

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS
CONSENT / AGENDA ITEM # 13

SUBJECT: APPROVE SECOND AMENDMENT TO EMPLOYMENT AGREEMENT WITH COUNTY ATTORNEY EXTENDING TERM OF AGREEMENT AND REDUCING AND MODIFYING SEVERANCE PAY PROVISIONS APPLICABLE TO EXTENDED TERM TO COMPLY WITH STATE LAW.

DATE OF MEETING: July 2, 2012

OVERVIEW/SUMMARY: The County Attorney performs legal services under direct contract with the Board of County Commissioners. The contract form used today is the same as the one developed for Mr. Carl Kern beginning in 2001 except that the provision for an automobile allowance (\$400/month) provided to Mr. Kern was not included in the agreement with Mr. Hadeed (with Mr. Hadeed's consent). The Employment Agreement with Mr. Hadeed commenced on February 23, 2007, and is due for a rollover for a continuing term, subject to the Board's approval. The attached Second Amendment extends the Employment Agreement on the same terms and conditions except that to comply with state law the severance provision applicable to the extended term is reduced to 20 weeks instead of the 12 months applicable to the present term. ~~The Second Amendment also modifies the severance provision to conform to other provisions of state law, including a disqualification if the employee is fired for misconduct under a particular statute prescribed by the Legislature in 2011.~~ Finally, the term and severance provisions are standardized to make the County Administrator/County Attorney contracts consistent.

All other sections of the Employment Agreement remain the same. Attached are the original 2007 agreement, the 2008 amendment to correct a scrivener's error and the proposed Second Amendment,

FUNDING INFO: As approved during the County's annual budget appropriations (Account 001-0700-514-1011).

DEPT./CONTACT/PHONE #: Albert J. Hadeed, 313-4005

RECOMMENDATIONS: Request the Board approve the Second Amendment to the Employment Agreement with the County Attorney extending term of agreement and reducing and modifying severance pay provisions applicable to extended term.

ATTACHMENTS:

1. Current 2007 Employment Agreement;
2. 2008 Amendment to Employment Agreement correcting a scrivener's error; and
3. Second Amendment to Employment Agreement


Albert J. Hadeed,
County Attorney

6/27/12
Date


Craig M. Coffey
County Administrator

28 June 2012
Date

EMPLOYMENT AGREEMENT

THIS AGREEMENT is entered into this 23rd day of February, 2007 between Flagler County, Florida, a political subdivision of the State of Florida acting through its Board of County Commissioners, hereafter referred to as "COUNTY", and Albert J. Hadeed, hereafter referred to as "EMPLOYEE". The COUNTY desires to employ the services of Albert J. Hadeed, as County Attorney of Flagler County by contract, and to provide for compensation, employee benefits and to establish the conditions of employment as hereafter provided.

The EMPLOYEE desires to accept and continue employment as County Attorney of Flagler County. In consideration of the mutual promises hereinafter set forth, COUNTY and EMPLOYEE agree as follows:

1. DUTIES

COUNTY hereby agrees to employ EMPLOYEE and EMPLOYEE hereby accepts employment as County Attorney to perform the legal and proper duties and functions of County Attorney as the Board of County Commissioners may assign from time to time. The EMPLOYEE agrees to faithfully, diligently and conscientiously perform the duties of County Attorney and to comply with local and state law governing legal representation of the COUNTY. EMPLOYEE has an existing solo law practice for which he has current clients and pending cases and legal matters. EMPLOYEE will close out such cases and matters and not assume any new clients or new matters hence forward. The timing for closing out certain cases and matters are not within the control of EMPLOYEE but he shall use reasonable means to wind up his existing practice. In no event shall EMPLOYEE utilize the facilities of the COUNTY in performing activities to phase

out his existing law practice. EMPLOYEE has agreed to devote thirty (30) hours per week beginning on February 23, 2007 and be compensated at an hourly rate of \$64.90 until April 8, 2007 at which point he will become totally dedicated to performing the duties of County Attorney as described in section 4 Hours of Work.

2. TERM OF EMPLOYMENT, CANCELLATION, RESIGNATION

A. The term of this Agreement is for three (3) years from February 23, 2007 to February 23, 2010. This Agreement shall automatically be renewed for an additional three years, to and including February 23, 2013, if the COUNTY fails to communicate to EMPLOYEE by November 23, 2012 in writing that it chooses not to renew this Agreement. If automatically renewed, all the terms and conditions of this Agreement shall continue in full force and effect.

B. Nothing in this Agreement shall limit, prevent or otherwise interfere with the right of COUNTY to terminate the services of EMPLOYEE at any time, subject only to the provisions set forth in Section 3 of this Agreement.

C. Nothing in this Agreement shall limit, prevent or otherwise interfere with the right of EMPLOYEE to resign at any time from his position with the COUNTY, subject only to the provision set forth in Section 3.C. of this Agreement.

3. TERMINATION AND SEVERANCE PAY

A. In the event EMPLOYEE is terminated by the Board of County Commissioners before expiration of the term of employment and during such time EMPLOYEE is willing and able to perform the duties of County Attorney, then, in that event, the COUNTY agrees to pay the EMPLOYEE a lump

sum severance equal to six (6) months aggregate gross salary plus pension benefits and any accumulated, unpaid leave time. The COUNTY agrees to increase severance by 3 months on the EMPLOYEES anniversary date on the 1st and 2nd years of this contract. The COUNTY shall have no obligation to pay the severance sum designated in this paragraph if the EMPLOYEE is terminated as a result of the EMPLOYEE'S conviction of an illegal act or in the event the COUNTY chooses not to renew the Agreement in accordance with Section 2.A.

B. In the event that the COUNTY, at any time during the EMPLOYEE'S employment, reduces the financial benefits, including salary of the EMPLOYEE, in a greater percentage than an applicable across-the-board reduction for all County employees, or in the event the COUNTY refuses, following written notice, to comply with any other provision benefiting the EMPLOYEE herein, or the EMPLOYEE resigns following action of the COUNTY requesting that he resign, then, in that event, the EMPLOYEE may, at his option, be deemed to be terminated and shall be entitled to the severance pay provided for above.

C. In the event EMPLOYEE voluntarily resigns his position with the COUNTY before the expiration of the aforesaid term of employment, then EMPLOYEE shall not be eligible for severance pay and shall give COUNTY at least sixty (60) days notice in advance unless waived at the sole discretion of the Board of County Commissioners. EMPLOYEE shall be compensated for all accumulated, unpaid leave time only if such notice is provided or if such notice is waived by the COUNTY.

4. **SALARY**

A. COUNTY agrees to pay EMPLOYEE for services rendered pursuant hereto an annual base salary of \$135,000 which shall be payable in equal installments at the same time as other employees of COUNTY are paid.

B. COUNTY agrees that the employee shall receive annual cost of living increases at the same times and in the same percentages as other County employees for the term of this agreement and the term of any renewal hereof.

C. County agrees to pay employee a merit increase of 3% effective each year of this agreement subsequently, unless in any given year the Board elects to give a different merit increase, or none.

5. **HOURS OF WORK**

It is expected that EMPLOYEE will frequently work more than forty (40) hours per week and will often devote a great deal of time outside normal office hours to do the business of the COUNTY. Nothing herein shall be construed to require the payment to EMPLOYEE of overtime or compensatory time.

6. **PROFESSIONAL DEVELOPMENT**

COUNTY agrees to budget and pay for EMPLOYEE'S membership in the Florida Bar, for legal publications, and for required CLE for courses approved by the Florida Bar. Any conferences in excess of the minimum standard are subject to approval by the Board of County Commissioners.

7. **RETIREMENT**

Employee shall be enrolled in the Senior Management Service Class of the Florida Retirement System at the current prevailing rate.

8. **LEAVE**

EMPLOYEE shall earn personal leave in accordance with the County's personnel policies except that for EMPLOYEE'S first year of employment EMPLOYEE shall be credited with twenty (20) days personal leave as of February 23, 2007. EMPLOYEE shall not accrue any additional personal leave during the first year of employment, nor be compensated for any such leave days which are not used should the EMPLOYEE terminate or be terminated from employment with the County during the first year of employment.

9. **INSURANCE COVERAGE**

A. COUNTY shall provide for major-medical insurance for EMPLOYEE in the same manner that the COUNTY provides such insurance to its other employees. EMPLOYEE shall be entitled to purchase dependent coverage needed for family, at his expense, on the same basis as offered to the County's other employees. EMPLOYEE shall be entitled to such other insurance benefits as are provided to other County employees.

B. COUNTY shall include EMPLOYEE within the County's liability insurance program including comprehensive general liability, errors and omissions coverage, and public official liability applicable to all acts of EMPLOYEE arising out of his employment which shall be similar to what other governmental jurisdictions for this type of coverage.

10. **OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

- A. EMPLOYEE shall report directly to the Board of County Commissioners.
- B. Except as described in section 1, EMPLOYEE shall have no outside employment during the term of this Agreement, will not be eligible to receive referral fees, or serve on any activity that may impact the affairs of County Government in any way unless appointed and approved by the BOCC.
- C. EMPLOYEE shall reside in Flagler County at all times during the EMPLOYEE'S term of employment.

11. **GENERAL PROVISIONS**

- A. No assignment of the Agreement shall be made in whole or in part by EMPLOYEE.
- B. This Agreement constitutes the entire Agreement between parties.
- C. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, and executors of EMPLOYEE.
- D. If any provision or any portion thereof contained in this Agreement is held to be unconstitutional, illegal or unenforceable, the remainder of this Agreement shall remain in full force and effect.
- E. Venue for any action brought pursuant to this Agreement shall lie in Flagler County, Florida.
- F. This Agreement shall be governed and construed pursuant to the laws of the State of Florida.

WHEREFORE, the parties have executed this Agreement the date and year first above written.

Approved by the Board on February 28, 2007.

ATTEST:

Gail Wadsworth
Gail Wadsworth, Clerk and Ex
Officio Clerk to the Board

Joseph A. Mayer
Witness
Joseph A. Mayer
Witness name (print or type)

**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**

James A. Darby
James A. Darby, Chairman

Albert J. Hadeed
Albert J. Hadeed

**AMENDMENT TO EMPLOYMENT AGREEMENT
BETWEEN FLAGLER COUNTY AND ALBERT J. HADEED
TO CORRECT SCRIVENER'S ERROR**

This Amendment is entered into this 5th day of May, 2008, between Flagler County, a political subdivision of the State of Florida acting through its Board of County Commissioners, hereinafter referred to as "County", and Albert J. Hadeed, hereinafter referred to as "Employee." The purpose of this Amendment is to correct a scrivener's error in Section 2A. The corrected provision is as follows:

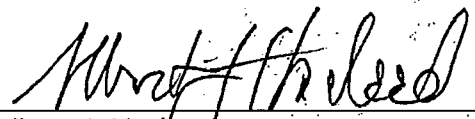
2. TERM OF EMPLOYMENT, CANCELLATION, RESIGNATION

- A. The term of this Agreement is for three (3) years from February 23, 2007 to February 23, 2010. This Agreement shall automatically be renewed for an additional three years, to and including February 23, 2013, if the COUNTY fails to communicate to EMPLOYEE by November 23, 2009~~12~~ in writing that it chooses not to renew this Agreement. If automatically renewed, all the terms and conditions of this Agreement shall continue in full force and effect.

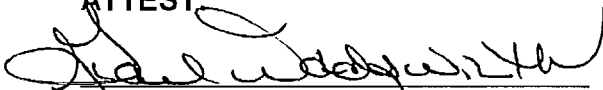
APPROVED by the Board on May 5, 2008.

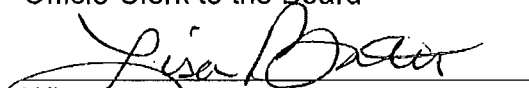
**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**


James M. O'Connell, Chairman

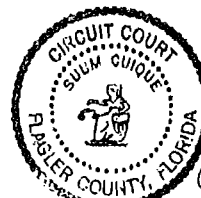

Albert J. Hadeed

ATTEST:


Gail Wadsworth, Clerk and Ex
Officio Clerk to the Board


Witness

LISA BATES
Witness name (print or type)



I HEREBY CERTIFY this to be a true
And correct copy of the original
GAIL WADSWORTH
CLERK OF COURTS

By  DG

**SECOND AMENDMENT TO EMPLOYMENT AGREEMENT
BETWEEN FLAGLER COUNTY AND ALBERT J. HADEED
TO EXTEND TERM AND MODIFY SEVERANCE PROVISION
FOR EXTENDED TERM TO CONFORM WITH STATE LAW**

This Second Amendment is entered into July 2, 2012, between Flagler County, a political subdivision of the State of Florida acting through its Board of County Commissioners, hereinafter referred to as "COUNTY", and Albert J. Hadeed, hereinafter referred to as "EMPLOYEE." The purpose of this Second Amendment is to extend the term of the Employment Agreement originally approved by the County on February 28, 2007, and amended on May 5, 2008. This Second Amendment also modifies the Agreement's severance provision as it applies to the extended term which will commence on February 23, 2013. Otherwise, all terms and conditions of the Agreement, including the amendment of 2008, shall continue in full force and effect. The Second Amendment shall add an additional subsection as follows:

2. TERM OF EMPLOYMENT, CANCELLATION, RESIGNATION

- D. (i) The term of this Agreement is extended for three (3) years from February 23, 2013, to February 23, 2016. This Agreement shall automatically be renewed for an additional three years, to and including February 23, 2019, if the COUNTY fails to communicate to EMPLOYEE by October 23, 2015, in writing that it chooses not to renew this Agreement. If automatically renewed, all the terms and conditions of this Agreement shall continue in full force and effect.
- (ii) In the event EMPLOYEE is terminated by the Board of County Commissioners after February 23, 2013, and EMPLOYEE is willing and able to perform the duties of County Attorney, then, in that event, the COUNTY agrees to pay the EMPLOYEE a lump sum severance equal to twenty (20) weeks aggregate gross salary, including an additional amount equivalent to the pension contribution that COUNTY would pay on such salary amount. In addition, EMPLOYEE shall receive for the duration of the severance time period the benefits of his health insurance under Section 9 of the Agreement at the COUNTY's expense. The COUNTY shall have no obligation to pay the salary severance if the EMPLOYEE is terminated as a result of EMPLOYEE's conviction of an illegal act in performing his duties or for misconduct in performing his duties as defined in Section 443.036(30), Florida Statutes. COUNTY shall pay EMPLOYEE any accumulated, unpaid leave time whether EMPLOYEE is terminated, has resigned or is not renewed.

APPROVED by the Board of County Commissioners on July 2, 2012.

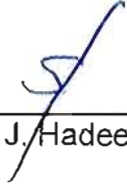
**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**

ATTEST:

Gail Wadsworth, Clerk and Ex
Officio Clerk to the Board

Barbara S. Revels, Chair

Witness



Albert J. Hadeed

Witness name (print or type)