

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

MEMORANDUM

TO: Fort Pierce Mayor & Commissioners
FROM: Robert V. Schwerer, Esq., City Attorney
SUBJECT: City Clerk Employment Agreement
DATE: August 28, 2013

Attached is the final draft of the City Clerk Employment Agreement which is being submitted to you for your consideration. The salient provisions of the agreement are:

1. Initial term of three (3) years commencing October 1, with a requirement the City Clerk obtain her Certified Municipal Clerk (CMC) certification within this time period.
2. Annual base salary of seventy five (\$75,000) thousand dollars.
3. Performance evaluation at six (6) months (calendar month of April) and annually thereafter.
4. Standard benefits including car allowance of \$350.00 per month, health and major medical insurance, and retirement benefits applicable to new hires.
5. Termination at will.
6. Severance pay equivalent to four (4) consecutive weeks.
7. Residency requirement within two (2) years.

The contract provisions have been negotiated and discussed with Mrs. Cox and she is agreeable to the terms set out in the agreement.

s/ *Robert V. Schwerer*

Robert V. Schwerer, Esq.
City Attorney

Enclosure
RVS/cf

cc: Robert J. Bradshaw, City Manager
Anne Satterlee, Interim City Clerk

CITY OF FORT PIERCE, FLORIDA

**LINDA W. COX
CITY CLERK**

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made and entered into this 4th day of September 2013, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred as to “**CITY**” and **LINDA W. COX**, hereafter referred to as “**COX**”.

WHEREAS, **CITY** desires to secure the services of **COX** as City Clerk for an initial period of three (3) years from the Effective Date of this agreement and **COX** desires to accept such position; and

WHEREAS, **CITY** and **COX** intend by this Agreement to provide certain benefits and establish certain conditions of employment to which **COX** has agreed.

NOW, THEREFORE, in consideration of the material advantages occurring to the parties and the mutual covenants contained herein, **CITY** and **COX** agree with each other as follows:

1. Employment.

COX will render full time professional services to **CITY** in the capacity of City Clerk of the **CITY** for the initial term of three (3) years, commencing October 1, 2013 (the “Effective Date”), through September 30 2016. In the event written notice of termination or notice of non-renewal of this Agreement is not given by either party to the other party ninety (90) days prior to the expiration of the term as hereinabove provided, this Agreement shall automatically renew and continue thereafter on a year-to-year basis. **COX** agrees to sever ties with her existing employer, and report for work, and the duties and employment of **COX** as City Clerk shall commence the Effective Date.

COX shall devote all of her time, attention, knowledge and skill, solely and exclusively to the business and interest of the City of Fort Pierce, and the public which it serves. **COX** will at all times faithfully, industriously, and diligently perform to the best of her ability all duties that may be required of her by virtue of her position as City Clerk, including the performance of all duties set forth in the City Charter, Ordinances, Resolutions and other City policies, and to perform other legally permissible and proper duties and functions to the reasonable satisfaction of the City Commission. Nothing herein shall prohibit **COX** from maintaining membership in or participating in private social or civic endeavors that do not interfere or detract from her performance of the terms of this Agreement. In the event **COX** makes formal application for full-time employment elsewhere while serving as City Clerk, she shall be required to provide written notice to the City Commission simultaneously with such application or submittal.

2. Compensation.

In consideration for these services as City Clerk, **CITY** agrees to pay **COX** an annual base salary of **SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00)** per annum, payable in bi-weekly installments.

The **CITY** agrees that it will not, at any time during the term of this Agreement, reduce **COX's** base salary or other financial benefits in a greater percentage than an applicable across the board reduction for all employees of the **CITY**.

3. Performance Evaluations.

The City Commission shall, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **COX's** performance as City Clerk. These performance evaluations shall occur during the calendar month of April of each year, and shall be in such form and content and procedure as the City Commission shall in its discretion

determine. These performance reviews shall consider **COX's** overall performance and efficiency in her duties and job description as City Clerk, and shall also be used to monitor **COX's** compliance with attaining her Certified Municipal Clerk (CMC) certification within the time period set forth hereafter.

It is a specific condition of this agreement that **COX** shall have obtained her Certified Municipal Clerk (CMC) certification no later than thirty-six (36) months from the Effective Date of this Agreement. In the event **COX** fails to obtain such CMC certification within the time period specified herein, or if at any time **COX** fails to diligently and continuously pursue such CMC certification process during the term of this Agreement, the City Commission may in its sole discretion terminate this Agreement upon thirty (30) days written notice to **COX** and without liability to **COX** for the payment of any severance pay that may be provided for in Paragraph 6 of this Agreement.

4. Benefits.

In addition to annual compensation specified above, the **CITY** agrees to provide **COX** with the following benefits:

(a) **COX** shall be entitled to receive the same vacation, sick leave, and holiday time as defined in the City of Fort Pierce Personnel Rules and Regulations, including provisions governing accrual and payment thereof on termination of employment.

(b) Lease or car allowance at \$350.00 per month, or such other rate agreed upon by the City Commission.

(c) Membership dues to professional associations and societies directly relating to her position as City Clerk, subject to the approval of the City Commission.

(d) Comprehensive health and major medical insurance equal to that which is provided to other City employees.

(e) Retirement benefits as provided to City Employees, and specifically, such benefits applicable to new hires under current ordinances or rules and regulations or as subsequently amended.

5. Termination.

At all times during the term of this Agreement, **COX** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause. For purposes of this Agreement, termination shall occur upon the happening of any of the following events:

(a) A majority vote of the entire City Commission at a duly authorized public meeting, with or without cause, at the sole discretion of the City Commission.

(b) If the **CITY**, its citizens, or legislature amends any provision of the Charter or Code substantially changing the form of government directly pertaining to the role, powers, duties, authority and responsibilities of **COX** as City Clerk, **COX** shall have the right to declare that such amendments constitute termination; or

(c) If **COX** resigns following a formal offer to accept resignation made by the majority of the entire City Commission at a duly authorized public meeting.

6. Severance.

Except as provided in this Agreement, severance will be paid to **COX** when employment is terminated as defined in Paragraph 5 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **COX** her then annual base salary for four (4) consecutive weeks thereafter, and the **CITY** shall also maintain **COX's** life insurance and major medical insurance coverage paid up and in effect during such period. **COX** shall also be compensated for all accrued sick leave and vacation time payable upon termination of employment as provided in the Personnel Rules and Regulations. During any time severance is being paid, **COX** shall not be required to perform any duties for the City or

come to the City.

The severance provisions set forth herein shall not apply and the City shall not be obligated to pay the four (4) weeks severance in the event **COX** is terminated for cause. "Cause" shall be defined as either conviction of any felony or any misdemeanor involving moral turpitude, commission of any act of fraud involving or affecting the City, willful failure to perform the duties of City Clerk, or material breach by **COX** of any duties or obligations under this Agreement and failure to cure such failure or breach after receipt of reasonable written notice, then, in that event, CITY shall have no obligation to pay the aggregate severance sum designated in this paragraph.

7. Best Efforts of Employee.

COX agrees that she will at all times faithfully, industriously and to the best of her ability, experience and talents, perform all the duties which may be required of and from her pursuant to the express and implicit terms hereof, to the reasonable satisfaction of **CITY**. **COX** further agrees that she will continue her education and training so that she will keep up with or exceed education requirements of her position, and specifically, to use her best and continuous efforts to obtain her City Clerk certification which shall be a mandatory term and condition of her employment under this Agreement. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as **CITY** shall in good faith require, or as the interest, needs or opportunity of **CITY** shall require.

8. Disability.

If **COX** is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of either eight (8) successive weeks beyond any accrued sick leave, or for twenty (20) working days over a sixty (60) working

day period, **CITY** shall have the option to terminate this Agreement, subject to the severance pay requirements of Paragraph 6. However, **COX** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits.

9. Residency.

Commencing two (2) years from the Effective Date of this Agreement, and at all times thereafter, **COX** shall, maintain permanent residency within the City of Fort Pierce during her term as City Clerk.

10. Employee At-Will.

COX is an employee-at-will and works at the pleasure of the **CITY** who may, at any time and without showing cause, terminate this Employment Agreement.

11. Liability Claims.

The **CITY** shall defend and save harmless **COX**, but only to the limits of sovereign immunity, against any tort, professional liability claim or demand or other legal claim or action, whether groundless or otherwise, arising out of an alleged act or omission occurring in or arising out of the good faith performance of **COX**'s duties as City Clerk of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **COX**'s employment or services or for claims for punitive damages. The **CITY** will have the authority to compromise and settle any such claim or suit within the scope of **COX**'s employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **COX** shall rely upon the doctrine of sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

12. Voluntary Resignation.

In the event **COX** voluntarily resigns her position with the **CITY**, **COX** shall provide a

minimum ninety (90) days written notice unless the parties agree otherwise. Unless such resignation follows a formal offer to accept resignation made by the majority of the entire City Commission as specified in Paragraph 5(c) above, **COX** shall not be entitled to nor shall the **CITY** be liable to pay severance if **COX** resigns.

13. General Provisions.

The following general provisions shall govern this Agreement:

(a) This Agreement shall be governed in accordance with the laws of the State of Florida.

(b) Jurisdiction over any dispute arising under this Agreement, and the venue thereof, shall lie in the Circuit Court of the Nineteenth Judicial Circuit, in and for St. Lucie County, Florida.

(c) This Agreement shall become effective immediately upon execution, and supersedes and replaces any prior written employment agreement.

(d) This Agreement constitutes the entire agreement and understanding between the parties and contains all of the agreements between them with respect to the subject matter hereof, and supersedes any and all other agreements or contracts, either oral or written, between the parties with respect to the subject matter hereof.

(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.

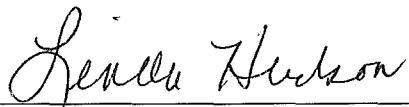
(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to

be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **COX**, her administrators, executors, legatees, heirs, and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

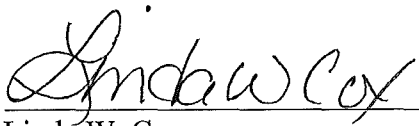
CITY OF FORT PIERCE, FLORIDA

By: 
Linda Hudson, Mayor

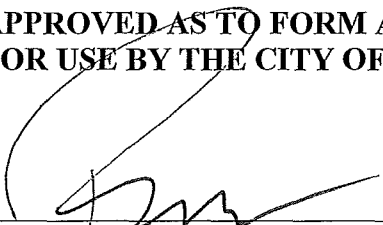
ATTEST:


Anne Satterlee, Interim City Clerk

EMPLOYEE:

By: 
Linda W. Cox

**APPROVED AS TO FORM AND CORRECTNESS
FOR USE BY THE CITY OF FORT PIERCE:**


Robert V. Schwerer, Esq.
City Attorney