevocably waive any right(s) to

removal of any such dispute to any federal court, unless the federal court has exclusive jurisdiction; in such cases, the parties agree that the exclusive venue for any such disputes shall be the United States District Court, in and for the Middle District of Florida, Ocala Division. Process in any action or proceeding referred to in this paragraph may be served on any party anywhere in the world, such party waives any argument that said party is not subject to the jurisdiction of the state courts located in Sumter County, Florida and that the laws of the state of Florida.

14. **Entire Agreement.** This Agreement contains the entire agreement of the Parties and may not be changed except by written agreement duly executed by the Parties hereto. This Agreement supersedes any prior understandings or agreements between the Parties, and there are no representations, warranties, or oral agreements other than those expressly set forth herein.
15. **Assignment.** This Agreement shall not be assigned nor may any portion of the obligations contemplated in this Agreement be subcontracted to another party without prior written approval of County. No such approval by County of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation of County. All such assignments and subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that County shall deem necessary.
16. **Compliance with Licenses, Permits, and Applicable Laws.** In performing services hereunder, Special Master shall comply with all federal, state and local laws and regulations. Special Master shall be responsible for identifying and obtaining all permits necessary to complete the scope of services. Special master shall be responsible for obtaining, at its sole cost and expense, all necessary license licenses and other governmental approvals required in order for Special Master to provide the type of services required hereunder.
17. **Conflict of Interest.** Special Master shall notify County in writing of any commitments during the term of this Agreement which may constitute a potential or actual conflict of interest with respect to the scope of services to be performed for the County. Special Master agrees at all times to comply with the provisions of Section 112.313, Florida Statutes.
21. **Default.** Neither Party shall declare the other party in default of any provision of this Agreement without giving the other party at least ten (10) days advance written notice of intention to do so, during which time the other party shall have the opportunity to remedy the default. The notice shall specify the default with particularity.
22. **Dispute Resolution.** All disputes arising out of or in connection with this Agreement shall be attempted to be settled through good-faith negotiation between the Parties, followed if necessary within thirty (30) days by professionally-assisted mediation. Any mediator so designated must be acceptable to each Party. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an

amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either Party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each Party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties. Failing resolution through negotiation or mediation, either Party may file an action in a court of competent jurisdiction or other appropriate remedy available in law or equity as defined herein below.

23. **Jointly Drafted.** The Parties agree that this Agreement is entered into knowingly and voluntarily, after having the opportunity to fully discuss it with an special master. Having had the opportunity to obtain the advice of legal counsel to review, comment upon, and redraft this Agreement, the Parties agree that this Agreement shall be construed as if the parties jointly prepared it so that any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other.
24. **Parties Acknowledgement; Parties Bound.** The Parties acknowledge that they have read this Agreement, and that they understand the terms and conditions herein and that the terms have been fully and completely explained to the Parties prior to the execution thereof. Each party acknowledges that the other party has made no warranties, representations, covenants, or agreements, express or implied, except as expressly contained in this Agreement. Further, the Parties have caused this Agreement to be executed on their respective behalf by the authorized officer whose signature appears below under their respective name, to be effective as of the date first written above. This Agreement shall inure to the benefit of and be binding upon the Parties, their successors, heirs, and personal representatives.
25. **Waiver.** The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any party.
26. **Time is of the Essence.** Time shall be of the essence of this Agreement.
27. **Survivability.** Any provision of this Agreement which obligates any of the Parties to perform an obligation either before the commencement of the Term or after the expiration of the Term, or any renewal or extension thereof, shall be binding and enforceable notwithstanding that performance is not within the Term, and the same shall survive.
28. **Severability.** Whenever possible each provision and term of this Agreement will be interpreted in a manner to be effective and valid but if any provision or term of this Agreement is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.
29. **Counterparts.** This Agreement may be executed in a number of identical counterparts and a facsimile or electronic/digital copy shall be treated as an original. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts

shall, collectively, constitute one agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

- 30. **Section and Paragraph Headings.** Captions or paragraph headings herein contained are for organizational convenience only and shall not be constructed as material provisions of this agreement or to limit any provisions hereunder.
- 31. **Cooperation; Supplementary Actions.** All Parties agree to cooperate fully and to execute any supplementary documents, and to take any additional actions that may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement, and which are not inconsistent with its terms.
- 32. **Miscellaneous.** Whenever the context shall so require, all words in this Agreement of one gender shall be deemed to include the other gender.
- 33. **Incorporation of Recitals.** Each of the WHEREAS clauses listed above are hereby re-alleged and incorporated into this Agreement as if otherwise fully stated herein.
- 34. **Notice.** Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be made in writing and shall be personally delivered to the individuals listed below, sent via prepaid courier or overnight courier, or deposited in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed to the addresses (and individuals) set forth below. No other form of electronic communications (Facebook, Twitter, Text) will be deemed Notice.

FOR THE COUNTY FOR THE SPECIAL MASTER

Name: Bradley S. Arnold Name: Zachary T. Broome

Address: 7375 Powell Road, Wildwood, FL 34785 Address: 600 Jennings Ave., Eustis, FL 32726

Title: County Administrator Title: Special Master

Date: JUL 23 2019 Date: 7/15/19

IN WITNESS WHEREOF, the parties have signed this agreement the day and year first above written.



TEST:

SUMTER COUNTY
COUNTY OF COUNTY COMMISSIONERS

By: Carolyn A. Bestimawir [Signature]

By: Chairman

Date Signed: JUL 23 2019

ATTEST:

By: Sauntha Helgeson

SPECIAL MASTER

[Signature]
By: Zachary Brown

Date Signed: 7/15/19