

## SPECIAL MAGISTRATE AGREEMENT

THIS SPECIAL MAGISTRATE AGREEMENT (Agreement) by and between the CITY OF NEW PORT RICHEY, FLORIDA, a Florida municipal corporation with its principal place of business located at 5919 Main Street, New Port Richey, FL 34652 (the City) and Brent Simon, Esquire, with the principal place of business located at 5945 Florida Avenue, New Port Richey, Florida, 34652 (the Special Magistrate)(collectively referred to as the Parties).

WHEREAS, the City's Ordinance No. 2013-2008, as may be amended from time to time, establishes the City's special magistrate administrative program as a supplemental code enforcement process and provides for the City to appoint special magistrates to exercise all powers granted under Chapter 162, Florida Statutes; and

WHEREAS, the City's Ordinance No. 2013-011, as may be amended from time to time, exercises its power to use traffic infraction detectors within its jurisdiction pursuant to Florida Statutes and designates that the special magistrate(s) will be used as the local hearing officer(s) as defined in Section 316.003(91), as may be amended (Ordinance No. 2013-2008 and 2013-2008 are referred to collectively as the "Ordinances"); and

WHEREAS, on February 17, 2015 City Council appointed Brent Simon, Esquire as the City's Special Magistrate for a term of one year; and

WHEREAS, the original Agreement expired as of February 17, 2016; and

WHEREAS, the City desires to continue to contract the services of the Special Magistrate and the Special Magistrate desires to continue to serve as a special magistrate as outlined in the Ordinances by entering into a new agreement for a term as specified in Section 2 below.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated herein by reference.
2. Term of Agreement. This term of this Agreement shall commence upon the Effective Date and shall continue for one (1) year from the date thereof, unless

terminated sooner on the terms stated herein. This Agreement may be renewed for additional term(s), each of one (1) year, by written agreement of the Parties upon reappointment by the City Council.

3. Duties of the Special Magistrate. The Special Magistrate shall perform all duties assigned to him/her as a special magistrate pursuant to the Ordinances, including any additional responsibilities assigned pursuant to interlocal agreement, and shall comply with all requirements and provisions of the Ordinances. The Special Magistrate represents and warrants that he/she meets all qualifications to serve as a special magistrate under the Ordinances and shall continue to meet all such requirements for as long as this Agreement remains in effect. The Special Magistrate shall promptly notify the City if the Special Magistrate has a conflict of interest pursuant to the rules regulating the Florida Bar with regard to any duties or case assigned to him/her pursuant to this Agreement.
  
4. Compensation. The Special Magistrate shall be compensated by the City at a monthly retainer of One Thousand Five-Hundred Dollars and NO/100 (\$1,500.00) per month, commencing upon the first month in which hearing duties are assigned to the Special Magistrate, up to a maximum of 10 hours of hearing time. The City will compensate the Special Magistrate for hearing time in excess of ten (10) hours per month at a rate of One Hundred Fifty Dollars and NO/100 (\$150.00) per hour, rounded to the nearest tenth (0.10) of an hour. Any travel reimbursement shall be limited to expenses incurred only for travel outside Pasco County necessary to fulfill the responsibilities as a special magistrate and shall only be permitted upon prior written approval of the City Council. No other expenses or costs shall be reimbursable except documented long distance telephone calls to city staff to fulfill the responsibilities as a special magistrate. Compensation of the Special Magistrate may be further prescribed by resolution of the City Council and the Special Magistrate agrees to abide by any such resolution(s). Payment shall be made in compliance with the Florida Prompt Payment Act, as may be amended.
  
5. Independent Contractor. The Parties agree and acknowledge that the terms of this Agreement are not intended to, nor shall they be construed to, create any relationship between the City and the Special Magistrate, other than that of independent contractors solely for the purposes set forth in this Agreement. The Parties shall be considered independent and, neither of them, nor any of

their respective representatives, employees, or agents shall be construed to be the agent, employee, or representative of the other.

6. Termination. Either party may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to the other party indicating the terminating party's intent to terminate and the effective date of termination.
7. Notices. Whenever either party desires to give notice unto the other, written notice shall be sent via hand delivery, first class mail or overnight carrier to:

FOR CITY:

City of New Port Richey  
ATTN: City Manager  
5919 Main Street  
New Port Richey, Florida 34652

FOR SPECIAL MAGISTRATE

Brent Simon, Esq.  
5945 Florida Avenue  
New Port Richey, Florida 34652

All notices shall be effective upon receipt. Any party may change their representative to get notice or their address by giving notice in this manner without the need of formal amendment of this Agreement.

8. Assignment. The Parties shall not assign this Agreement except upon prior written agreement of the Parties and, if the Special Magistrate is requesting assignment, only upon prior approval by City Council.
9. Governing Law and Venue. This Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Florida. The Parties consent to jurisdiction over them and agree that venue for any state action shall lie solely in the Sixth Judicial Circuit in and for Pasco County, Florida (Westside), and for any federal actions shall lie solely in the U.S. District Court, Middle District of Florida, Tampa Division.
10. Amendment. This Agreement may not be amended or altered except upon written agreement of the Parties and with prior approval from the City Council.
11. Heading and Section References. The headings and section references in this Agreement are inserted only for the purpose of convenience and shall not be construed to expand or limit the provisions contained in such sections.

12. Authorization. The Parties represent and warrant that they are authorized to enter into this Agreement without the consent and joinder of any other party and that the individuals executing this Agreement have full power and authority to bind their respective parties to the terms hereof.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed to be effective as of the date first above written.

ATTEST:

**CITY OF NEW PORT RICHEY**

\_\_\_\_\_  
Judy Meyers, City Clerk

\_\_\_\_\_  
Debbie L. Manns, City Manager

\_\_\_\_\_  
Date

Approved as to Form and Sufficiency:

\_\_\_\_\_  
Timothy P. Driscoll, City Attorney

WITNESS:

**SPECIAL MAGISTRATE**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date