

## EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the 1<sup>st</sup> day of January, 2023, by and between the City of Fort Collins, hereinafter referred to as the “City,” and Sarah Simchowicz, hereinafter referred to as the “Employee,” pursuant to these terms and conditions:

WHEREAS, the City wishes to employ the services of the Employee as Assistant Municipal Judge and the Employee wishes to provide her services to the City in that capacity; and

WHEREAS, pursuant to Resolution 2023-007, the City Council has approved the appointment of the Employee as Assistant Municipal Judge and has authorized the Mayor to enter into an Employment Agreement with the Employee; and

WHEREAS, the City and the Employee desire to provide for certain procedures, benefits, and requirements regarding the employment of the Employee by the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises herein contained, the City and the Employee do hereby agree to the following:

### **1. Scope of Services**

The City agrees to employ the Employee as Assistant Municipal Judge and the Employee agrees to perform all functions and duties as specified in the job description attached hereto as Exhibit “A” and incorporated herein by reference, and to perform such other duties as might be assigned.

### **2. Compensation**

The Employee shall be compensated at the regular rate of Ninety (\$90.00) per hour, less deductions and withholdings required by law, or authorized by City of Fort Collins Personnel Policies and Procedures, or authorized by the Employee. The Court Administrator, in coordination with the Employee, shall maintain and submit to the City a time sheet showing all hours worked prior to any payment therefor. All payments shall be made within thirty (30) days of receipt of said time sheet. This position shall be considered exempt for the purposes of the Fair Labor Standards Act and applicable state laws; accordingly, the Employee shall not be eligible for overtime pay.

### **3. Term of Employment**

(a) The term of this Agreement shall be from January 1, 2023 to and including December 31, 2024. Nothing contained in this Agreement shall preclude renegotiation of this Agreement prior to the expiration of its term.

(b) It is understood and agreed to by the Employee that upon termination of this Agreement, either under this paragraph or under the provisions of Paragraph 4 hereof, the Employee shall not be entitled to any amount of additional compensation, as severance pay or otherwise, other than as provided in Paragraphs 2 and 6 of this Agreement.

#### **4. Early Termination**

(a) Either party may terminate this Agreement at any time with or without cause prior to the expiration of the term hereof by providing written notice of termination to the other party at least fifteen (15) calendar days prior to the date of early termination. The City may, at its discretion, provide the Employee with fifteen (15) calendar days' compensation at her regular rate in lieu of such notice. Such notice shall be deemed effective upon personal delivery or as of the date of deposit into the United States mail, postage prepaid, addressed as follows:

TO THE EMPLOYEE:

Sarah Simchowitz

At last known address on file with the Human Resources Department

TO THE CITY:

City of Fort Collins, Colorado

Chief Judge Jill A. Hueser

P.O. Box 580

Fort Collins, CO 80522

(b) The City has appropriated funds in the current fiscal year to meet the obligations of this Agreement through the current fiscal year. This Agreement shall terminate at the end of the City's current fiscal year if the City does not, prior to the end of the current fiscal year, appropriate funds for the subsequent fiscal year with which to meet its obligation under this Agreement in the subsequent fiscal year. The parties acknowledge that the City has made no promise to continue to appropriate funds beyond the current fiscal year.

#### **5. Insurance Coverage; Vacation, Holiday and Sick Leave**

The Employee shall not be entitled to the medical insurance plans, dental insurance plans, vision plan, life and accidental death and dismemberment insurance plans, long term disability plan, an Employee Assistance Program, retirement or deferred compensation plans, or any other group insurance plan or other benefits that may be offered to some other City employees. The Employee shall not be entitled to paid vacation time, paid holiday time, paid short-term disability leave, or any other sort of paid leave as may be available to some other City employees except that the Employee is entitled to receive and use paid sick leave benefits provided to hourly City employees as described in the City's *Personnel Policies and Procedures*.

#### **6. Applicability of Personnel Policies**

(a) The Employee hereby acknowledges receipt of the City's *Personnel Policies and Procedures* and the City Council-adopted *Respectful Workplace Policy* and agrees that she shall

comply with and be bound by all provisions that apply to contractual or City Council-appointed employees. The Employee acknowledges that the City may in its sole discretion amend, modify, supplement, rescind or otherwise change any and all policies and procedures in the *Personnel Policies and Procedures* and the *Respectful Workplace Policy* adopted by the City Council at any time.

(b) Although the City's *Personnel Policies and Procedures* and the City Council-adopted *Respectful Workplace Policy* contain examples of types of disciplinary action including dismissal and examples of misconduct, it is understood and agreed by the Employee that the City is not required to take any disciplinary action whatsoever or follow any sort of disciplinary procedures prior to terminating this Agreement pursuant to paragraphs 3 and 4 above. In the event the City, in its sole discretion, decides to undertake disciplinary action, the City may discontinue such action at any time and at no time waives its right to terminate this Agreement pursuant to paragraphs 3 and 4 above.

(c) In the event that any applicable personnel policies set forth in the City's *Personnel Policies and Procedures* or the City Council-adopted *Respectful Workplace Policy* are inconsistent or conflict with the terms of this Agreement, then the terms of this Agreement shall be controlling.

## **7. Proprietary Rights**

(a) The Employee will disclose to the City promptly all improvements, discoveries, ideas, inventions, and information pertinent to the operation or functions of the City which the Employee may develop either individually or in conjunction with others, or of which existence the Employee may otherwise learn during the period of employment by the City.

(b) The Employee agrees that all products which she may develop during the Employee's employment, whether individually or in conjunction with others, and all intermediate and partial versions thereof, as well as all materials, flow charts, notes, outlines and the like created in connection therewith (collectively referred to as "Work Product"), and any formulae, processes, logarithms, ideas and other information not generally known to the public, whether or not protected by copyright, and developed or generated by the Employee in the course of the Employee's employment hereunder, shall be the sole property of the City upon their creation or, in the case of copyrightable works, fixation in a tangible medium of expression.

(c) The Employee hereby assigns to the City the sole and exclusive right, title and interest in and to all Work Product, and all copies of such Work Product, without further consideration. The Employee further acknowledges that the City shall retain ownership of and the right to reproduce, market, license, or otherwise distribute any program or material produced by the Employee under the terms of this Agreement.

## **8. Conflict Avoidance**

The Employee agrees to avoid carrying out their duties and responsibilities as an Assistant Municipal Judge in a way that interferes with their duty to serve as a fair and impartial municipal judge, or that creates a conflict of interest or the appearance of a conflict of interest that would interfere with the work of any lawyer or law firm that provides legal services to the City, and

further agrees that they will not work on any of the City's litigation matters under the auspices of their employment with any law practice.

**9. Entire Agreement**

This Agreement constitutes the entire agreement between the parties concerning the rights granted herein and the obligations assumed herein. Any oral representation or oral modification concerning this Agreement shall be of no force or effect. Although the personnel policies set forth in the City's *Personnel Policies and Procedures* and the City Council-approved *Respectful Workplace Policy* may be amended, modified, supplemented or rescinded at any time at the sole discretion of the City, the terms of this Agreement can be modified only by a writing signed by the parties hereto. It is further understood and agreed by the Employee that no representation, promise or other agreement not expressly contained herein has been made to induce the execution of this Agreement, and that the terms of this Agreement are contractual and not merely recitals.

**10. Enforcement of Agreement; Attorneys' Fees and Costs**

If any action is brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which it or she is entitled.

**11. Severability**

Should any provision, part or term of this Agreement be declared or determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, then the legality, validity and enforceability of the remaining parts, terms and provisions should not be affected thereby and said illegal, invalid or unenforceable part, provision or term shall be deemed not to be part of this Agreement.

**12. Binding Effect**

This Agreement shall be binding upon the parties hereto and the heirs, successors and assigns of each respectively. The City and the Employee freely and voluntarily enter into this Agreement and have executed this Agreement having first read the same and intending to be bound.

**CITY OF FORT COLLINS, COLORADO,**  
a municipal corporation

**ATTEST:**

By: \_\_\_\_\_  
Jeni Arndt, Mayor

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

**EMPLOYEE:**

\_\_\_\_\_  
Senior Assistant City Attorney

**APPROVED:**

\_\_\_\_\_  
Sarah Simchowicz, Esq.

\_\_\_\_\_  
Human Resources Executive

**APPROVED:**

\_\_\_\_\_  
Chief Judge Jill A. Hueser

**EXHIBIT A**  
**JOB DESCRIPTION FOR THE ASSISTANT MUNICIPAL**  
**JUDGE**

The Assistant Municipal Judge shall handle arraignment sessions and trial sessions of the Fort Collins Municipal Court on the dates and times agreed upon with the Chief Judge. During arraignment sessions (including video advisements of prisoners held at the Larimer County Jail), the Assistant Municipal Judge shall give the advisements (or ensure that written advisements have been reviewed and signed by defendants), accept pleas of “guilty” and “no contest,” and process paperwork as requested by the Chief Judge or Court Administrator. During trial sessions, the Assistant Municipal Judge shall conduct the trials in accordance with the laws and procedures applicable to the Court.