CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATION

CC: 18C
Amend No. _____

Date Prepared: June 30, 2010 **Council Meeting Date: July 6, 2010**

TO: Honorable Mayor and Council

FROM: Chairman Vicki Hunt and Committee Members Ron Aames and Carlo Leone, City Council Subcommittee for Evaluation of Municipal Judge

SUBJECT: Contract for the Municipal Judge Services

RECOMMENDATION: Discussion and possible action to (a) adopt RES. 2010-62 reappointing the Honorable George T. Anagnost to a new four-year term as the Presiding Municipal Judge and (b) approve Contract Amendment No. 9 for Municipal Judge services. (LCON05696K)

SUMMARY: The Presiding Municipal Judge is appointed to a four–year term Judge Anagnost's existing term expired on June 30, 2010.

You appointed me to chair a committee consisting of Council Members Vicki Hunt, Ron Aames and Carlo Leone to prepare recommendations regarding the evaluation and compensation of the Municipal Court Judge. The committee met and is prepared to make recommendations. The Human Resources Department provided staff support to the committee including a comparison of salary information in cities of comparable size to Peoria.

As in the past, a Judicial Performance Questionnaire was mailed to a random sample of attorneys in the community. The results continue to reflect outstanding performance by Judge George Anagnost and the respect he has in the legal profession.

FISCAL NOTE: N/A

CITY CLERK USE ONLY:

☐**Consent Agenda**
☐**Carry Over to Date:_____**
☐**Approved**
☐**Unfinished Business (Date heard previous:_____)**
☐**New Business**

ORD. #_____ RES. # 2010-62
LCON#05696K_____ LIC. #
Action Date:

ATTACHMENT:

a) Resolution
b) Contract for Municipal Judge Services

CONTACT:
Stephen M. Kemp, City Attorney at (623) 773-7321.

RESOLUTION NO. 2010-62

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, ARIZONA, APPOINTING GEORGE T. ANAGNOST AS PRESIDING JUDGE OF THE PEORIA MUNICIPAL COURT; ESTABLISHING THE TERM OF OFFICE THEREOF, AND DECLARING AN EMERGENCY.

WHEREAS, pursuant to Chapter 15 of the Peoria City Code (1992) the Presiding Judge of the Municipal Court of the City of Peoria, Arizona serves a term of office of four years and such term ended on June 30, 2010; and

WHEREAS, it is the desire of the Mayor and Council of the City of Peoria that George T. Anagnost be appointed as Presiding Judge of the Peoria Municipal Court:

NOW, THEREFORE, IT IS RESOLVED by the Mayor and Council of the City of Peoria, Arizona as follows:

Section 1. Appointment.

That pursuant to Chapter 15, of the Peoria City Code (1992) that George T. Anagnost be appointed as Presiding Judge of the Peoria Municipal Court;

Section 2. Term.

That pursuant to Chapter 15 of the Peoria City Code (1992) the term of the Municipal Judge's appointment shall be for a term of four (4) years commencing July 1, 2010 through June 30, 2014.

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety of the City of Peoria, an EMERGENCY is hereby declared to exist and this Resolution shall be in full force and effect from and after its passage, adoption and approval by the Mayor and Council of the City of Peoria, and it is hereby exempt from the referendum provision of the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED by the City of Peoria, Arizona this 6th day of July, 2010.

APPROVED _____, 2010

_____

Bob Barrett, Mayor

ATTEST:

_____
Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

_____
Stephen M. Kemp, City Attorney

CONTRACT FOR MUNICIPAL JUDGE SERVICES

THIS AGREEMENT, made this 1st day of July, 2010, by and between George T. Anagnost, ("Presiding Municipal Judge") and the City of Peoria, a municipal corporation organized under the constitution and statutes of the State of Arizona ("City").

RECITALS

WHEREAS the City operates a Municipal Court pursuant to Title 22, Arizona Revised Statutes, Article XI of the Peoria City Charter and Chapter 15 of the Peoria City Code; and

WHEREAS, the Mayor is authorized to appoint and the Council of the City consent to the appointment of a Presiding Municipal Judge pursuant to Section 15-2 of the Peoria City Code (1992); and

WHEREAS, the term of Presiding Municipal Judge for the City of Peoria, has expired; and

WHEREAS, the Mayor and Council of the City of Peoria desire to provide for the appointment of a Presiding Municipal Judge (hereinafter "Municipal Judge") for a specified period and on such conditions as set forth in this agreement.

THEREFORE, the parties agree as follows:

1. Application of City Charter and City Code and other applicable rules.

(a) This agreement shall be subject to all the provisions of the Arizona Revised Statutes, Peoria City Charter and Peoria City Code (1992) and to all amendments to the Charter and Code.

(b) This agreement also shall be subject to the Arizona Code of Judicial Conduct and the Administrative Orders of the Arizona Supreme Court and any other applicable statute or court rule as they pertain to the duties and responsibilities of lower court judges.

2. Compensation.

(a) The compensation for the Presiding Municipal Judge shall be set at the sum of One Hundred Fifty-Five Thousand Nine Hundred and Forty-Eight Dollars ($155,948.00) per year, effective the beginning of the first full City pay period commencing on July 1, 2010, subject to applicable federal and state income taxes and withholdings. On the one year anniversary date of this Agreement, the City Council shall evaluate the Presiding Municipal Judge and if the City Council in its sole discretion determined the Presiding Municipal Judge's performance to be satisfactory, the

Presiding Municipal Judge's salary shall be adjusted up from the amount set forth in this section (the amount set forth above and that will include any cost of living increase) granted by the City Council, if any. The amount and timing of such increases shall be in the sole discretion of the City Council. Other than this section, the compensation shall not be adjusted during the term of this Agreement, except by a written amendment approved and executed by both parties.

(b) In addition to the compensation set forth above, the Presiding Municipal Judge shall be entitled to annual leave (vacation), sick leave and administrative leave and such other benefits as may be provided to department head level employees under the City's management pay plan and not in conflict with this Agreement, in accordance with the City's Personnel Administrative Regulations.

(c) Presiding Municipal Judge shall be eligible to receive health, dental and life insurance in the same manner as all other management pay plan employees under City's policies and contracts with its insurance carrier.

(d) In addition to the compensation set forth above, the Presiding Municipal Judge shall be entitled to attendance at Judicial Conferences as may be reasonably necessary during the term of the appointment as a Municipal Judge, pursuant to the regulations and mandates of the Arizona Supreme Court for Municipal Judges.

(e) Presiding Municipal Judge shall receive from City an amount equal to four percent of his gross bi-weekly salary which shall be paid by City to a deferred compensation plan of Municipal Judge's choice provided by City to its employees through the International City Management Association, Retirement Corporation or any other deferred compensation plan offered by City. The Presiding Municipal Judge shall also make any required employee contribution under such plan in the manner provided for other employees in the City's Management Pay Plan. In the event the Presiding Municipal Judge's salary is adjusted during the term of this Agreement, the amounts shall be calculated on the adjusted gross bi-weekly salary. Additionally, Presiding Municipal Court Judge shall receive an additional amount of deferred compensation in the amount of Eight Thousand Dollars ($8,000.00) per year. Said additional deferred compensation shall be paid to the ICMA Retirement Corporation or any other retirement fund funds that the City participates in and designated by the Municipal Court Judge in the same manner as other employees. City agrees to transfer ownership of said plan or retirement fund to succeeding employers upon the Presiding Municipal Judge's resignation or discharge to the extent permitted by law.

(f) Presiding Municipal Judge shall receive from City a Transportation allowance, Communications Allowance and Employee Physical Allowance in the same manner as other management employees, subject to all City Codes and ordinances, regulations, policies and City Manager directives. The Automobile Allowance shall be

used in lieu of use of a City vehicle for all official business travel of Municipal Judge within Maricopa County.

3. Minimum Requirements for Appointment as Presiding Municipal Judge.

The Presiding Municipal Judge shall meet the minimum requirements prescribed for a Municipal Judge in the Peoria City Charter. The Municipal Judge shall:

(a) be a graduate of an accredited school of law and shall be admitted and in good standing in the practice of law in one or more states.

(b) be deemed as having ceased to meet the qualifications prescribed for the office of Municipal Judge, in the event that Municipal Judge shall cease to be admitted to the practice of law in one or more states or shall be suspended or disciplined by any state in which he is admitted, and the Municipal Judge's shall be terminated with no penalty or additional cost to City.

(c) be deemed as having ceased to meet the qualifications prescribed for the office of Municipal Judge, in the event that Municipal Judge pleads guilty, no contest, or is found guilty of a crime punishable as a felony under any law of this state, even if the offense occurred in another state or a federal law, or any other crime that involves moral turpitude;

(d) be deemed as having ceased to meet the qualifications prescribed for the office of Municipal Judge, in the event that the Municipal Judge has a disability that interferes with the performance of their duties and has failed to discharge the duties of the office of Municipal Judge for three consecutive months.

(e) be deemed as having ceased to meet the qualifications prescribed for the office of Municipal Judge, in the event that the Municipal Judge engages in conduct that constitutes willful misconduct in office, willful and persistent failure to perform the duties of Municipal Judge, habitual intemperance or conduct prejudicial to the administration of justice that brings the judiciary and judicial office into disrepute.

4. Duties.

The Presiding Municipal Judge shall:

(a) Process city ordinance violations, criminal cases and related matters filed in the Municipal Court.

(b) Maintain all records pertaining to each City ordinance violation filed in the Municipal Court.

(c) Comply with all applicable guidelines and rules promulgated by the Arizona Supreme Court, the Presiding Judge of the Maricopa County Superior Court, and the provisions of A.R.S. §§ 22-401 through 22-428, Article XI of the Peoria City Charter and Chapter 15 of the Peoria City Code (1992) and subsequent amendments to the charter and code.

(d) Exercise general supervision over the Court Administrator and Associate Judges and be responsible for the operation of the Municipal Court.

(e) The Presiding Municipal Judge shall cooperate with the City in performing an annual survey in the manner similar to that used for Superior Court Judges by the Commission on Judicial Performance Review. The survey shall be provided to Litigants, Lawyers, Jurors, Other Judges and Other Persons familiar with Municipal Court with the results being provided to Council on an annual basis. The raw survey data shall be deemed a public record not subject to disclosure, however, the results of the survey shall be public.

The Presiding Municipal Judge shall be appointed by Mayor and approved by the Council, but shall be subject to the administrative direction and control of the Arizona Supreme Court. City acknowledges that in judicial matters all decisions shall be the responsibility of Presiding Municipal Judge and such other judges as may be appointed.

5. Term.

(a) The term of this Agreement contract shall be four years and shall expire on June 30, 2014.

(b) The parties agree that either party shall provide written notice to the other party sixty (60) days prior to the expiration date as provided in Subsection 5(a) of their intent to renew or not to extend this Agreement. Failure, however, to provide such notice shall not prevent the renewal or termination of this Agreement.

(c) The parties acknowledge and agree that the office of the Presiding Municipal Judge shall be as it is described in the City Charter of the City of Peoria that by this Agreement, the Council and the Presiding Municipal Judge express their understanding that the office of Presiding Municipal Judge shall be filled for the term set forth in subsection 5(a) above pursuant to the conditions of this Agreement. This Agreement, however, shall not prevent or interfere with the rights of the City Council to terminate the employment of the Municipal Judge for failure to meet any of the minimum qualifications set forth in Paragraph 3.

(d) In the event that the Presiding Municipal Judge terminates employment with the City at his request during the term of this Agreement, it is agreed that Presiding

Municipal Judge will give City reasonable notice of not less than thirty (30) days and Presiding Municipal Judge's right to compensation as set forth in paragraph 2 above will terminate as of the effective date of such termination.

6. Transition.

It is understood that after notice of termination in any form, Presiding Municipal Judge and City will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

7. Residency.

Presiding Municipal Judge shall maintain his principal place of residence within the corporate limits of the City and maintain such residency at all times during the term of this agreement.

8. Notices.

Notices shall be sent to the parties as follows:

For the City:

Bob Barrett, Mayor
8401 West Monroe Street
Room 310
Peoria, Arizona 85345

With a copy to:

Office of the City Attorney
City of Peoria
8401 West Monroe Street, Room 280
Peoria, Arizona 85345

For the Municipal Judge:

George T. Anagnost, Presiding Municipal Judge
Peoria Municipal Court
Municipal Court Building
Peoria, Arizona 85345

9. Conflicts of Interest.

This agreement shall be subject to cancellation pursuant to the provisions of A.R.S. § 38-511 pertaining to conflicts of interest.

10. Bonding.

The City shall bear the full cost of any fidelity or other bonds required of the Municipal Judge under any law or ordinance.

11. Integration Clause; No Oral Modification.

This Agreement represents the entire agreement of the parties with respect to its subject matter, and all agreements, oral or written, entered prior to this Agreement are revoked and superseded by this Agreement. No representations, warranties, inducements, or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written Agreements. This Agreement may not be changed, modified, or rescinded, except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

12. Governing Law; Choice of Forum.

This Agreement shall be construed in accordance with and be governed by the laws of the State of Arizona.

In Witness Whereof the parties enter into this agreement.

_____

George T. Anagnost
Presiding Municipal Judge

CITY OF PEORIA, ARIZONA

_____
Bob Barrett, Mayor

ATTEST:

_____
Mary Jo Waddell, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Kemp, City Attorney

LCON05696K