

## **EMPLOYMENT AGREEMENT**

**THIS AGREEMENT**, made and entered into by and between the City of Gainesville, Florida, hereinafter called the "City" and Virginia Bigbie, hereinafter also called "City Auditor", both of whom understand as follows:

### **WITNESSETH:**

**WHEREAS**, Virginia Bigbie is qualified and competent to serve as the City Auditor, and is ready, willing and able to perform the duties of City Auditor consistent with the following terms and conditions; and

**WHEREAS**, Virginia Bigbie and the City feel it would be mutually beneficial to enter into a contract of employment setting forth agreements and understandings which:

1. provide inducement for the City Auditor to accept such employment with the City;
2. make possible full work productivity by assurances to the City Auditor with respect to future security;
3. establish the basis, framework and context for the relationship which shall exist between the City and the City Auditor; and
4. provide a just means of terminating the City Auditor's services at such time as the City Commission may desire to terminate such employment.

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

#### **Section 1. Duties.**

The City Commission hereby agrees to employ Virginia Bigbie as the City Auditor of the City of Gainesville to perform duties and functions of said position as specified in the City Charter, Code of Ordinances, and job description, if any, and such other lawful duties as the City Commission may from time to time assign the City Auditor.

#### **Section 2. Term.**

This Agreement shall be of a continuing nature, provided, however, that:

A. The City Auditor shall hold office at the will of the City Commission, and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Commission to terminate the services of the City Auditor at any time, subject only to the provisions set forth in Section 4 of this Agreement.

B. Nothing in this Agreement shall prevent, limit, or interfere with the right of the City Auditor to resign at any time from her position with the City, subject only to the provisions set forth in Section 4 of this Agreement.

C. The City Auditor shall report for duty as City Auditor for the City of Gainesville on February 24, 2020, which date shall be the City Auditor's leave progression date for the purposes of computing benefits.

**Section 3. Salary and Related Matters.**

A. The City agrees to pay the City Auditor for her services rendered pursuant hereto an annual base salary of \$150,000, payable in equal installments at the same time as other employees of the City are paid. The City agrees to increase said base salary and/or benefits of the City Auditor in such amounts and to such extent as the City Commission and the City Auditor may determine that it is desirable to do so. The City Auditor's performance, salary, and benefits shall be reviewed after the conclusion of every fiscal year by the City Commission. The performance objectives and review procedures should be established at the beginning of the fiscal year for the next review period. Any salary increases will be based on the City Auditor's performance in the prior fiscal year and become effective on the first Monday of the first full pay period of the next calendar year.

B. The City shall fix any such other terms and conditions of employment as it may

determine from time to time, relating to the performance of the City Auditor, provided such terms and conditions are not inconsistent with the provisions of this Agreement, the City Charter, or any other law.

C. All provisions of the City Charter and the Code, and regulations, policies, and rules of the City relating to fringe benefits and working conditions as they now exist or hereafter may be amended, including without limitation, health insurance and disability retirement benefits, also shall apply to the City Auditor as they would to other management employees of the City hired on February 24, 2020, except as herein provided.

D. The City Auditor shall be entitled to the rights described in said Human Resources Policy L-3 except as modified as follows. Upon commencement of employment as City Auditor, the City Auditor shall receive 82.25 hours of PTO. Beginning with the ninth (9<sup>th</sup>) pay period after commencement of employment as City Auditor, the City Auditor shall accrue PTO at the rate of 10 hours 28 minutes per pay period or the rate of accrual per pay period applicable to City Auditor's leave progression date, whichever is greater. The maximum number of PTO hours that can be accrued (carryover cap) is 560 hours, adjusted as otherwise provided in Policy L-3. The City Auditor is not eligible to earn administrative leave.

Upon termination of employment, unused and accrued PCLB is forfeited and not compensable under any circumstances unless otherwise generally allowed for management employees of the City hired on City Auditor's leave progression date.

E. The City Auditor shall have the option of utilizing either the City's contractual medical provider or her personal physician for a yearly physical exam and EKG, provided that, in the latter case, the monetary exposure for the City shall not exceed \$250. If a personal physician is utilized, City Auditor will be required to submit any bills for the services provided through any

available insurance coverage before requesting reimbursement from the City for non-covered deductibles or co-insurance payments. The scope of the examination will be that of a "Type A" physical examination as described in the City's contract with Family Practice Medical Group or an examination of a similar scope with any successor provider. Services provided by a personal physician other than those listed under Type A above shall not be subject to reimbursement under this paragraph.

F. The City shall provide the City Auditor term life insurance under the City's group plan, in an amount equal to approximately two (2) times the salary of the City Auditor up to a maximum of \$250,000.00. The parties understand that, in accordance with law, a portion of the life insurance provided, and the amount of premium payments, may constitute a taxable benefit to the City Auditor.

**Section 4. Termination and Severance Pay.**

A. In the event the City Auditor's employment is terminated by virtue of her resignation, she shall inform the City Commission in writing and shall give the City Commission two (2) months written notice in advance, unless the parties otherwise agree.

B. In the event the City Auditor is terminated for cause as so stated by at least four (4) members of the City Commission, at the time of termination, the City shall have no obligation to provide any severance pay, but accrued and unused PTO shall be paid for. It is understood and agreed that the City Commission will be the sole judge as to the effectiveness and efficiency with which the City Auditor performs her employment, and whether cause exists for the termination of such. By way of illustration, but not limitation, the following are some examples of situations the parties agree could reasonably be deemed "cause" warranting denial of severance pay: gross negligence in the handling of City affairs; willful violation of the provisions of law; willfully

disregarding a direct order or demand of the City Commission or a policy of the City; conduct unbecoming a City Auditor; pleading guilty or *nolo contendere* to, or being found guilty by a jury or court of a misdemeanor involving physical violence, theft, driving under the influence of alcohol or drugs or possession or sale of drugs, or a felony, regardless of whether or not adjudication is withheld and probation imposed.

C. In the event the City Auditor's employment is terminated under any other circumstances during such time as the City Auditor is willing and able to perform the duties of City Auditor, then the City Auditor shall be entitled to severance pay in the following amounts, less appropriate deductions for federal withholding and other applicable taxes. If such termination occurs during the first year of employment as City Auditor, the City agrees to pay employee an amount equal to 12 weeks' salary; if such termination occurs during the second year of such employment, the City agrees to pay employee an amount equal to 17 weeks' salary; if such termination occurs during the third year and thereafter of such employment, the City agrees to pay employee an amount equal to 20 weeks' salary. Any severance pay due under this Agreement shall be paid to the City Auditor in a lump sum payment during the next regular payroll period following her termination of employment.

D. If termination of employment occurs under any other circumstance, i.e., death or disability, or the City Auditor is unable, or anticipated to be unable, to perform the duties of the position due to a physical or mental impairment for a period of 90 consecutive days, or 180 days out of the next 365 days, then the parties may agree to terminate the City Auditor and pay the City Auditor, effective the last day of employment, an amount, less appropriate deductions for federal withholding and other appropriate taxes up to a maximum of 12 weeks' salary at her current rate of pay, in addition to any accrued and unused PTO and any other benefits to which the City

Auditor is entitled.

E. Any severance pay provided to the City Auditor by the City shall not exceed an amount greater than 20 weeks of salary, provided, however, the City Auditor is prohibited from receiving any severance pay from the City if the City Auditor's employment is terminated by the City Commission for misconduct, as defined in Florida Statute Section 443.036(29).

**Section 5. Dues and Subscriptions.**

The City agrees to pay for the professional dues and subscriptions of the City Auditor necessary for participation in national, regional, state, and local associations and organizations necessary and desirable for continued professional participation, growth, and advancement, and for the good of the City. The total expenditure for dues and subscriptions may be limited by the amount specifically approved and appropriated in the City's Annual Financial and Operating Plan Budget.

**Section 6. Bonding.**

The City shall bear the full cost of any fidelity or other bonds required of the City Auditor under any law or ordinance.

**Section 7. Vehicle.**

The City agrees to provide the City Auditor the option of choosing either a City-provided vehicle for use in performing the duties of employment and for commuting and de minimus personal use or a \$450.00 monthly car allowance.

**Section 8. Retirement.**

A. The City agrees to execute all necessary agreements provided by the International City Management Association Retirement Corporation (ICMARC) or similar City approved providers for participation in any such retirement plans sponsored by the City. The City Auditor

will decide the percentage of base salary to have contributed/deferred to such plans and the City will implement that decision to the extent allowed by law by, among other things, deducting appropriate equal proportionate amounts each pay period. The City agrees to transfer ownership of said funds to succeeding employers upon the City Auditor's termination, if such is in accordance with the plan provisions and legal requirements in effect at that time.

**Section 9. Relocation and Expenses**

A. After securing competitive bids or quotes, the City shall pay directly to a qualified, licensed and insured carrier or company, or reimburse the City Auditor at her option for the expenses of packing and moving the City Auditor, her family, and personal property from Minneapolis, Minnesota to her chosen residence within the City of Gainesville, Florida. Allowable costs shall include packing, unpacking, transport, insurance and any temporary storage costs necessary. Said payment will be based on actual expenditures, shall not exceed \$10,000, is reimbursable for a period of 18 months from the City Auditor's employment start date, and shall be repaid by the City Auditor to the City if the City Auditor voluntarily terminates employment with the City within 18 months of February 24, 2020.

B. The City shall pay the City Auditor temporary living expenses in the amount of \$1,500.00 per month (in addition to base salary payments), for a duration not to exceed six (6) months, effective beginning February 24, 2020. However such temporary living expense payments shall cease when the City Auditor purchases and acquires legal possession of a permanent residence, provided this occurs prior to the end of the six-month period.

C. The City shall provide funds (in addition to base salary payments) for up to three (3) trips and associated costs of the City Auditor and her dependents to and from Minneapolis, Minnesota to the City of Gainesville on a direct reimbursement basis, such costs whether

incurred before or after the execution of this Agreement.

**Section 10. General Provisions.**

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

B. 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.

C. Except as otherwise provided herein, the terms and conditions of employment described in this Agreement shall be effective February 24, 2020.

IN WITNESS WHEREOF, the City has caused this Employment Agreement to be signed and executed on its behalf by its Mayor, and duly attested to by its Clerk of the Commission, and the City Auditor has signed and executed this Employment Agreement, both in duplicate on the respective dates under each signature.


CITY OF GAINESVILLE



LAUREN POE, MAYOR

DATED: 11/21/20

ATTEST:

BY:   
OMICHELE D. GAINNEY  
CLERK OF THE COMMISSION  
DATED: 1-21-20

*Mari Kessler*  
Deputy Clerk

Approved as to Form and Legality

By: 

Nicolle M. Shalley  
City Attorney



VIRGINIA BIGBIE, CITY AUDITOR

DATED: December 27, 2019