

**EMPLOYMENT AGREEMENT
WITH PRESIDING MAGISTRATE**

THIS AGREEMENT is made and entered into this 17th day of March, 2015 by and between the CITY OF APACHE JUNCTION, an Arizona municipal corporation (hereinafter "City") and JAMES W. HAZEL, JR., Presiding City Magistrate (hereinafter "Contract Employee"), sometimes collectively referred to as the "Parties", each of whom understand as follows:

RECITALS

A. On December 15, 2008, Contract Employee and City entered an initial employment agreement for Presiding Magistrate services.

B. City desires to continue the employment relationship with Contract Employee and Contract Employee desires to continue providing Presiding Magistrate services to City.

C. It is the continuing desire of the City Council to: (1) maintain the services of Contract Employee and to provide inducement for Contract Employee to remain in such employment; (2) to make possible full work productivity by assuring Contract Employee's morale and peace of mind with respect to future security; (3) to guard against malfeasance or dishonesty for personal gain on the part of the Contract Employee; and (4) to provide a just means for terminating Contract Employee's services at such time as Contract Employee may be unable fully to discharge Contract Employee's duties or when City may desire otherwise to terminate Contract Employee's employ.

D. The Parties mutually desire to amend this employment agreement with certain modified terms and conditions.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1. DUTIES

Council hereby agrees to employ Contract Employee as the Presiding Magistrate of the City to perform the functions and duties specified in the Apache Junction City Code, Volume I, Section 5-1-4 and as required by law of the State of Arizona, including state statutes and/or rules and administrative orders of the Arizona Supreme Court.

SECTION 2. TERM

- A. The Term of this Agreement shall be from July 1, 2015 through June 30, 2017.
- B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Council to terminate the services of Contract Employee as provided by State law.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Contract Employee to resign at any time from employment of City, subject only to the provisions set forth in Section 3 of this Agreement.
- D. Contract Employee agrees to remain in the exclusive employ of the City during the contract period and neither accept nor become employed by any other employer until contract termination, except that Contract Employee may engage in part-time teaching at a college or university level.

SECTION 3. TERMINATION

- A. In the event Contract Employee voluntarily resigns his position before expiration of the aforesaid Term, Contract Employee shall provide City written thirty (30) calendar day advance notice, or such advance notice as may otherwise be mutually agreed upon by the Parties.
- B. In the event Contract Employee is terminated by council action or should the City Council choose not to renew Contract Employee's contract upon said contract's expiration, City will pay as partial contractual compensation severance pay to Contract Employee in an amount equal to three (3) months salary.
- C. Contract Employee shall not receive any severance award if Contract Employee:
 - 1. voluntarily resigns from his position or requests that he not be considered for reappointment, or
 - 2. is removed by City Council action for specific allegations of malfeasance or misfeasance, which may include, but not be limited to:
 - (a) willful and wanton misconduct in office;
 - (b) performance of an illegal act.

3. is terminated by City Council action before the expiration of the contract term for only the following reasons:

- (a) willful and wanton misconduct in office;
- (b) performance of an illegal act;
- (c) death or incapacitation.

SECTION 4. SALARY AND ANNUAL PERFORMANCE EVALUATION

A. City agrees to pay Contract Employee for his services rendered pursuant hereto at an annual base salary of One Hundred Thirteen Thousand Six Hundred Twenty Two Dollars and Thirty Nine Cents (\$113,622.39) and any cost of living increases or base wage adjustments received by other career employees over the Term hereafter. Payment of said salary shall be made at the same time and manner as other employees are paid. City agrees to pay as additional compensation the severance pay provided for by Section 3 of this Agreement subject to the conditions contained in said Section. The Parties both agree they will not seek a change of salary during the Term of this Agreement.

B. Contract Employee shall be evaluated annually, to be completed no later than June 1 of each year this Agreement is in effect. The evaluations shall be conducted in accordance with the performance standards as determined by the City Council for said purposes, considering among other items standard for trial judges as established by the Commission on Judicial Performance Review of the Arizona Supreme Court. Nothing in this provision is to be construed as creating either a promise or expectation of reappointment or contract renewal, and it is understood by Contract Employee that any reappointment or renewal would be a matter left to the unconditional discretion of the City Council of the City of Apache Junction.

SECTION 5. HOURS OF WORK; VACATION; SICK LEAVE; PERSONAL DAYS

A. Hours Monday - Friday. Contract Employee shall not work less than an average of forty (40) hours per week except when a court holiday occurs or when on leave approved by the Mayor. In the event Contract Employee is required to work more than forty (40) hours in a week, Contract Employee shall not be compensated for any additional time.

B. Weekend Hours. Contract Employee will provide magistrate services every other weekend and may utilize pro-tem magistrates on alternative weekends to provide for magistrate services. Contract Employee shall establish the schedule for weekend coverage within thirty (30) calendar days of the start of this agreement.

- C. Holidays. Contract Employee shall be entitled to such City holidays or State holidays as required by law. If need dictates that Contract Employee work a City holiday, Contract Employee is entitled to exchange a normal workday for the purpose of having a day off.
- D. Vacation. Contract Employee shall on an annual basis accrue Two Hundred (200) hours of vacation leave which shall be credited on December 15th each year this Agreement is in effect. Contract employee shall be allowed to accrue vacation leave beyond the limits of the Personnel Rules.

Vacation leave in excess of 125 hours will be paid out on January 15th of each year the agreement is in effect, at the salary rate in effect at time of payment.
- E. Sick Leave. Contract Employee shall on an annual basis accrue Ninety-Six (96) hours or Twelve (12) days of sick leave.
- F. Personal Days. For each calendar year this Agreement is in effect, Contract Employee may use Sixty Four (64) hours for personal business, none of which shall accrue nor shall be reported to City's Human Resources Division or Finance Department as "time-off".
- G. Hours of Work. It is recognized that Contract Employee must devote a large amount of time outside traditional business hours to the business of the City. Contract Employee shall be permitted to adjust his work schedule as he deems appropriate, so long as he is available and the judicial administration of the City is not harmed.

SECTION 6. PROFESSIONAL DEVELOPMENT

- A. City hereby agrees to budget and to pay the travel and subsistence expenses of Contract Employee for professional and official travel, meetings and occasions adequate to continue the State Supreme Court required or recommended professional development of Contract Employee.
- B. City also agrees to budget and to pay for travel and subsistence expenses of Contract Employee for short courses, institutes and seminars which are necessary for professional development and for the good of City, subject to the Mayor's determination as to what is necessary.
- C. City agrees to pay professional dues and association dues, which are necessary for participation in national, regional, state and local professional associations, or are reasonably related for the maintenance

of professional credentials, or for reasonable professional development, subject to the Mayor's determination as to what is necessary.

SECTION 7. OTHER TERMS AND CONDITIONS

- A. The City Council shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Contract Employee, provided such terms and conditions are not inconsistent with or conflict with the provisions of this Agreement, the Apache Junction City Code, Arizona Revised Statutes, or any other statute, ordinance or regulation.
- B. City shall pay on behalf of Contract Employee all family premiums for dependent health/dental/vision insurance annualized per pay period on a fiscal year basis, and such benefits shall be covered at the most beneficial tier option that the City's insurance providers make available for employees.
- C. Unless otherwise negotiated within this Agreement, all action taken by Council relating to fringe benefits for employees in the executive ranges shall be considered actions granting the same benefits to Contract Employee. The term "fringe benefits" include vacation, sick leave, holidays, retirement, life and long-term disability insurance, except however, in the case of life and long-term disability insurance, City shall pay such premiums at no cost to Contract Employee. Contract Employee shall be covered by the City's insurance for errors and omissions.
- D. City shall provide on behalf of Contract Employee a family membership to the Multi-Generation Center of Apache Junction.
- E. ICMA 401(A) Profit Sharing Plan. During each Fiscal Year this Agreement is in effect, City shall contribute on behalf of Employee Five Thousand Two Hundred Fifty Dollars (\$5,250.00) into the ICMA 401(A) Profit Sharing Plan. Employee shall be vested in all contributions at the time the City deposits its first contribution into the Plan on behalf of the Employee. Nothing in this paragraph restricts additional Employee contributions into the ICMA 401(A) Profit Sharing Plan.

SECTION 8. GENERAL PROVISIONS

- A. The text herein shall constitute the entire Agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Contract Employee.

- C. If any provisions or any portion hereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

SECTION 9. NOTICES

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, or through overnight carrier service, addressed as follows or as such address may be changed from time to time upon notice to the other:

City: Mayor John Insalaco
City of Apache Junction
300 East Superstition Boulevard
Apache Junction, AZ 85119

Contract Employee: James W. Hazel, Jr.
P.O. Box 9060
Apache Junction, Arizona 85178

SECTION 10. ASSIGNMENT

This Agreement is not assignable by either City or Contract Employee.

IN WITNESS WHEREOF, City and Contract Employee have caused this Agreement to be executed the day and year first above written.

3/5/15
Date

CONTRACT EMPLOYEE

By: [Signature]
James W. Hazel, Jr.

CITY OF APACHE JUNCTION,
an Arizona municipal corporation

By: [Signature]
John S. Insalaco, Mayor

March 17 2015
Date

ATTEST:

[Signature]
Kathleen Connelly, City Clerk

APPROVED AS TO FORM:

 3-4-15

Richard J. Stern, City Attorney