

PRESIDING JUDGE AGREEMENT

This PRESIDING JUDGE AGREEMENT (hereinafter referred to as the “Agreement”) is made this 5th day of September, 2023, between the City of Maricopa, an Arizona municipal corporation (hereinafter referred to as the “City”), and Steve McCarville (hereinafter referred to as “McCarville”).

RECITALS:

WHEREAS, on October 4, 2022, the City and McCarville entered into an Interim Presiding Judge Agreement for McCarville to serve as the Interim Presiding Judge during the transition from a shared court with the Pinal County Justice Court to a separate City Court; and

WHEREAS, the City now desires to appoint McCarville as the Presiding Judge for the City of Maricopa Municipal Court; and

WHEREAS, pursuant to the Maricopa City Code, the Presiding Judge shall be the presiding officer of The City of Maricopa Municipal Court and shall perform those functions necessary to the maintenance of a municipal court as provided by state statute; and

WHEREAS, pursuant to the Maricopa City Code, the presiding officer of the municipal court and such other magistrates as deemed necessary by the council shall be appointed by the council; and

WHEREAS, McCarville is qualified through education, training and experience to provide the professional services sought by the City and is aware that the Code of Judicial Conduct, Rule 81, Rules of the Arizona Supreme Court, governs the conduct of magistrates as well as Administrative Order No. 83-11 of the Arizona Supreme Court.

AGREEMENT

For the reasons set forth above and in consideration of the mutual promises and agreements hereinafter set forth, the City and McCarville agree as follows:

1. The City and McCarville each acknowledge the truth, accuracy and correctness of the Recitals to this Agreement.

2. The City agrees to retain the services of McCarville to serve as the Presiding Judge for The City of Maricopa Municipal Court and McCarville accepts and agrees to such hiring and shall perform the duties required of a municipal judge during the term hereinafter provided.

3. The term of this Agreement shall commence on October 1, 2023, and terminate on December 31, 2025.

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4. McCarville agrees that he will at all times faithfully and to the best of his ability and experience perform all of the duties that are required of him pursuant to the express and implicit terms of this Agreement and the Code of Judicial Conduct and Orders of the Arizona Supreme Court. Such duties shall be rendered at the Maricopa City Hall located at 39700 West Civic Center Plaza, Maricopa, Arizona, or at other facilities furnished by the City.

5. McCarville understands and agrees that pursuant to the Maricopa City Code, the Presiding Judge may be removed for cause by the City Council during his term of office. The parties agree to incorporate the Maricopa City Code into this Agreement.

6. The City shall pay McCarville, and McCarville shall accept from the City, in full payment for McCarville's services during this Agreement, Eighty-Six and 21/100 Dollars (\$86.21) per hour. After Fiscal Year 2023-2024, during the term of the Agreement and this First Amendment, McCarville shall receive an increase equal to that which is approved by the City Council for all other senior leadership employees of the City as the budgeted merit increase during the City's annual budget process.

7. The parties agree that McCarville will provide Presiding Judge services for the City as a Regular Part-Time Employee of the City as that term is defined in the City's Personnel Policies and Procedures. To the extent allowed by law, the parties agree to incorporate the City's policies and procedures, as may be amended from time to time, into this Agreement. In the event the Presiding Judge services necessitate more time than allowed by a Regular Part-Time Employee, the City and McCarville hereby acknowledge and agree that they will enter into good faith negotiations to amend this Agreement.

8. In the event the City shall determine that it no longer desires to have a municipal court system and discontinues operating the municipal court, this Agreement shall terminate upon the date the municipal court is discontinued. The City shall provide McCarville with reasonable notice, not less than thirty (30) days, of the City's intent to discontinue the municipal court.

9. All of the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, successors and assigns.

10. McCarville shall not assign any of his rights and duties under this Agreement without the prior written consent of the City.

11. The terms and conditions of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona. Any action at law or in equity brought by either party for the purpose of enforcing a right or rights provided for in this Agreement shall be tried in a court of competent jurisdiction in Pinal County, State of Arizona. The parties hereby

waive all provisions of law providing for a change of venue in such proceeding to any other county. In the event either party shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition in this Agreement, it is mutually agreed that the prevailing party in such action shall recover all reasonable costs including all litigation and appeal expenses, collection expenses, reasonable attorneys' fees, necessary witness fees and court costs to be determined by the court in such action.

12. To the fullest extent allowed by law, McCarville shall be granted judicial immunity. This section shall survive the expiration or early termination of the Agreement.

13. Should any provision of this Agreement be held invalid or unenforceable by any governmental body, arbitrator, or court of competent jurisdiction, such holding will not diminish the validity or enforceability of any other provision hereof.

14. All notices or demands required or desired to be given hereunder by any party shall be in writing and shall be validly given or made to another party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice or demand is given by mail, such notice shall be conclusively deemed given five days after deposit thereof in the United States mail addressed to the party to whom such notice or demand is to be given as follows:

City of Maricopa
Attn: City Manager
39700 W. Civic Center Plaza
Maricopa, AZ 85138

Steve McCarville
328 Markely Dr.
Casa Grande, AZ 85122

15. Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced by a writing signed by each party or an authorized representative of each party. Any modification to this Agreement that increases the City's obligations under this Agreement must first be approved by the Maricopa City Council.

16. The failure of City or McCarville to insist in any one or more instances on the performance of any of the terms or conditions of this Agreement or to exercise any right or privilege contained herein shall not be considered as thereafter waiving such terms, conditions, rights or privileges, and they shall remain in full force and effect.

17. This Agreement is subject to cancellation pursuant to A.R.S. §38-511.

18. This Agreement and any attachments represent the entire agreement between City and McCarville and supersede all prior negotiations, representations, or agreements, either express or implied, written or oral including, but not limited to, the Interim Presiding Judge Agreement. It is mutually understood and agreed that no alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the parties hereto. Written and signed amendments shall automatically become part of the Agreement and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above.

CITY OF MARICOPA

By _____
Nancy Smith, Mayor

Steve McCarville

ATTEST:

Vanessa Bueras, MMC
City Clerk

APPROVED AS TO FORM:

Denis M. Fitzgibbons, City Attorney