

DEPUTY CITY CLERK EMPLOYMENT AGREEMENT

This Employment Agreement hereinafter referred to as the "Agreement" is made and entered into on the ____ day of _____, 2017, by and between the City of North Port, Florida hereinafter referred to as the "City" or "Commission" and _____, hereinafter referred to as "_____" or "Deputy 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. The Deputy City Clerk position is a Charter Officer whose powers, duties and responsibilities are set forth in the City Charter, City Code and Commission authorized job description.
- D. As a Charter Officer the Deputy City Clerk is appointed by the Commission and employed by the City. Accordingly, the City Commission and _____ acknowledge that the Deputy City Clerk position has greater obligations and responsibilities than other positions of employment and as a result may be subject to more restrictions and enhanced benefits than general employees of the City.
- E. _____ has represented and warranted 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 Deputy City Clerk.
- F. As a result of its good faith reliance on those representations and warranties, the City Commission wishes to appoint, secure, employ and retain the services of _____ as Deputy City Clerk.
- G. _____ desires to accept and assume the position of Deputy 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 is 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. **Position or Job.** The Commission hereby appoints and the City hereby employs, engages and hires _____ as the Deputy City Clerk provided, however, that this Agreement and _____'s employment as Deputy City Clerk are subject to and conditioned upon her:
 - a. Successfully passing all post-offer background, referenced checks and medicals examinations including drug screen conducted by the City; and
 - b. Being approved and appointed by a majority of the City Commission at a lawful public meeting.

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

In the event the Deputy City Clerk shall serve on any appointed boards or elected boards of any professional organization, or serve on any committees related to her professional activities, any monies paid, or gifts received, by the Deputy City Clerk related to such service shall be paid over to or delivered to the City, unless otherwise provided by the City

Commission. The Deputy City Clerk is a full time Charter Officer position exempt from overtime pay and except for illness, vacation and other authorized absences, the Deputy City Clerk is expected to be available at all times.

3. **Performance Evaluation.** The City Commission shall review and evaluate _____'s performance at a public meeting on or near the completion of six (6) months of service and thereafter at least once per year within thirty (30) days of the anniversary date of _____'s employment. The review and evaluation may be in accordance with specific written criteria developed and approved by the City Commission. Further, no later than 30 days prior to the Commission's review and evaluation, the individual Commissioners shall provide the Deputy City Clerk with their written evaluations and provide the Deputy City Clerk 7 days to submit any written response. In effecting the provisions of this Section the City Commission and _____ mutually agree to abide by the provisions of applicable law.

4. **Duration of Appointment and Employment Indefinite.** Upon appointment by the Commission of _____ as Deputy City Clerk and execution of this Agreement and providing _____ successfully passes all post-offer background, referenced checks and medicals examinations including drug screen conducted by the City, the term of appointment and employment shall commence on _____ 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 _____ will be long term, the employment and compensation of _____ as Deputy City Clerk can be ended by either party in accordance with Paragraph 6 below.

5. **Compensation or Salary.** As of the start date of employment the City shall pay _____, and _____ shall accept from the City, in full payment for her services as Deputy City Clerk, an annual gross salary of _____ payable in the same manner as general employees are paid through the normal payroll system. After one year of service as the Deputy City Clerk, _____ shall be eligible for consideration of an increase in annual gross salary and or other compensation. Any increase to _____'s annual gross salary or other compensation shall be determined annually by the Commission at a public meeting based upon: (a) the annual performance evaluation, and/or (b) any amount provided to general employees as an across-the-board increase, and/or (c) such an amount as the City Commission may deem appropriate. Increases in annual gross salary, if any, or other compensation, if any, shall take effect as determined by Commission during the annual review and performance evaluation. _____'s annual gross salary shall not exceed the maximum annual salary established for the Deputy City Clerk position.

6. **Termination.** The appointment, employment and compensation of _____ can be ended at the option of the Commission or _____, subject to the following conditions:

a. _____ may cancel this Agreement and her employment by giving the Commission at least sixty (60) days written notice before the effective date of separation, unless the Commission agrees to waive such notice requirement. No severance shall be paid to _____ when termination occurs under these circumstances. However, _____ 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 Deputy 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 Deputy City Clerk. Upon the Deputy City Clerk's removal from office for "good cause" this agreement shall be terminated. No severance shall be paid to _____ when termination occurs under these circumstances. However, _____ 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 Deputy City Clerk's conviction (or plea of guilty or nolo contendere) of any felony act or misdemeanor, the Deputy City Clerk's misconduct as defined in Sections 443.036(29), violation of 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; public insobriety or drug or alcohol addiction; any other act of a similar nature of the same or greater seriousness.

iv. Excessive absence should Deputy City Clerk become unable to perform her duties because of sickness, accident, injury, mental incapacity or family health reasons for a period of time beyond any accrued leave and as provided for in accordance with the Florida Medical Leave Act.

v. 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 _____ providing _____ shall be given ten (10) days' notice to cure such breach before termination may occur under this paragraph.

c. The employment and compensation of _____ shall end upon the death, voluntary resignation, retirement or termination.

7. **Florida Retirement System.** The City recognizes that the Deputy City Clerk is required to participate in the Florida Retirement System (FRS) at the senior management level as provided to general employees. The City agrees to authorize all necessary arrangements required under Florida statutes to allow for buy-back of prior service using Deputy City Clerk's resources should the Deputy City Clerk elect to exercise that option.

8. **Insurance.** The City will at its expense provide: (1) _____ and her spouse and eligible dependents with medical, vision and dental insurance coverage under the City's group benefit plan; (2) term life insurance on _____ 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 start date of employment.

9. **Leaves of Absence.** _____ shall accrue leave in accordance with the Personnel Policy based upon her overall tenure with the City.

10. **Professional Development.** The City shall pay reasonable and necessary professional dues and subscriptions when feasible and authorized in the budget for _____ to participate national, regional, state and local associations and organizations essential for _____'s continued professional development as Deputy City Clerk. In addition, the City will pay reasonable and necessary expenses and costs when feasible and authorized in the budget for _____ to attend seminars, short courses, lectures and institutes related to _____'s duties and responsibilities as Deputy City Clerk. _____ agrees to attain designation as a Certified Municipal Clerk by the International Institute of Municipal Clerks by no later than January 31, 2021.

11. **Civic Involvement and Outside Activities.** Provided such services do not unreasonably interfere with _____'s responsibilities as Deputy City Clerk, she shall be permitted, with the prior approval of the City Commission, to engage in teaching or other non-City related business and retain any compensation. The Deputy City Clerk is expected to work an average of at least forty hours per week and as much as practical shall observe regular business hours in City Hall.

12. **Residence.** Consistent with section 13.01 of the City Charter _____ shall maintain permanent residency within the City during her term as Deputy City Clerk. Residency shall be established by her voter registration card and driver's license and confirmed by annual submittal of an affidavit of domicile.

13. **Other Benefits.** Except as otherwise provided in this Agreement, _____ shall be entitled to all benefits enjoyed by general employees of the City, and as provided in the City's Personnel Policy Manual.

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

15. **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.

16. **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.

17. **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. _____ 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.

18. **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.

19. **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.

20. General Provisions.

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

- i. Transfer of balances in Deputy 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.

b. The City shall bear the cost of any fidelity or other bond required of the Deputy City Clerk under any law or the City Charter.

21. **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.

22. **Integration.** This Agreement sets forth and establishes the entire understanding between the Commission and _____ relating to the appointment and employment by the Commission of _____ as the Deputy 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.

23. **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 _____ at the address provided to the City by _____ for income tax purposes.

24. **Understanding.** Before signing this Agreement, _____ 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 [redacted] had full and adequate opportunity to read and review it. Moreover, [redacted] did read and review the Agreement and fully understood its contents, terms, provisions and conditions before signing it.

25. **Binding Effect.** This Agreement shall be binding on the City and [redacted] as well as her heirs, assigns, executors, personal representatives and successors in interest.

26. **Effective/Anniversary Date.** This Agreement shall become effective after signing by both parties. The Deputy City Clerk's start date of employment shall be on _____, 2017. Accordingly, _____ of each succeeding year shall be the anniversary date of the appointment and employment of _____ as the Deputy City Clerk.

IN WITNESS WHEREOF, [redacted] signed and executed this Agreement on _____, 2017 after which the City signed and executed it on _____, 2017.

CITY OF NORTH PORT, FLORIDA

By: _____
Mayor

ATTEST:

City Clerk

Approved as to form and correctness:

Mark Moriarty, Esquire

Witnesses:

Deputy City Clerk:

Witness Signature

Witness Printed Name

Witness Signature

Witness Printed Name

State of Florida
County of Sarasota

The foregoing instrument was acknowledged before me this ____ day of _____, 2017 by _____ who is personally known to me or _____ who produced _____ as identification.

Notary Public

My Commission Expires: