

Contracts #



Interoffice Memorandum

City Clerk's Office

TO: Robert Bradshaw, City Manager

FROM: Linda W. Cox, City Clerk *LWC*

SUBJECT: Chief of Police Contract

DATE: April 21, 2015

Attached is a fully executed copy of the contract with Diane Hobleby-Burney for her position as Chief of Police effective June 1, 2015. I retained the original for our files. Thanks.

CITY OF FORT PIERCE, FLORIDA

**DIANE HOBLEY-BURNEY
CHIEF OF POLICE**

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT made and entered into this 1st day of June 2015, by and between the **CITY OF FORT PIERCE, FLORIDA**, a municipal corporation, hereafter referred as to "**CITY**" and **DIANE HOBLEY-BURNEY**, hereafter referred to as "**HOBLEY-BURNEY**".

WHEREAS, the **CITY** desires to secure the services of **HOBLEY-BURNEY** as Chief of Police for a minimum of three (3) years from the Effective Date of this agreement and **HOBLEY-BURNEY** desires to accept such position; and

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

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

1. Employment.

HOBLEY-BURNEY will render full time professional services to the **CITY** in the capacity of Chief of Police of the **CITY** for the initial term of three (3) years, commencing June 1, 2015 through May 31, 2018. 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. **HOBLEY-BURNEY** agrees to sever ties with her existing employer, and report for work, and the duties and employment of **HOBLEY-BURNEY** as Chief of Police shall commence the June 1, 2015.

HOBLEY-BURNEY 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. **HOBLEY-BURNEY** 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 Chief of Police, 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 Manager. Although it is recognized that **HOBLEY-BURNEY** shall devote her time, attention, knowledge, and skills to the administration of the Police Department, it is also recognized that she be allowed to participate in various professional growth opportunities. These shall include: lecturing, teaching, writing and professional consulting. Prior to participating in any of these areas, she shall first obtain the approval of the City Manager. **HOBLEY-BURNEY** shall, subject to the prior written approval of the City Manager, be allowed to use accumulated compensatory time or vacation time to teach, lecture or provide consultation services to others, provided doing so will not interfere or conflict with her duties as Chief of Police. Nothing herein shall prohibit **HOBLEY-BURNEY** 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 **HOBLEY-BURNEY** makes formal application for full-time employment elsewhere while serving as Chief of Police, she shall be required to provide written notice to the City Manager simultaneously with such application or submittal.

2. Compensation.

In consideration for these services as Chief of Police, the **CITY** agrees to pay **HOBLEY-BURNEY** an annual base salary of ONE-HUNDRED TWENTY-FOUR THOUSAND

AND NINETY ONE DOLLARS (\$124,091.00) per annum, payable in bi-weekly installments. Said compensation may be increased each year in such amounts, at such times, and to such extent as the City Manager may determine based upon a performance appraisal using the following criteria but not limited to: Leadership, Management Ability, Community Awareness, Public Relations, Internal/External Communications and Overall Job Performance.

The **CITY** agrees that it will not, at any time during the term of this Agreement, reduce **HOBLEY-BURNEY'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 Manager may, upon the expiration of six (6) months of the Effective Date of this Agreement, and on an annual basis thereafter, evaluate **HOBLEY-BURNEY's** performance as Chief of Police. The matter of the performance reviews shall consider continuing management objectives and responsibilities as well as achievement of key specific objectives as mutually agreed upon by the City Manager and **HOBLEY-BURNEY**.

Should it be determined that **HOBLEY-BURNEY** was successful in her overall performance, and if the City Manager, determines that the fiscal condition of the **CITY** is sufficient, the City Manager will consider **HOBLEY-BURNEY's** compensation and benefits, and endeavor to maintain them at a level commensurate with her peers in the Police Chief profession in similarly situated Florida cities and the rate of general inflation in the economy.

4. Supervision.

HOBLEY-BURNEY shall be under the supervision of the City Manager and she will perform such services as will be required of her by the City Manager and the laws of the City of Fort Pierce and State of Florida in the administration of the Police Department. **HOBLEY-BURNEY** shall be responsible for the administration and operation of the Police Department.

5. Benefits.

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

(a) **HOBLEY-BURNEY** shall be entitled to receive twenty (20) working days 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) **HOBLEY-BURNEY** duties require that she shall have the exclusive use of a vehicle at all times during her employment with the **CITY** of a road-worthy current model vehicle provided to her by the **CITY**. The **CITY** shall be responsible for paying for liability, property damage and comprehensive insurance, and for the purchase, operation, maintenance, repair and regular replacement of said vehicle.

(c) Membership dues to professional associations and societies and to such service organizations and clubs of which **HOBLEY-BURNEY** is and will be a member, subject to the approval of the City Manager.

(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; provided, however, if **HOBLEY-BURNEY** elects not to participate as a member under the **CITY**'s retirement plan, the **CITY** shall contribute a sum to her Deferred Compensation Plan (or other plan designed by **HOBLEY-BURNEY**) equal to the same percentage contribution, up to the maximum allowed by law, as the **CITY** would have contributed to **HOBLEY-BURNEY**'s retirement under the **CITY**'s plan.

6. Relocation Expenses.

The **CITY** will pay **HOBLEY-BURNEY** the sum of FOUR THOUSAND DOLLARS (\$4,000.00) for the expenses of moving **HOBLEY-BURNEY**, **HOBLEY-BURNEY**'s family, and **HOBLEY-BURNEY**'s personal property from **HOBLEY-BURNEY**'s current residence to

the **CITY**, including packing, moving, truck rental, storage costs, unpacking, and insurance charges, and miscellaneous charges incurred or expended by her in effecting this move, said sum to also be intended to cover temporary housing for **HOBLEY-BURNEY** and her family within the **CITY** for the period of time between her initial reporting for work on or before the Effective Date and the date she secures permanent housing.

7. Professional Development.

(a) CITY hereby agrees to budget for and to pay the travel and subsistence expenses of **HOBLEY-BURNEY** for professional and official travel, meetings and occasions adequate to continue the professional development of **HOBLEY-BURNEY** and to adequately attend necessary official and other functions for the CITY.

(b) CITY also agrees to budget and to pay for the travel and subsistence expenses of **HOBLEY-BURNEY** for short courses, institutes and seminars that are necessary for her professional development and for the good of the CITY.

(c) The sums required for A and B above shall be subject to the approval by the City Manager.

8. Termination.

(a) At all times during the term of this Agreement, **HOBLEY-BURNEY** shall be deemed an employee-at-will, and may be terminated at any time, with or without cause.

(b) If **HOBLEY-BURNEY** resigns following a formal offer to accept resignation made by the City Manager.

9. Severance.

Except as provided in this Agreement, severance will be paid to **HOBLEY-BURNEY** when employment is terminated as defined in Paragraph 8 above. Upon termination, all rights, duties and obligations of both parties shall cease except that the **CITY** shall continue to pay **HOBLEY-BURNEY** her then annual base salary for (90) consecutive days thereafter, and the **CITY** shall also maintain **HOBLEY-BURNEY's** life insurance and major medical insurance coverage paid up and in effect during such period. **HOBLEY-BURNEY** 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, **HOBLEY-BURNEY** 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 ninety (90) days severance in the event **HOBLEY-BURNEY** 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 Chief of Police, or material breach by **HOBLEY-BURNEY** 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, the CITY shall have no obligation to pay the aggregate severance sum designated in this paragraph.

10. Attendance at Meetings.

The **CITY** agrees to permit **HOBLEY-BURNEY** to be absent from the **CITY** during working days to attend professional meetings and to attend to such outside professional duties in the Chief of Police field as have been mutually agreed upon between her and the City Manager. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and shall not be considered vacation time. The **CITY** shall reimburse **HOBLEY-BURNEY** for all reasonable expenses incurred by her incident to attendance at approved professional meetings; provided, however, that such reimbursement is appropriate and within the limits of the City's budget.

11. Best Efforts of Employee.

HOBLEY-BURNEY 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 the **CITY**. **HOBLEY-BURNEY** further agrees that she will continue her education and training so that she will keep up with or exceed education requirements of her position. Such duties shall be rendered at Fort Pierce, St. Lucie County, Florida, and at such other places as the **CITY** shall in good faith require, or as the interest, needs or opportunity of the **CITY** shall require.

12. Disability.

If **HOBLEY-BURNEY** 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 9. However, **HOBLEY-BURNEY** shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits. Nothing herein is intended to waive any benefits provided by Family Medical Leave Act, Workers' Compensation, or any other benefit(s) available to City employees.

13. Residency.

HOBLEY-BURNEY shall, within 6 months of employment, maintain permanent residency within the City of Fort Pierce, Florida, during her term as Chief of Police.

14. Compensatory Time.

It is recognized that **HOBLEY-BURNEY** must devote a great deal of time outside the normal office hours to the business of the **CITY**, and to that end **HOBLEY-BURNEY** shall be allowed to accumulate up to one hundred twenty (120) hours of compensatory time which **HOBLEY-BURNEY** may utilize in lieu of vacation

time or as otherwise provided in this Agreement. Accumulated compensatory time shall not be paid upon termination of employment.

15. Employee At-Will.

HOBLEY-BURNEY 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.

16. Liability Claims.

The **CITY** shall defend and save harmless **HOBLEY-BURNEY** 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 **HOBLEY-BURNEY's** duties as Chief of Police of the City of Fort Pierce. However, this covenant shall not apply to acts outside the scope of **HOBLEY-BURNEY'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 **HOBLEY-BURNEY's** employment and pay the amount of any settlement or judgment rendered thereon. To the maximum extent permitted by law, the **CITY** and **HOBLEY-BURNEY** shall rely upon the doctrine of sovereign immunity and the provisions of Section 768.28, Florida Statutes, or other applicable law.

17. Voluntary Resignation. In the event **HOBLEY-BURNEY** voluntarily resigns her position with the **CITY**, **HOBLEY-BURNEY** 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 City Manager as specified in Paragraph 8(b) above, **HOBLEY-BURNEY** shall not be entitled to nor shall the **CITY** be liable to pay severance if **HOBLEY-BURNEY** resigns.

18. 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.

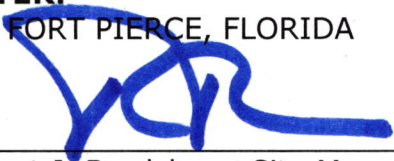
(e) The parties by mutual written agreement may amend any provision of this Agreement during the life of the agreement by document approved and signed with the same formalities as this Agreement. Such amendments will be incorporated and made a part of this Agreement.

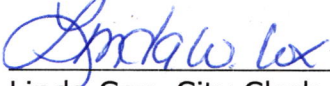
(f) The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed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

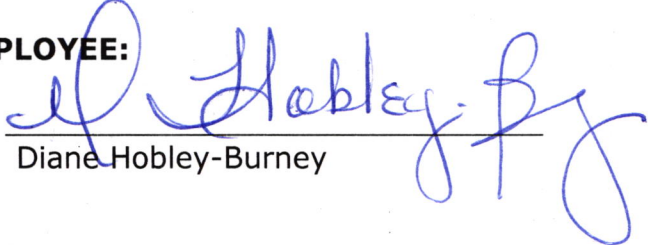
(g) This Agreement shall be binding upon and inure to the benefit of the **CITY** and the City Commission, its successors and assigns, and shall be binding upon **HOBLEY-BURNEY**, her administrators, executors, legatees, heirs, and assigns.

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

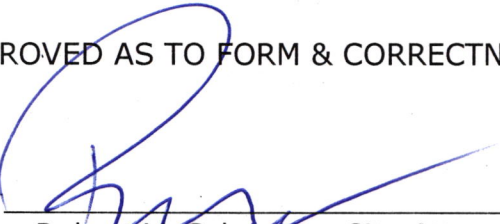
EMPLOYER:
CITY OF FORT PIERCE, FLORIDA

By: 
Robert J. Bradshaw, City Manager

ATTEST:

Linda Cox, City Clerk

EMPLOYEE:
By: 
Diane Hoble-Burney

APPROVED AS TO FORM & CORRECTNESS:

By: 
Robert V. Schwerer, City Attorney

Handwritten scribble in blue ink, possibly initials or a signature.

Faint handwritten text, possibly a date or short note.

Faint handwritten text, possibly a signature or name.