

Agreement for Services as Chief Judge of Lawrenceville Municipal Court

This Agreement by and between the **CITY OF LAWRENCEVILLE**, a municipal corporation, hereinafter referred to as the “City,” and **ETHAN PHAM**, hereinafter referred to as the “Municipal Court Chief Judge” or “Chief Judge”, is as follows:

WHEREAS, the City Council has appointed Ethan Pham to serve as Chief Judge of the City’s Municipal Court through an Independent Contractor Service Agreement and not as a City employee; and

WHEREAS, the City Council approved the appointment on November 11, 2020; and

WHEREAS, Ethan Pham has accepted the appointment and desires to enter into this Agreement with the City to provide services to the City as Chief Judge;

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the City and Ethan Pham agree as follows:

1. **INDEPENDENT CONTRACTOR STATUS:** This Agreement does not create and shall not be construed to create an employee, representative, joint venture, or partnership relationship between the City and Chief Judge. Neither Party is an agent of the other Party for any purpose. Accordingly: Chief Judge shall provide Services as an independent contractor, and Chief Judge shall not be considered an employee of the City for any purpose; Chief Judge, and Chief Judge’s agents shall not be entitled to, and shall not receive from City in connection with Services any workers’ compensation coverage, health insurance coverage, disability insurance coverage, life insurance coverage, pension, profit sharing, paid time off (PTO), retirement, or similar benefit normally provided by City to its employees, except as expressly provided under the Benefits section below; Chief Judge retains sole and exclusive liability and shall withhold and/or pay all taxes and contributions required to be withheld and/or paid under federal and state income tax laws, unemployment compensation acts, social security acts, and all other legislation requiring employer contributions or withholdings, with respect to all Services provided hereunder, in a timely manner; Chief Judge is solely responsible for paying his own business expenses, and expenses will only be reimbursed as set forth in this Agreement; and Chief Judge is free to perform services for any other customer. At all times during the term of this Agreement, neither party will function as or represent itself to be the other party or its agent, and no officer, employee, or agent of one party shall hold himself or herself out to be an officer, employee, or agent of the other party.

2. **TERM OF APPOINTMENT:** Ethan Pham accepts the appointment of Chief Judge of the Municipal Court of the City of Lawrenceville in accordance with the provisions of City Charter and Code of Ordinances as supplemented by this Agreement for a one-year term commencing on January 1, 2021 and terminating on December 31, 2021, unless earlier terminated as described below. The Chief Judge shall be, and remain, an attorney admitted to practice law in the State of Georgia. The Chief Judge must also be a citizen of the United States of America and the State of Georgia. The Chief Judge must comply with all other requirements for service as a municipal court judge, including but not limited to complying with all training requirements. The Chief Judge shall

immediately report to the City Manager or his designee any change affecting his membership in good standing with the State Bar of Georgia and any training deficiencies.

3. **SCOPE OF SERVICES:** The Chief Judge shall perform all duties legally prescribed for a judicial officer serving as a Judge of a lawfully constituted Municipal Court according to the requirements of the Georgia Constitution, the Official Code of Georgia, the Code of Judicial Conduct, the Uniform Rules, Municipal Courts of the State of Georgia and such other rules as may be prescribed by the Supreme Court of the State of Georgia. In addition, the Chief Judge shall act in accordance with any published opinions of the Judicial Qualifying Committee and the terms of any applicable Judicial Emergency Order. The Chief Judge shall preside over all pre-trial conferences, cases, trials, and hearings or arrange for an Associate Judge to do so. The Chief Judge also shall perform the duties described in Section 4 below. The Chief Judge shall at all times faithfully and to the best of his ability administer activities of the court, assign and hear all cases and fulfill obligations of the Court as established by State or local law, rule, statute, regulation and City ordinance that are the responsibilities of the Chief Judge. The Chief Judge shall appoint Associate Judges for vacation, affidavits of prejudice, recusal from a pending case, illness and required judicial continuing education and training. The Chief Judge may appoint only Associate Judges who have been approved by the City Council to serve as Associate Judges. The Chief Judge shall instruct all Associate Judges concerning procedures and customary sentences in order to promote uniformity to the greatest extent possible. The City shall make a reasonable effort to maintain a pool of at least one Associate Judge and the Chief Judge shall endeavor to use the Associate Judge in such a manner and frequency that the Associate Judge will be reasonably familiar with Municipal Court procedures should his service be necessary.

4. **JUDICIAL INDEPENDENCE AND ADMINISTRATION:** The Chief Judge and the Associate Judge are independent from the City when performing judicial responsibilities and nothing contained herein shall be construed to interfere with a judge when performing judicial duties. The Chief Judge, or any Associate Judge serving in the absence of the Chief Judge, is solely responsible for judicial decisions. Judicial decisions include, but are not limited to, establishment of a standard bail schedule if the judge deems appropriate, establishment of a standard fine schedule for use with violations that do not require court appearances, determination of fines and punishment in individual cases, determination of bail in individual cases, establishment of standing orders regarding offenses for which cash bail is not required, determination of financial ability, determination of conditions of probation, determination of liability, and determination of eligibility for indigent defense and for alternatives to monetary penalties including community service and penalty or fine reductions. Furthermore, the Chief Judge is responsible for the following in coordination with the Court Administrator and Court Solicitor: approving court forms and procedures necessary for the proper exercise of constitutional rights and other compliance with the law, and updating such forms and procedures as necessary. In coordination with the Court Administrator and as funded by the City, providing proper training of court staff and officials about court procedures and the use of approved court forms, and updating such training as necessary, ensuring that court staff and officials use approved forms, follow approved procedures and comply with applicable provisions of the Code of Judicial Conduct, court rules, ordinances and statutes, notifying the City Manager or his designee of any Judicial Emergency Orders and any actions

required to comply with such Orders, including, but not limited to actions that impact remote technology needs, city buildings, and city staff, notifying the City Manager or his designee of additional resources necessary to ensure compliance with applicable laws and rules, notifying the City Manager or his designee of service provider performance deficiencies. The Court Administrator shall be appointed by the City Manager and shall serve as an At-Will employee of the City. The Court Administrator and all court staff other than the Chief Judge are City employees subject to City rules and regulations. However, they are subject to the Chief Judge's direction and control when performing duties for the court. Their salaries, benefits, hours of work and working conditions shall be established by the City. The Chief Judge understands that court staff adhere to the same applicable personnel policies as other City employees. The Chief Judge acknowledges the Court Administrator may perform other duties for the City that are not in conflict with the separation of powers.

5. COMPENSATION: The Chief Judge's compensation for Services is set at Four Hundred Fifty Dollars (\$450) per court session presided over. The rate per session may be amended as set forth in this contract.

All required training and costs for associated travel shall be reimbursed by the City in accordance with the City's reimbursement policies and applicable law. The Chief Judge's compensation may be increased, but not decreased, during the Chief Judge's term of office. The Chief Judge's compensation shall be determined annually on January 1. This set amount shall constitute compensation for all the Chief Judge's responsibilities and duties in the Municipal Court.

6. METHOD OF PAYMENT: The Chief Judge shall send invoices to the Court Administrator and payment will be made monthly.

7. BENEFITS: The Chief Judge is not eligible for any benefits offered by the City to employees. However, as an appointed official the Chief Judge may be covered by the City's liability insurance coverage while acting in the official capacity as Chief Judge.

8. TERM OF AGREEMENT: The Chief Judge's term of office and the term of this Agreement shall be for a period of one year beginning January 1, 2021 and ending on December 31, 2021, however this contract will be automatically renewed for additional one-year terms for the years Ethan Pham is appointed Chief Judge.

9. CONTRACT ADMINISTRATION: This Agreement shall be administered by the City Manager and/or designee on behalf of the City and by Ethan Pham as the Municipal Court Chief Judge. Any written notices to be served on either party shall be served or mailed to the following addresses, with a copy by email: IF TO THE CITY: City Manager Chuck Warbington, City Manager, P.O. Box 2200, Lawrenceville, GA 30046 or chuck.warbington@lawrencevillega.org. IF TO THE JUDGE: Ethan Pham, ADDRESS; EMAIL ADDRESS; EMAIL

10. TERMINATION OF AGREEMENT: This Agreement may be terminated during the Chief Judge's term of office as follows: By the Judge if he provides a minimum of one hundred twenty (120) days written notice prior to his effective date of termination, unless otherwise mutually agreed by the parties. By the City only as provided in O.C.G.A. Section 36-32-2.1.

11. MERGER AND AMENDMENT: This Agreement contains the entire understanding of the City and the Chief Judge with respect to the matters set forth herein, and any prior or contemporaneous understandings are merged herein. This Agreement shall not be modified except by written instruments executed by the City and Chief Judge hereto. This Agreement shall be governed under the laws of the State of Georgia, and any dispute regarding this Agreement shall be resolved in the Superior Court of Gwinnett County, State of Georgia.

12. SEVERABILITY If any provision of this Agreement or their application to any circumstance is held invalid, the remainder of this Agreement and their application to other circumstances is not affected.

Chief Judge

By: _____
Ethan Pham

CITY OF LAWRENCEVILLE,
GEORGIA

By: _____
David R. Still, Mayor
City of Lawrenceville

ATTEST:

Signature

ATTEST:

Karen Pierce, City Clerk
City of Lawrenceville

(Seal)

APPROVED AS TO FORM:

Signature
City Attorney