

EMPLOYMENT AGREEMENT WITH PRESIDING MAGISTRATE

THIS AGREEMENT is made and entered into this ____ day of _____, 2021 by and between the CITY OF APACHE JUNCTION, an Arizona municipal corporation (hereinafter "City") and AARON DOUGLAS LASOTA (hereinafter "LaSota" or "Employee"), sometimes collectively referred to as the "Parties" and individually as a "Party", each of whom understand as follows:

RECITALS

A. On April 16, 2021, James W. Hazel, Jr. resigned from his position he held for approximately twelve (12) years as the City's Presiding Magistrate.

B. City conducted an open recruitment to fill the vacancy from March through April 2021.

C. City interviewed numerous candidates and LaSota was the leading candidate and met the qualifications under Apache Junction City Code ("A.J.C.C."), Vol. I, Chapter 5: Municipal Court, Article 5-1: Municipal Court, § 5-1-4, Qualifications of City Magistrates.

D. It is the desire of the City to: (1) hire LaSota as the Presiding Magistrate and provide inducement for him to remain in such employment; (2) make possible full work productivity by assuring his morale and peace of mind with respect to future security; (3) guard against any malfeasance or dishonesty; and (4) provide a just means for terminating employment at such time as the duties cannot be fully discharged.

AGREEMENT

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

SECTION 1. DUTIES

City hereby agrees to employ Employee as the Presiding Magistrate to perform the functions and duties specified in the A.J.C.C., Volume I, Chapter 5: Municipal Court, Article 5-1: Municipal Court, § 5-1-7, Powers and Duties of Presiding Magistrate, and as required by law of the State of Arizona, including state statutes and/or rules and administrative orders of the Arizona Supreme Court, as well as the Apache Junction personnel rules and administrative policies.

SECTION 2. TERM/EMPLOYMENT STATUS

A. This Agreement shall be effective from July 12, 2021 through July 12, 2023 (the "Term"), during which time Employee may only be removed for cause, but Employee shall be full-time, Fair Labor Standards Act ("FLSA") exempt and non-merit during such Term.

- B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of City to terminate the services of Employee as provided by state law.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from employment of City, subject only to the provisions set forth in Section 3 of this Agreement.
- D. Employee agrees to remain in the exclusive employ of the City during the Term and neither accept nor become employed by any other employer or private client until contract termination, except that Employee may engage in part-time teaching at a college or university level. Employee may also continue to work as a horse show judge and as Director of Rules for the International Buckskin Horse Association (an unpaid volunteer position which is mostly performed after hours or on weekends from home).

SECTION 3. TERMINATION

- A. In the event Employee voluntarily resigns his position before expiration of the aforesaid Term, Employee shall provide City ninety (90) calendar days advance written notice, or such advance notice as may otherwise be mutually agreed upon by the Parties. In the event Employee is terminated by council action or should City choose not to renew Employee's contract upon said contract's expiration, City will pay as partial contractual compensation severance pay to Employee in an amount equal to three (3) months salary.
- B. City may terminate this Agreement in any of the following situations as per A.J.C.C., Vol. I, § 5-1-3:
 - 1. If Employee pleads guilty or no contest, or is found guilty, of a crime punishable as a felony under any laws of this state, another state, or a federal law, or of any other crime that involves moral turpitude under the laws of this state; or
 - 2. If Employee has a disability that prevents him from performing the essential functions of the position; or
 - 3. If Employee engages in actions constituting willful misconduct in office, willful and persistent failure to perform his duties, or conduct prejudicial to the administration of justice that brings the judiciary into disrepute; or
 - 4. If Employee is subjected to disciplinary action by the Arizona Supreme Court or State Bar of Arizona.

SECTION 4. SALARY AND ANNUAL PERFORMANCE EVALUATION

- A. City agrees to pay Employee for his services rendered pursuant hereto at an annual salary of One Hundred Twenty-Five Thousand Dollars and No Cents (\$125,000.00). Payment of said salary shall be made at the same time and manner as other employees are paid and shall be paid out of the City's general fund. Employee agrees not to seek a salary change or other changes to this Agreement during the Term.**
- B. Employee shall be evaluated annually, to be completed no later than June 1st of each year this Agreement is in effect. The evaluations shall be conducted in accordance with the performance standards as determined by City for said purposes, considering among other items standard for trial judges as established by the Commission on Judicial Performance Review of the Arizona Supreme Court. Nothing in this provision is to be construed as creating either a promise or expectation of reappointment or contract renewal, and it is understood by Employee that any reappointment or renewal would be a matter left to the unconditional discretion of the City through the council.**

SECTION 5. HOURS OF WORK; VACATION; SICK LEAVE; ASSOCIATE AND PRO-TEM JUDGES

- A. Hours Monday - Friday. Employee shall not work less than an average of forty (40) hours per week except when a court holiday occurs. In the event Employee is required to work more than forty (40) hours in a week, Employee shall not be compensated for any additional time.**
- B. Weekend Hours. Employee will provide magistrate services every Friday and every weekend and may provide such services through telephonic or online means for initial appearances, warrants and other critical or emergency public safety needs. Employee may take days off and utilize pro-tem magistrates and/or associate magistrates for up to fifteen (15) weekends (Friday-Sunday) per contract year, for up to thirty (30) weekends (Friday-Sunday) during the two-year term of this contract. City shall provide laptop computer or other technology for work away from court, especially to handle initial appearances and/or warrants and/or other work performed away from the court. Employee anticipates that such computer may be required to be leased from AOC (Supreme Court Administrative Office of the Courts) since court duties are performed and confidential information may be on such computer over time. If so, such expense shall be added to the court budget.**
- C. Holidays. Employee shall be entitled to such City holidays or State holidays for which city employees and/or professional employees who work for the City receive the day off which shall include all declared Holidays by the City. If Employee works on a Holiday, Employee may receive an additional day off to compensate for working on the Holiday.**

- D. **Vacation.** Employee shall on an annual basis accrue One Hundred Fifty (150) vacation hours (Three Hundred Hours (300) total for the two year contract) which shall be credited at the start of each contract year (July 12) each year this Agreement is in effect. Employee shall be allowed to accrue vacation leave beyond the limits of the personnel rules and unused vacation days shall not expire, except that any such accrual shall be paid out to Employee every July 12th this Agreement is in effect. Employee shall also receive one (1) day of Birthday leave per contract year and such leave shall be taken as all other employees are allowed the same privilege.
- E. **Sick Leave.** Employee shall on an annual basis accrue sick leave each year this Agreement is in effect as allowed based on tenure with the City pursuant to Apache Junction Personnel Rules, Rule 8, § 3(A).
- F. **Hours of Work.** It is recognized that Employee must devote a large amount of time outside traditional business hours to the business of the City. Employee shall be permitted to adjust his work schedule as he deems appropriate and consistent with the FLSA, so long as he is available and the judicial administration of the City is not harmed.
- G. **Pro-tem and Associate Judges.** Pursuant to A.J.C.C., Vol. I, § 5-1-6(A), and A.J.C.C., Vol. I, § 5-1-2, Employee may request an associate magistrate or pro-tem judge(s) be hired subject to appointment by the council at a duly scheduled public meeting.

SECTION 6. PROFESSIONAL DEVELOPMENT

- A. City hereby agrees to budget and to pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the State Supreme Court required or recommended professional development of Employee.
- B. City also agrees to budget and to pay for travel and subsistence expenses of Employee for short courses, institutes and seminars which are necessary for professional development and for the good of City, subject to the mayor's determination as to what is necessary.
- C. City agrees to pay professional dues and association dues, which are necessary for participation in national, regional, state and local professional associations, or are reasonably related for the maintenance of professional credentials, or for reasonable professional development, subject to the mayor's determination as to what is necessary.

SECTION 7. OTHER TERMS AND CONDITIONS

- A. City shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or conflict with

the provisions of this Agreement, the Apache Junction City Code, Arizona Revised Statutes, or any other statute, ordinance or regulation.

- B. All action taken by City relating to fringe benefits for employees in the executive ranges shall be considered actions granting the same benefits to Employee. The term "fringe benefits" include vacation and sick leave, holidays, medical/vision/dental/life insurance, equivalent percentage as a step adjustment or equivalent percent increase as a base wage adjustment or cost of living or other general citywide increases adopted by the City or city manager however coded in the City's payroll system under the same terms and conditions as are available to all non-sworn City employees, except however in the case of medical/RX/dental/vision insurance, City shall pay all Employee and family premiums at no cost to Employee for Employee, spousal and dependent child coverage for Medical/RX PPO Buy-Up Plan, Dental Buy-Up plan, and Vision Buy-Up plan or as otherwise directed by Employee at time Employee initially selects such benefits or at time of any open enrollment.
- C. City agrees to pay Employee a mobile phone stipend in the amount of Eight Hundred and Forty Dollars and No Cents (\$840.00) annually.
- D. City shall provide on behalf of Employee a family membership to the multi-Generation Center of Apache Junction.
- E. During each fiscal year this Agreement is in effect, City shall contribute on behalf of Employee Six Thousand Dollars and No Cents (\$6,000.00) into the ICMA 401(a) Profit Sharing Plan. Employee shall be vested in all contributions at the time the City deposits its first contribution into the Plan on behalf of the Employee. Nothing in this paragraph restricts additional Employee contributions into the ICMA 401(A) Profit Sharing Plan.
- F. Employee's address at the end of this agreement shall be redacted whenever published in order to avoid having individuals/groups/entities of any type (other than HR or necessary City employees, department heads, mayor and council) from having a Magistrate's private residence address.

SECTION 8. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

SECTION 9. INDEMNIFICATION

City shall defend, save harmless and indemnify Employee against any torts, professional liability claims or demands or any other legal action, or judicial complaints, whether groundless or otherwise, arising out of any alleged act or omission occurring in the course and scope of performance of Employee's functions and duties. City will compromise and settle or litigate any such claims or

suits and pay the amount of all settlements or judgments rendered against Employee and/or City.

SECTION 10. ATTORNEY FEES

In the event it becomes necessary for either Party to bring legal action to enforce any provision of this Agreement, the Parties agree that the prevailing Party shall be entitled to attorney fees.

SECTION 11. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the Parties. No other promises, representations, warranties, or covenants have been relied on by either Party in executing this Agreement.

SECTION 12. SEVERABILITY

City and Employee each believe that the execution, delivery and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring City to do any act in violation of any applicable laws, including any constitutional provision, law, regulation, or city code), such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the City and Employee as if such severance and reformation were not required. Unless prohibited by applicable laws, the City and Employee further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

SECTION 13. ASSIGNMENT

This Agreement is not assignable by either City or Employee.

SECTION 14. NOTICES

Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, or through overnight carrier service, addressed as follows or as such address may be changed from time to time upon notice to the other:

City: Mayor Walter "Chip" Wilson
City of Apache Junction
300 East Superstition Boulevard
Apache Junction, AZ 85119

Employee: Aaron Douglas LaSota

IN WITNESS WHEREOF, City and Employee have caused this Agreement to be executed the day and year first above written.

EMPLOYEE:

6.21.21

Date

Aaron Douglas LaSota
Aaron Douglas LaSota

CITY OF APACHE JUNCTION,
an Arizona municipal corporation:


Date

Walter "Chip" Wilson

ATTEST:

Jennifer Pena
City Clerk

APPROVED AS TO FORM:

 6.21.21
Richard J. Stern
City Attorney