

**PROPOSED RESOLUTION NO. 2021-R-45**

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE CITY OF PEMBROKE PINES, FLORIDA, AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO EXECUTE A SPECIAL MAGISTRATE SERVICE AGREEMENT WITH ALAN L. GABRIEL, ESQ., TO PROVIDE CODE ENFORCEMENT SPECIAL MAGISTRATE SERVICES ON A ROTATIONAL BASIS; PROVIDING FOR CONFLICTS; PROVIDING FOR VALIDITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 162.03(2), Florida Statutes, provides that municipalities may contract with special magistrates as an alternative method of hearing code enforcement cases; and

**WHEREAS**, the Florida Attorney General issued AGO 02-78, stating that a code enforcement special magistrate contracting with municipalities to perform the duties of a special magistrate pursuant to Section 162.03(2), Florida Statutes, is an "officer" for purposes of the dual office holding prohibition of Article II, Section 5(a) of the Florida Constitution; and

**WHEREAS**, AGO 02-78 seems to focus on the appointment of special masters for a specified term, which is similar to the manner in which members are appointed to the code enforcement board; and

**WHEREAS**, special magistrates are not charter officers of the City of Pembroke Pines ("City"), nor are they officers pursuant to Article II, Section 5(a) of the Florida Constitution; and

**WHEREAS**, the Special Magistrate is an independent contractor serving at the pleasure and at the will of the City Commission of the City; and

**WHEREAS**, although the City is not bound by opinions of the Florida Attorney General, the City Commission desires to clarify any misconceptions or confusion arising

**PROPOSED RESOLUTION NO. 2021-R-45**

**RESOLUTION NO. \_\_\_\_**

out of AGO 02-78, by hiring special masters by contract rather than appointment, and providing that each special master serves at the will and pleasure of the City Commission; and

**WHEREAS**, the City Commission desires to enter into a Special Magistrate Services Agreement with Alan L. Gabriel, Esq., providing for Code Enforcement Special Magistrate Services in the form attached hereto as Composite Exhibit "A"; and

**WHEREAS**, the City Commission finds it to be in the best interests of the City residents to utilize this alternative method of hearing code enforcement cases, on a case-by-case, rotational basis;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby incorporated herein and made a specific part of this Resolution.

**SECTION 2.** The City Commission does hereby approve the Special Magistrate Services Agreement with Alan L. Gabriel, Esq., which is attached hereto and incorporated herein as **Exhibit "A,"** to provide special magistrate services on a rotational basis for the adjudication of code enforcement cases, and providing that special masters serve at the pleasure and will of the City Commission.

**SECTION 3.** City Administration is hereby directed to take any and all action necessary to effectuate the intent of this resolution.

**PROPOSED RESOLUTION NO. 2021-R-45**

**RESOLUTION NO. \_\_\_\_\_**

**SECTION 4.** All resolutions inconsistent or in conflict herewith shall be and are hereby repealed insofar as there is conflict or inconsistency.

**SECTION 5.** If any section, sentence, clause, or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

**SECTION 6.** This Resolution shall become effective upon its passage and adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

BY: \_\_\_\_\_

MAYOR FRANK C. ORTIS

\_\_\_\_\_  
MARLENE GRAHAM, CITY CLERK

ORTIS \_\_\_\_\_

CASTILLO \_\_\_\_\_

GOOD \_\_\_\_\_

APPROVED AS TO FORM:

SCHWARTZ \_\_\_\_\_

SIPLE \_\_\_\_\_

\_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY