



Date of Council Meeting: May 14, 2013

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Town Attorney Contract Revisions

Staff Contact: John Wells, Town Manager *John*

Background: This recommended contract change will provide clarification that additional assignments, duties, and responsibilities may be directed to the Town Attorney, as required for the efficient management of legal and town resources. This recommended contract change is reflected in Section 2, Duties. Specifically, the assignment of easement and land acquisition duties (including two staff members from the Department of Capital Projects) will now be handled by the Office of the Attorney and will make a more efficient based work flow. All final decisions on land acquisition offers or easements still rest with the Council.

Attachment: Town Attorney Contract

**AMENDED EMPLOYMENT CONTRACT
BETWEEN
THE COUNCIL OF THE TOWN OF LEESBURG, VIRGINIA
AND
JEANETTE A. IRBY**

This amended employment contract ("this contract") executed in duplicate original and made and entered into as of the May ____ 2013 by and between the **Council of the Town of Leesburg, Virginia** ("the Council"), and Jeanette A. Irby ("the Town Attorney").

RECITALS

A. The Council desires to provide the Town Attorney with a written employment contract in order to foster and promote harmonious relations between the Council and the Town Attorney.

B. The Council and the Town Attorney wish to establish the basic terms and conditions upon which the Council has agreed to appoint her the Town Attorney and upon which she has agreed to accept such appointment.

NOW, THEREFORE, the Council and the Town Attorney, in consideration of the premises and the mutual undertaking of the parties agree as follows:

AGREEMENT

1. Term: The Town Attorney shall serve at the pleasure of the Council. The Town Manager shall supervise the Town Attorney and be responsible for her annual performance evaluation.

2. Duties: The Town Attorney shall provide legal advice to Town Council and Town Manager of the Town under the direction of the Town Council and Town Manager, and perform all duties incident to the office of the Town Attorney as outlined in the Town Charter, Town Code, and applicable laws of the Commonwealth of Virginia. The Town Attorney should attend meetings of the Town Council, Planning Commission, and B.A.R. as required by the Town Code and ensure that appropriate support and coverage is provided if needed. Further, the Town Attorney shall report to Council on no less than a quarterly basis the status of legal matters with respect to the Town. Additionally, the Town Attorney may be assigned such other duties and responsibilities as required for the efficient management of legal and town resources.

3. Outside Employment: The Town Attorney agrees to remain in the exclusive employment of the Town while serving under this agreement, and shall devote full time attention to the representation of the Town and the protection of its legal interests. The term "employment" should not be construed to include occasional teaching, writing, pro bono, or consulting services not constituting the practice of law performed on the Town Attorney's time off.

4. Professional Growth of the Town Attorney: The Council encourages the continuing professional growth of the Town Attorney through her participation in:

a. The operations, programs, and other activities conducted or sponsored by the Town.

b. Seminars and courses offered by public or private institutions.

c. Informational meetings with individuals or organizations whose particular skills or background would serve to improve the capacity of the Town Attorney to perform her professional responsibilities for the Council.

Accordingly, the Council will pay for the Town Attorney's dues and participation in a reasonable number of professional organizations. The Town shall permit a reasonable amount of release time for the Town Attorney to participate in these organizations. In addition, as approved by the Council, the Town Attorney will be eligible to receive a reasonable amount of release time, necessary fees for travel and subsistence and membership expenses to attend and/or participate in activities previously described in this section.

5. Salary. The Council shall pay the Town Attorney at an annual salary rate of \$140,000.00. This annual salary rate shall be paid to the Town Attorney on the same basis as other regular full-time Town employees. The Council agrees to increase the compensation of the Town Attorney each February 1, commencing 2014 contingent upon the results of the annual performance evaluation conducted under the provisions of Section 12 of this contract. The Council will provide a cost-of-living and other salary adjustments equivalent to that approved and provided to all other employees of the Town as approved by the Council in the annual budget, and previous adjustments that have been made

6. Leave and Benefits. Unless modified by mutual agreement of the Council and Town Attorney:

a. Annual, Sick and Catastrophic Illness Leave. The Council agrees to deposit into the Town Attorney's leave account on the effective date of this employment contract twenty (20) days of annual leave and twelve (12) days of sick leave. On each anniversary of the effective date of the employment contract, the Council agrees to increase the deposit into the annual leave account over the original twenty (20) days by one day annually up to a maximum of twenty-six (26) days and continue to deposit twelve (12) days of sick leave. Vacation leave is cumulative to a maximum of two times the annual accrual rate. Leave in excess of the maximum amount allowed shall not be credited to the Town Attorney's account. In addition, the Council agrees to provide the Town Attorney with no less than ninety (90) days of catastrophic leave should such a need arise for same.

b. Standard Employee Benefits. The Town Attorney shall be eligible for and receive all personal and fringe benefits accorded to regular full-time employees which such employees now receive or may receive in the future with the exception that the Town Attorney shall not be eligible to earn compensatory leave and/or overtime.

7. No Reduction of Benefits - The Council shall not at any time during the term of this agreement reduce the salary, compensation or other financial benefits of the Town Attorney, except to the degree of such a reduction across-the-board for all Town employees.

8. Termination of Contract by the Council - The Town Attorney shall be removable at the pleasure of the Council in accordance with the 1950-Code of Virginia, as amended, and in such event this contract shall be terminated.

9. Termination of Contract by the Town Attorney - If the Town Attorney desires to terminate this contract she must give ninety (90) days written notice of her intention to resign.

10. Termination of Contract by Mutual Agreement - The Council and the Town Attorney may mutually agree to terminate this contract and establish an effective date of termination.

11. Termination Pay and Benefits - This section shall govern compensation to the Town Attorney upon termination of her employment pursuant to Sections 8 and 10. In the event of a termination whereby severance is to be paid the Town Attorney agrees to release the Town from all further claims and/or liability.

a. If the Town Attorney's contract is terminated by Mutual Agreement (Section 10) or by the Council (Section 8) for any reason other than as specified in subsection B, the following shall apply: The Town Attorney shall be entitled to receive nine (9) months of termination pay which shall consist of salary and the right to continue for six (6) months health and all other insurance benefits as if she were still an employee.

b. If the Council terminates the Town Attorney for willful and malicious refusal (1) to comply with a clear legal directive of the Council or (2) to obey applicable statutes, personnel policies, ordinances and regulation, then the Town Attorney shall not be entitled to any termination pay or the right to continue employee benefits but shall be entitled to be paid for all unused annual leave.

c. If the Town Attorney's contract is terminated by the Town Attorney (Section 9), then the Town Attorney shall not be entitled to any termination pay or the right to continue employee benefits but shall be entitled to be paid for all unused annual leave.

12. Evaluation - The Council delegates to the Town Manager, the authority to conduct the annual performance evaluation of the Town Attorney with the input and involvement of the Town Council. Evaluation factors and performance measures will be determined mutually by the Town Council and the Town Manager. Bonuses, frequency and amounts paid, if any, will be determined by the Council. Forty-five days (45) prior to February 1, the Town Attorney shall provide an annual report of accomplishments, and activities for the Town Council and the Town Manager. Salary adjustments shall be determined by either the Town Manager or Council as appropriate.

13. Indemnification - Notwithstanding any provision of the Town Indemnification Resolution to the contrary, the Council shall provide for the defense of any claim for legal proceeding against the Town Attorney arising out of any action on her part in furtherance of her duties as Town Attorney and shall pay the costs of any settlement or judgment in connection therewith. Such indemnification shall not apply to any act in violation of criminal law.

14. Savings clause - If, during the term of this contract it is found that a specific provision of the contract is illegal under federal or state law, the remainder of the contract not affected by such a

finding shall remain in force.

15. **Effective date** - This contract shall take effect on May ___ 2013.

THIS CONTRACT INCORPORATES BY REFERENCE ALL APPLICABLE STATUTES, ORDINANCES, RULES, REGULATIONS AND POLICIES OF THE TOWN OF LEESBURG AND THE COMMONWEALTH OF VIRGINIA.

WITNESS, the following seals and signatures. Dated this ___ day of May 2013.

The Town Council of Leesburg, Virginia

By _____ (seal)
Kristen C. Umstattd, Mayor

_____ (seal)
Jeanette A. Irby

_____ (seal)
John Wells, Town Manager