

RESOLUTION 10-2023

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPOINTMENT OF LISA MORRELL AS THE TOWN MANAGER; PROVIDING FOR DUTIES, REMUNERATION AND BENEFITS; PROVIDING FOR REPEAL OF RESOLUTIONS OR PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Malabar Town Council has determined the benefit of hiring Lisa Morrell as the Malabar Town Manager as of November 6, 2023; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, that:

Section 1. The Town Council of Malabar, Brevard County, Florida, hereby approves the appointment of Lisa Morrell as the Malabar Town Manager to begin on November 6, 2023 as described in contract attached as "Exhibit A".

Section 2. The Town Council of Malabar, Brevard County, Florida, hereby authorizes and directs the contract for these services to be executed.

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution was moved for adoption by Council Member Hofmeister. This motion was seconded by Council Member Scardino and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva	Excused
Council Member Brian Vail	<u>Aye</u>
Council Member Jim Clevenger	<u>Aye</u>
Council Member Dave Scardino	<u>Aye</u>
Council Member Mary Hofmeister	<u>Aye</u>

This Resolution was then declared to be duly passed and adopted this 6th day of November 2023.

TOWN OF MALABAR

By: Patrick T. Reilly
Mayor Patrick T. Reilly, Council Chair

(seal)



ATTEST:



Richard W. Kohler
Town Clerk

Approved as to form and content:



Karl W. Bohne, Jr., Town Attorney

EMPLOYMENT AGREEMENT

This Agreement made and entered into this 15th day of November 2023 by and between the TOWN OF MALABAR, a Florida municipal corporation (hereinafter referred to as "Employer") as party of the first and LISA MORRELL (hereinafter referred to as "Employee") as party of the second part, both of whom understand as follows:

WITNESSETH:

WHEREAS, Employer desires to retain the services of the Employee as Town Manager as provided by the Code of Ordinances of the Town of Malabar; and,

WHEREAS, Employee desires to accept employment as Town Manager; and,

WHEREAS, it is the desire of the Town Council to provide certain benefits, to set forth certain conditions of employment, and to set working conditions of said Employee; and

WHEREAS, the parties acknowledge that Employee is a member of The Florida City and County Management Association ("FCCMA") and that Employee is subject to the ICMA Code of Ethics;

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

Section 1: Duties

Employer hereby agrees to employ Lisa Morrell as Town Manager of said Employer to perform functions and duties specified in the Town Charter, Code of Ordinances, Personnel Policies, and job descriptions of the Town of Malabar and to perform other legally permissible and proper duties and functions as the Council from time to time may assign.

Section 2: Term

A. Employee agrees to remain in the exclusive employ of the Employer and neither to accept other employment nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter provided.

B. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 4, paragraphs A and B, of this agreement.

C. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 6 of this agreement.

D. Unless otherwise terminated as provided for herein, this Employment Agreement shall automatically renew annually under the same terms and provisions unless modified in writing by the parties to this agreement. The Town shall provide the Employee at least ninety (90) days of its intent not to renew this agreement. In the event that the agreement is not renewed, all compensation, benefits and requirements of this agreement shall remain in effect until the expiration of the term of the agreement unless Employee voluntarily resigns.

Section 3: Suspension

Employer may suspend the Employee without full pay and benefits at any time during the term of this agreement, but only if after a public hearing a majority of the Council votes to suspend Employee, "for cause", as defined in section 4B below, provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing by the Council member bringing such charges.

Section 4: Termination and Severance Pay

A. In the event Employee is terminated without cause by the Council before expiration of the aforesaid term of employment and during such time that Employee is willing and able to perform the duties under this agreement, then in that event Employer agrees to pay Employee lump sum cash severance payment equal to three (3) months' aggregate salary, benefits, and perquisites. The employee shall also be compensated for all earned, vacation and personal leave accrued through the effective date of the termination.

B. In the event the Employee is terminated for cause, then, in that event, employer shall have no obligation to pay the aggregate severance sum designated in the above paragraph. For purposes herein the term "for cause" shall mean a removal from office pursuant to FS. 112.51, misconduct as defined in F.S. 443.036 (29) and for misfeasance or malfeasance, or the conviction of any crime involving dishonesty, or the conviction of any crime designated as a felony under the laws of the jurisdiction imposing the penalty. The hearing requirements provided for in Section 3 above shall apply to a termination under this subsection. Severance shall not be paid should the Employee be terminated for misconduct as defined in Section 443.036(29) of the Florida Statutes.

C. If the Employer reduces the base salary, compensation, or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination under Section A and be entitled to Severance Pay as provided for therein.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer then the Employee may declare a termination as of the date of the suggestion and be entitled to Severance Pay as provided for in Section A above.

Section 5: Automobile and Equipment

A. The Employer shall provide Employee use of an automobile for business use and shall furnish fuel, maintenance, insurance and operating needs for said automobile. Employee's use of the automobile shall be utilized for be for traveling on official business for the Town of Malabar.

B. The Town shall provide Employee with a cellular telephone to be paid for by the Employer.

Section 6: Resignation

In the event Employee voluntarily resigns the position with Employer before expiration of the aforesaid term of employment, the Employee shall give Employer ninety (90) days' notice in advance, unless the parties agree otherwise. If Employee shall resign then Employee shall be entitled to accrued benefits and no other severance.

Section 7: Disability

If Employee is permanently disabled or is otherwise unable to perform the duties because of sickness, accident, injury, mental incapacity, or health for a period of four successive weeks beyond any accrued sick leave, Employer shall have the option to terminate agreement, subject to the severance pay requirements of Section 4, paragraph A.

Section 8: Salary

On November 13, 2024, Employer agrees to pay Employee for services rendered pursuant hereto an annual base salary of One Hundred Five Thousand and no/100 Dollars (\$105,000.00), payable in installments at the same time as the other employees of the Employer are paid.

Further, the Employer agrees to provide the Employee with a \$150.00 per month expense allowance as an annually budgeted line item in the Town Manager's budget totaling \$1800.00, associated with conducting employee team building activities, employee recognition, and or employee service awards.

Section 9: Performance Evaluation

A. The Council shall review and evaluate the performance of the employee at least annually. Said review and evaluation shall be in accordance with specific criteria developed by the Employer. Said criteria may be added to or deleted from as the Council may from time to time determine in consultation with the Employee. Further, the Employer shall provide the Employee with a summary written statement of the findings of the Council and provide an adequate opportunity for the Employee to discuss the evaluation with the Council. The evaluation- shall be used as a consideration by the Council in its deliberations and determinations on renewing the Agreement and for considering salary and adjustments.

B. Annually, the Council and Employee shall define such goals and performance objectives that they determine necessary for the proper operation of the Town and in the attainment of the Council's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

Section 10: Vacation, Sick and Military Leave

A. Employee shall accrue eighteen days per year of vacation leave.

B. Employee shall annually accrue sick and other permitted leaves on the same basis and at the same rate as other Town employees and is held to the same limits per the Employee Manual

C. The Employee shall devote substantially all of their productive time, ability, and attention to the business of the Town, both during normal business hours and outside normal business hours as the business of the Town may require, such as attending Council, Board and Committee meetings. To that end, it is agreed that as compensation for time spent on Town business during non-business hours, the Employee shall be entitled to take compensatory time off as they shall deem appropriate during normal business hours within same pay period.

Section 11: Disability, Health, Life Insurance and Retirement

A. Employer agrees to put into force and to make required premium payments for Employee for insurance policies for life, accident, sickness, disability income benefits, major medical, and dependent's coverage group insurance covering Employee and dependents.

B. Employer agrees to provide hospitalization, surgical and comprehensive medical insurance for Employee and dependents and to pay the premiums thereon equal to that which is provided to all other general employees of Employer.

C. The Town shall contribute on Employee's behalf the Employer's share for Employee to participate as an Executive member in the Florida Retirement System ("FRS").

Section 12: Dues, Subscriptions Professional Development

Employer agrees to budget for and to pay for professional dues and subscriptions of Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for his continued professional participation growth, and advancement, and for the good of the Employer.

A. Employer hereby agrees to budget for and to pay for travel and subsistence expenses of Employee pursuant to applicable law and Town policy for professional and official travel, meetings, and occasions adequate to continue the professional development of Employee.

B. Employer shall pay or reimburse employee for all membership dues and the cost of attending national, state, and local associational conferences. Reimbursement for travel and expenses shall be subject to the policy and procedures set forth in the Code of the Town of Malabar.

Section 13: Other Terms and Conditions of Employment

A. The Council, in consultation with the Manager, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the Town Charter, or any other law.

B. All provisions of the Town charter and code, regulations and rules and policies of the Employer relating to vacation and sick leave, retirement and pension system contributions, holidays, and other benefits and working conditions as they now exist or hereafter may be amended, also shall apply to Employee as they would to other general employees of Employer, in addition to said benefits enumerated specifically for the benefit of Employee except as herein provided.

Section 14: Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- (1) EMPLOYER: Mayor and Town Council Members
Town of Malabar
2725 Malabar Road
Malabar, FL 32904
- (2) EMPLOYEE: Lisa Morrell

At the permanent address on record with the Town of Malabar

(3) Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 15: General Provisions

- A. The text herein shall constitute the entire agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. Notwithstanding the date of execution of this agreement, this agreement shall have an effective date of November 6, 2023.
- D. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.
- E. This Agreement may not be modified or changed in any way whatsoever except by written agreement of the parties.

Section 16. Indemnification

Employer shall defend, save harmless and indemnify Employee pursuant to FS. 111.07 and 111.071. The Town shall be required to provide independent legal representation at Employer's expense to the Employee for any matter for which this indemnity shall apply. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appellate proceedings. Employee recognizes that Employer shall have the right to compromise and settle any claim or suit. Such payments shall continue beyond Employee's service to the Employer as long as litigation is pending.

IN WITNESS WHEREOF, the Town of Malabar has caused this Agreement to be signed and executed in its behalf by its Mayor, and duly attested by its Town Clerk, and the Employee has signed and executed this agreement, both in duplicate, the day and year first above written.

EMPLOYEE:



Witness



Lisa Morrell




Witness

THE TOWN OF MALABAR

By: 

Mayor Patrick T. Reilly

ATTEST:



Richard Kohler, Town Clerk