

ORDINANCE 2022 - 03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON CONFIRMING THE APPOINTMENT OF TROY JOSEPH LEE AS THE MUNICIPAL COURT JUDGE, AFFIXING THE COMPENSATION OF THE MUNICIPAL COURT JUDGE AND JUDGES PRO-TEMPORE, AND AUTHORIZING ENTRY INTO A PROFESSIONAL SERVICES CONTRACT.

**WHEREAS**, the Sunnyside Municipal Court requires a judge to serve a four-year term effective January 1, 2022 pursuant to RCW 35A.13.080 (2), but had not completed the recruitment process; and

**WHEREAS**, the City Manager has appointed TROY JOSEPH LEE effective January 25, 2022 to serve as the Sunnyside Municipal Court Judge for the remainder of the four-year term; and

**WHEREAS**, the City Council deems it is appropriate to confirm the appointment made by the City Manager; and

**WHEREAS**, the City Council deems it appropriate to set the compensation of the Municipal Court Judge and Judges Pro-Tempore pursuant to RCW 3.50.080 and RCW 3.50.090; and

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:**

**Section 1.** The Sunnyside City Council confirms the City Manager's appointment of Troy Joseph Lee to serve the remaining term as Municipal Court Judge for the four-year term commencing January 1, 2022.

**Section 2.** The salary of the Municipal Court Judge shall be adjusted annually on January 1, using the formula of a District Court Judge as set by the Washington State Salary Commission, pro-rated to 60% (twenty-four hours per week). Judges Pro-Tempore will receive \$65.00 per hour for hours worked (adjusted annually commencing January 1, 2022 and each January 1 thereafter to reflect a cost of living adjustment at the same percentage as set by the Washington State Salary Commission for District Court Judge). In addition, the Municipal Court Judge shall receive benefits in accordance with City policy for regular part-time employees.

**Section 3.** The City Manager has authorization to enter into an Employment

Agreement with Judge Troy Joseph Lee in substantially similar form as attached "Exhibit A."

**Section 4.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

**Section 5.** This Ordinance shall not be codified.

**Section 6.** This Ordinance shall be in full force and effect five (5) days after passage and publication as required by law.

PASSED this 24<sup>th</sup> day of January, 2022.

  
DEAN BROERSMA, MAYOR

ATTEST:

  
JANETH RANGEL, DEPUTY CITY CLERK

APPROVED AS TO FORM:

  
KERR FERGUSON LAW GROUP, PLLC  
Attorneys for the City of Sunnyside

EXHIBIT A

**AGREEMENT FOR MUNICIPAL COURT JUDICIAL SERVICES**

**By and Between  
CITY OF SUNNYSIDE  
and  
TROY JOSEPH LEE**

**THIS AGREEMENT** is entered into by and between the City of Sunnyside, Washington, a Washington Municipal Corporation, hereinafter referred to as "City", and Troy Joseph Lee, Attorney at Law, hereinafter referred to as "Judge," for the purpose of providing Municipal Court Judicial Services for the City of Sunnyside Municipal Court.

**WHEREAS**, the City has established by Ordinance a Municipal Court as authorized by Chapter 3.50 of the Revised Code of Washington, having jurisdiction to exercise all powers vested in Municipal Courts, together with such other powers and jurisdiction as are generally conferred upon such Courts in the State of Washington, either by common law or by express statute or Ordinance; and

**WHEREAS**, the City of Sunnyside also provides judicial services for the City of Toppenish; and

**WHEREAS**, the Judge appointed by the City Manager and confirmed by the City Council will be responsible for the performance of judicial services for the Courts; and

**WHEREAS**, the Federal and State Constitutions establish three independent branches of government; executive; legislative; and judicial. Checks and balances among the branches of government are facilitated through coordination and communication, and all three branches participate in the responsibility to ensure efficient and effective functioning of the judicial system; and

**WHEREAS**, the City has selected a Judge through a formal procurement process.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual benefits to be derived herein, the Parties agree as follows:

1. **Professional Requirements.** The Judge shall be an attorney admitted to practice law before the Courts of record for the State of Washington. The Judge shall report to the City any change affecting the maintenance of membership in good standing with the Washington State Bar Association.

The Judge will keep current on legal issues relevant to the Municipal Court through attendance at required continuing legal and judicial education programs emphasizing such matters.

The Judge shall comply with the Code of Judicial Conduct and be subject to ethics laws applicable to his/her office. The Judge is responsible for ensuring that staff

and Court officials subject to their direction and control comply with applicable provisions of the Code of Judicial Conduct, Court rules, and the Revised Code of Washington (RCW).

The Judge agrees during the term of this Agreement not to participate in any matter in which the Judge participated personally and substantially as a Judge, public officer or employee, including (1) as a lawyer in any case adverse to the City or its Police Department, or (2) as a defense attorney or prosecuting attorney in the Municipal Court.

## 2. Duties.

- a. Court Administration. The Judge shall at all times faithfully, and to the best of his ability, administer activities of the Court, hear and assign all cases in a timely manner, and administer all other actions reasonably necessary to establish and fulfill obligations of the Municipal Court as established by State or local law, rule, statute, regulation or City ordinance. The Parties hereto shall both make best efforts to work together to achieve the required separation of powers while most effectively operating the Municipal Court with respect to State Supreme Court General Rule 29 attached hereto and made apart hereof by reference.
- b. Compliance with Indigent Defense Standards. The Judge shall comply with all the Standards for Indigent Defense as set forth in the Rules for Courts of Limited Jurisdiction (RCLJ). This shall include, but not be limited to, certifying caseload limits of attorneys, under CrRLJ 3.1, representing indigent clients and providing quarterly feedback as well as other requirements provided for in the *Wilbur v. City of Mount Vernon* criteria.
- c. Financial Meetings. The parties acknowledge that the budget for the Court is set by action of the City Council. The Judge will meet with the City at least quarterly, or more frequently as requested by either party, to review the Court budget and any other matters of mutual importance.
- d. Personnel Function. It is understood that the court is a part of an independent branch of government and that judicial officers and court employees are bound to act in accordance with the Code of Judicial conduct and Washington state court rules. The Judge will be responsible for the review of any revisions or amendments to Court personnel rules and policies and shall direct Court employees in the performance of their duties and implementation and promotion of efficient Court operations and may, as necessary, direct implementation of new procedures to promote the effective and efficient operation of the Court. The Judge acknowledge that Court staff is represented by labor unions and will comply with the terms of the collective bargaining agreements.

3. **Term of Office and Salary.** The Judge's term of office shall be for the remainder of the statutory term and ending on December 31, 2025, as provided in RCW 3.50.050. The Judge's salary shall be fixed by ordinance in accordance with RCW 3.50.080, and the salary shall not be diminished during the term of office.
4. **Compensation.** The Judge shall be compensated pursuant to Ordinance No. 2022-03 bimonthly, no later than the tenth (10<sup>th</sup>) and the twenty-fifth (25<sup>th</sup>) of each month, for the previous period.

The Judge's compensation shall be reduced by the rate set forth in the City's budget ordinance for each hour that a Judge Pro Tem serves in place of the Judge; provide that, no reduction in the Judge's compensation shall occur when a Judge Pro Tem serves in place of the Judge:

- a. For the first 60 hours during each calendar year when the Judge is not present at the Court;
- b. While the Judge is disqualified from hearing a case following the filing of an affidavit of prejudice;
- c. While the Judge has disqualified himself in a proceeding in which his impartiality might reasonably be questioned; or
- d. While the Judge attends a District and Municipal Court Judge's Association (DMCJA) Conference or required Judges' meetings, seminars, or continuing legal/judicial credit courses.

If the Judge is not able to fulfill the judicial and/or administrative duties due to suspension by the Washington State Commission on Judicial Conduct, such time period shall be considered leave without pay.

If a significant change in case load or Court time occurs during the life of this Agreement the terms of compensation may be renegotiated but any such renegotiated term shall be ineffective unless formalized in a written amendment to this Agreement signed by both Parties.

The City shall provide for the Judge's full membership in the State's District and Municipal Court Judge's Association, including registration fees and required materials, if any, for the Association's Conferences. The City shall also provide payment for any continuing legal/judicial education courses required for the judicial position by the State, County, or local rulings—to the extent that funds are budgeted annually for such expenses.

5. **Nature of Relationship.** The Judge shall be considered an employee for taxes purposes and will be paid through the City's payroll system. The Judge shall not be entitled to sick leave, vacation, overtime, compensatory time or any other benefits not specifically addressed and provided for in this Agreement. The Judge agrees not to perform professional services for other clients where a conflict of interest or ethical violation as defined in the Rules of Professional Conduct for attorneys may exist.
6. **Judicial Independence and Administration of the Court.** The Court is an independent branch of government. The Judge shall supervise the daily operations of the Court and all personnel assigned to perform Court functions in accordance with the provisions of GR 29(e) and (f), and RCW 3.50.080. Under no circumstances should judicial retention decisions be made on the basis of a judge's or a Court's performance relative to generating revenue from the imposition of legal financial obligations.
7. **Termination & Discipline.** The Judge may only be admonished, reprimanded, censured, suspended, removed, or retired during the Judge's term of office upon action of the Washington State Supreme Court, as provided for in RCW 3.05.095 and article IV, section 31 of the Washington State Constitution.
8. **Notice.** Notice given pursuant to this Agreement shall be in writing to the Parties as follows:

If to the City:

City Manager  
City of Sunnyside  
818 East Edison Avenue  
Sunnyside, WA 98944

If to the Judge:

Troy Joseph Lee  
Troy Lee & Associates, Inc.  
117 North 3<sup>rd</sup> St., Ste. 201  
Yakima, WA 98901

Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage paid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

Notice given pursuant to this Agreement shall be given in writing by directing it to the City manager at the address listed above.

9. **Indemnification.** The Judge is an appointed official of the City. The City agrees to indemnify, defend and hold the Judge harmless for any and all claims, losses, actions or liabilities (including all costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, assigns, licensees, or representatives, for any acts of the Judge that are within the scope of his official duties, unless such acts are in violation of the Washington State Code of Judicial Conduct.

The Judge agrees to waive any claims [s]he may have against the City, its officers, agents, employees, or volunteers for injuries or losses for which the Judge is covered under the Washington State Industrial Insurance Act, Title 51 RCW. This waiver is mutually negotiated by the Parties.

10. **General Provisions.**

- a. **Performance.** For the purpose of this Agreement, time is of the essence with respect to the performance of any of the provisions hereof.
- b. **Dispute Resolution.** If a dispute regarding the breach, interpretation, or enforcement of this Agreement, the Judge and the City Manager, of the City of Sunnyside, shall meet in an attempt to settle such dispute. If the dispute cannot be resolved by agreement of the Parties or by mediation, the dispute shall be resolved by binding arbitration pursuant to RCW 7.04A, as amended, and the Mandatory Rules of Arbitration (MAR). Venue shall be placed in Yakima County, Washington; the laws of the State of Washington shall apply; and the prevailing party shall be entitled to its reasonable attorney fees and costs.
- c. **Entire Agreement.** This Agreement represents the entire Agreement between the Parties respecting the subject matter hereof. All prior negotiations, agreements, representations, warranties or other matters of like or any other nature shall be of no further force or effect and are hereby superseded by this written Agreement. No provision of this Agreement may be amended or modified except by written agreement signed by the Parties.
- d. **Severability.** If any provision of this Agreement shall be held invalid by any Court of competent jurisdiction, the remaining provisions shall remain in full force and effect.
- e. **Governing Law.** This Agreement is made and shall be governed by and interpreted in accordance with the laws of the State of Washington.
- f. **Subsequent Changes of Law.** The Parties recognize that this Agreement is governed by the RCW and rules promulgated by the Washington Supreme

Court and applicable Court decisions and therefore, agree that any modifications and/or amendment to the law or Court rule or Court decisions during the term of this agreement will control.

- g. Assignment. Neither the Judge nor the City shall have the right to transfer or assign in whole or in part, any or all of its obligations and rights under this Agreement without the prior written consent of the other party. The use of Judges Pro Tem, Commissioners, or Commissioners Pro Tem shall not be deemed a transfer or assignment.
- h. Waiver. A party may, at any time or times, at its election, waive any of the conditions to its obligations hereunder, but any such waiver shall be effective only if contained in writing signed by the waiving party. No waiver shall reduce the rights and remedies of the waiving party by reason of any breach of any other party. No waiver by any party of any breach hereunder shall be deemed a waiver of any other or subsequent breach.

**IN WITNESS WHEREOF**, this Agreement is deemed, approved, and effective on the date first referenced above.

CITY OF SUNNYSIDE:

By:   
Elizabeth Alba  
Interim City Manager

MUNICIPAL COURT JUDGE:

By:   
Troy Joseph Lee  
Municipal Court Judge

Approved as to Form:

  
KERR FERGUSON LAW, PLLC 97059  
City Attorneys for the City of Sunnyside

CITY CONTRACT NO: A. 2022.10  
RESOLUTION NO: X  
COUNCIL MTG: 01.24.2022  
Ordinance# 2022-03