CITY OF JOPLIN
COUNCIL AGENDA ITEM

ITEM
Council Bill 2020-001 – authorizing the City of Joplin to approve an Employment Agreement by and between the City of Joplin and Nicholas Edwards for the purpose of employment as City Manager.

MEETING DATE
March 16, 2020

REVIEWED BY
Peter Edwards, City Attorney; Daniel Pekarek, Interim City Manager; Leslie Haase, Finance Director.

SUMMARY
This Council Bill authorizes the City of Joplin to enter into an Employment Agreement with Nicholas Edwards for the purpose of employing him as City Manager for the City of Joplin.

BACKGROUND

On March 16, 2020, the Council appointed Mr. Nicholas Edwards as the City Manager. In order to protect the interests of both the City and Mr. Edwards, it is necessary to approve a contract between the parties.

Following is the financial arrangement for Mr. Edwards' employment:

- Salary – Starting salary of $160,000.00 per year.
- Deferred Compensation – the amount of Four Hundred Twenty Dollars ($420.00) per month to an ICMA Retirement Corporation Deferred Compensation Account.
- Vacation Leave – Employee will accrue vacation leave beginning at three (3) weeks per year. Employee shall be credited with forty (40) hours upon commencement of employment.
- Sick Leave – Employee will accrue sick leave pursuant to City policy.
- Automobile Allowance – Employee will be provided an automobile allowance at the rate of Six Thousand Dollars ($6,000.00) per year.

RECOMMENDATION
Staff recommends this Council Bill be passed on an Emergency basis.

ATTACHMENTS
Council Bill 2020-001
Exhibit "A" – Employment Agreement

EMPLOYMENT AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2020, by and between the **City of Joplin, Missouri**, a municipal corporation (hereinafter called "Employer"), and **Nicholas Edwards**, (hereinafter called "Employee"), an individual, who agree as follows:

Section 1: Term

The appointment of Employee as City Manager shall be for an indefinite term, and nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Employee at any time pursuant to the terms in this Agreement and/or the Home Rule Charter of the City of Joplin, Missouri.

Section 2: Duties and Authority

A. Employer agrees to employ Nicholas Edwards as City Manager to perform the functions and duties specified in Article III of the Joplin Home Rule Charter and/or ordinances and to perform other legally permissible and proper duties and functions.

B. Employee is the City Manager of the Employer and shall faithfully perform the duties as prescribed in the job description as set forth in the Employer's Charter and/or ordinances and as may be lawfully assigned by the Employer and shall comply with all lawful governing body directives, state and federal law, Employer policies, rules and ordinances as they exist or may hereafter be amended.

C. Specifically, it shall be the duty of the Employee to employ on behalf of the Employer all other employees of the organization consistent with the policies of the governing body and the ordinances and Charter of the Employer.

D. It shall also be the duty of the Employee to direct, assign, reassign, and evaluate all of the employees of the Employer consistent with policies, ordinances, charter, state and federal law.

E. It shall also be the duty of the Employee to organize, reorganize, and arrange the staff of the Employer and to develop and establish internal regulations, rules and procedures which the Employee deems necessary for the efficient and effective operation of the Employer consistent with the lawful directives, policies, ordinances, state and federal law.

F. It shall also be the duty of the Employee to accept all resignations of employees of the Employer consistent with the policies, ordinances, state and federal law, except the Employee's resignation which must be accepted by the governing body.

G. The Employee shall perform the duties of City Manager of the Employer with reasonable care,

diligence, skill, and expertise.

H. All duties assigned to the Employee by the governing body shall be appropriate to, and consistent with, the professional role and responsibility of the Employee.

I. The Employee or designee shall attend, and shall be permitted to attend, all meetings of the governing body, consistent with the Joplin City Charter.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee an annual base salary of One Hundred Sixty Thousand Dollars ($160,000.00) ("base salary"), payable in installments at the same time that the other employees of the Employer are paid.

B. This Agreement shall be automatically amended to reflect any salary adjustments that are agreed to by the City Council and Employee. At any time during the term of the Agreement, Employer may, in its discretion, review and adjust the salary of the Employee, but in no event shall the Employee be paid less than the salary set forth in Section 3A of the Agreement except by mutual written agreement between Employee and Employer, or unless such "across the board" decrease is given to City employees. Such adjustments, if any, shall be made pursuant to a lawful governing body action. In such event, Employer and Employee agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

Section 4: Health, Dental, Vision and Life Insurance Benefits

A. The Employer agrees to provide health, vision and dental insurance for the Employee and his dependents equal to that which is provided to all other employees of the City of Joplin, at Employee's cost. In the event no such plan exists, Employer agrees to provide coverage for the Employee and dependents in a manner mutually agreed upon by Employer and Employee.

B. Employee is entitled to receive term life insurance in the amount of one and a half (1.5) times the Employee's annual base salary, including all increases in the base salary during the life of this agreement, at Employee's cost. The Employee shall name the beneficiary of the life insurance policy.

Section 5: Vacation and Sick Leave

A. Upon commencing employment, the Employee shall begin accruing vacation leave hours and sick leave hours under the same rules and provisions applicable to other employees. However, Employee shall be entitled to three (3) weeks (15 working days) of earned vacation each year. After five (5) years of employment, Employee shall receive four (4) weeks (twenty (20) working days) of earned vacation each year. Employee shall be credited with forty (40) hours of vacation upon commencing employment with the City.

B. The Employee is entitled to accrue all unused leave, according to city policy, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be only compensated for all accrued vacation time and unused floating holidays.

Section 6: Automobile

The Employee's duties require exclusive and unrestricted use of an automobile to be mutually agreed upon and provided to the Employee at the Employer's cost, subject to approval by Employer which shall not be withheld without good cause. It shall be mutually agreed upon whether the vehicle is purchased by the Employer, provided under lease to the Employer or to the Employee, or provided through a monthly allowance. The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of Six Thousand Dollars ($6,000.00) per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle.

Section 7: Retirement

The Employer agrees to enroll the Employee into the applicable state or local retirement system and to make all the appropriate contributions on the Employee's behalf. In addition to the Employer's payment to the state or local retirement system (as applicable) referenced above, Employer agrees to execute and keep in force all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or any other Section 457 deferred compensation plan for Employee's [continued] participation in said supplementary retirement plan. In addition to the base salary paid by the Employer to Employee, Employer agrees to pay a fixed dollar amount of Four Hundred Twenty Dollars ($420.00) per month into the designated plan on the Employee's behalf, in an equal proportionate amount each pay period. The Employer and Employee shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

Section 8: Moving Expenses.

City agrees to pay to Employee the sum of Five Thousand Dollars ($5,000.00) for moving/relocation expenses he will incur in relocating to Joplin within forty-five (45) days of the date of this Agreement.

Section 9: General Business Expenses

A. Employer agrees to pay for professional dues, including, but not limited to, the International City/County Management Association, and subscriptions of the Employee necessary for

continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

B. Employer agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, the state league of municipalities, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member, consistent with the Employer's travel policy.

C. Employer also agrees to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.

D. Employer recognizes that certain expenses of a non-personal, but job related nature, are incurred by Employee, and agrees to reimburse or to pay said general expenses. Such expenses may include meals where Employer business is being discussed or conducted and participation in social events of various organizations when representing the Employer. Such expenditures are subject to annual budget constraints as well as state and Employer ethics and purchasing policies. The Finance Director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements, or personal affidavits.

E. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

Section 10: Termination

A. "Just Cause" Termination. "Termination for Just Cause" is defined and hereby limited for the purposes of this Agreement to termination by the City of the Employee for any of the following reasons: (a) neglect of duties as city manager; (b) felony or misdemeanor conviction of any crime involving moral turpitude; (c) violation of City Charter provision requiring Employee to devote his full time to his office as City Manager; (d) violation of his duties to the City of honesty, punctuality and sobriety; (e) any other act of a similar nature of the same or greater seriousness. Employer shall utilize the "For Just Cause" termination procedure outlined in Section 2.07 of the Home Rule Charter of the City of Joplin. If Employee is terminated under this process, he shall not be entitled to any further compensation from Employer, except for compensation that was accrued by Employee through the date of termination.

B. "No Cause" Termination. Notwithstanding anything contained herein to the contrary, if the majority of the City Council determines that it is in the best interests of the City for Employee to be terminated without cause, the Employer agrees to pay Employee cash payments equal to his monthly base salary each pay period so long as he remains unemployed, but not to exceed six (6)

months from the date of termination. City shall also pay Employee a sum equal to his COBRA premiums for his health, vision and dental insurance so long as he remains unemployed, but not to exceed six (6) months from the date of termination. Employee and Employer agree that this "no cause" termination process is separate and apart from the "for cause" termination process outlined in Section 2.07 of the Home Rule Charter, and Employee waives any rights that he is afforded under Section 2.07 in the case of a "for cause" termination, in exchange for separation pay outlined herein. Employee agrees that this clause is supported by adequate consideration. It is further understood that Employee will be responsible for any Federal or State income taxes owing on all payments made to him pursuant to this paragraph.

C. In the event that Employee becomes totally disabled or dies during the term of his employment as City Manager with the City, then the City's only obligation to Employee shall be his accrued but unpaid compensation (including earned vacation) up until the date of his total disability or death, plus any other benefits granted other City employees in the same or similar circumstances.

D. Upon any separation of employment from the City, Employee shall receive compensation for his unused vacation time and floating holidays, but shall not receive any compensation for unused sick time.

Section 11: Resignation

In the event that the Employee voluntarily resigns his position with the Employer, the Employee shall provide a minimum of thirty (30) days' notice unless Employer and Employee agree otherwise and shall not be entitled to any further compensation after the date of resignation.

Section 12: Performance Evaluation

Employer shall annually review the performance of the Employee.

Section 13: Hours of Work

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end, Employee shall be allowed to establish an appropriate work schedule.

The schedule shall be appropriate to the needs of the Employer and shall allow Employee to faithfully perform his assigned duties and responsibilities. Employee shall not be entitled to any additional salary nor shall Employee be entitled to take compensatory time off to make up for the time spent outside normal office hours; provided, however, that reasonable time off (generally one-half day or less) is authorized to attend to personal matters.

Section 14: Outside Activities

The employment provided for by this Agreement shall be the Employee's primary employment. Employer recognizes that a teaching opportunity could arise for Employee. In the event that such an opportunity arises, Employee shall notify Employer with specific details of the teaching opportunity, and Employer shall have the exclusive right to approve or deny Employee's request to take the teaching opportunity. In no event shall the teaching opportunity constitute interference with nor a conflict of interest with Employee's responsibilities under this Agreement.

Section 15: Other Terms and Conditions of Employment

A. The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with, or in conflict with, the provisions of this Agreement, the Joplin Home Rule Charter, local ordinances or any other law.

The Employer has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and unappropriated funds of the municipality in an amount sufficient to fund and pay all financial obligations of the Employer pursuant to this Agreement.

B. Employee shall reside within the corporate boundaries of the City of Joplin at all times after three (3) months from the date first written above.

Section 16: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, and addressed as follows:

(a) EMPLOYER: City of Joplin
602 S. Main Street
Joplin, Missouri 64801

(b) EMPLOYEE: Nicholas Edwards
City Manager
602 S. Main Street
Joplin, Missouri 64801

Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 17: General Provisions

A. *Integration.* This Agreement sets forth and establishes the entire understanding between the

Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the Employer and Employee are merged into and rendered null and void by this Agreement. The Employer and Employee by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. *Binding Effect.* This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives, and successors in interest.

C. *Severability.* The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both Employer and Employee subsequent to the expungement or judicial modification of the invalid provision.

D. Notwithstanding any provision or agreement herein contained, it is specifically understood and agreed between the parties that the commitments made herein by the City are subject to any valid limitation placed thereon by the constitution, statutes and laws of the State of Missouri.

IN WITNESS WHEREOF, the City of Joplin, Missouri, has caused this Agreement to be signed and executed on its behalf by Mayor Gary L. Shaw, and duly attested by its City Clerk, and the Employee has signed and executed this Agreement, in duplicate, the day and year first above written.

CITY OF JOPLIN, MISSOURI
A Municipal Corporation

By: _____
Gary L. Shaw, Mayor

Executed this the ____ day of _____, 2020.

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

NICHOLAS EDWARDS, Employee

By: _____
Nicholas Edwards

Executed this the ____ day of _____, 2020.

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

COUNCIL BILL NO. 2020-001 ORDINANCE NO.

AN ORDINANCE authorizing the City of Joplin to enter into an Agreement with Nicholas Edwards for the purpose of employing him as City Manager for the City of Joplin; authorizing the Mayor to execute said Agreement by and on behalf of the City of Joplin, Missouri; and containing an emergency clause.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the Agreement by and between the City of Joplin, Missouri, and Nicholas Edwards, employing Mr. Edwards as City Manager for the City of Joplin, a copy of said Agreement being attached hereto and incorporated herein as Exhibit "A", be, and the same is, hereby approved.

Section 2. That the Mayor of the City of Joplin is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin, Missouri.

Section 3. That this Ordinance, dealing with preserving the general welfare, health, and safety of the citizens, and, providing for an expenditure of current expenses of the City, is an emergency within the meaning of Section 2.12(1)(3)(4) of THE HOME RULE CHARTER OF THE CITY OF JOPLIN, MISSOURI, and shall be in full force and effect immediately from and after its passage and approval.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of

_____, 2020, by a vote of _____.

_____
Gary L. Shaw, Mayor

ATTEST:

_____
Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards, City Attorney