

CITY ATTORNEY EMPLOYMENT AGREEMENT

THIS AGREEMENT made and entered into this 1st day of October 2022, by and between the City of Ocala, Florida, a Florida municipal corporation (“Employer or Council”) and William Sexton (“Employee or Attorney”) both of whom understand as follows:

WITNESSETH

WHEREAS, City Council formally selected William Sexton to serve in the position of City Attorney on September 1, 2022, and Employer and Employee mutually desire to enter into this City Attorney Employment Agreement for the services of William Sexton as City Attorney of the City of Ocala, Florida, and

WHEREAS, it is the desire of Council to provide certain benefits, establish certain conditions of employment and to set working conditions of said Employee; and

WHEREAS, it is the desire of the Council to: (1) retain the services of the Employee, (2) provide inducement for him to remain in such employment, (3) make possible full work productivity and independence by assuring Employee’s morale and peace of mind with respect to future security, and (4) to provide a just means for terminating Employee’s services at such time that Employer may desire to terminate his employment.

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

Section 1. Incorporation of Recitals. The foregoing recitals are true and correct and incorporated herein by this reference.

Section 2. Powers and Duties of the City Attorney. The City Attorney serves as the chief legal adviser to, and shall represent, elected and appointed officials, boards and commissions, and employees in the course and scope of their official duties and employment respectively. The City Attorney represents the City in legal proceedings and shall perform any other duties prescribed by federal and state law, and by the City Charter. To that end, the City Attorney shall perform all duties as may be required by the Council, not inconsistent with the Charter, law or ordinances, or this Agreement.

Section 3. Term.

A. Pursuant to Section 5.03 of the City Charter, Employer designates William Sexton as the City Attorney of the City of Ocala to perform the functions and duties specified in this Employment Agreement for a term commencing on October 1, 2022 and expiring on October 31, 2024, subject to reappointment by the City Council of the City of Ocala during its second meeting in October of even-numbered years pursuant to Section 2.17 of the City Charter. Thereafter, this Agreement may be renewed for subsequent two-year terms upon reappointment by City Council.

B. The City Attorney serves at the pleasure of the Council and nothing herein shall be taken to prevent, limit or otherwise interfere with the right of the Council to terminate the services of the Employee at any time subject only to the provisions of Section 4 of this Agreement.

C. The term of this Employment Agreement shall be for an initial term beginning October 1, 2022 and concluding on September 30, 2024. This term may be successively extended for a period

of two additional years at a time. Continuation of employment after the initial term shall constitute renewal of this Agreement if a new separate agreement is not negotiated.

D. Employer will provide not less than 90 days' notice of its intention not to reappoint the Employee as City Attorney.

E. In the event Employee voluntarily resigns as City Attorney before expiration of the term of this Agreement, then Employee shall give the Council 90 days' advance notice unless the parties agree otherwise.

Section 4. Termination and Severance Pay.

A. In the event the City Attorney is not reappointed by the Council and the Council does not provide at least a 90-day notice as required in Section 3(D), then Employer agrees to pay Employee a lump sum of cash payment equal to 20 weeks compensation as "severance" as that term is defined in Florida Statute, §215.425(4)(d), to include benefits and perquisites such as retirement contribution, deferred compensation payments, and car allowance. In the event the Employee is terminated without cause at any other time, then Employer agrees to pay Employee a lump sum severance equal to 20 weeks compensation. The Employee shall also be paid out for all earned Paid Time Off (PTO), holidays, and other accrued benefits to-date, calculated at the rate of pay in effect upon termination. If Council provides at least 90 days' notice of intent not to reappoint, Employee may voluntarily separate from City and receive severance equal to remaining term under this employment agreement, shall also be paid out for all earned PTO, holidays, and other accrued benefits to-date, calculated at the rate of pay in effect upon termination.

B. Council may, at any time and in its sole discretion, terminate Employee without cause. In such case, all life, health, dental, disability insurance and all other Employer provided benefits shall continue in force and coverage, at Employer expense, for the earlier of: (i) twenty (20) weeks after termination; or (ii) the date similar coverage is provided to Employee by a subsequent employer and such coverage is in full force and effect. Such continuation of group health insurance coverage shall be in addition to any protection afforded Employee by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Coverage under COBRA shall begin on the date all coverage extended under the severance provisions herein expires.

C. In the event the Council at any time reduces the salary, compensation, or other benefits of the Employee in a greater amount than an applicable across-the-board reduction for all employees of Employer, or in the event the Council refuses to comply with any other provision benefiting the Employee herein, then Employee may at his option, elect to be deemed terminated without cause, as provided herein.

D. In the event the Employee is terminated for "cause," then Employer's only obligation to employee is to pay all compensation and benefits accrued but unpaid at the date of termination. "Cause" is defined and hereby limited for the purposes of this Agreement to the following reasons: (1) willful dereliction of duty; (2) any felony or misdemeanor conviction of any crime involving moral turpitude; (3) material dishonesty; public insobriety or drug or alcohol addiction; (4) misconduct as defined in Florida Statute, §443.036(29) in which case, by statute, such payment would be prohibited; or (5) any other act of a similar nature of the same or greater seriousness.

E. Should the Employee be permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive

weeks beyond any accrued leave, the Council shall have the right to terminate this agreement subject to payment of the severance benefits set forth in Sections 4(A) and (B) above.

F. For purpose of complying with Section 4 of this Agreement, appropriations held as encumbered fund balances in any fund or account shall be deemed to be available and authorized for transfer to the appropriate salary and benefit expenditure accounts to insure fulfillment of this provision of the Employment Agreement.

G. The terms of this Agreement shall remain in full force and effect until employment is terminated under the terms herein, or a new Agreement has been negotiated and entered into by the Employee and Council.

H. Contemporaneously with the delivery of the severance pay hereinabove set out, Employee agrees to execute and deliver to Employer a release releasing Employer of all claims that Employee may have against Employer.

Section 5. Salary. Employer agrees to pay Employee for services rendered pursuant hereto as City Attorney an annual base salary of \$200,000, payable biweekly, effective October 1, 2022.

Section 6. Deferred Compensation. Employer agrees to pay the Employee annual deferred compensation in biweekly installment amounts equal to 5% of base salary. Said deferred compensation shall be paid to a 457-b plan with Mission Square Retirement. Employer agrees the employee's interest is 100% vested when biweekly deposits are made to the plan.

Section 7. Retirement Benefits. The Employee shall participate in the 401-a retirement program maintained by Employer with Mission Square Retirement for the benefit of its' employees. Employer shall contribute 15% of the Employee's salary, as detailed in Section 5, to said plan, in bi-weekly installments. Employee's interest is 100% vested upon biweekly deposits to the plan.

Section 8. Insurance Coverage.

A. Employee shall be entitled to participate in the same health, eye care, and dental plans as all other employees and on the same payment basis as all other employees.

B. Employer will pay for term life insurance equal to the employee's base salary rounded to even thousands plus \$100,000 in additional life insurance.

Section 9. Automobile, Travel Reimbursement and Cell Phone. Employer shall provide a car allowance of \$500.00 per month to the Employee, payable biweekly. Said car allowance shall be provided in lieu of a city vehicle. All business travel outside of Marion County shall be reimbursed at cents per mile equal to the IRS allowable rate then in effect. Employer shall also provide a mobile phone for business use and personal use, provided such personal use does not interfere with business use or result in an expense exceeding the plan limitations for the plan provided to Employee.

Section 10. Other Benefits.

A. Employee shall accumulate paid time off ("PTO") at the rate of 7.231 hours per bi-weekly pay period. Said amount is equal to an employee that has worked for the City for more than 10 years but less than 15 years.

B. Employer shall pay Employee a one-time relocation payment in the amount of \$7,500. Said amount will be added to the Employee's first paycheck and is subject to all federal withholdings. In return, Employee agrees to relocate to Marion County as soon as practicable, but not later than September 30, 2023, and maintain residency in Marion County for the term of this Agreement (as amended and renewed).

C. The Employee may accumulate up to 6 months unused accruals of PTO without loss or forfeiture, which shall be paid as follows upon the Employee's resignation:

1. If 90 days' notice is given in accordance with Section 2(D) above, the Employee shall be compensated for all earned PTO, and other accrued benefits to-date, calculated at the rate of pay in effect at the time of resignation.

2. If less than 90 days' notice is given, Council may determine that insufficient notice has been provided for resignation. In such event, the Employee shall be compensated for earned PTO as provided to other City employees calculated at the rate of pay in effect at the time of resignation.

Section 11. Hours of Work. It is recognized that the City Attorney must devote a great deal of time outside of normal office hours to business of Employer, and to that end Employee will be allowed to establish an appropriate work schedule.

Section 12. Professional Development. Employer agrees to budget for and to pay the professional dues required by and payable to the Florida Bar Association, reasonable and applicable federal court bar fees, and for travel and subsistence expenses of the City Attorney for participation in required continuing legal education (CLE). Additionally, Employer encourages the City Attorney to attain positions of leadership in national, state, regional, and local associations and organizations relevant to his profession. Employer agrees to budget and pay for travel and subsistence expenses necessary for him to discharge his official duties for such associations and organizations.

Section 13. General Expenses.

A. Employer recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by the Employee, including participation in civic and other local organizations, and hereby agrees to reimburse or pay said general expenses.

B. The Finance Director (or designated employee) is hereby authorized to disburse funds as needed to fulfill all provisions of this Agreement, upon receipt of duly executed expense or petty cash vouchers, receipts, statements, or personal affidavits.

Section 14. Performance Evaluation. The Council shall review and evaluate the performance of the City Attorney normally no later than October 1 of each year. When deemed appropriate by Council, Employer agrees to increase base salary and other benefits of the Employee at the time of said review, in such amounts and to such extent as the Council may determine that it is desirable to do so, in light of performance by Employee. It is further understood that merit increases based on annual performance evaluations and salary reviews are exclusive of any general cost-of-living increases provided to other employees. The City Attorney shall receive all cost-of-living increases, if any, which Employer may grant to its other employees, at the same time and in the same manner said increases are granted to those employees.

Section 15. Conflict of Interest Prohibition. It is further understood and agreed that because of the duties of the City Attorney within and on behalf of the City of Ocala and its citizenry, the Employee shall not, during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of Ocala, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without the prior approval of the Council. For and during the term of this Agreement, Employee further agrees, except for a personal residence or residential property acquired or held for future use as a personal residence, not to invest in any other real estate or real property improvements within the corporate limits of Ocala without the prior consent of the Council.

Section 16. Outside Employment. City Attorney will devote his full time and attention to the performance of the duties incident to his employment with the City, and will not have any other employment with any other enterprise or substantial responsibility for any enterprise which would be inconsistent with City Attorney's duty to devote his full time and attention to City matters; provided, however, that the foregoing will not prevent Executive from participation in any charitable or civic organization that does not interfere with Executive's performance of the duties and responsibilities to be performed by City Attorney under this Agreement.

A. Notwithstanding the foregoing, Employer and City Attorney understand, acknowledge and agree that City Attorney currently represents the Board of County Commissioners of Bradford County, Florida and is working diligently to wind-up all pending matters on behalf of that client but, given the unique nature of representing local government clients as their sole, in-house counsel, there may be matters which require City Attorney to provide ongoing legal services during the time he transitions from the position of Bradford County Attorney to City Attorney for the City of Ocala. Therefore, Employer and City Attorney further understand, acknowledge and agree that, notwithstanding the other provisions contained herein, City Attorney may, from time-to-time, provide ongoing, transitional legal services to the Board of County Commissioners of Bradford County, Florida for a period not to exceed sixty (60) days from the effective date of this Agreement, provided that the provision of said services is outside the scope of City Attorney's employment with the City of Ocala and shall not result in any expense to the City of Ocala, utilize City of Ocala resources, or otherwise interfere with his performance of the duties and responsibilities set forth herein.

B. Similarly, and notwithstanding the foregoing, Employer and City Attorney understand, acknowledge and agree that Employee currently represents the City of Hampton, Florida and the City of Waldo, Florida and that Employee may continue to represent those clients for a period not to exceed one (1) year from the effective date of this Agreement.

C. City Attorney's work on behalf of the outside clients named in Sections 16.A. and 16.B. is outside of the scope of his employment with the City of Ocala and shall not result in any expense to the City of Ocala, utilize City of Ocala resources, or otherwise interfere with his performance of the duties and responsibilities set forth herein. Further, City Attorney shall, at his cost and expense, maintain professional liability insurance policy with minimum limits of \$1,000,000 per claim, \$2,000,000 per occurrence, and \$2,000,000 aggregate, which, if reasonably practicable, shall name the City of Ocala as an additional insured.

Section 17. General Provisions.

A. The text herein shall constitute the entire Agreement between the parties.

B. This Agreement shall become effective upon adoption and approval by the Council of the City of Ocala.

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

IN WITNESS WHEREOF, the City of Ocala has caused this Agreement to be signed and executed in its' behalf by its' Council President and duly attested by its' City Clerk, and the Employee have signed and executed this Agreement the day and year first written above.

ATTEST:

Angel B. Jacobs

Angel Jacobs
City Clerk

EMPLOYER

City of Ocala, a Florida municipal corporation

By: *Ire Bethea Sr.*
Ire Bethea, Sr., City Council President

Approved as to form and legality:

Robert W. Batsel, Jr.

Robert W. Batsel, Jr.
City Attorney

CITY ATTORNEY

William Sexton

By: *William E. Sexton*
William Sexton, City Attorney

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FILE NAME	City Attorney Emp...illiam Sexton.pdf
DOCUMENT ID	08705de350a2caf2bb9c4055c730641d0546abcd
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

Document History



SENT

10 / 05 / 2022

15:12:22 UTC-4

Sent for signature to Robert W. Batsel, Jr. (rbatsel@lawyersocala.com), William E. Sexton (wssexton@ocalafl.org), Ire Bethea Sr. (ibethea@ocalafl.org) and Angel Jacobs (ajacobs@ocalafl.org) from biverson@ocalafl.org
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VIEWED

10 / 05 / 2022

15:28:49 UTC-4

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SIGNED

10 / 05 / 2022

15:29:40 UTC-4

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VIEWED

10 / 06 / 2022

08:41:17 UTC-4

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SIGNED

10 / 06 / 2022

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Signed by William E. Sexton (wssexton@ocalafl.org)
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DOCUMENT ID	08705de350a2caf2bb9c4055c730641d0546abcd
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Signed

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10 / 14 / 2022
08:16:10 UTC-4

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The document has been completed.