



CITY OF BULLHEAD CITY

COUNCIL COMMUNICATION

MEETING DATE: Oct. 5, 2010

SUBJECT: CITY ASSOCIATE MAGISTRATE EMPLOYMENT AGREEMENT

DEPT OF ORIGIN: Municipal Court

DATE SUBMITTED:

SUBMITTED BY: Michael D. Slovek, City Magistrate

SUMMARY: Peter D. Psareas' contract to serve as the Associate City Magistrate for the City of Bullhead City will expire on November 1, 2010. The City Council and the Magistrate may elect to renew the existing contract for an additional two-year term, not renew the contract or pursue negotiation of a new two or four-year contract with different terms. The Arizona Supreme Court, in the interests of maintaining an independent judiciary and in accordance with the Arizona Constitution has ruled that at a minimum, a two-year (and recommends a four year contract) is required. The State Constitution mandates that the associate magistrate's salary may not be reduced during the term of the contract.

FISCAL IMPACT:

REVIEWED BY:

Rudy Vera
Finance Department

Initial Project Costs:

Future Ongoing Costs: Yearly Salary and Benefits - \$107, 131.13

Physical Impact (on people/space):

Residual or Support/Overhead/Fringe Costs:

ATTACHMENTS:

1. Arizona Constitution Article VI § 32 and 33
2. Excerpt from *Winter v. Coors* and *Jett v. Tucson*
3. Copy of the Current Contract which expires on 10/31/10
4. Financial Impact Worksheet
5. Addendum No. 2 to Employment Agreement

LEGAL REVIEW:

APPROVED AS TO FORM:

Tom Enns
City Attorney

RECOMMENDATION: FOLLOWING COUNCIL'S PERFORMANCE REVIEW OF PETER PSAREAS, RECOMMENDATION IS THAT COUNCIL AUTHORIZE THE MAYOR TO SIGN THE ADDENDUM AS PRESENTED OR TO DIRECT STAFF TO PURSUE NEGOTIATION OF A NEW TWO OR FOUR-YEAR CONTRACT.

APPROVED FOR SUBMITTAL BY:

CITY CLERK'S USE ONLY
COUNCIL ACTION TAKEN

Michael Slovek
Department Director

Resolution No. _____

Continued To: _____

Ordinance No. _____

Referred To: _____

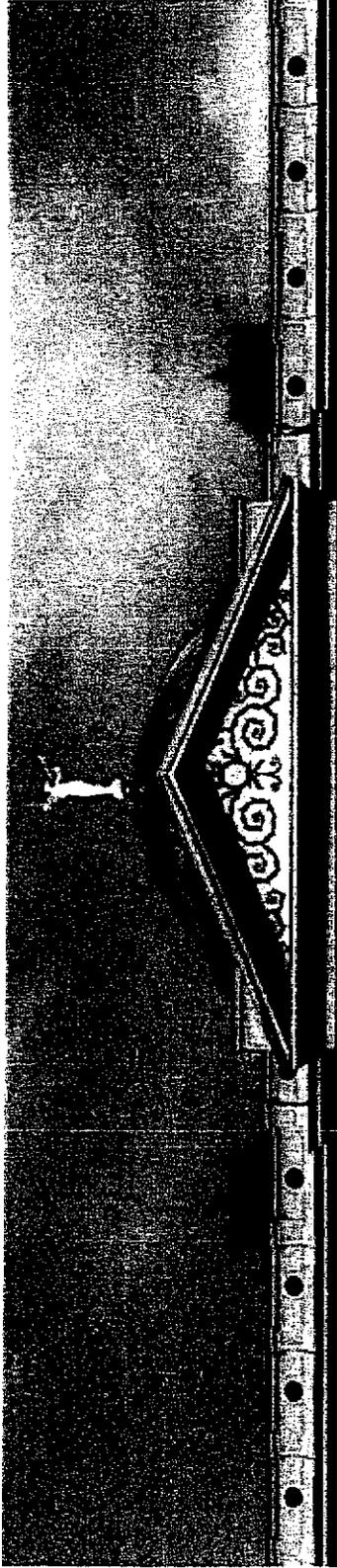
Approved _____

Denied _____

Other _____

File No. _____

City Manager



Arizona Constitution Article VI. Justices of the peace and inferior courts; jurisdiction, powers and duties; terms of office; salaries
Section 32. A. The number of justices of the peace to be elected in precincts shall be as provided by law. Justices of the peace may be police justices of incorporated cities and towns.

B. The jurisdiction, powers and duties of courts inferior to the superior court and of justice courts, and the terms of office of judges of such courts and justices of the peace shall be as provided by law. The legislature may classify counties and precincts for the purpose of fixing salaries of judges of courts inferior to the superior court and of justices of the peace.

C. The civil jurisdiction of courts inferior to the superior court and of justice courts shall not exceed the sum of ten thousand dollars, exclusive of interest and costs. Criminal jurisdiction shall be limited to misdemeanors. The jurisdiction of such courts shall not encroach upon the jurisdiction of courts of record but may be made concurrent therewith, subject to the limitations provided in this section.

Arizona Constitution Article VI. Change by legislature in number of justices or judges; reduction of salary during term of office
Section 33. No change made by the legislature in the number of justices or judges shall work the removal of any justice of judge from office. The salary of any justice or judge shall not be reduced during the term of office for which he was elected or appointed.

144 Ariz. 56, 695 P.2d 1094 (1985)

Supreme Court of Arizona, In Banc.
John E. **WINTER**, Plaintiff-Appellee,
v.

Chauncey B. **COOR**, both individually and as Mayor of the Town of Goodyear

We have concluded that town councils must set defined terms of office for *64 **1102 magistrates. Counsel for one of the towns argued below that if forced to set a defined term, the council could set a term at one month, or even one day. We have held that judicial independence requires that magistrates be insulated from arbitrary removal without cause, and that Article VI, § 32 of the Arizona Constitution requires defined terms for such magistrates. We find that judicial independence requires that magistrates have some length of time to be allowed to perform their judicial functions. We note that state legislators serve two-year terms, Article IV, part 2, § 21, Constitution of Arizona; the governor and other executive branch elected officials serve four-year terms, Article V, § 1, Constitution of Arizona; superior court judges serve four-year terms, Article VI, § 12, Constitution of Arizona; and justices of the peace serve four-year terms, A.R.S. § 22- 102. We believe that any of these term lengths would be adequate constitutionally and that any term shorter than two years would compromise judicial independence and would not be constitutional.

The towns must choose a term length which strikes a balance between judicial independence on the one hand and political policy on the other hand. Of course, a magistrate may still be removed at any time for cause after a due process hearing.

Jett v Tucson (1994)

180 Ariz. 115, 882 P.2d 426

Briefs and Other Related Documents

Supreme Court of Arizona, In Banc.
Rita JETT, Plaintiff/Appellee,
v.

CITY OF TUCSON, a municipal corporation; City Court of the City of Tucson,



Although we continue to acknowledge "the necessity of maintaining magistrate courts as fair, independent, and impartial tribunals," Winter, 144 Ariz. at 61, 695 P.2d at 1099, our holding today in no way undermines that goal. To the contrary, as long as magistrates are appointed for a term long enough to insulate them from pressure ^{FN6} and are removable only for cause after a due process hearing, their judicial independence is adequately protected. Moreover, citizens are provided with greater protection against judicial misconduct. If one branch of government is not responsive to their concerns, then citizens can turn to another branch for assistance.

FN6. Under contemporary standards, a 4-year term seems appropriate. See Ariz. Const. art. 6, § 12 (4-year terms for superior court judges); A.R.S. § 22-102 (4-year terms for justices of the peace); Phoenix City Charter, ch. 8, § 3(a) (4-year terms for Phoenix city judges); Tucson City Charter, ch. 5, § 4.1 (4-year terms for Tucson city magistrates).

COPY

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**CONTRACT BETWEEN
CITY OF BULLHEAD CITY
AND
PETER PSAREAS
TO SERVE AS
ASSOCIATE MAGISTRATE
OF THE
BULLHEAD CITY MUNICIPAL COURT**

THIS AGREEMENT is entered into this _____ day of October, 2006 by and between **PETER PSAREAS**, hereinafter designated as "Associate City Magistrate", and the **CITY OF BULLHEAD CITY**, an Arizona municipal corporation, hereinafter referred to as "City".

WITNESSETH

WHEREAS, Peter Psareas desires to serve as the Associate City Magistrate of the municipal court of the City; and

WHEREAS, the City desires to appoint an Associate City Magistrate under the terms and conditions hereof;

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

1. **Employment**: City hereby appoints Associate City Magistrate and Associate City Magistrate hereby accepts such appointment upon the terms and conditions hereinafter set forth.
2. **Term**: The term of this contract shall begin on November 1, 2006 and shall continue in effect until November 1, 2008, or until otherwise terminated as herein provided.
3. **Duties and Responsibilities**: The Associate City Magistrate shall perform all duties and shall have all powers and authority granted to the Associate City Magistrate in Bullhead City Municipal Code Chapter 2.36, and as otherwise provided for under state law.
4. **Management and Operation of Municipal Court**: The Associate City Magistrate shall abide by the mandates of the Arizona Supreme Court and the Arizona Administrative Offices of the Court and the City's Human Resources Rules and Regulations in the administration of the court and employees assigned to the court in accordance with Bullhead City Municipal Code Chapter 2.36.
5. **Work Responsibilities**: Effective upon the commencement of Associate City Magistrate's contract with City, Associate City Magistrate shall devote the time necessary to perform the assigned duties of the municipal court of City. In general, such time shall be a


 Associate City Magistrate

 Mayor

minimum of forty (40) hours per week. Such hours shall be scheduled as Presiding City Magistrate deems most effective and conducive to the efficient operation of the City Court.

6. **Compensation:** For all services rendered by Associate City Magistrate under the terms of this contract, compensation shall be paid to the Associate City Magistrate by City as follows:

a. Salary in the amount of \$79,636.50 per year payable bi-weekly on regularly scheduled pay dates for City employees.

b. (i) Associate City Magistrate shall be entitled to the vacation, personal leave and health plan benefits currently available to employees of the City. In addition, Associate City Magistrate shall receive three (3) days of paid executive leave, to be scheduled as Associate City Magistrate deems most efficient, during each year of his contract with the City.

(ii) The three (3) days of paid executive leave provided to Associate City Magistrate by City shall be non-accruing in nature, and in the event Associate City Magistrate does not utilize the three (3) days of paid executive leave provided for herein during each year of the two year term of this contract, Associate City Magistrate shall not be entitled to any compensation from City for any executive leave that remains unused at the expiration of this contract, or in the event Associate City Magistrate resigns or is terminated prior to the expiration of the two year term of this contract.

c. Associate City Magistrate shall be entitled to the retirement and deferred compensation benefits currently available to department heads in the employment of the City.

d. City agrees to budget and to pay for the travel, registration and subsistence expenses of Associate City Magistrate for professional and official travel, meetings, short courses, institutes, seminars and occasions adequate to continue the professional development of Associate City Magistrate and for the good of the City.

e. All payments of salary due to Associate City Magistrate herein shall be subject to federal and state withholding taxes and such other sums as City is required by law to withhold or deduct from Associate City Magistrate's salary.

f. Associate City Magistrate shall be entitled to an increase in the annual salary set forth in paragraph 6(a) above, in an amount not less than the step increase specified in the City's salary plan, and any increases from cost of living adjustments that may be approved by City Council for the City's employees.

7. **Insurance:** The City shall insure Associate City Magistrate through its comprehensive public liability insurance coverage presently in effect through the Arizona Municipal Risk Retention Pool, against any tort or professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring in the course and scope of the performance of Associate City Magistrate's duties for City, with the exception of actions brought on behalf of the City. City shall pay for any

attorney's fees, court costs or other litigation related expenses incurred in connection with the defense of the claim, demand or lawsuit.

8. **Bonding:** City shall bear the full cost of any fidelity or other bonds required of Associate City Magistrate under any law or ordinance.

9. **Termination:** It is expressly understood by the parties that this contract will end by its terms if not specifically renewed; and that during its term the contract may only be terminated for cause by the City Council, or if Associate City Magistrate becomes disqualified to serve as a judge in the courts of Arizona.

a. If the City Council terminates the Associate City Magistrate's contract with the City of Bullhead City "for cause", City Council shall give written notice to the Associate City Magistrate that his termination is "for cause" setting forth the reasons for termination "for cause". The "reasons" must be actions or inactions that result in or could lead to the charge or conviction of a felony, crime of dishonesty or moral turpitude; or actions or inactions of similar nature that have caused or may cause the City to be exposed to significant damages, claims or other harm. The Associate City Magistrate may request a meeting with the City Council concerning termination of the contract.

b. The Associate City Magistrate's contract may also be terminated by the Arizona Judicial Commission under the authority of the Arizona Supreme Court.

10. **Resignation:** In the event Associate City Magistrate voluntarily resigns his position with City, Associate City Magistrate shall give City sixty (60) days written notice in advance, unless the parties otherwise agree.

11. **Transition from Classified Position to Associate Magistrate Contract:** Associate Magistrate began his current employment with the City as a regular employee on December 3, 2001. This agreement shall commence on November 1, 2006. However, Associate Magistrate's employment anniversary date is acknowledged to be December 3, 2001 for purposes of benefits and leave accruals.

12. **Severability Clause:** If any provisions, or any portion thereof, contained in this contract is held unconstitutional, invalid or unenforceable, the remainder of this contract, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

13. **Final and Entire Agreement of the Parties:** The parties acknowledge that this contract represents the final and entire agreement and understanding between the parties and that any representations, negotiations, offers, proposals, promises or prior agreements are intended by the parties to be integrated and merged herein and to be superseded by this contract. This contract may only be modified or amended through a new written contract signed by the Associate City Magistrate and approved during a public meeting by the City Council.

14. **Governing Law:** This contract is intended to be governed by and construed in accordance with Arizona Law.

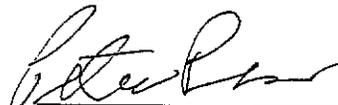
IN WITNESS WHEREOF, the City of Bullhead City has caused this contract to be signed and executed in its behalf by its Mayor, and duly attested by its Clerk, and approved as to form by its City Attorney, and the Associate City Magistrate has signed and executed this contract, the day and year written below.

BULLHEAD CITY, ARIZONA
an Arizona municipal corporation

ASSOCIATE CITY MAGISTRATE

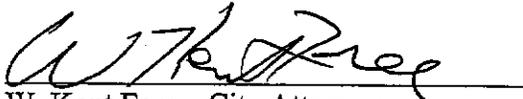


Diane Rae Vick, Mayor Date

 10/27/05

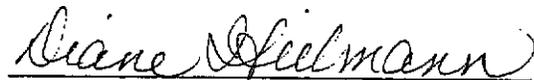
Peter Psareas, Date

APPROVED AS TO FORM:



W. Kent Foree, City Attorney

ATTEST:



Diane Heilmann, City Clerk

ADDENDUM NO. 1
TO
EMPLOYMENT AGREEMENT

THIS ADDENDUM is made and entered into this _____ day of October, 2008 by and between Peter Psareas, hereinafter designated "Associate City Magistrate," and the City of Bullhead City, an Arizona municipal corporation, hereinafter referred to as "City", for the purpose of amending paragraph 2 "Term" of that certain Employment Agreement executed by the parties on the 27th day of October, 2006.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree that existing paragraph 2 of the Employment Agreement is amended to read as follows:

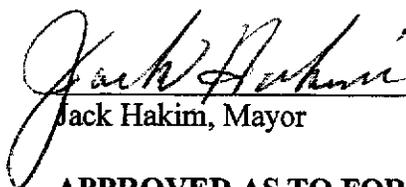
5. Term: The term of this contract shall begin on November 1, 2008 and shall continue in effect until November 1, 2010 or until otherwise terminated as herein provided.

The original Employment Agreement together with this Addendum contains the entire understanding and agreement of the City Council and Associate City Magistrate and the parties agree that this Addendum No. 1 is an amendment to paragraph 2 of the October 27, 2006 Employment Agreement and nothing herein shall be construed to affect any other terms and conditions of the October 27, 2006 Employment Agreement.

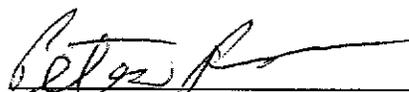
IN WITNESS WHEREOF, the parties hereto have duly affixed their signatures as of the date and year first written above.

BULLHEAD CITY, ARIZONA

ASSOCIATE CITY MAGISTRATE



Jack Hakim, Mayor



Peter Psareas, Associate City Magistrate

APPROVED AS TO FORM:



W. Kent Foree, City Attorney

ATTEST:



Diane Heilmann, City Clerk

City of Bullhead City

Finance Department

Position Salary Worksheet

For the Fiscal Year Ending June 30, 2011

Position: Associate Magistrate
Range: 501
Current Step: UNC
Review Date: November 1, 2010

Salary & Allowances:
Salary \$ 88,417.16

Employer Taxes & Contributions:
Med FICA 1,282.05
ICMA 401 Retirement 8,001.75
Deferred Compensation 4,420.86
Est. Health Insurance 9,000.00
Workers Comp Ins. 247.57

Total Employer Taxes & Contributions: \$ 22,952.23
Total Employee Compensation \$ 111,369.39
Voluntary Service Donation (VSD) 4,238.26
Total Employee Compensation with VSD \$ 107,131.13