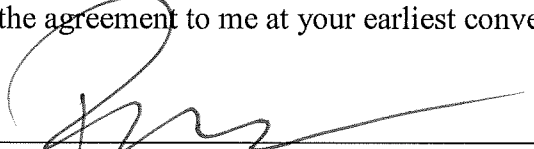


CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

M E M O R A N D U M

TO: Linda Cox, City Clerk
FROM: Robert V. Schwerer, City Attorney
SUBJECT: Agreement for Interim Legal Services
DATE: October 21, 2015

Please find attached Agreement for Interim Legal Services which was approved by the City Commission at its October 19 meeting. The rate has been revised to \$135.00 per hour as per Commissioner Perona's amended motion. Please return a fully executed copy of the agreement to me at your earliest convenience.



Robert V. Schwerer, Esq.
City Attorney

/mlp

Attachment

cc: Fort Pierce Mayor and Commissioners (**via email**)

AGREEMENT FOR INTERIM LEGAL SERVICES

THIS AGREEMENT is entered into by and between the CITY OF FORT PIERCE, FLORIDA, a Florida municipal corporation (the "City") and ROBERT V. SCHWERER, as City Attorney, and the law firm of HAYSKAR, WALKER, SCHWERER, DUNDAS & MCCAIN, P.A. (collectively the "Firm") effective as of the date stated below.

WITNESSETH:

WHEREAS, Robert V. Schwere and the Firm have submitted a written resignation letter resigning as City Attorney, with said resignation date to be effective ninety (90) days after acceptance by the City; and

WHEREAS, it is contemplated that during said period the Firm will be winding down its legal representation of the City so as to transition to the new City Attorney to be selected by the City Commission; and

WHEREAS, the City believes that it is in the best interest of the City to provide for interim legal services in order that the City continue with competent and continuous legal representation during this transition period in all of the various matters currently pending and provided for by its current City Attorney and the Firm; and

WHEREAS, the Firm is willing to continue its legal representation of the City in order to provide for a smooth and orderly transition in the delivery of legal services as provided by the City Charter and general law.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the City and the Firm do mutually agree as follows:

1. TERM OF AGREEMENT.

The term of this Agreement shall be ninety (90) days from acceptance by the City and shall remain in effect unless sooner terminated by either party upon ten (10) days written notice. This Agreement may be extended beyond such term by mutual consent of both parties.

2. SCOPE OF REPRESENTATION.

The Firm is to continue handling the general legal services it currently provides to the City as set out in Exhibit "A" attached hereto and incorporated by reference, the City Charter, Code of Ordinances, and general law. The Firm will make every effort to continue the assignments and duties of the City Attorney and the Assistant City Attorneys as set out in the attached Exhibit "A", but the Firm reserves the right to utilize other attorneys in the Firm for assistance in these matters at its discretion.

The current office space at City Hall, including computers, office supplies, library materials, etc. shall continue to be provided to the City Attorney and the Firm. For its part, the Firm shall continue to make available for the conduct of the City's legal business such files, documents, furniture, fixtures, and equipment within such office space that belong to the Firm. Upon the cessation of the Firm's representation, the Firm agrees to make available for copying by the City, at the City's expense, all documents in any or all files as well as any electronic data related to the business of the City. Further, on and before cessation of its representation, the Firm will fully cooperate in the transition of legal services handled by the Firm with the new City Attorney for which services the Firm shall be compensated as provided in paragraph 3 below.

3. FEES AND PAYMENT FOR SERVICES.

The Firm shall charge the City the following rates for attorney and paralegal work which shall apply during the term hereof: (a) Attorneys at \$135.00 per hour; and (b) Paralegals/Legal Assistants at \$65.00 per hour. These rates are blended rates and apply with respect to all work by any and all attorneys and paralegals/legal assistants of the Firm. In addition, the City shall continue to pay the retainer amounts set out in the City Attorney budget in the same amount and frequency during the term of this Agreement.

The City shall continue to pay and reimburse the Firm for such ordinary costs and expenses, including, but not limited to court costs, litigation expenses, court reporter fees, approved travel expenses, extraordinary postage and copying costs, etc. The Firm shall invoice the City each month for legal services rendered and costs expended on behalf of the City, and the City agrees to pay the invoice(s) within fifteen (15) days.

4. INSURANCE.

The Firm will continue its current malpractice coverage for all attorneys and other employees of the Firm when performing legal services for the City and provide the City Manager, upon request, with evidence of such coverages.

5. EFFECTIVE DATE.

This Agreement will become effective upon signing by both parties on the date indicated below.

CITY OF FORT PIERCE, FLORIDA

Date

Linda Hudson, Mayor

ATTEST:

Linda Cox, City Clerk

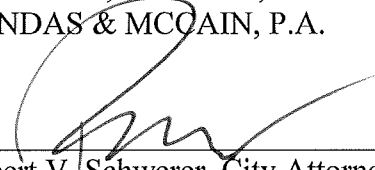
STATE OF FLORIDA
COUNTY OF ST. LUCIE

Sworn and subscribed before me this _____ day of October, 2015, by Linda Hudson, Mayor of the City of Fort Pierce, who is personally known to me or who has produced _____ as identification.

Notary Public, State of Florida
My Commission Expires:

HAYSKAR, WALKER, SCHWERER,
DUNDAS & MCCAIN, P.A.

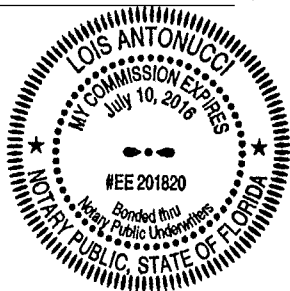
10/21/2015
Date




Robert V. Schwerer, City Attorney and
Managing Partner

STATE OF FLORIDA
COUNTY OF ST. LUCIE

Sworn and subscribed before me this 21ST day of October, 2015, by Robert V. Schwerer, as City Attorney and Managing Partner of Hayskar, Walker, Schwerer, Dundas & McCain, P.A., who is personally known to me or who has produced _____ as identification.





Notary Public, State of Florida
My Commission Expires:

EXHIBIT "A"

CITY ATTORNEY OFFICE

Mission Statement:

The functions of the City Attorney, as established by Section 45 of the City Charter, are:

1. To serve as legal advisor to, and counsel for, the City and all of its officers in matters relating to their official duties;
2. To attend all meetings of the City Commission, unless otherwise excused;
3. To provide all contracts, bonds and other instruments in writing in which the City is concerned, endorsing on each approval of the form and correctness thereof;
4. To prosecute and defend for and on behalf of the City, all complaints, suits and controversies in which the City is a party, when requested by the City Manager or the City Commission, and
5. To furnish the City Commission, City Manager, department head or an officer or board included in any department, an opinion on any question of law relating to their respective offices and duties.

The City Attorney has the responsibility to protect the legal interests and assets of the City in the conduct of its day to day business and the prosecution and defense of legal challenges, with the highest level of professionalism, ethics, and dedication. The City Attorney plans, directs, and coordinates all legal services, including specialized services by both his legal staff and outside counsel. The duties of the City Attorney require the exercise of extensive independent legal judgment. The City Attorney fulfills these responsibilities in a timely, responsive and ethical manner through superior legal talent operating in an open, progressive and balanced environment so as to serve the people of the City of Ft Pierce in a legal framework that protects and enhances the public health, safety and general welfare.

Organizational Structure:

For organizational and reporting purposes, the City Attorney's Office is currently divided into five (5) Divisions. Those divisions are:

- ✦ Special Projects Division
- ✦ Code Enforcement Division
- ✦ Civil Service Division
- ✦ FPRA Division
- ✦ Retirement Board Division

EXHIBIT "A"

TO INTERIM LEGAL SERVICES AGREEMENT

Routine legal services, including duties and responsibilities performed by the City Attorney's Office and its staff for each of these Divisions in summary format is set out below.

Special Projects Division:

This Division's general responsibilities include Contracts, Land Acquisitions, Interlocal Agreements, Ordinances, Resolutions, Bonds, General Litigation Cases, and various Special Projects. City Boards covered by the Special Projects Division, and the duties and responsibilities of the City Attorney's Office for these Boards, includes:

1. City Commission – Regular and Special Meetings

The City Attorney's Office serves as counsel for the City Commission and attends all regular and special meetings of the Commission. The City Attorney's Office and its staff are required to review all Agenda materials relating to the Commission's multiple monthly meetings (Regular, Special, and Conference Agenda), providing written approval and sign-off where required, preparing for and attending Staff and Department Head meetings, including preparatory meetings. This office represents the Commission in all relations with Federal, State, and Local Governments, and litigation matters in all Courts, Administrative Hearings, and Arbitrations. This office also provides daily routine consultation and advice to the Mayor and Commissioners and the City Manager. (*Primary responsible attorney – Rob Schwerer, City Attorney*).

2. Planning Board

The City Attorney's Office serves as counsel for this Board. The Board meets monthly to consider applications for conditional use approval, site plan approval, and rezoning matters and to serve in the capacity as land planning agency for purposes of considering changes to the Comprehensive Plan. Duties and responsibilities of the City Attorney's Office for this Board include in-depth review of Agenda materials, review and analysis of staff recommendations and land use applications, preparing for and attending monthly meetings with Staff in advance of Board meeting, phone and office conferences with Staff relating to planning issues, in-depth review of periodic installments from the City's various consultants (LDR Rewrite, Comprehensive Plan Amendments, Proposed Provisions to Land Use Regulations, EAR Reports), and preparation of lengthy reports and comments thereon, and preparing for and attending all Board meetings. (*Primary responsible attorney – Jim Walker, Assistant City Attorney*).

3. Board of Adjustment and Appeals

The City Attorney's Office serves as counsel for this Board which, depending upon matters scheduled by staff, generally meets monthly to consider applications for Variances, Applications for Special Exceptions, and Appeals of decisions of Administrative Officers. Duties and responsibilities of the City Attorney's Office for this Board include Agenda review

and legal research of potential issues associated therewith, pre-meeting conferences with staff (primarily the Planning Department), and representing the City in any appeals to the Appellate Division of the Circuit Court taken from rulings of this Board. (*Primary responsible attorney – Steve McCain, Assistant City Attorney*)

4. Historic Preservation Board

The City Attorney's Office serves as counsel for this Board which meets on a monthly basis to consider all applications and related matters covered by the various Historic Preservation Codes of the City and limited appeals of Historic Preservation Officer administrative decisions. Duties and responsibilities of the City Attorney's Office for this Board include in-depth review of meeting Agenda packages and preparatory legal research of potential issues associated therewith, pre-meeting conferences with the Historic Preservation Officer and Staff, provide procedural guidance to the Board's clerk, and attendance at monthly meetings. (*Primary responsible attorney – Karen Emerson, Assistant City Attorney*).

Code Enforcement Division:

This Division's general responsibilities include defense and collection of City Special Assessment/Code Enforcement liens in Mortgage Foreclosure, Lien Enforcement actions and Negotiated Settlements, Code Enforcement related services, Contractor Licensing issues, Building Code matters, Vehicle Forfeitures, and Construction Board appeals. City Boards covered by the Code Enforcement Division, and the duties and responsibilities of the City Attorney's Office for these Boards, includes:

1. Code Enforcement Board

The City Attorney's Office serves as counsel for this Board and in the conduct of quasi-judicial enforcement proceedings and hearings before the Board. Duties and responsibilities of the City Attorney's Office for this Board include review of Agenda materials relating to the Board's monthly meetings, preparing for and attending such meetings, preparing *Massey* orders relative to the Board's rulings, preparing Legal Memoranda to the Board and staff, advice and preparation of amendments to Procedural Rules and Resolutions ultimately submitted to the City Commission for adoption, and representing the City in all appeals of this Board's rulings to the Appellate Division of the Circuit Court. (*Primary responsible attorney – Jim Walker, Assistant City Attorney*).

2. Special Magistrate Code Enforcement Proceedings

The City Attorney's Office serves as counsel and advocate for the Department of Code Enforcement in code enforcement proceedings before the City's Special Magistrates. These quasi-judicial hearings are generally held bi-weekly. The City Attorney and its staff are responsible for prehearing preparation (reviewing cases with Code Enforcement staff and

persons who may serve as witnesses, organization of evidence to be presented at hearings, legal research in preparation for argument on potential legal issues during such hearings, and preparation of Motions and Memoranda relative to such hearings), serving as an advocate for the City and Code Enforcement Department during such hearings, preparation of *Massey* orders and other orders as may be directed by the Special Magistrate. This office also represents the City in any appeals from rulings of the Special Magistrate that are filed in the Appellate Division of the Circuit Court. (*Primary responsible attorney – Steve McCain, Assistant City Attorney*).

3. Contractors Licensing Board

The City Attorney's Office serves as counsel for this Board which meets on a monthly basis to consider contractors' applications for Certificates of Competency and to conduct hearings on complaints against licensed and unlicensed contractors. Duties and responsibilities of the City Attorney's Office and its staff for this Board include in-depth review of Agenda packages and preparatory legal research of potential issues associated with Board's disciplinary proceedings, pre-meeting conferences with City staff (primarily the Building Department/Building Official/City Clerk's Office), preparation of orders for the Board following such hearings, and dictation of lengthy reports and summaries of contested hearings when involving potential litigation or appeals. (*Primary responsible attorneys – Steve McCain, Assistant City Attorney and Jim Walker, Assistant City Attorney*).

4. Construction Board of Adjustment and Appeals

The City Attorney's Office serves as counsel for this Board which considers Appeals from rulings of the Building Official regarding application of the Building Codes. The City Attorney's Office and its staff provide multiple services, including in-depth review of meeting packages and performing legal research thereon, attending monthly Board meetings, meetings and/or communications with staff relative to matters associated with the Board. Preparing and editing materials for Adjudicator's Manual, preparing for and attending special meetings of the Board as necessary where hearings continued, and preparing orders implementing rulings of the Board. (*Primary responsible attorneys – Steve McCain, Assistant City Attorney and Jim Walker, Assistant City Attorney*).

Civil Service Division:

This Division's general responsibilities include legal matters relating to the interpretation and application of all Personnel Rules and Regulations, and the City's Civil Service, EEOC filings, Union Arbitrations, Union ULP filings, Grievances, Civil Service Appeals, Union Contracts (Negotiations and Drafting), and Employment Related Litigation cases. The City Attorney's Office represents and handles the defense of the City and Management in all Grievance Hearings, Civil Service Appeals, Arbitration Hearings, PERC actions, and Special Master Hearings. As counsel for the City and Management, the City Attorney's Office and staff have the duty and responsibility of appearing before the Civil Service Appeals Board which

considers employees' appeals from Management decisions related to employment, and required legal services include in-depth review of such Appeal filings, performing legal research and preparing Briefs and Memoranda of Law, Motions, and related documents, and preparing Prehearing Statements required by applicable CSAB rules, meeting with witnesses and organizing evidence and preparation for adversarial hearings. This Division does not directly represent any City Board. (*Primary responsible attorneys – Rob Schwerer, City Attorney, Jim Walker, Assistant City Attorney, and Steve McCain, Assistant City Attorney*).

FPRA Division:

The general responsibilities of the City Attorney's Office for this Division include all services relating to General Counsel for the Agency and its Board comprised of City Commission members. This office also routinely meets with the FPRA Director concerning legal matters affecting the Agency. General responsibilities include Contracts, Agency Land Acquisitions, Interlocal Agreements, Resolutions, Grant Agreements and related documents, Litigation Cases, and various Special Projects. Boards covered by the FPRA Division and the duties and responsibilities of the City Attorney's Office for these Boards, includes:

1. Fort Pierce Redevelopment Agency – Regular and Special Meetings

The City Attorney's Office serves as counsel to the FPRA Board which consists of the Commission, and served by a Director. This office attends all regular and special meetings of the Board. The City Attorney's Office and its staff are required to review all Agenda materials relating to the Board's monthly meetings, providing written approval and sign-off where required, preparing for and attending Staff and Department Head Meetings in preparation for the Board meetings. Routine legal duties to the Board including preparatory legal research of potential issues associated with Agenda matters and Agency actions, review and approval of all Contracts and Grant Agreements, and defend Agency investments in Mortgage Foreclosure cases. (*Primary responsible attorneys – Rob Schwerer, City Attorney and Karen Emerson, Assistant City Attorney*).

Retirement Board Division

The City Attorney's Office service as counsel for this Board, which administers pension-related benefits through the Fort Pierce Retirement System under Chapter 13 of the Code of Ordinances. The City Attorney's Office provides multiple legal services for the Board, including in-depth review of agenda packages and performing legal research thereon, attending monthly Board meetings, preparing for and attending regular Staff meetings with Board Chair or Board Secretary relating to benefit applications, drafting Orders so as to implement decisions of the Board on benefit entitlement, drafting proposed Ordinance Amendments to Ch. 13, and amendments to the Board's Rules of Procedures; advising the Board on pension-related issues; becoming acquainted with retirement related issues and developing law set out in reported cases and proposed and enacted Legislation, and informing the Board of such legal developments;

coordinating with specialized counsel on issues requiring exceptional expertise in pension-related issues; preparing for and attending meetings of Disability Review Committee and assisting such Committee in its oversight of disability pension applications; assist Retirement Board in its conduct of quasi-judicial proceedings; defending Board in Appeals to Circuit Court from decisions of the Board on benefit entitlement; and negotiating contracts with asset Fund Managers and other consultants. *(Primary responsible attorneys – Rob Schwerer, City Attorney and James T. Walker, Assistant City Attorney).*