

**SAMPLE CONTRACT – INDEPENDENT CONTRACTOR SERVICE AGREEMENT WITH
MUNICIPAL COURT JUDGE**

*This sample agreement for the office of municipal court judge is not and should not be treated as legal advice. **You should consult with your legal counsel before drafting or adopting any municipal court judge agreement or taking any other action based on this model.***

This Agreement by and between the City of _____, a municipal corporation, hereinafter referred to as the “City,” and **(ENTER CANDIDATE NAME)**, hereinafter referred to as the “Municipal Court Judge” or “Judge”, is as follows:

WHEREAS, the **[City Council][City Manager]** has appointed **(ENTER NAME)** to serve as Judge of the City’s Municipal Court through an Independent Contractor Service Agreement and not as a City employee; and

[WHEREAS, the City Council has confirmed that appointment on **(ENTER DATE)**]; and

WHEREAS, **(ENTER NAME)** has accepted the appointment and confirmation and desires to enter into this Agreement with the City to provide services to the City as Judge; and

WHEREAS, **(ENTER NAME)** understands this Agreement involves overseeing **[part time][full time]** court staff, which are employees of the City; and,

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the City and **(ENTER NAME)** agree as follows:

1. INDEPENDENT CONTRACTOR STATUS:

This Agreement does not create and shall not be construed to create an employee, representative, joint venture, or partnership relationship between the City and Judge. Neither Party is an agent of the other Party for any purpose. Accordingly:

Judge shall provide Services as an independent contractor, and Judge shall not be considered an employee of the City for any purpose;

Judge, and Judge’s agents and subcontractors, including, but not limited to any Judges Pro Tempore, shall not be entitled to, and shall not receive from City in connection with Services any workers’ compensation coverage, insurance coverage, pension, profit sharing, paid vacation, sick leave disability or similar benefit normally provided by City to its employees, except as expressly provided under the Benefits section below;

Judge retains sole and exclusive liability and shall withhold and/or pay all taxes and contributions required to be withheld and/or paid under federal and state income tax laws, unemployment compensation acts, social security acts, and all other legislation requiring employer contributions or withholdings, with respect to all Services provided hereunder, in a timely manner;

Judge is solely responsible for paying **[HIS/HER]** own business expenses, and expenses will only be reimbursed as set forth in this Agreement; and

Judge is free to perform services for any other customer.

At all times during the term of this Agreement, neither party will function as or represent itself to be the other party or its agent, and no officer, employee, or agent of one party shall hold himself or herself out to be an officer, employee, or agent of the other party.

2. **TERM OF APPOINTMENT:**

(ENTER NAME) accepts the appointment of Judge of the Municipal Court of the City [in accordance with the provisions of City Ordinance No. _____ as supplemented by this Agreement] for a _____ year term commencing on _____ and terminating on _____, unless earlier terminated as described below.

The Judge shall be, and remain, an attorney admitted to practice law in the State of Georgia. The Judge must also be a citizen of the United States of America and the State of Georgia. The Judge must comply with all other requirements for service as a municipal court judge, including but not limited to complying with all training requirements. The Judge shall immediately report to the [City Council][City Attorney][City Manager] any change affecting **(HIS/HER)** membership in good standing in the Georgia Bar Association and any training deficiencies.

3. **SCOPE OF SERVICES:**

The Judge shall perform all duties legally prescribed for a judicial officer serving as a Judge of a lawfully constituted Municipal Court according to the requirements of the Georgia Constitution, the Official Code of Georgia, the Code of Judicial Conduct, the Uniform Rules, Municipal Courts of the State of Georgia and such other rules as may be prescribed by the Supreme Court of the State of Georgia. In addition, the Judge shall act in accordance with any published opinions of the Judicial Qualifying Committee and the terms of any applicable Judicial Emergency Order. The Judge shall preside over all pre-trial conferences, cases, trials, and hearings or arrange for a Judge Pro Tempore to do so. The Judge also shall perform the duties described in section 4.

The Judge shall at all times faithfully and to the best of **(HIS/HER)** ability administer activities of the court, assign and hear all cases and fulfill obligations of the Court as established by State or local law, rule, statute, regulation and City ordinance.

The Judge shall appoint Judges Pro Tempore for vacation, affidavits of prejudice, recusal from a pending case, illness and required judicial continuing education and training. **[Before appointing a Judge Pro Tempore, the Judge shall confirm that he or she is an attorney admitted to practice law in the State of Georgia, a member in good standing with the Georgia Bar Association, and current in all training requirements.][The Judge may appoint only Judges Pro Tempore who have been approved by the City Council to serve as Judges Pro Tempore.]**

The Judge shall instruct all Judges Pro Tempore concerning procedures and customary sentences in order to promote uniformity to the greatest extent possible, and shall provide a copy of this Agreement to the Judges Pro Tempore and obtain their agreement to comply with applicable terms during the Judge's absence.

The Judge shall make a reasonable effort to maintain a pool of at least three Judges Pro Tempore and shall endeavor to rotate them evenly so that all will be reasonably familiar with Municipal Court procedures should their service be necessary.

4. **JUDICIAL INDEPENDENCE AND ADMINISTRATION:**

The Judge and all Judges Pro Tempore are independent from the City when performing judicial responsibilities and nothing contained herein shall be construed to interfere with a judge when performing judicial duties. The Judge, or any Judge Pro Tempore serving in the absence of the Judge, is solely responsible for judicial decisions. Judicial decisions include, but are not limited to, establishment of a standard bail schedule if the judge deems appropriate, establishment of a standard fine schedule for use with violations that do not require court appearances,

determination of fines and punishment in individual cases, determination of bail in individual cases, establishment of standing orders regarding offenses for which cash bail is not required, determination of financial ability, determination of conditions of probation, determination of liability, and determination of eligibility for indigent defense and for alternatives to monetary penalties including community service and penalty or fine reductions.

Furthermore, the Judge is responsible for doing the following:

- **[in coordination with the City Attorney and the Court Clerk]** approving court forms and procedures necessary for the proper exercise of constitutional rights and other compliance with the law, and updating such forms and procedures as necessary
- **[in coordination with the City Attorney and the Court Clerk]** providing proper training of court staff and officials subject to the Judge's direction and control about court procedures and the use of approved court forms, and updating such training as necessary
- ensuring that court staff and officials subject to the Judge's direction and control use approved forms, follow approved procedures and comply with applicable provisions of the Code of Judicial Conduct, court rules, ordinances and statutes
- notifying the **[City Manager][City Council][City Attorney]** of any Judicial Emergency Orders and any actions required to comply with such Orders, including, but not limited to actions that impact remote technology needs, city buildings, and city staff
- notifying the **[City Manager][City Council][City Attorney]** of additional resources necessary to ensure compliance with applicable laws and rules
- notifying the **[City Manager][City Council][City Attorney]** of service provider performance deficiencies
- reviewing quarterly reports and other communications of the Georgia Department of Community Supervision Misdemeanor Probation Oversight program and taking any actions the Judge deems necessary or appropriate
- **[reviewing the Court Self-Assessment attached as Exhibit A and notifying the City Manager of any resources required to adopt best practices]**
- **[completing the Annual Report and Affirmation of Municipal Court Judge attached as Exhibit A and submitting it to the City Manager at least thirty days before the end of each anniversary of this Agreement]**
- **[ensuring the municipal court clerk completes the Annual Report and Affirmation of Municipal Court Clerk attached as Exhibit B and submits it to the City Manager at least thirty days before the end of each anniversary of this Agreement]**
- **[presenting items identified in the annual report and affirmation to the City Council upon the request of the City Manager]**

The Court Clerk shall be appointed by **[The City Manager][The City Council]** and shall serve as an At-Will employee of the City. The Court Clerk and all court staff other than the Judge are City employees subject to City rules and regulations. However, they are subject to the Judge's direction and control when performing duties for the court. Their salaries, benefits, hours of work and working conditions shall be established by the City.

The Judge understands that court staff adhere to the same applicable personnel policies as other City employees. The Parties agree that the Judge will participate in the review and amendment of any such policies to ensure that they recognize the unique nature of court employment and the

Judge's responsibilities with respect to court employees. The Judge acknowledges the Court Clerk may perform other duties for the City that are not in conflict with the separation of powers.

The Judge will confer with the **[City Manager][City Council][Mayor]** to coordinate administrative activities concerning City procedures, policies and the budget in an effort to retain and insure consistency and common practices throughout the City.

5. **COMPENSATION:**

The Judge's compensation for Services is set forth below:

[Enter compensation terms here. Include any requirements related to invoicing, reporting of hours, hourly rates, specific events that have fixed costs rather than hourly charges. Address how compensation of Judges Pro Tempore will be handled.]

All required training and costs for associated travel shall be reimbursed by the City in accordance with the City's reimbursement protocols and applicable law. **[If the City will only reimburse a portion of training and costs due to an arrangement with other cities, describe that here and include the following statement: "The Judge affirms that all training and costs are reimbursed by cities, and allocation of only a portion of the cost to the City is permitted by applicable law.]**

The Judge's compensation may be increased, but not decreased, during the Judge's term of office.

The Judge's compensation shall be determined annually on January 1. This salary shall constitute compensation for all responsibilities and duties in the administration of the Municipal Court.

6. **METHOD OF PAYMENT:**

The Judge, or any Judge Pro Tempore, shall send invoices to **[Enter information here]** and payment will be made **[Enter information here]**.

7. **BENEFITS:**

Choose One - [Consult the terms of the City's employee benefits plans with the City Attorney and employee benefits legal counsel to determine if an independent contractor appointed as a municipal court judge is eligible for any benefits. List any benefits and requirements here.] [The Judge is not eligible for any benefits offered by the City to employees.]

8. **TERM OF AGREEMENT:**

The Judge's term of office and the term of this Agreement shall be for a period of ____ year(s) beginning____, 20__ and ending on _____, 20__.

9. **CONTRACT ADMINISTRATION:**

This Agreement shall be administered by the City Manager and/or designee on behalf of the City and by **(ENTER CANDIDATE NAME)** on behalf of the Municipal Court Judge. Any written notices to be served on either party shall be served or mailed to the following addresses, with a copy by email:

IF TO THE CITY:

City Manager

ADDRESS; EMAIL

IF TO THE JUDGE:

(NAME OF JUDGE)

ADDRESS; EMAIL

10. **TERMINATION OF AGREEMENT:**

This Agreement may be terminated during the Judge's term of office as follows:

- By the Judge if **(HE/SHE)** provides a minimum of ____ days written notice prior to **(HIS/HER)** effective date of termination, unless otherwise mutually agreed by the parties.
- By the City only as provided in O.C.G.A. Section 36-32-2.2.

11. **MERGER AND AMENDMENT:**

This Agreement contains the entire understanding of the City and the Judge with respect to the matters set forth herein, and any prior or contemporaneous understandings are merged herein. This Agreement shall not be modified except by written instruments executed by the City and Judge hereto.

This Agreement shall be governed under the laws of the State of Georgia, and any dispute regarding this Agreement shall be resolved in _____ Court, State of Georgia.

12. **SEVERABILITY**

If any provision of this Agreement or their application to any circumstance is held invalid, the remainder of this Agreement and their application to other circumstances is not affected.

(Signatures on next page)

IN WITNESS WHEREOF the parties hereto do hereby execute this Agreement.

CITY OF

MUNICIPAL COURT JUDGE

By: _____

By: _____

(ENTER NAME OF JUDGE)

City Manager

Municipal Court Judge

Date: _____

Date: _____

Approved as to Form:

City Attorney

[EXHIBIT A – See current GMA Municipal Court Self-Assessment posted on www.gacities.com under Publications/Municipal Courts for Elected Officials; Review and Revise with City Attorney before attaching]

[EXHIBIT B – See current GMA Sample Annual Report & Affirmation for Municipal Court Judges and Clerks posted on www.gacities.com under Publications/Municipal Courts for Elected Officials; Review and Revise with City Attorney before attaching]