

ATTORNEY EMPLOYMENT AGREEMENT BETWEEN WELLINGTON AND LAURIE STILWELL COHEN

THIS AGREEMENT between LAURIE STILWELL COHEN ("ATTORNEY") and the VILLAGE OF WELLINGTON, a Florida municipal corporation ("EMPLOYER") is made this 27th day of April, 20167. In consideration of the mutual obligations set forth below, the ATTORNEY and the EMPLOYER agree as follows:

I. EMPLOYMENT OF ATTORNEY

Subject to the terms and conditions set forth in this Agreement, EMPLOYER hereby employs ATTORNEY as its full-time, exempt Village Attorney and ATTORNEY hereby accepts such employment.

II. DUTIES AND RESPONSIBILITIES

The ATTORNEY shall be responsible to the EMPLOYER and shall perform the functions and duties of the Village Attorney as provided in the Charter, the Code of Ordinances, Policies and Procedures of Wellington, and as provided by Florida Law, the Palm Beach County Code of Ethics and as mutually agreed to by the ATTORNEY and EMPLOYER from time to time, as well as the functions and duties of the Attorney to the Village Canvassing Board and the District Attorney of the Acme Improvement District. The ATTORNEY shall devote whatever time is necessary to perform the duties of the position. The ATTORNEY shall remain in the exclusive employment of EMPLOYER until termination or expiration of this Agreement.

Commented [LC1]: This function has always been performed by the Village Attorney, but was not contained in the contract.

The ATTORNEY shall maintain coordination, communication and consultation with all other Charter Officers on all matters requiring their expertise or input as often as and to the extent necessary to efficiently carry out the functions of Wellington. The ATTORNEY shall provide EMPLOYER with quarterly ~~monthly~~ reports that summarize the tasks, duties, litigation status, assignments and other relevant matters, including the status of matters assigned to outside counsel, for the previous ~~month~~ quarter. Additionally, ATTORNEY shall provide a forecast of relevant matters anticipated to occur in the following quarter ~~month~~.

Commented [LC2]: Council has previously indicated that quarterly reports are sufficient.

It is recognized that the ATTORNEY must regularly devote significant time outside the confines of normal office hours to the EMPLOYER's business. To that end, the ATTORNEY may occasionally vary her hours as necessary to balance the demands on her time; however, in no case shall the ATTORNEY dedicate less than an average of forty (40) hours per week in the performance of her official duties. Except as noted herein, the ATTORNEY shall be subject to the Policies and Procedures of the Village of Wellington.

ATTORNEY shall maintain an active license to practice law in the State of Florida.

III. EXCLUSIVE EMPLOYMENT

ATTORNEY shall not be employed by any other employer during the Term or any extension or modification of the Term of this Agreement.

During employment by EMPLOYER, ATTORNEY is prohibited from accepting referral fees or other compensation, remuneration, gifts or other tangible or intangible items of value for referral of legal or other matters to outside organizations, entities, persons or attorneys.

The term “employed” as used in this section, shall not be construed to exclude occasional teaching, writing, consulting or pro bono work performed on the ATTORNEY’S time off not in excess of an average of five (5) hours per week in a non-conflicting capacity, in accordance with the provisions of Florida Statutes or the Palm Beach County Code of Ethics. The ATTORNEY shall devote her full time to act as the Wellington Attorney and to carry out to the best of her abilities all the duties imposed upon her by the Charter and the Ordinances of Wellington and such other duties as the EMPLOYER may assign from time to time. During the term of this Agreement and any extensions thereof, the ATTORNEY shall not hold office in any political party or political organization.

IV. TERMS OF EMPLOYMENT

- A. The term of this Agreement and ATTORNEY’s employment shall begin on April 29, 2016⁷ and remain in effect through and including April 29, 2017²², unless earlier terminated as provided in Section V. The term of this Agreement may be modified or extended only by written mutual consent of the parties.
- B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the EMPLOYER to terminate the service of ATTORNEY at any time, subject only to the provisions set forth in Section V herein below.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the ATTORNEY to resign at any time, subject only to the provisions set forth in Section V herein below.

V. TERMINATION AND SEVERANCE PAY

A. Without Cause.

1. EMPLOYER may terminate ATTORNEY without cause at any time during the term of the Agreement, or any extension of the term authorized by written amendment, with 30 calendar days' written notice. At its sole discretion, during the notice period, EMPLOYER may require ATTORNEY to cease or limit the work performed on EMPLOYER matters, during which time ATTORNEY is entitled to such regular compensation as is due under this Agreement until the effective date of the termination as provided in the notice.
2. The EMPLOYER's termination of ATTORNEY without cause shall be in accordance with the provisions of the Wellington Charter and the determination of the Wellington's Council shall be final and non-appealable.
3. Severance Pay.
 - a. In the event ATTORNEY is terminated by EMPLOYER Without Cause, she shall receive Severance Pay equal to the gross amount of ~~20~~12 weeks Base Salary in effect at the time of termination and shall be provided ~~20~~12 weeks of continued coverage in the EMPLOYER's Health Insurance Program under the terms in effect at the time of termination, but shall not include any other Benefits or perquisites as may be otherwise permitted by §215.425, F.S. (hereafter referred to as "Severance Pay").
 - b. Severance Pay shall be made within 30 calendar days after receipt of an executed General Release, including all employment-related claims, by ATTORNEY in favor of EMPLOYER in a lump sum cash payment, less applicable withholdings and other required deductions.
 - c. ATTORNEY's failure to deliver a fully executed General Release, including all employment related claims, to EMPLOYER within 30 calendar days of the effective date of the termination Without Cause shall forfeit any entitlement to Severance Pay under this Agreement.

B. With Cause.

1. EMPLOYER may terminate ATTORNEY with cause as provided herein.
2. "With Cause" is defined as termination based upon any of the following actions by the ATTORNEY:

- a. fraud;
- b. embezzlement;
- c. conviction of a felony relating to official duties;
- d. negligence in the performance of official duties;
- e. violation of Florida's or Palm Beach County's Code of Ethics;
- f. violation of EMPLOYER's Code of Ethics and Conflict of Interest or Outside Employment policies;
- g. violation of the EMPLOYER's No-Harassment Policy or its Equal Employment Opportunity Policy;
- h. violation of EMPLOYER's Drug-Free Workplace Policy; or
- i. misconduct, as defined in Fla. Stat. 443.036(30), as amended from time to time.
- j. Breach of this contract

3. EMPLOYER may terminate ATTORNEY with cause at any time during the term of the Agreement, or any extension of the term authorized by written amendment, with written notice issued to ATTORNEY describing the actions claimed by the EMPLOYER constituting such grounds and the effective date of the termination. At its sole discretion, during the notice period, if any, EMPLOYER may require ATTORNEY to cease or limit the work performed on EMPLOYER matters, during which time ATTORNEY is entitled to such regular compensation as is due under this Agreement until the effective date of the termination as provided in the notice.

4. The EMPLOYER's termination of ATTORNEY with cause shall be in accordance with the provisions of the Wellington Charter and the determination of the Wellington's Council shall be final and non-appealable.

5. ATTORNEY is not entitled to, and EMPLOYER shall not make payment for, Severance Pay due to termination with cause.

C. Resignation.

1. ATTORNEY may voluntarily resign her employment with EMPLOYER by providing EMPLOYER ninety (90) days written notice in advance. During the 90-day period, EMPLOYER may require ATTORNEY to cease or limit the work performed on EMPLOYER matters, during which time ATTORNEY is entitled to such regular compensation as is due under this Agreement until the effective date of the resignation as provided in the notice.

2. ATTORNEY is not entitled to, and EMPLOYER shall not make payment for, Severance Pay due to resignation from employment.

D. Expiration of Term.

1. ATTORNEY's employment shall automatically terminate at the expiration of the Agreement's Term, or any subsequent term where extended by a written amendment.
2. ATTORNEY is not entitled to, and EMPLOYER shall not make payment for, Severance Pay due to the expiration of the Term, or any subsequent term where extended by a written agreement.

E. Death.

1. This Agreement, the Term and ATTORNEY's employment shall terminate automatically upon the ATTORNEY's death.
2. ATTORNEY is not entitled to, and EMPLOYER shall not make payment for, Severance Pay as a result of death.

VI. COMPENSATION

- A. Base Salary. EMPLOYER agrees to pay ATTORNEY for services rendered at the base annual salary of ~~\$175,468.80~~ \$183,456.00. The Base Salary shall be paid in installments at the same time as other employees of the EMPLOYER are paid.

Commented [LC3]: This figure represents current salary, as authorized by Council upon adoption of 10/1/16 FY budget

For the fiscal year beginning October 1, 201~~6~~7, ATTORNEY shall receive a merit increase of the Base Salary at the maximum rate of annual merit increases the EMPLOYER budgeted for its employees, if any. For the fiscal year beginning October 1, 201~~6~~7, ATTORNEY shall receive a cost of living increase to the Base Salary in the same amount and at the same time as provided to other Wellington employees, if any.

B. Benefits

1. Paid Time Off (PTO): Upon beginning employment ATTORNEY shall earn Regular PTO and other employee benefits such as leave buyback and longevity bonuses beginning at the rate established for employees with five (5) years of service as set forth in the Employee Manual. ATTORNEY's Regular PTO and other employee benefit accruals shall continue to increase from the five-year rate in accordance with the schedules set forth

Commented [LC4]: This is not a new benefit. The language is being clarified based a suggestion from our auditors.

in the EMPLOYER's policies, as amended from time to time, as though the ATTORNEY began employment with five years of service. Upon conclusion of employment, the ATTORNEY shall be eligible for payment of the portion of unused Regular PTO accruals. ~~No payment for unused Pre-Loaded PTO shall be made upon conclusion of employment. Any used Preloaded PTO hours shall be deemed used prior to use of any Regular PTO accruals. In all other respects, the ATTORNEY shall be permitted to accrue and use Regular PTO in the same manner and under the same provisions as other Village employees as set forth in the Village of Wellington Employee Manual, as amended from time to time.~~

Commented [LC5]: This is being removed because it is no longer relevant.

2. Medical Leave (MIL): The ATTORNEY shall be permitted to accrue and use MIL in the same manner and under the same provisions as other Village employees as set forth in the Village of Wellington Employee Manual, as amended from time to time.

3. Insurance: The ATTORNEY, her spouse and dependents, if any, shall be entitled to and enjoy inclusion in the EMPLOYER's Group Life Insurance Program, Dental Insurance Program, Health Insurance Program, Vision Care Program, Disability Insurance Program, and other benefits that may be offered in the same manner and under the same provisions and benefits as other Village employees, as the same exists or may be amended from time to time by the EMPLOYER.—

4. Retirement/Deferred Compensation: The ATTORNEY shall be eligible to participate in the Florida Retirement System (FRS) currently available to Wellington employees or any successor plans. The ATTORNEY shall be subject to the same contribution and vesting schedule as all other senior management participants of the FRS.

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4. —

5. Vehicle: Beginning May 1, 2016, the EMPLOYER shall provide ATTORNEY the standard senior staff vehicle allowance.

6. Dues and Subscriptions: EMPLOYER shall pay reasonable and appropriate professional dues and subscriptions on behalf of the ATTORNEY for the purpose of allowing her participation in direct job-related associations, subject to budget constraints.

7. Professional Development: EMPLOYER agrees to pay the reasonable and customary travel and subsistence expenses (in accordance with applicable Florida Law and Village policies) for ATTORNEY'S travel to and attendance at professional association events as well as other reasonably necessary seminars and conferences customary to ATTORNEY's position and/or necessary to meet continuing education requirements, subject to budget constraints.
8. Expense Reimbursement: EMPLOYER recognizes that certain expenses of a non-personal and job affiliated nature may be incurred by ATTORNEY and hereby agrees to reimburse or to pay such Village-related expenses subject to annual budget approval and in accordance with the provisions of Village policies as amended from time to time.
9. Additional Benefits: Said further and additional benefits which are provided to other Village employees now or in the future shall be provided to the ATTORNEY. The EMPLOYER may, at any time, provide other additional benefits solely to the ATTORNEY, as it may deem desirable to do so.

VII. PERFORMANCE EVALUATION

Annually, the EMPLOYER and ATTORNEY will work together to mutually agree upon such goals and performance objectives, generally as a result of the budget process, which they determine to be essential for the proper operation of Wellington and Acme Improvement District and progress towards attaining EMPLOYER's policy directives and shall further establish a relative priority among those various goals and objectives. All agreed-upon goals and objectives shall be realistic and have resources committed to be effectively implemented. Progress towards such goals and objectives shall be evaluated annually or as otherwise agreed to by both parties.

VIII. GENERAL PROVISIONS:

- A. The text herein shall constitute the entire Agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of ATTORNEY.
- C. This Agreement may not be modified or changed in any way whatsoever except by mutual written consent of both parties.

- D. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- E. The EMPLOYER shall indemnify and hold harmless the ATTORNEY from all claims and/or suits, including attorneys' fees and costs, resulting from the performance of her official duties, including, but not limited to, actions pursuant to the Charter, Federal, State and/or County law or mandates, and policy directives of the EMPLOYER within the scope of her employment.
- F. Failure of the EMPLOYER to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of EMPLOYER's right to enforce or exercise said right(s) at any time thereafter.
- G. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- H. All notices required to be given under the terms of this Agreement or which any of the parties desires to give hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, addressed as follows:

TO: Village of Wellington
12300 W. Forest Hill Blvd.
Wellington, FL 33414
ATTN: Mayor
Village Manager

TO: Laurie Stilwell Cohen, Esq.
14050 Aster Avenue
Wellington, FL 33414

Any party may designate a change of address at any time by giving written notice thereof to the other parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day set forth above.

ATTORNEY

Laurie Stilwell Cohen

ATTEST

WELLINGTON, FLORIDA

BY: _____
VILLAGE CLERK

BY: _____
Anne Gerwig, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

Aaron C. Dunlap, Esq.

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