

CITY CLERK EMPLOYMENT AGREEMENT

This Employment Agreement hereinafter referred to as the "Agreement" is made and entered into by and between the City of North Port, Florida, hereinafter referred to as the "City" or "Commission," and Kathryn Peto, hereinafter referred to as "Ms. Peto" or "City Clerk."

RECITALS

- A. The City is a municipal corporation of the State of Florida.
- B. The City Commission is the legislative branch of the City's form of government and derives its powers from the Florida Constitution, general laws of the State of Florida, and the City Charter.
- C. Ms. Peto's employment with the City began February 6, 2017 as the City's Deputy City Clerk. Ms. Peto's employment in that capacity is governed by that certain Deputy City Clerk Employment Agreement between the City and Ms. Peto, effective February 2, 2017 ("Deputy City Clerk Agreement").
- D. On August 21, 2018, in accordance with City Charter Section 13.01, the City Commission appointed Ms. Peto as the Interim City Clerk effective August 22, 2018 to temporarily fill the vacancy in the City Clerk position.
- E. The City Clerk is a Charter Officer whose powers, duties and responsibilities are set forth in the City Charter, the Code of the City of North Port, and Commission-authorized job description as revised from time to time.
- F. As a Charter Officer, the City Clerk is appointed by the Commission and employed by the City. Accordingly, the Commission and Ms. Peto acknowledge that the City Clerk position bears greater obligations and responsibilities than other positions of employment and may be subject to more restrictions and enhanced benefits than general employees of the City.
- G. Ms. Peto represents and warrants that, by virtue of her education, training and experience, she has the requisite skills, background, education, knowledge, and abilities to capably perform the duties and obligations of City Clerk.
- H. As a result of its good faith reliance on those representations and warranties, and pursuant to Sections 13.01 and 13.02 of the City Charter, the Commission wishes to appoint, secure, employ, and retain the services of Ms. Peto as the City Clerk.
- I. Ms. Peto desires to accept and assume the position of City Clerk.

NOW THEREFORE, in consideration of the premises and the mutual covenants expressed herein and pursuant to the employment relationship between the parties, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The recitals outlined above are true and correct and are incorporated into and made a part of this Agreement.
2. **Effective Date.** This Agreement shall become effective on the date of the last execution of this Agreement ("Effective Date").

3. Position or Job. The Commission hereby appoints and the City hereby employs, engages, and hires Ms. Peto as the City Clerk, provided that this Agreement and Ms. Peto's employment as City Clerk are subject to and conditioned upon her:

- a. Successfully passing all post-offer background and reference checks.
- b. Being approved and appointed by a majority of the Commission at a public meeting.

The general duties and responsibilities of the City Clerk are specified in the City of North Port City Charter, the Code of the City of North Port, Florida Statutes, job description attached as Exhibit A and as amended from time to time, and such other legally permissible and proper duties and functions as the Commission may assign. The Commission shall have the sole right and discretion to change or modify the duties and responsibilities of the City Clerk's position or job at any time and for any reason.

Ms. Peto shall perform all duties, responsibilities, tasks, jobs, and services assigned to her by the Commission responsibly, faithfully, industriously, and to the best of her ability.

The City Clerk is a salaried Charter Officer position exempt from overtime pay and except for illness, vacation, and other authorized absences, the City Clerk is expected to be available.

4. Performance Evaluation. The Commission may at any time collectively review and evaluate the City Clerk's performance. The Commission shall individually and collectively review and evaluate in writing the City Clerk annually no later than the anniversary date of the Effective Date. The annual review and evaluation shall be in accordance with specific written criteria and policy approved by the Commission, as may be amended from time to time. Performance evaluations and any associated compensation adjustments shall be brought up for approval by the Commission at a public meeting.

5. Duration of Appointment and Employment Indefinite. Upon execution of this Agreement and providing Ms. Peto successfully passes all post-offer background, and referenced checks conducted by the City, the term of appointment and employment of Ms. Peto as City Clerk shall commence on the Effective Date, but nothing in this Agreement shall be construed as creating an obligation, duty or guarantee of employment for any specific duration. Although the City hopes its relationship with Ms. Peto will be long term, the employment and compensation of Ms. Peto as City Clerk can be ended by either party in accordance with Section 7 below.

6. Compensation or Salary. As of the Effective Date, the City shall pay Ms. Peto, and Ms. Peto shall accept from the City, in full payment for her services as City Clerk, an annual gross salary of ninety-seven thousand one hundred fourteen dollars and fifty-eight cents (\$97,114.58) payable in the same manner as general employees are paid through the normal payroll system. After one year of service as the City Clerk, Ms. Peto shall be eligible for consideration of any adjustments in annual gross salary and/or other compensation. Any adjustments to Ms. Peto's annual gross salary or other compensation shall be determined annually by the Commission at a public meeting based upon the annual performance evaluation. Any adjustments to salary or other compensation shall take effect as determined by Commission during the annual review and performance evaluation. Upon timely obtaining Certified Municipal Clerk designation from the International Institute of Municipal Clerks in accordance with Section 12 herein, Ms. Peto shall receive a compensation increase of no less than five percent (5%) and no more than ten percent (10%) of her then-current base salary. Said increase shall be in addition to any annual review and raise that year, which shall be determined without consideration of the increase granted in conjunction with the certification. Ms. Peto's annual gross salary shall not exceed the maximum annual salary established for the City Clerk position.

7. Termination. The appointment, employment and compensation of Ms. Peto as City Clerk can be ended at the option of the Commission or Ms. Peto, subject to the following conditions:

a. Ms. Peto may cancel this Agreement and her employment by giving the Commission at least thirty (30) days written notice before the effective date of separation, unless the Commission agrees to waive such notice requirement. No severance shall be paid to Ms. Peto if she cancels this Agreement and her employment. However, Ms. Peto will be paid any unused leave that she has accrued as of the effective date of termination, in accordance with the Personnel Policy in effect at that time.

b. Pursuant to Section 13.03 of the City of North Port City Charter, the City Clerk shall be removed from office for good cause by a majority vote of the entire Commission who shall within ten (10) days of such determination serve written notice to the City Clerk. Upon the City Clerk's removal from office for "good cause," this agreement shall be terminated. No severance shall be paid to Ms. Peto when termination occurs under these circumstances. However, Ms. Peto will be paid any unused leave that she has accrued as of the effective date of termination, in accordance with the Personnel Policy in effect at that time.

For purposes of this Agreement, "good cause" is defined and limited to the City Clerk's conviction (or plea of guilty or nolo contendere) of any felony act or misdemeanor, the City Clerk's misconduct as defined in Sections 443.036(29), violation of Section 112.313, Florida Statutes, or any of the following:

i. Violation of the City's Personnel Policy or any City policy, rule or regulation, which would subject any City employee or public officer to termination or removal from office.

ii. The commission of any act which involves moral turpitude, or which causes the City disrepute.

iii. Willful dereliction of duty; material dishonesty, or any other act of a similar nature of the same or greater seriousness.

iv. Appointment or election to public office that creates a prohibited dual office-holding pursuant to Article II, § 5(a), Florida Constitution.

iv. After the Commission's issuance of a performance improvement plan and the City Clerk having six months to address complaints therein, the City Clerk's continued failure to perform duties and responsibilities satisfactorily or demonstrate requisite skills in her position as determined by the Commission at a public meeting.

"Good cause" shall further include any breach of this Agreement by Ms. Peto, providing Ms. Peto shall be given ten (10) days' notice to cure such breach before termination may occur under this paragraph.

c. Pursuant to Section 13.03 of the City of North Port City Charter, the City may cancel this Agreement and Ms. Peto's employment without cause by giving Ms. Peto ten (10) days written notice before the effective date of termination. Provided that she signs a waiver and fully releases any and all claims against the City related to her employment and termination, Ms. Peto shall receive a lump sum severance payment equal to sixteen (16) weeks of her annual base salary, together with payment for all unused leave that she has accrued as of the effective date of termination. This provision complies with Section 215.425, Florida Statutes.

d. The employment and compensation of Ms. Peto shall end upon her death, voluntary resignation, retirement or termination.

8. Deferred Compensation and Florida Retirement System. Each year the City shall contribute to Ms. Peto's ICMA-RC deferred compensation plan an amount equal to 3.5 percent (3.5%) of her annual salary; the total annual amount is not to exceed the maximum allowable contribution under the Internal Revenue code. These contributions, which will be made on regularly scheduled pay dates, are in addition to the salary referred to in Section 6 above, and will immediately expire if this Agreement and Ms. Peto's employment are terminated pursuant to Section 7 above. The City agrees to authorize all necessary arrangements required by the ICMA-RC for Ms. Peto's continued participation in the 457 Deferred Compensation Plan. The City further agrees to transfer ownership to Ms. Peto of the Plan account funds upon her resignation or termination. The City recognizes that the City Clerk is required to participate in the Florida Retirement System (FRS) at the senior management level. The City agrees to authorize all necessary arrangements required under Florida statutes to allow for buy-back of prior service using the City Clerk's resources should the City Clerk elect to exercise that option.

9. Insurance. The City will at its expense provide: (1) the City Clerk with individual medical, vision and dental insurance coverage under the City's group benefit plan, regardless of plan version; (2) term life insurance on Ms. Peto in the face amount equal to one year's salary; and (3) any other insurance coverage provided to all employees (excluding any voluntary plans offered). Coverage will begin on the first of the month beyond the start date of employment.

10. Leaves of Absence. Ms. Peto shall accrue leave in accordance with the Personnel Policy based upon her overall tenure with the City.

11. Professional Development. The City shall pay reasonable and necessary professional dues and subscriptions as authorized in the budget for Ms. Peto to participate in national, regional, state and local associations and organizations essential for Ms. Peto's continued professional development as City Clerk. These include, but are not limited to, the Florida Association of City Clerks and the International Institute of Municipal Clerks. Ms. Peto agrees to obtain a Certified Municipal Clerk designation from the International Institute of Municipal Clerks no later than three (3) years from the Effective Date. In addition, the City will pay reasonable and necessary expenses and costs as authorized in the budget for Ms. Peto to attend seminars, short courses, lectures and institutes related to Ms. Peto's duties and responsibilities as City Clerk. However, the City Clerk will be required to reimburse the City for any educational assistance if Ms. Peto leaves employment within one year of completion of any course or certifications.

12. Civic Involvement and Outside Activities. The City acknowledges the value of having its City Clerk participate and be directly involved in local civic clubs or organizations. Accordingly, the City shall pay for the reasonable membership fees and/or dues to enable Ms. Peto to become an active member in two (2) local civic clubs or organizations. Provided such involvement does not unreasonably interfere with Ms. Peto's responsibilities as City Clerk, she shall be permitted, with the prior approval of the Commission, to engage in teaching or other non-City related business and retain any compensation.

13. Residence. Consistent with Section 13.01 of the City Charter, Ms. Peto shall maintain permanent residency within the City during her term as City Clerk. Residency shall be established by a valid driver's license and confirmed by annual submittal of an affidavit of domicile. It shall not be necessary that the City Clerk be a resident of the City at the time of her appointment; however, she shall be required to establish residency in the City within a one (1) year period after the Effective Date.

14. **Other Benefits and Obligations.** Except as otherwise provided in this Agreement, Ms. Peto shall be entitled to all benefits enjoyed by general employees and obligations as provided in the City's Personnel Policy Manual. In the event of any conflict between this contract and the City's Personnel Policy Manual, this contract will prevail.

15. **Indemnification.** Pursuant to Sections 111.07 and 111.071 of the Florida Statutes, the City will provide a civil defense to any legal action brought against the City Clerk. This section shall survive the termination of this Agreement or any other separation of the City Clerk's employment.

16. **Waiver.** No consent or waiver expressed or implied by any party to any breach or default by the other in the performance of their obligations hereunder shall be deemed or construed to be consent or waiver to or of any other breach or default of this Agreement. Failure of any party to complain or act or failure to act by the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver of that party's rights hereunder.

17. **Controlling Law.** This Agreement and the validity, execution, construction, interpretation, performance and enforcement thereof, shall be governed by the substantive and procedural laws of the State of Florida.

18. **Jurisdiction and Venue.** Any and all actions, causes of action, lawsuits, litigation, legal proceedings or special proceedings to construe, interpret, or determine the validity of this Agreement and/or to enforce performance thereof shall be brought only in the State of Florida, in Sarasota County. Ms. Peto and the City stipulate that subject matter and in personam jurisdiction and venue for any dispute, controversy, or disagreement relating directly or indirectly to the provisions of this Agreement and the enforcement therefore lies exclusively in the State of Florida in Sarasota County.

19. **Attorney's Fees.** In any litigation lawsuit, legal or other proceedings brought in connection with the construction, interpretation, meaning, validity, performance or enforcement of this Agreement, the prevailing party shall be entitled to receive all of their costs and reasonable attorney fees from the other party.

20. **Renegotiation of Provisions.** Either party may request renegotiation of any provision of this Agreement at any time. If the parties are unable to reach an agreement, those terms will remain unchanged.

21. **General Provisions.**

a. Upon City Clerk's death, the City's obligations under this Agreement shall terminate except for:

i. Transfer of balances in City Clerk's ICMA 457 Deferred Compensation Plan and FRS Plan to her designated beneficiaries;

ii. Payment of accrued leave balances in accordance with this Agreement;

iii. Payment of all outstanding hospitalization, medical and dental bills, in accordance with City's insurance policies or plans;

iv. Payment of all life insurance and disability benefits; and

v. Any other benefits provided to general employees in the event of death.

22. **Severability.** The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

23. **Integration.** This Agreement sets forth and establishes the entire understanding between the Commission and Ms. Peto relating to the appointment and employment by the Commission of Ms. Peto as the City Clerk. Any prior discussions or representations by or between the parties are merged into and rendered null and void by the Agreement. No amendment or modification of this Agreement shall be valid or effective unless it is in writing and properly executed by all parties thereto. This Agreement shall supersede all provisions of City resolutions in conflict with this Agreement, to the extent of such conflict.

24. **Notice.** Any notice required or permitted under this Agreement shall be sent by certified mail to: (a) the Commission at its principal place of business; and (b) to Ms. Peto at the address she provided to the City for income tax purposes.

25. **Understanding.** Before signing this Agreement, Ms. Peto was advised of her right to consult with an attorney to review the Agreement and her right to have an attorney throughout the process leading up to the execution of the Agreement. Before signing this Agreement, Ms. Peto had full and adequate opportunity to read and review it. Ms. Peto represents that she read and reviewed the Agreement and fully understood its contents, terms, provisions, and conditions before signing it. Any legal counsel sought will be at the expense of Ms. Peto.

26. **Binding Effect.** This Agreement shall be binding on the City and Ms. Peto as well as her heirs, assigns, executors, personal representatives and successors in interest.

27. **Mutual Termination of Deputy City Clerk Agreement.** By entering into this Agreement, the parties mutually agree that the Deputy City Clerk Agreement shall terminate simultaneously with this Agreement becoming effective.

(This space intentionally left blank; signature pages to follow)

IN WITNESS WHEREOF, the parties hereto affix their signatures.

CITY OF NORTH PORT, FLORIDA

VANESSA CARUSONE
MAYOR

DATE

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me on _____ 2018, by
Vanessa Carusone, who is personally known to me or who produced _____ as identification.

Notary Public

ATTEST

KATHRYN PETO
INTERIM CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON
CITY ATTORNEY

EMPLOYEE

KATHRYN PETO

DATE

STATE OF FLORIDA

COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me on _____ 2018, by
Kathryn Peto, who is personally known to me or who produced _____ as identification.

Notary Public

Exhibit A

Job Description CITY CLERK

GENERAL DESCRIPTION

The City Clerk is the head of the Department of Records and custodian of all official records of the City and is responsible for the proper administration of all affairs concerning the records of the City placed under his authority.

ESSENTIAL JOB FUNCTIONS

- Supervises the records of governmental and proprietary functions of the City.
- Serves as City Clerk to the City Commission and records all official actions.
- Serves as the election official for the City of North Port.
- Serves as parliamentarian to all Advisory Boards.
- Certifies and notarizes documents of the City and attests all written contracts and instruments on behalf of the City.
- Prescribes retention and disposition of records of all governmental and proprietary functions of the City and all departments of the City.
- Serves as Clerk of Municipal Code of Enforcement Board.
- Processes and records all special assessments and code enforcement liens.
- Countersigns warrants for payment of obligations.
- Administers oaths required or authorized under general law, the City Charter or ordinance of the City.
- Keeps records of agenda requests and coordinates with the City Manager in preparing agendas for all commission meetings.
- Assists with the preparation and administration of the departmental budget.
- Performs as legislative liaison on behalf of the City to the State and federal legislative delegations representing the various policy positions.
- Supervises and prepares publication of legal notices and recording of legal documents.
- Manages all board and committee records of meetings and appointments.
- Researches or oversees the research of questions and requests from the City Commission, City Attorney and the public.

Supervisory Responsibilities

- Recommends hiring, firing, transfer, suspension, lay-off, recall, promotion, discharge, discipline and evaluation of employees.
- Performs general management functions and carries out diverse administrative tasks as may be assigned by the City Commission.

(These essential job functions are not to be construed as a complete statement of all duties performed. Employees will be required to perform other related duties as assigned, including City-directed work assignments in the event of a declared emergency.)

QUALIFICATIONS

Knowledge/Skills/Abilities:

- Knowledge of the ordinances, policies, procedures of the City.
- Knowledge of legal instruments, rules and procedures of City Commission meetings, including organization, function and activities of the municipal government and other governmental agencies.
- Knowledge of State and municipal election laws and financial reporting.
- Knowledge of State records retention law, public records law and sunshine law.
- Skill in the use small office equipment, including copy machines or multi-line telephone systems.
- Skill in using computers for data entry.
- Skill in using computers for word processing and accounting purposes.
- Ability to organize and communicate effectively.

Education and Experience:

Bachelor's degree in business or public administration preferred and five (5) years of experience in municipal government with increasing levels of responsibility including a minimum of two (2) years of management or supervisory experience. Designated as a certification Municipal Clerk by the International Institute of Municipal Clerks or the ability to obtain said certification. Must establish City residency within one (1) year of appointment, as required by City Charter. Financial Disclosure required.

(A comparable amount of training, education and/or experience may be substituted for the above qualifications.)

PHYSICAL REQUIREMENTS

The work is light work: exerting up to 20 pounds of force occasionally, and up to 10 pounds of force frequently, and negligible amount of force constantly to move objects. Additional requirements include: feeling, fingering, grasping, handling, hearing, kneeling, lifting, mental acuity, reaching, repetitive motion, speaking, standing, stooping, talking, visual acuity, and walking.

(Occasional=1-3 Hrs; Frequent=3-5 Hrs; Constant=5-8 Hrs – Per Work Day)

WORK ENVIRONMENT

The work environment characteristics described herein are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee occasionally works near moving mechanical parts and in outside weather conditions and is occasionally exposed to risk of electrical shock and vibration.

The employee rarely works in high, precarious places and is occasionally exposed to fumes or airborne particles and toxic or caustic chemicals.

The noise level in the work environment is usually moderate to low.

The work environment will vary from office work to responding and assisting incident command and safety functions at emergency scenes.

Position requires the operation of a City vehicle.

EMERGENCY RESPONSE STATEMENT

Every City employee has emergency response responsibilities, though not every position will require routine assignments during an emergency event. All employees are subject to recall around the clock for emergency response operations, which may require irregular work hours, work at locations other than the normal work location, and may include duties other than those specified in the employee's official job description. Assignments in support of emergency operations may be extensive in nature, with little advance notice, and may require employees to relocate to emergency sites with physically and operationally challenging conditions.

Reviewed by: [Employee Name]

Signature: _____

Date: _____