

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of October, 2017, by and between the City of Joplin, Missouri, a municipal corporation, hereinafter called the "City", and John Podleski, hereinafter called "Podleski" or "Municipal Judge".

W I T N E S S E T H :

WHEREAS, it is the desire of the City Council to secure and retain the services of Podleski as the Municipal Judge on a contractual basis; and,

WHEREAS, City finds Podleski qualified to serve as Municipal Judge as provided by Section 9.02 of the Home Rule Charter of the City of Joplin; and,

WHEREAS, City desires to contract with Podleski to perform services as Municipal Judge of the City of Joplin; and,

WHEREAS, Podleski desires to contract with the City of Joplin as the Municipal Judge of said City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Duties. City agrees to employ Podleski as Municipal Judge of the Municipal Court of the City of Joplin, Missouri, to perform the functions and duties of the office of Municipal Judge as set forth by law, ordinance, and the City Charter, and to perform such other legally permissible and proper duties and functions as the City Council shall from time-to-time assign to the Municipal Judge.

2. Term. (a) The parties recognize and agree that Podleski is to serve as Municipal Judge for a term of four (4) years, and that he serves and will continue to serve until his successor is selected and qualified as provided in Section 9.02 of the Home Rule

Charter of the City of Joplin, Missouri; the parties further agree that neither this Agreement nor the continued service of Podleski during the term of this Agreement beyond the initial four (4) year term shall be construed as an appointment or re-appointment of Podleski for another four (4) year term; the parties further agree that after the expiration of the initial four (4) year term, the requirement in Section 9.02 of the aforesaid Charter which allows removal only for cause by a two-thirds (2/3rds) vote of the Council after hearing before the Council will not be applicable, and that this Agreement and the services of Podleski as Municipal Judge shall be terminable as provided in Section 9. of this Agreement.

(b) The term of this Agreement shall be for a period of four (4) years commencing on October 3, 2017, and continuing until October 2, 2021. Thereafter, the services of Podleski as Municipal Judge shall continue on a year-to-year basis in exchange for the compensation herein described and upon the terms and conditions of this Agreement, contingent upon the annual budgeting of funds by the Council of the City, unless modified or amended by both City and Podleski in writing or terminated pursuant to Section 9. herein.

(c) Either party may terminate this Agreement pursuant to Section 9. herein.

(d) The parties existing contract for Podleski's employment as the associate municipal court judge shall be terminated upon execution of this Agreement.

3. Compensation. The City agrees to pay Municipal Judge for his services rendered pursuant hereto an annual base salary of Ninety Thousand Two Hundred Sixty Five Dollars and 00/100 Dollars (\$90,265.00), payable in installments at the same time

as other employees of the City are paid; provided, however, the annual Budget adopted pursuant to Section 4.11 of the Home Rule Charter shall constitute a modification of the agreed annual base salary set forth in this Agreement during the fiscal year said annual Budget is in effect; provided further, if the employment of Podleski as Municipal Judge shall be terminated at any time pursuant to Section 9.02 of the Home Rule Charter of the City of Joplin, Missouri, or to Section 9. of this Agreement, or if Podleski shall be unable to perform his duties because of death or incapacity, or if Podleski shall voluntarily resign at any time from his position with the City, then in such event Podleski shall be entitled only to that portion of his annual base salary as shall be due upon the effective date of his death, incapacity, removal, or resignation. Podleski shall also be entitled to accrue benefits through LAGERS and shall receive deferred compensation in the amount of \$250.00 per month. No other benefits, including health, dental and vision are to be provided to Podleski.

4. Hours of Work. It is recognized that the Municipal Judge is a full-time contractual employee of the City and he shall devote adequate time to the duties of his office so that he shall fulfill the requirements of the job in a professional and workmanlike manner. Open Court shall be held on at least four (4) days weekly, on such days, and at such times, as shall most effectively spread the workload of the Municipal Court and serve the convenience of the public. Podleski maintains the right to provide legal services to clients so long as it does not interfere with the operation of the Municipal Court.

5. Continuing Legal Education. City agrees that the Municipal Judge may attend continuing legal education (CLE) training programs and related programs for Municipal Judges as provided in the yearly Budget.

6. Associate Municipal Judge. The Associate Municipal Judge shall be appointed in accordance with Section 42-52 of the Joplin City Code, with the approval of the Mayor and City Council. The Associate Municipal Judge shall act at such times as requested by the Municipal Judge, or when the Municipal Judge is absent or unable to serve in his official capacity or as otherwise required. The Associate Municipal Judge shall be paid by the Municipal Judge out of the salary he receives under this Agreement.

7. Other Terms and Conditions of Employment. The City Council shall fix any such other terms and conditions of employment, as it may determine from time-to-time, relating to the performance of the Municipal Judge, provided that such terms and conditions are not inconsistent with, or in conflict with, the provisions of this Agreement, the Joplin City Code, the Home Rule Charter of the City of Joplin, or any other law.

8. Limitations – State and Federal Law. Notwithstanding any provision or agreement herein contained, it is specifically understood and agreed between the parties that the commitments made by the City are subject to any valid limitation placed thereon by the Constitutions of the United States of America or State of Missouri, and all statutes, laws, or judicial decisions of the State of Missouri and the United States of America.

9. Termination.

(a) The City Council of the City of Joplin, Missouri, may terminate this Agreement pursuant to Section 9.02 of the Home Rule Charter of the City of Joplin,

Missouri, and remove Podleski from office at any time for cause by a two-thirds (2/3rds) vote of the Council after a hearing before the Council;

(b) After the expiration of the initial four (4) year term, either party may terminate this Agreement, without cause, upon written notice of the intent to terminate given at least ten (10) days prior to the expiration of any one-year (1) term;

(c) Podleski may voluntarily resign his position as Municipal Judge at any time by giving a minimum of ninety (90) days notice.

10. Non-Delegation. This Agreement shall be binding upon and inure to the benefit of the personal representatives and heirs of the Municipal Judge; provided however, this is an agreement for personal services, and the duties required of Podleski shall not be assigned or delegated except as provided in Section 6. of this Agreement, or as otherwise required by law.

11. Headings. The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

12. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

13. Waiver or Breach. Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall

not be deemed a waiver of such rights. Should City be required to institute legal action to enforce any of its rights set forth in this Agreement, then City shall be entitled to reimbursement for all reasonable attorneys' fees and costs incurred as determined by the Court in any such cause of action.

14. Severability. If any of the provisions of this Agreement shall be construed to be invalid or illegal, the legality or validity of the other provisions of this Agreement shall not be affected thereby. Any illegal or invalid provision of this Agreement shall be severable and any other provisions shall remain in full force and effect.

15. Binding Effect. The provisions herein shall operate as a covenant running with the land and shall bind both parties hereunto and their respective successors and assigns.

16. Representations. The signatories hereto represent and warrant that they have read this Agreement, that they are fully authorized in the capacities shown, that they understand the terms of this Agreement, and that they are executing the same voluntarily and solely for the consideration described herein.

17. Choice of Law. This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

IN WITNESS WHEREOF, the City of Joplin, Missouri, has caused this Agreement to be signed and executed on its behalf by Mayor Michael Seibert, and duly

attested by Barbara L. Hogelin, City Clerk, and Municipal Judge John Podleski, has signed and executed this Agreement, in duplicate, the day and year first above written.

MUNICIPAL JUDGE

By: _____
John Podleski

ATTEST:

CITY OF JOPLIN, MISSOURI,
a Municipal Corporation

By: _____
Michael Seibert, Mayor

ATTEST:

Barbara L. Hogelin, City Clerk

APPROVED AS TO FORM:

Peter C. Edwards, City Attorney