

NORTH CAROLINA  
CITY OF DURHAM

MEMORANDUM OF AGREEMENT  
EMERGENCY JUDGE

This Memorandum of Agreement (MOA) is entered on the \_\_\_\_ day of \_\_\_\_\_, 2011 between the City of Durham (hereinafter “the City”); Judge Marcia Morey, Chief District Court Judge of the 14th Judicial District (hereinafter “the Chief District Court Judge”); and the North Carolina Administrative Office of the Courts (hereinafter “the NCAOC”) for the purpose of having an Emergency Judge assigned to hold court in the 14th Judicial District.

Whereas, the City desires to provide additional days of court to handle the expanding docket of domestic violence cases in the 14th Judicial District.

Whereas, there is an insufficient number of judges in the 14th Judicial District to provide additional days of court.

Whereas, the City and Chief District Court Judge agree that it would be to the benefit of the public and the parties to provide for the speedy disposition of cases involving domestic violence or other offenses involving a threat to public safety.

Whereas, the City and Chief District Court Judge agree that the Chief District Court Judge will assign the Emergency Judge or some other District Court Judge to preside over Domestic Violence Court. If a District Court Judge other than the Emergency Judge is assigned to Domestic Violence Court, such other Judge shall not be compensated or reimbursed for expenses under the terms of this MOA.

Whereas, the City has budgeted the sum of \$84,476 to provide for additional days of court and desires to pay this amount to the NCAOC which would, in turn, pay the compensation and expenses of an Emergency Judge to hold court four days per week for 48 weeks (192 days total).

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, the City agrees to provide funds and the NCAOC agrees to administer those funds for the purpose set forth above.

THE TERMS AND CONDITIONS OF THIS AGREEMENT ARE AS FOLLOWS:

1. The Memorandum of the Director of the NCAOC dated July 27, 2009 that establishes a program to utilize Emergency Judges, attached hereto, is incorporated as if fully set forth herein.
2. The term of this MOA shall be for a period of one year, beginning on July 1, 2011 and terminating on June 30, 2012.

3. The NCAOC will coordinate the assignment of one (1) Emergency Judge for additional days of court. The Emergency Judge will preside over court at times and places designated by the Chief District Court Judge for so long as funding is provided for that purpose.
4. The Chief District Court Judge shall provide space and furnishings for the program commensurate with other district court judges' offices. The NCAOC shall provide administrative services but shall not contribute funds or be responsible for any operating expenses of the project.
5. NCAOC shall invoice the City on a monthly basis, which invoice will include salary, travel, and subsistence of the Emergency Judge as set forth in Appendix A, attached and incorporated herein by reference. The City shall reimburse the NCAOC within 30 days of the invoice. Payment shall be sent to the Financial Services Division of the NCAOC.
6. NCAOC shall promptly provide to the City, upon request, an accounting for the expenditures set forth therein before payments are submitted. The City and the NCAOC shall maintain all appropriate documentation for expenditures under this MOA for examination by the Office of the State Auditor.
7. This MOA may only be amended by written consent of all the parties.
8. The parties to this MOA agree and understand that the payment of the sums specified in this MOA is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the City. Failure of the City to provide funding to the NCAOC shall constitute an implied termination.
9. This MOA may be terminated in the discretion of the undersigned, the Chief District Court Judge of the district utilizing the Emergency Judge, or the City.
10. All notices and other communications required or permitted by this MOA shall be in writing and shall be given either by personal delivery, verified facsimile, or certified United States mail, return receipt requested, addressed as follows:

For the CITY:                    Thomas J. Bonfield, City Manager  
    101 City Hall Plaza  
    Durham, NC 27701  
    (919) 560-4222 phone  
    (919) 560-0020 fax

For the JUDGE:                Judge Marcia H. Morey, Chief District Court Judge  
    Judicial District 14  
    Durham County Judicial Building  
    201E Main St, Suite 656  
    Durham, NC 27701  
    (919) 564-7240 phone  
    (919) 564-7131 fax

For the NCAOC: Judge John W. Smith, Director  
North Carolina Administrative Office of the Courts  
PO Box 2448  
Raleigh, NC 27602  
(919) 890-1391 phone  
(919) 890-1915 fax

The undersigned represent and warrant that they are authorized to execute this MOA on behalf of their respective entities. The NCAOC and the City have executed this MOA in triplicate originals, with one original being retained by each party.

ATTEST:

CITY OF DURHAM

\_\_\_\_\_

BY: \_\_\_\_\_

CHIEF DISTRICT COURT JUDGE  
14th JUDICIAL DISTRICT

Attest:

BY: \_\_\_\_\_  
Marcia H. Morey

\_\_\_\_\_

NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS

BY: \_\_\_\_\_  
Judge John W. Smith, Director

Attest: \_\_\_\_\_

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
City Finance Officer

\_\_\_\_\_  
Date

**OFFICE OF THE DIRECTOR  
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS**

**MEMORANDUM ESTABLISHING A PROGRAM TO UTILIZE EMERGENCY JUDGES THROUGH CONTRIBUTIONS FROM LOCAL GOVERNMENTS AND OTHER APPROPRIATE SOURCES DURING THIS PERIOD OF ECONOMIC CRISIS.**

Whereas, the commissioning of emergency district court judges to assist in cases where the chief district court judge determines that a need exists is dependent upon the availability of funds with which to compensate an emergency judge; and

Whereas, the availability of funds is severely limited by the reduction of the monthly allotment from the State's general fund by the Governor due to the severe recession in which we find ourselves and her constitutional obligation to balance the budget; and

Whereas, this reduction in funding has required that the use of emergency judges be severely restricted or eliminated entirely; and

Whereas, this has caused the cancellation of sessions of court and elimination of beneficial court programs at the local level; and

Whereas, funding of the use of emergency judges through grant funds for special purposes has established a precedent for funding of emergency judges from sources other than the general fund; and

Whereas, the North Carolina Administrative Office of the Courts has been contacted by agents of local governments and other tax-exempt entities offering to make available funds with which to compensate emergency judges during this financial crisis until funding can be restored; and

Whereas, G.S. §§7A-300, 153A-212.1 and 160A-289.1 permit a cooperative arrangement to pay for the compensation and expenses of an emergency judge which could not otherwise be provided using state funds; and

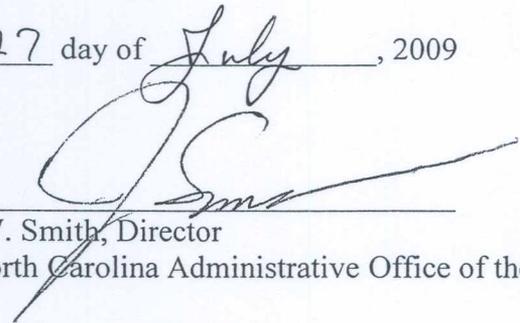
Whereas, the undersigned has conferred with the Assistant Director and has determined that no conflict exists arising from the use of local government and other tax-exempt entities and that emergency judges are available to accomplish the purposes set forth in this Memorandum.

Therefore it is directed that:

1. The North Carolina Administrative Office of the Courts shall accept funding from local governments and other tax-exempt entities to pay for the compensation and expenses related to the use of emergency judges properly commissioned and assigned by the Assistant Director during this economic crisis.

2. All funds received shall be managed in accordance with the same accounting safeguards applicable to grant and public funds generally administered by or through the North Carolina Administrative Office of the Courts.
3. Funding and assignments of judges shall be subject to the terms and conditions set forth in a Memorandum of Agreement (MOA) signed by the undersigned, the chief district court judge of the district to which the emergency judge is assigned, and the funding sources which MOA shall incorporate this Memorandum.
4. All funding under these MOAs shall be disbursed by the North Carolina Administrative Office of the Courts in the same manner as general funds used for the purpose of compensation and reimbursement of emergency judges generally.

This 27 day of July, 2009

  
\_\_\_\_\_  
John W. Smith, Director  
The North Carolina Administrative Office of the Courts



## **APPENDIX B**

### **Reporting Requirements**

1. Each month, the Chief District Court Judge shall submit to the City a report on activities of the previous month, including the number of Domestic Violence Court sessions held by the Emergency Judge and the number of domestic violence cases heard by the Emergency Judge in each session. The report need not include case numbers or party names.
2. The Chief District Court Judge's failure to provide monthly reports in a timely manner shall not absolve the City from paying invoices pursuant to paragraph 5 of the MOA.