

RESOLUTION NO. 2024-023

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING THE TOWN ADMINISTRATOR'S SELECTION OF DEBRA M. RUESGA, CMC, AS THE TOWN CLERK OF THE TOWN OF SOUTHWEST RANCHES; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT WITH DEBRA M. RUESGA, WHICH ESTABLISHES THE SCOPE, COMPENSATION AND BENEFITS FOR THE TOWN CLERK'S SERVICES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 24, 2023, Town Administrator Andrew Berns announced his retirement from the Town effective December 15, 2023; and

WHEREAS, on August 24, 2023, the Town Council discussed the steps to replace Andrew Berns; and

WHEREAS, on November 16, 2023, Town Council approved Resolution No. 2024-015 appointing its current Assistant Town Administrator/Town Clerk Russell Muniz as the Town's next Town Administrator; and

WHEREAS, in accordance with Article II, Section 5(a) of the Florida Constitution's dual office holding requirements, Russell Muñiz must officially resign as Town Clerk on December 15, 2023 at 12:59 p.m.

WHEREAS, in accordance with Section 3.06 of the Town's Charter, the Town Administrator shall appoint a Town Clerk, subject to the approval by the majority of the Council; and

WHEREAS, this Resolution seeks to comply with the provisions of the Florida Constitution, and the Town's Charter by approving the Town Administrator's selection of Debra M. Ruesga, CMC for the position of Town Clerk, and approval of her employment agreement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1: The above referenced recitals are true and correct and are incorporated herein by reference.

Section 2: The Town Council hereby approves the Town Administrator's selection of Debra M. Ruesga, CMC, as the Town Clerk of the Town of Southwest Ranches.

Section 3: The Town Council hereby authorizes the Mayor, Town Administrator, and Town Attorney to enter into an agreement with Debra M. Ruesga, CMC in substantially the same form as that attached hereto and incorporated herein by reference as Exhibit "A", which establishes the scope, compensation and benefits for the Town Clerk's services, and to make such modifications, additions, and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

Section 4: This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 14th day of December, 2023 on a motion by V/m KUCZENSKI and seconded by CM JABLONSKI.

Breitkreuz	<u>YES</u>	Ayes	<u>4</u>
Kuczenski	<u>YES</u>	Nays	<u>0</u>
Allbritton	<u>YES</u>	Absent	<u>1</u>
Hartmann	<u>ABSENTE</u>		
Jablonski	<u>YES</u>		



Steve Breitkreuz, Mayor

ATTEST:



Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, Town Attorney
1001.2426.01

AGREEMENT
BETWEEN
THE TOWN OF SOUTHWEST RANCHES
AND
DEBRA M. RUESGA, CMC

This AGREEMENT (the "Agreement") entered into this 14th day of December, 2023, between the TOWN OF SOUTHWEST RANCHES, a Florida municipal corporation created and existing under the laws of the State of Florida, (the "Town"), and DEBRA M. RUESGA, an individual ("Clerk").

WHEREAS, Section 3.06 of the Town's Charter provides for the Administrator's appointment of a Town Clerk subject to the approval by the majority of the Town Council; and

WHEREAS, the office of the Town Clerk has the responsibility to give notice of Council meeting, shall keep minutes of the municipality's proceedings, and shall perform such other duties as the Council or Clerk may prescribe from time to time; and

WHEREAS, the Town Clerk is also the Town's official records custodian, and as such is responsible for maintaining all of the Town's records in accordance with the statutory requirements; and

WHEREAS, The Town desires to employ the services of Debra M. Ruesga as Town Clerk of the Town of Southwest Ranches, to fulfill the responsibilities of the office as specified in the Town Charter, the Town's Code, and as specified by the Town Council and the Town Administrator; and

WHEREAS, Clerk desires to accept employment as Town Clerk of the Town of Southwest Ranches; and

WHEREAS, Town and Clerk wish to formalize the terms of appointment as Town Clerk.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties agree as follows:

1) Employment.

Town hereby agrees to employ Debra M. Ruesga, CMC, as Town Clerk of the Town of Southwest Ranches to perform the duties specified in the Charter of the Town of

Southwest Ranches (the "Charter"), as may be amended from time to time, the Town's Code, as may be amended from time to time, and to perform other legally permissible and proper duties and functions as the Council and Town Administrator shall assign from time to time, including but not limited to those duties customarily performed by municipal clerks in the state of Florida. Clerk shall devote her full-time professional employment to the Town of Southwest Ranches and will not accept any outside employment without the express knowledge and consent of the Town Administrator and the Town Council (the "Council"), which must be obtained at a public meeting and may be unreasonably withheld. The Clerk shall perform her duties under this Agreement, in accordance with the standards and duties as set forth in the Charter and the Town Code, as may be amended from time to time, and in conformity with the Florida Association of City Clerks Code of Ethics, as may be amended from time to time.

2) Term.

A) Clerk shall serve as Town Clerk commencing on December 15, 2023 without definite term and shall continue until termination, in accordance with Section 3.06 of the Town's Charter, and as delineated in Section 4 below.

B) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Administrator and Council to terminate the services of Clerk at any time, subject only to the provisions set forth in Section 4 of this Agreement.

C) Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Clerk to resign at any time from her position, subject only to the provisions set forth in Section 5 of this Agreement.

3) Salary.

Town agrees to pay Clerk for her services rendered hereto based on an initial annual salary of Eighty-Nine Thousand Five Hundred Dollars (\$89,500.00), payable in accordance with the Town's standard payroll procedures. Town may, at its own option, increase the base salary and/or benefits of the Clerk in such amounts and to such extent as the Council may determine that is desirable to do so.

4) Termination and Severance Pay.

A. In the event Clerk is terminated from the Town's employment without cause within the first 365 days of employment, Clerk shall be entitled to a Severance Benefit equal to ten (10) days of the Clerk's then current salary.

B. In the event Clerk is terminated from the Town's employment without cause after the first 365 days of employment, and provided that the Clerk is willing and able to perform her duties under this Agreement, then in that event, Town agrees to pay Clerk

a Severance Benefit of forty-five (45) days of the Clerk's then current salary payable in two equal installments. The first installment shall be paid on the date Clerk ceases to perform services for the Town, and the second installment shall be paid ninety (90) days thereafter.

D. In the event Clerk is terminated from the Town's employment with cause for one of the acts enumerated below, Town and Clerk agree that Clerk shall receive no Severance Benefit.

The following acts shall give rise to termination with cause:

1. The elimination of the position of Town Clerk.
2. Any reassignment of Clerk by the Council to another position, without change to benefits or pay, which is not accepted by Clerk.
3. Having been adjudicated guilty in a court of competent jurisdiction of a felony
4. A willful breach of any of the provisions contained within this Agreement.

5) Resignation.

A. Unless both parties agree in writing to the contrary, with the exception of resignation for sudden illness of Clerk or her immediate family, Clerk may resign by providing the Town with a minimum of sixty (60) days written notice.

B. In the event that proper notice is given and Clerk has worked for the Town for a total of one thousand and ninety five (1095) days, Town agrees that Clerk shall also be compensated for all accrued paid time off calculated based upon the Clerk's then current salary.

6) Professional Development.

A. The Town may pay the reasonable registration and travel expenses of the Clerk for appropriate professional and official travel, meetings, and occasions adequate to continue the professional development of the Clerk, and to adequately pursue necessary official and other functions of the Town. The Town may pay the reasonable costs for registration and travel expenses relating to the Clerk's attendance at appropriate annual meetings, including but not limited to, the Florida Association of City Clerks (FACC), Broward County Municipal Clerk's Association (BCMCA), the International Institute of Municipal Clerks (IIMC) and Florida Records Management Association (FRMA). All such professional development expenses shall be subject to prior Council approval, which shall be included within the Town's budget.

B. The Town may provide in the annual budget a reasonable amount to help pay for appropriate annual dues for professional association memberships directly related to the Clerk's function at the Town.

7) Paid Time Off.

Commencing January 1, 2024, Clerk shall be allowed to take twenty-five (25) paid time off days per calendar year. Annual paid time off shall be calculated commencing on January 1 each year and terminating on December 31. Any days not utilized by December 31 shall be lost and shall not transfer to the next year. Further, Clerk shall not receive any additional compensation for days not utilized. Paid time off shall include sick, personal, and vacation days. Any days missed in excess of the paid time off days may be taken without compensation, provided Clerk receives the formal approval of the Town Administrator.

8) Equipment and Staff

The Town shall provide to the Clerk and shall pay all charges related with a desktop and laptop computer and shall provide the Clerk with any other reasonably appropriate office supplies, material, and equipment with which to conduct the business of the Town.

9) Survivors' Benefits.

In the event of the death of the Clerk, her surviving spouse or dependents shall be entitled to payment of all of her unused paid time off days based on the Town Clerk's then current salary.

10) Benefit Participation.

The Clerk shall be entitled to receive any additional benefits or may participate in any programs provided to other employees of the Town, at the option, and sole cost and expense, of the Clerk.

11) Indemnification.

To the extent permitted by law, the Town shall defend, save harmless, and indemnify the Clerk against any action, claim, demand or other legal action, whether groundless or otherwise arising directly or indirectly out of the Clerk's duties or position with the Town. The aforesaid indemnification only applies to the extent that the costs, expenses or damages exceed monies covered by insurance. Notwithstanding the aforesaid, Town shall not be obligated to indemnify or save harmless Clerk from claims

of any nature arising out of the malfeasance of Clerk, her agents or employees, intentional torts, or from injury or property damage caused by the intentional misconduct of Clerk, its agents or employees. This indemnification provision shall survive the termination of this Agreement.

12) Hours of Operation.

The Clerk is expected to be readily available during all business hours and at all Council meetings/workshops. Further, Clerk shall be readily available when requested by the Town Administrator to attend Board and Committee Meetings.

13) Town Holidays.

The Town shall be closed in accordance with the Town's annual holiday schedule, which is established in December of each year by the Town Council.

14) Ownership Rights

Clerk agrees that all documents, programs, work product and documentation (hereinafter referred to as "Documentation") prepared by Clerk pursuant to this Agreement shall be the property of the Town, and Clerk hereby assigns all of that Documentation to the Town. All work performed by Clerk shall be deemed to be "work made for hire".

15) Nondiscrimination & Public Entity Crime Act

A. Clerk shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. Clerk shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, Clerk shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

B. Clerk's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin.

C. Public Entity Crime Act. Clerk represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for

a Public Entity Crime may not submit a bid on a contract to provide any goods or services to Town, may not submit a bid on a contract with Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with Town, and may not transact any business with Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from Town's competitive procurement activities. In addition to the foregoing, Clerk further represents that there has been no determination, based on an audit, that he committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that he has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Clerk has been placed on the convicted vendor list. Clerk shall execute the attached Non-Collusive Affidavit as evidence of compliance with the requirements of paragraph (2)(a) of Section 287.133, Florida Statutes, governing Public Entity Crimes.

16) Entire Agreement.

This Agreement incorporates and includes all prior negotiations and understandings applicable to the matters contained herein. The parties agree that this Agreement constitutes the entire understanding and agreement between the parties and supersedes previous Agreements and representations whether written or oral.

17) Construction.

This Agreement has been a joint effort of the parties, and the resulting documents, solely as a matter of judicial construction, shall not be construed more severely against one of the parties than the other.

18) Further Assurances.

Town and Clerk agree to execute, acknowledge, and deliver, and cause to be done, executed, acknowledged, and delivered, all such further documents and perform such acts as shall be requested of it to carry out this Agreement and give effect hereto solely consistent with applicable Federal, State and local laws, rules or regulations. Accordingly, without in any manner limiting the specific rights and obligations set forth in this Agreement, the parties declare their intention to cooperate with each other in effecting the terms of this Agreement.

19) Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute the same Agreement.

20) No Amendment or Waiver.

This Agreement may not be changed, altered or modified except by an instrument in writing signed by all parties hereto, with the same formality and of equal dignity as the execution of this Agreement.

21) Severability.

In the event any term or provision of this Agreement shall be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed to be in full force and effect. In case any one or more of the provisions of this Agreement shall be determined by appropriate judicial authority to be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions of this Agreement shall be in no way affected, prejudiced, or disturbed thereby.

22) Professional Assurances.

Clerk shall perform all services under this Agreement in accordance with the highest standard of care used by similar professional municipal Clerks in Broward County, Florida, under similar circumstances and shall exercise a reasonable degree of skill and care, as determined by the degree of skill and care ordinarily employed by other of the same profession. Clerk represents that she has the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth herein in a skillful and respectable manner.

23) Notice.

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present the parties designate the following as the respective places for giving of notice:

For TOWN:

Town of Southwest Ranches
Attn: Andrew D. Berns, Town Administrator
13400 Griffin Road
Southwest Ranches, FL 33330

And

Town Attorney
Attn: Keith Poliakoff, Esq.
200 S. Andrews Avenue
Suite 601
Ft. Lauderdale, FL 33301

For Clerk:

Debra M. Ruesga, CMC
Address to be Kept on File

Or such other address as the parties may designate to each other in writing from time-to-time.

24) Resolution of Disputes.

In an effort to prevent litigation, the parties shall endeavor to resolve any and all claims arising from this Agreement by mediation. A request for mediation shall be filed, in writing, with the other party to the Agreement. To the extent litigation is permitted under this Agreement, the request for mediation shall be made prior to the filing of a

legal or equitable proceeding, which shall not be filed prior to the outcome of mediation which will be completed within sixty (60) consecutive calendar days from the date a request for mediation is submitted to the other party unless the parties agree to an extension. The statute of limitations of any claim shall be tolled from the date mediation is requested until completed. To the extent the parties cannot mutually select a mediator, within fifteen (15) consecutive calendar days, from the date a request for mediation has been submitted, either party can request the American Arbitration Association to appoint a mediator with experience to serve as mediator. The mediator selected to serve shall be certified by the Florida Supreme Court. The mediation shall be conducted in Broward County, Florida

25) Applicable Law & Venue; Waiver of Jury Trial.

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the exclusive jurisdiction and venue of an appropriate Court of competent jurisdiction in the Seventeenth Judicial Circuit of Broward County, Florida.

BY ENTERING INTO THIS AGREEMENT, CLERK AND TOWN HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF, THIS AGREEMENT.

26) Enforcement; Attorney's Fees.

The Town and Clerk are the beneficiaries of this Agreement and as such, may enforce this Agreement by action at law or in equity. In the event of any litigation between the Town and Clerk resulting from and/or arising out of this Agreement, it is hereby acknowledged and agreed that the prevailing party shall be entitled to recover any and all reasonable attorney's fees and costs from the non-prevailing party in any such litigation, including attorneys' fees and costs incurred at the trial level and on appeal.

27) Compliance with Laws.

Clerk shall comply with all federal, state, and local laws, codes, ordinances, rules and regulations in performing her duties, responsibilities, and obligations pursuant to this Agreement.

28) Personnel Manual & Town Policies.

Clerk hereby affirms that Clerk has received, has reviewed, and has accepted all of the terms and conditions delineated in the Town's Personnel Manual, Administrative

Policies, as well as the probationary period contained in Clerk's conditional offer. Clerk also agrees to abide by any and all amendments that may be made to same.

Miscellaneous

A. **Materiality and Waiver of Breach:** Clerk and Town agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

Either party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

B. Clerk warrants and represents that he has not employed or retained any company or person, to solicit or secure this Agreement and that he has not paid or agreed to pay any person, company, corporation, individual or firm, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Town shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

C. With the exception of what has been set forth in Section 1 above, Clerk warrants and represents that by December 15, 2023, Clerk's sole employer shall be the Town of Southwest Ranches. Clerk further warrants and represents that he will disclose any conflict of interest, perceived or otherwise, with any current or future vendor or employee that may be hired by the Town.

D. **Drug-Free Workplace.** Clerk shall endeavor to maintain a drug-free workplace and shall institute a drug-free workplace policy.

E. **Headings.** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

F. **Truth-in-Negotiation Certificate.** Signature of this Agreement by Clerk shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

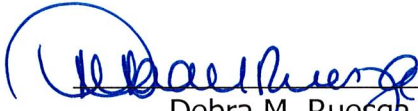
IN WITNESS OF THE FOREGOING, the parties have set their hands and seal the day and year first written above.

TOWN OF SOUTHWEST RANCHES

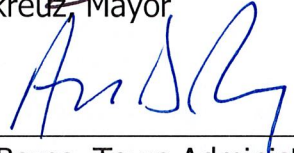
Town Clerk



Steve Breitkreuz, Mayor



Debra M. Ruesga, CMC



Andrew D. Berns, Town Administrator

Approved as to form:



Keith M. Poliakoff, Town Attorney
1001.2426.01