RESOLUTION 2228

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT WITH THE HONORABLE DOROTHY LITTLE FOR PART TIME SERVICES AS PAYSON MAGISTRATE.

WHEREAS, the Town of Payson and Gila County have negotiated consolidation of the Town of Payson Magistrate Court and the Payson Precinct of the Gila County Justice Court, which benefits both agencies as an efficient and economical means of operation of these courts; and

WHEREAS, the Town of Payson has budgeted funds for the payment of wages to its Magistrates; and

WHEREAS, on November 7, 2006, the Honorable Dorothy Little was elected Payson Justice of the Peace.

WHEREAS, the Town of Payson desires to enter into an employment agreement to provide Magistrate services through December 31, 2008, with the Honorable Dorothy Little, Justice of the Peace and Payson Magistrate,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Agreement with the Honorable Dorothy Little to be a part time salaried employee of the Town to provide services as Payson Magistrate be and is hereby approved in substantially the form set for in Exhibit "A" attached hereto.

Section 2. That the Mayor of the Town of Payson, be and is hereby authorized to execute the Agreement with The Honorable Dorothy Little, in substantially the form set forth in Exhibit "A" attached hereto and made a part hereof by this reference as though set forth in full at this point.

Section 3. That the Town of Payson be and is hereby authorized to take such other and further measures and actions as are necessary or appropriate to carrying out the terms, provisions and intent of said Agreements and this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2006, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

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ATTEST:

PSilvia Smith, Town Clerk

APPROVED AS TO FORM:

Samuel I. Streichman, Town Attorney

Prepared by Town of Payson Legal Department
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AGREEMENT FOR MAGISTRATE SERVICES
(Exhibit A to Resolution 2228)

THIS AGREEMENT made and entered this _____ day of _____, 2006, by and between the TOWN OF PAYSON, an Arizona municipal corporation, hereinafter referred to as "Town", and THE HONORABLE DOROTHY LITTLE, hereinafter referred to as "Magistrate" (collectively, the "Parties").

RECITALS

A. Pursuant to A.R.S. § 22-402 and Section 34.01 of the Town Code of the Town of Payson, there is established within the Town of Payson a Magistrate Court.

B. On May 14, 1999, the Town and the County of Gila entered into an Agreement (Intergovernmental Agreement by and between Town of Payson and Gila County, Consolidated Administration and Operation of Limited Jurisdiction Courts) providing for, among other things, the consolidation of the Payson Precinct of the Gila County Justice Court and the Town of Payson Magistrate Court. Said Agreement is hereinafter referred to as the "1999 Consolidation Agreement".

C. Said 1999 Consolidation Agreement has from time to time been extended.

D. On November 7, 2006, the Honorable Dorothy Little was elected as the Payson Justice of the Peace for a four year term commencing January 1, 2007.

E. The Town desires to employ Magistrate as a part time, salaried contract employee of the Town.

AGREEMENT

Pursuant to the terms and conditions set forth herein, the Parties do hereby covenant and agree as follows:

1. The Parties agree that this Agreement for Magistrate Services ("the Agreement"), as of its effective date, shall supercede all prior agreements between the parties.

2. This Agreement shall be effective commencing January 1, 2007.

3. During the term of this Agreement, the Magistrate shall perform all duties of the Presiding Officer of the Town of Payson Magistrate Court pursuant to this Agreement and A.R.S. §§ 22-401, *et seq.*, and as otherwise empowered by law.

3. The Magistrate shall be a part time, salaried contract employee of the Town. As such, all terms of the Magistrate's employment shall be determined by this agreement and the such employment shall not be subject to the terms of the Town's personnel code.

4. Town shall pay to Magistrate a salary in the sum of Twenty-eight Thousand Dollars ($28,000.00) for each year that this Agreement is in effect. The Magistrate understands and acknowledges that she will receive no additional compensation, benefits or any other form of remuneration as the Magistrate of the Town of Payson Magistrate Court, through this Agreement or otherwise.

5. All amounts due pursuant to this Agreement shall be paid on a bi-weekly basis in accordance with the standard payroll procedures of the Town. The Town shall withhold all required employment and income taxes in accordance with federal law.

6. The Magistrate shall perform the duties of the Magistrate of the Magistrate Court pursuant to law and pursuant to the 1999 Consolidation Agreement. It is understood that the Magistrate is the Justice of the Peace of the Payson Precinct of the Gila County Justice Court.

7. The Parties understand and agree that this Agreement is predicated upon the continued existence of the 1999 Consolidation Agreement. As a result, the Parties further agree that in the event the 1999 Consolidation Agreement is not extended by and between the County of Gila and the Town, or in the event such Agreement is canceled according to its terms, this Agreement shall likewise terminate on the date said 1999 Consolidation Agreement terminates. This Agreement shall also terminate in the event that the Magistrate ceases to function as Justice of the Peace of the Payson Precinct of the Gila County Justice Court on the date that the Magistrate ceases so to function. Otherwise, this Agreement shall terminate and expire on December 31, 2008, unless it is sooner terminated pursuant to its terms. Notwithstanding, and in addition to the foregoing, the Town may terminate this Agreement for good cause shown at any time. The Magistrate may terminate this Agreement at any time by providing to the Town thirty (30) days written notice of the Magistrate's intention so to do.

8. This Agreement and its existence are hereby made specifically subject to the provisions of A.R.S. § 38-511, and this Agreement may be canceled in conformity therewith.

9. The Town shall use its best efforts to fund its financial obligations under this Agreement at each budget year. In the event that the Town does not budget sufficient funds with which to perform its obligations under this Agreement during any fiscal year, then the Town may terminate and cancel this agreement at such time for such reason.

10. The Town shall have no other financial or contractual obligation except as herein set forth.

11. The Parties acknowledge that A.R.S. § 22-403(B) authorizes Magistrate to accept this position without having to forfeit her office as Justice of the Peace of the Payson Precinct of the Gila County Justice Court.

12. All notices sent by either party to this Agreement to the other party shall be sent to the addresses as follows:

The Honorable Dorothy Little
714 South Beeline Highway #103
Payson, Arizona 85541

Frederick C. Carpenter, Town Manager
Town of Payson
303 North Beeline Highway
Payson, Arizona 85541

13. This written instrument constitutes the entire Agreement between the Parties hereto and all prior agreements related to the same subject matter, written or oral, are merged with this Agreement, except as otherwise herein provided. This Agreement shall not be altered, modified or amended in whole or in part except by a similar written instrument executed with the same formalities as this instrument.

14. The Parties agree that in the event any provision in this Agreement is found by a court of competent jurisdiction to be invalid, the invalidity of such portions shall not affect the remaining portions, which shall remain valid and enforceable according to their terms, unless the purposes of the remainder of this Agreement are frustrated on account of such partial invalidity.

15. This Agreement shall be governed and construed in accordance with the internal laws of the State of Arizona. Any dispute, controversy, claim, or cause of action arising out of or related to this Agreement may, but in no event need, be settled by submission, with the written consent of both Parties, to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, *et seq.*, and judgment upon any award rendered by the arbitrator(s) shall be entered in the Superior Court of Gila County, Arizona; or any such dispute, controversy, claim, or cause of action may be litigated in the Superior Court of Gila County, Arizona. The venue for any such dispute shall be Gila County, Arizona. Both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum based upon lack of venue. Neither Party shall be entitled to recover from the other party any of its attorneys' fees, costs or expert witness fees incurred in any such dispute, controversy, claim, or cause of action, but each party shall bear its own attorneys' fees, whether the same is resolved through arbitration, litigation in a court, or otherwise.

16. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

17. No rights or duties under this Agreement may be assigned by Magistrate, and any attempt at such assignment shall render this Agreement void and of no further effect.

18. The approval of this Agreement by the Mayor and Common Council of the Town of Payson shall constitute the appointment of the Magistrate subject to the terms of this Agreement.

WHEREFORE, the Parties have executed this Agreement the day and year first above written.

TOWN OF PAYSON,
an Arizona municipal corporation

By_____
F. Robert Edwards, Mayor

_____
The Honorable Dorothy Little
Magistrate/Justice of the Peace

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

Prepared by Town of Payson Legal Department
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