

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHERRY HILLS
VILLAGE APPOINTING JOHN F. WELBORN AS THE PRESIDING MUNICIPAL
JUDGE AND KAREN BARSCH AS AN ALTERNATE MUNICIPAL JUDGE, SETTING
THE TERM FOR EACH MUNICIPAL JUDGE APPOINTMENT, AND APPROVING
RELATED PROFESSIONAL SERVICES AGREEMENTS**

WHEREAS, the City Council is authorized by Section 2-4-40 of the Municipal Code and Section 7.1(b) of the Home Rule Charter to appoint a Municipal Judge to preside over the City of Cherry Hills Village Municipal Court; and

WHEREAS, in accordance with Section 2-4-40 of the Municipal Code, the Council is further authorized to appoint one or more alternate judges to serve in the absence of the Municipal Judge; and

WHEREAS, on January 5, 2021, the City Council approved Resolution 3, Series 2021 which appointed Municipal Judge John F. (Jeff) Welborn and Alternate Municipal Judge Karen Barsch and set their terms to expire on January 31, 2023; and

WHEREAS, on January 17, 2023, the City Council approved Resolution 3, Series 2023 which extended the terms of Judges Welborn and Barsch to expire on January 31, 2025; and

WHEREAS, Judges Welborn and Barsch desire to continue to serve as municipal judges; and

WHEREAS, the City Council finds both of the individuals appointed to serve are qualified in accordance with the Section 2-4-40(b) of the Municipal Code; and

WHEREAS, pursuant to Section 7.1(b) of the Home Rule Charter, the term of appointment of the Municipal Judge and alternate judges is at the pleasure of the City Council; and

WHEREAS, the City Council desires to appoint John F. Wellborn as Presiding Municipal Judge and Karen Barsch as Alternate Municipal Judge for a term to be effective from January 31, 2025 through and terminating on January 31, 2027, subject to the terms and conditions in related professional services agreements.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
CHERRY HILLS VILLAGE, COLORADO, THAT:**

Section 1. Appointment of John F. (Jeff) Welborn. The City Council hereby appoints John F. (Jeff) Welborn to serve as the Cherry Hills Village Presiding Municipal Judge effective January 31, 2025, subject to the terms and conditions in the Presiding Municipal Judge Professional Services Agreement attached hereto as **Attachment A**. The term of appointment shall expire on January 31, 2027.

Section 2. Appointment of Karen Barsch. The City Council hereby appoints Karen Barsch as an Alternate Municipal Judge effective January 31, 2025, subject to the terms and conditions in the Alternate Municipal Judge Professional Services Agreement attached hereto as **Attachment B**. The term of appointment shall expire on January 31, 2027.

Section 3. Effective Date. This Resolution shall take effect upon its approval by the City Council.

Introduced, passed and adopted at the
regular meeting of the City Council this 21st day
of January, 2025, by a vote of 5 yes and 0 no.

(SEAL)

Kathleen Brown
Kathleen Brown, Mayor

ATTEST:

Laura Gillespie
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

Kathie B. Guckenberger
Kathie B. Guckenberger, City Attorney

**Attachment A to Resolution 7, Series 2025
Presiding Municipal Judge Professional Services Agreement**

CITY OF CHERRY HILLS VILLAGE PRESIDING MUNICIPAL JUDGE PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is made this 31st day of January, 2025, by and between John F. (Jeff) Welborn (the "Presiding Municipal Judge") and the **CITY OF CHERRY HILLS VILLAGE, COLORADO**, a home rule municipal corporation of the State of Colorado (the "City"). The City and the Presiding Municipal Judge are referred to in this Agreement as the "Parties."

RECITALS AND REPRESENTATIONS

WHEREAS, the City is authorized by Section 13-10-105, C.R.S., Section 7.1(b) of the Home Rule Charter, and Section 2-4-40 of the Cherry Hills Village Municipal Code ("Code") to appoint a Presiding Municipal Judge to preside over the Municipal Court; and

WHEREAS, pursuant to Section 7.1(b) of the Home Rule Charter, the Municipal Court shall be presided over and its functions exercised by one or more municipal judges, appointed by the Council for a term to be at the pleasure of the Council, with the municipal judges receiving compensation in an amount to be fixed by the City Council from time to time; and

WHEREAS, John F. Welborn has held himself out to be qualified to serve as a municipal judge for the City in compliance with Section 2-4-40(b) of the Code; and

WHEREAS, the Presiding Municipal Judge desires to accept the appointment under the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual promise and covenants set forth below, the City and the Presiding Municipal Judge agree as follows:

- 1. APPOINTMENT.** Pursuant to Resolution 3, Series 2025 adopted by the City Council contemporaneously with the approval of this Agreement, John (Jeff) F. Welborn is appointed to serve as the Presiding Municipal Judge for the City's Municipal Court effective January 31, 2025. The City may appoint, at the City's expense, other judges as the City determines to be in its best interest.
- 2. TERM OF APPOINTMENT.** In accordance with Section 7.1(b) of the Home Rule Charter and Section 2-4-40 of the Municipal Code, and as set forth in Resolution 3, Series 2025, this term of appointment will be from January 31, 2025 to January 31, 2027 ("Term"). Either party may terminate this Agreement, without cause and for any reason, by providing at least 60 days written notice.
- 3. DUTIES.** The Presiding Municipal Judge promises to perform the duties required by and set forth in Section 7.1 of the Home Rule Charter and Chapter 2, Article IV of the Cherry Hills Village Municipal Code ("Code"). While fulfilling these duties, the Presiding Municipal Judge is expected to:
 - Attend all court dates for arraignment and trials, unless other arrangements have been made for coverage. Coordinate with City staff on all operational aspects of the municipal court, including establishing the necessary standards and procedures for the operation of the court.

- Conduct arraignments, trials, hearings, sentencing, and case dispositions. Issue written and/or oral findings and judgments when necessary.
- Manage the courtroom to ensure efficiency, orderliness, and justice.
- Enforce the ordinances of the City.
- Ensure that all defendants understand their rights and, if applicable, knowingly waive their rights.
- Explain the law and legal systems to defendants, provided that in no case shall such explanation imply any requirement to provide legal advice.
- Evaluate evidence, testimony, and legal pleadings.
- Interpret and apply appropriate ordinances, municipal code provisions, and regulations.
- Impose fines and penalties as prescribed by the municipal code or ordinances. Assess and oversee collection of penalties.
- Order and enforce contempt, failure to appear, abatement of nuisance, and other requirements of the municipal code or City ordinances.
- Maintain qualifications required by the Charter and Code.

The City will not instruct the Presiding Municipal Judge as to how to conduct court sessions or how to adjudicate the cases that come before him. The Presiding Municipal Judge acknowledges that maintaining membership in the Colorado Municipal Judges Association may be beneficial in fulfilling the expectations outlined above.

4. **INDEPENDENT CONTRACTOR.** The Presiding Municipal Judge is an independent contractor within the meaning of Colorado law. The Presiding Municipal Judge shall not be considered an employee of the City for any purpose. Except as specifically set forth in this Agreement, the City shall not be obligated to secure and shall not provide any benefits of any kind or type to or for the Presiding Municipal Judge, including but not limited to disability insurance, errors and omissions insurance, vacation or sick leave, or retirement contributions. Nothing contained herein shall be construed to limit the right of the Presiding Municipal Judge to engage in other employment or independent contractor positions, whether in the legal field or otherwise, provided that such employment or position does not create a conflict of interest with the performance of the Presiding Municipal Judge's duties to the City of Cherry Hills Village or require modification of the City's Municipal Court schedule. Notwithstanding the foregoing, if the City wishes to expand or change the current court sessions, it will coordinate the new schedule with the Presiding Municipal Judge's availability; however, the City will make the final decision concerning the dates and times of the Municipal Court sessions.

THE PRESIDING MUNICIPAL JUDGE ACKNOWLEDGES THAT HE IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE PRESIDING MUNICIPAL JUDGE OR SOME ENTITY OTHER THAN THE CITY PROVIDES SUCH BENEFITS. THE PRESIDING MUNICIPAL JUDGE FURTHER

ACKNOWLEDGES THAT HE IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS. THE PRESIDING MUNICIPAL JUDGE ALSO ACKNOWLEDGES THAT HE IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.

5. **COMPENSATION.** The City promises to pay the Presiding Municipal Judge a fee of seven hundred fifty dollars and no cents (\$750.00) for each Court session, upon receipt of invoices by the City Finance Director. The City promises to pay compensation at regular intervals consistent with the City's normal accounts payable practices.
6. **REIMBURSABLE EXPENSES AND COSTS.** The Presiding Municipal Judge is not entitled to reimbursement for vehicle mileage expenses or any other personal expenses or costs associated with performing the duties associated with this Agreement.
7. **CODE OF JUDICIAL CONDUCT.** The Presiding Municipal Judge promises to comply with the Colorado Code of Judicial Conduct, as adopted and amended by the Supreme Court of Colorado, during the performance of judicial duties as authorized by law. The Office of Attorney Regulation Counsel will determine any grievance or complaint.
8. **CITY CODE OF ETHICS.** The Presiding Municipal Judge promises to abide by the City's Code of Ethics, as set forth in Chapter 2, Article IX of the City's Municipal Code, as may be amended from time to time.
9. **INSURANCE.** The City promises to obtain and continue in place insurance coverage which includes the Presiding Municipal Judge while performing duties within the scope of this Agreement. Notwithstanding that the Presiding Municipal Judge acts as and is compensated as an independent contractor, pursuant to Section 7.1(b) of the City's Home Rule Charter and Section 2-3-10(a) of the Cherry Hills Village Municipal Code, the Presiding Municipal Judge as an appointed municipal official will be covered by the City's insurance for claims arising out of injuries sustained from an act or omission occurring during the performance of his duties, except for willful and wanton acts.
10. **APPOINTMENT SUBJECT TO PROVISIONS OF MUNICIPAL CHARTER AND CODE.** The Presiding Municipal Judge will, during the performance of his duties, be bound by this Agreement and the provisions of the Home Rule Charter and Municipal Code of the City of Cherry Hills Village, as may be amended from time to time.
11. **ARTICLE X, SECTION 20.** The City is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The appointment and compensation recited in this Agreement do not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and all payment obligations of the City are conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Upon the failure to appropriate such funds, the appointment made hereunder shall be terminated.
12. **RESERVED.**
13. **ENTIRE AGREEMENT.** This Agreement and any City Charter provision, ordinance, or state statute governing the conduct and terms of the appointment of the Presiding Municipal Judge constitutes the entire agreement between the parties and is binding upon and inures to the benefit of the Presiding Municipal Judge's heirs at law and executors.

14. NOTICE. Unless otherwise provided in this Agreement, any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent via pre-paid, first-class United States Mail, to the party at the address set forth below.

<u>If to the City:</u>	<u>If to Presiding Municipal Judge:</u>
City of Cherry Hills Village Attn: City Manager 2450 E. Quincy Avenue Cherry Hills Village, Colorado 80113	John F. Welborn [REDACTED] Cherry Hills Village, CO 80121
With Copy to: Cherry Hills Village City Attorney Michow Guckenberger McAskin LLP 5299 DTC Boulevard, Suite 300 Greenwood Village, CO 80111	With Copy to:

15. SEVERABILITY. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in full force and effect.

16. AMENDMENTS. The terms and conditions of this Agreement may be modified only by written amendment executed by the Presiding Municipal Judge and the City.

17. GOVERNING LAW AND VENUE. This Agreement must be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement must be in the appropriate court for Arapahoe County, Colorado.

18. NO WAIVER. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

19. NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or modify any judicial or governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, or any other person acting on behalf of the City and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

20. PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

21. PROTECTION OF PERSONAL IDENTIFYING INFORMATION. In the event the services provided under this Agreement include or require the City to disclose to the Presiding Municipal Judge any personal identifying information as defined in C.R.S. § 24-73-101, Presiding Municipal Judge shall comply with the applicable requirements of C.R.S. §§ 24-73-101, et seq., relating to third-party services providers.

22. RELEASE OF INFORMATION. The Presiding Municipal Judge shall not, without the prior written approval of the City, release any privileged or confidential information obtained in connection with the services provided under this Agreement.

23. ASSIGNMENT. Neither this Agreement nor any of the rights or obligations of the Presiding Municipal Judge hereto shall be assigned, delegated, or subcontracted without the prior written consent of the City. Neither this Agreement nor any of the rights or obligations of the City hereto shall be assigned without the prior written consent of the Presiding Municipal Judge.

24. NO THIRD-PARTY BENEFICIARIES. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or subcontractor of the Presiding Municipal Judge. Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

25. AUTHORITY. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the City of Cherry Hills Village and the Presiding Municipal Judge and bind the respective parties.

26. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

27. FORCE MAJEURE. Neither the Presiding Municipal Judge nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

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Signature page follows



IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed on its behalf by the Mayor and the Presiding Municipal Judge has signed and executed this Agreement as of the day and year first written above.

CITY OF CHERRY HILLS VILLAGE

Kathleen O'Brown

Kathleen Brown, Mayor

ATTEST:

Laura Gillespie
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

Kathie B. Guckenberger
Kathie B. Guckenberger, City Attorney

PRESIDING MUNICIPAL JUDGE

J.F. Welborn
John F. Welborn

STATE OF COLORADO)
) ss.
COUNTY OF ARAPAHOE)

The foregoing Presiding Municipal Judge Professional Services Agreement was subscribed, sworn to and acknowledged before me this 28th day of January 2025 by John F. Welborn.

My commission expires: 10-30-27

(S E A L)

Ariana Elizabeth Loveberry
Notary Public

ARIANA ELIZABETH LOVEBERRY
Notary Public
State of Colorado
Notary ID # 20234041160
My Commission Expires 10-30-2027

**Attachment B to Resolution 7, Series 2025
Alternate Municipal Judge Professional Services Agreement**

CITY OF CHERRY HILLS VILLAGE ALTERNATE MUNICIPAL JUDGE PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is made this 31st day of January, 2025, by and between **Karen Barsch** (the "Alternate Municipal Judge") and the **CITY OF CHERRY HILLS VILLAGE, COLORADO**, a home rule municipal corporation of the State of Colorado (the "City"). The City and the Alternate Municipal Judge are referred to in this Agreement as the "Parties."

RECITALS AND REPRESENTATIONS

WHEREAS, the City is authorized by Section 13-10-105, C.R.S., Section 7.1(b) of the Home Rule Charter, and Section 2-4-40 of the Cherry Hills Village Municipal Code ("Code") to appoint an Alternate Municipal Judge to preside over the Municipal Court; and

WHEREAS, pursuant to Section 7.1(b) of the Home Rule Charter, the Municipal Court shall be presided over and its functions exercised by one or more municipal judges, appointed by the Council for a term to be at the pleasure of the Council, with the municipal judges receiving compensation in an amount to be fixed by the City Council from time to time; and

WHEREAS, Karen Barsch has held herself out to be qualified to serve as a municipal judge for the City in compliance with Section 2-4-40(b) of the Code; and

WHEREAS, the Alternate Municipal Judge desires to accept the appointment under the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual promise and covenants set forth below, the City and the Alternate Municipal Judge agree as follows:

1. **APPOINTMENT.** Pursuant to Resolution 3, Series 2025 adopted by the City Council contemporaneously with the approval of this Agreement, Karen Barsch is appointed to serve as the Alternate Municipal Judge for the City's Municipal Court effective January 31, 2025. The City may appoint, at the City's expense, other judges as the City determines to be in its best interest.
2. **TERM OF APPOINTMENT.** In accordance with Section 7.1(b) of the Home Rule Charter and Section 2-4-40 of the Municipal Code, and as set forth in Resolution 3, Series 2025, this term of appointment will be from January 31, 2025 to January 31, 2027 ("Term"). Either party may terminate this Agreement, without cause and for any reason, by providing at least sixty (60) days written notice.
3. **DUTIES.** The Alternate Municipal Judge promises to perform the duties required by and set forth in Section 7.1 of the Home Rule Charter and Chapter 2, Article IV of the Cherry Hills Village Municipal Code ("Code"). While fulfilling these duties, the Alternate Municipal Judge is expected to:
 - Attend all court dates for arraignment and trials, unless other arrangements have been made for coverage.

- Coordinate with City staff on all operational aspects of the municipal court, including establishing the necessary standards and procedures for the operation of the court.
- Conduct arraignments, trials, hearings, sentencings, and case dispositions. Issue written and/or oral findings and judgments when necessary.
- Manage the courtroom to ensure efficiency, orderliness, and justice.
- Enforce the ordinances of the City.
- Ensure that all defendants understand their rights and, if applicable, knowingly waive their rights.
- Explain the law and legal systems to defendants, provided that in no case shall such explanation imply any requirement to provide legal advice.
- Evaluate evidence, testimony, and legal pleadings.
- Interpret and apply appropriate ordinances, municipal code provisions, and regulations.
- Impose fines and penalties as prescribed by the municipal code or ordinances. Assess and oversee collection of penalties.
- Order and enforce contempt, failure to appear, abatement of nuisance, and other requirements of the municipal code or City ordinances.
- Maintain qualifications required by the Charter and Code.

The City will not instruct the Alternate Municipal Judge as to how to conduct court sessions or how to adjudicate the cases that come before her. The Alternate Municipal Judge acknowledges that maintaining membership in the Colorado Municipal Judges Association may be beneficial in fulfilling the expectations outlined above.

4. **INDEPENDENT CONTRACTOR.** The Alternate Municipal Judge is an independent contractor within the meaning of Colorado law. The Alternate Municipal Judge shall not be considered an employee of the City for any purpose. Except as specifically set forth in this Agreement, the City shall not be obligated to secure and shall not provide any benefits of any kind or type to or for the Alternate Municipal Judge, including but not limited to disability insurance, errors and omissions insurance, vacation or sick leave, or retirement contributions. Nothing contained herein shall be construed to limit the right of the Alternate Municipal Judge to engage in other employment or independent contractor positions, whether in the legal field or otherwise, provided that such employment or position does not create a conflict of interest with the performance of the Alternate Municipal Judge's duties to the City of Cherry Hills Village or require modification of the City's Municipal Court schedule. Notwithstanding the foregoing, if the City wishes to expand or change the current court sessions, it will coordinate the new schedule with the Alternate Municipal Judge's availability; however, the City will make the final decision concerning the dates and times of the Municipal Court sessions.

THE ALTERNATE MUNICIPAL JUDGE ACKNOWLEDGES THAT SHE IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS THE ALTERNATE MUNICIPAL JUDGE OR SOME ENTITY OTHER THAN THE CITY PROVIDES SUCH BENEFITS. THE ALTERNATE MUNICIPAL JUDGE FURTHER ACKNOWLEDGES THAT SHE IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS. THE ALTERNATE MUNICIPAL JUDGE ALSO ACKNOWLEDGES THAT SHE IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.

5. **COMPENSATION.** The City promises to pay the Alternate Municipal Judge a fee of seven hundred fifty dollars and no cents (\$750.00) for each Court session, upon receipt of invoices by the City Finance Director. The City promises to pay compensation at regular intervals consistent with the City's normal accounts payable practices.
6. **REIMBURSABLE EXPENSES AND COSTS.** The Alternate Municipal Judge is not entitled to reimbursement for vehicle mileage expenses or any other personal expenses or costs associated with performing the duties associated with this Agreement.
7. **CODE OF JUDICIAL CONDUCT.** The Alternate Municipal Judge promises to comply with the Colorado Code of Judicial Conduct, as adopted and amended by the Supreme Court of Colorado, during the performance of judicial duties as authorized by law. The Office of Attorney Regulation Counsel will determine any grievance or complaint.
8. **CITY CODE OF ETHICS.** The Alternate Municipal Judge promises to abide by the City's Code of Ethics, as set forth in Chapter 2, Article IX of the City's Municipal Code, as may be amended from time to time.
9. **INSURANCE.** The City promises to obtain and continue in place insurance coverage which includes the Alternate Municipal Judge while performing duties within the scope of this Agreement. Notwithstanding that the Alternate Municipal Judge acts as and is compensated as an independent contractor, pursuant to Section 7.1(b) of the City's Home Rule Charter and Section 2-3-10(a) of the Cherry Hills Village Municipal Code, the Alternate Municipal Judge as an appointed municipal official will be covered by the City's insurance for claims arising out of injuries sustained from an act or omission occurring during the performance of his duties, except for willful and wanton acts.
10. **APPOINTMENT SUBJECT TO PROVISIONS OF MUNICIPAL CHARTER AND CODE.** The Alternate Municipal Judge will, during the performance of his duties, be bound by this Agreement and the provisions of the Home Rule Charter and Municipal Code of the City of Cherry Hills Village, as may be amended from time to time.
11. **ARTICLE X, SECTION 20.** The City is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The appointment and compensation recited in this Agreement do not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and all payment obligations of the City are conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Upon the failure to appropriate such funds, the appointment made hereunder shall be terminated.
12. **RESERVED.**

13. ENTIRE AGREEMENT. This Agreement and any City Charter provision, ordinance, or state statute governing the conduct and terms of the appointment of the Alternate Municipal Judge constitutes the entire agreement between the parties and is binding upon and inures to the benefit of the Alternate Municipal Judge's heirs at law and executors.

14. NOTICE. Unless otherwise provided in this Agreement, any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent via pre-paid, first-class United States Mail, to the party at the address set forth below.

<u>If to the City:</u>	<u>If to Alternate Municipal Judge:</u>
<p>City of Cherry Hills Village Attn: City Manager 2450 E. Quincy Avenue Cherry Hills Village, Colorado 80113</p>	<p>Karen Barsch  Cherry Hills Village, CO 80121</p>
<p>With Copy to: Cherry Hills Village City Attorney Michow Guckenberger McAskin LLP 5299 DTC Boulevard, Suite 300 Greenwood Village, CO 80111</p>	<p>With Copy to:</p>

15. SEVERABILITY. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in full force and effect.

16. AMENDMENTS. The terms and conditions of this Agreement may be modified only by written amendment executed by the Alternate Municipal Judge and the City.

17. GOVERNING LAW AND VENUE. This Agreement must be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement must be in the appropriate court for Arapahoe County, Colorado.

18. NO WAIVER. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

19. NO WAIVER OF GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or modify any judicial or governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, or any other person acting on behalf of the City and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.

20. PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

21. PROTECTION OF PERSONAL IDENTIFYING INFORMATION. In the event the services provided under this Agreement include or require the City to disclose to the Alternate Municipal Judge any personal identifying information as defined in C.R.S. § 24-73-101,

Alternate Municipal Judge shall comply with the applicable requirements of C.R.S. §§ 24-73-101, et seq., relating to third-party services providers.

22. **RELEASE OF INFORMATION.** The Alternate Municipal Judge shall not, without the prior written approval of the City, release any privileged or confidential information obtained in connection with the services provided under this Agreement.
23. **ASSIGNMENT.** Neither this Agreement nor any of the rights or obligations of the Alternate Municipal Judge hereto shall be assigned, delegated, or subcontracted without the prior written consent of the City. Neither this Agreement nor any of the rights or obligations of the City hereto shall be assigned without the prior written consent of the Alternate Municipal Judge.
24. **NO THIRD-PARTY BENEFICIARIES.** Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or subcontractor of the Alternate Municipal Judge. Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.
25. **AUTHORITY.** The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the City of Cherry Hills Village and the Alternate Municipal Judge and bind the respective parties.
26. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.
27. **FORCE MAJEURE.** Neither the Alternate Municipal Judge nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

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Signature page follows



IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed on its behalf by the Mayor and the Alternate Municipal Judge has signed and executed this Agreement as of the day and year first written above.

CITY OF CHERRY HILLS VILLAGE

Kathleen O'Brown
Kathleen Brown, Mayor

ATTEST:

Laura Gillespie
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

Kathie B. Guckenberger
Kathie B. Guckenberger, City Attorney

ALTERNATE MUNICIPAL JUDGE

Karen Barsch
Karen Barsch

STATE OF COLORADO)
)
COUNTY OF ARAPAHOE)
) ss.

The foregoing Alternate Municipal Judge Professional Services Agreement was subscribed, sworn to and acknowledged before me this 28th day of January, 2025 by Karen Barsch.

My commission expires: 10-30-27

(S E A L)

ARIANA ELIZABETH LOVEBERRY
Notary Public
State of Colorado
Notary ID # 20234041160
My Commission Expires 10-30-2027

Notary Public