

RESOLUTION 21-2022

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, FLORIDA, PROVIDING FOR THE APPROVAL OF A CONTINUING CONTRACT WITH MATTHEW STINNETT 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 a continuing contract with Matthew Stinnett as the Town Manager as of October 1, 2022; 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 continuing contract with Matthew Stinnett as the Malabar Town Manager to begin on October 1, 2022 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 All resolutions or parts of resolutions in conflict herewith are hereby repealed.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 Rivet. This motion was seconded by Council Member Vail and, upon being put to vote, the vote was as follows:

Council Member Marisa Acquaviva
Council Member Brian Vail
Council Member Steve Rivet
Council Member Dave Scardino
Council Member Mary Hofmeister

Excused
Aye
Aye
Aye
Aye

This Resolution was then declared to be duly passed and adopted this 3rd day of October 2022.

TOWN OF MALABAR

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



ATTEST:

Richard W. Kohler
Richard Kohler, C.M.C.
Town Clerk

Approved as to form and content:

Karl W. Bohn, Jr.
Karl W. Bohn, Jr., Town Attorney

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ARTICLE VII

General Provisions

- 7.01 A. The text herein shall constitute the entire Agreement between the parties along with a copy of the current Employee Manual.
- B. This Agreement shall be binding upon and inure to the benefit of the Employee heirs at law and executors of Employee.
- C. This Agreement shall become effective on the date of its approval by the Town Council.
- 7.02 If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable the remainder of the Agreement or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, this Agreement has been entered into the day and year first written above.


Witness


Witness


Matthew R. Stinnett

THE TOWN OF MALABAR

By: 
Mayor Patrick T. Reilly

ATTEST:

Richard Kohler, C.M.C. Town Clerk

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EMPLOYMENT AGREEMENT FOR TOWN MANAGER

THIS AGREEMENT made and entered into on the 1st day of October, 2022, by and between the Town of Malabar, Florida, a municipal corporation of the State of Florida, Brevard County (hereafter the "Town"), and Matthew R. Stinnett (hereafter the "Employee").

WITNESSETH:

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

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

WHEREAS, Employee desires to accept employment as Town Manager of the Town of Malabar.

ARTICLE I

Term of Employment

- 1.01 The Town employs Employee, and Employee has accepted employment with Town upon the conditions set forth herein beginning on the date of approval of this Agreement by the Town and continuing until terminated under the provisions of Article V hereof. 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.

ARTICLE II

Employee's Duties

- 2.01 The Employee is hereby employed as the Town Manager of the Town of Malabar, Florida. Employee shall perform those duties specified in the Code of Ordinances of the Town as amended by Council, Personnel Policies/Employee Manual, and job descriptions of the Town. The Employee shall be required to be a member of the FCCMA.
- 2.02 In addition to the duties specified in the Town Code, Personnel Policies/Employee Manual and job descriptions of the Town Employee shall also perform such additional duties and functions as may be assigned to the Town Manager by the Town Council.
- 2.03 Employee agrees to perform these duties to the best of their ability, and to perform those duties in a manner consistent with the best interests of the Town and in a professional and ethical manner.

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- 2.04 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. This compensatory time off shall have no cash value as outlined in the Employee Manual. Employee shall not be involved in non-employee connected business for remuneration without approval of the Town Council.

ARTICLE III

Compensation

- 3.01 The Town agrees to pay Employee for the services rendered an annual base salary of \$86,000.00, effective October 1, 2022 payable in installments at the same time as other employees of the Town are paid. The Employee shall be required to keep a time sheet and submit it to the Clerk each pay period to track regular, vacation, sick and compensatory time off.
- 3.02 After the 2023 fiscal year and during continued employment, the Employee may be entitled to a salary increase as an adjustment to base salary at the discretion of Council.
- 3.03 The Town shall not at any time during the term of the Agreement reduce the salary, compensation, or other financial benefits of Employee, except as part of an across-the-board reduction for all employees of the Town. In such event, the Employee's salary reduction shall be proportioned to the reduction for other Town employees.

ARTICLE IV

Employee Benefits

- 4.01 Employee shall be entitled to participate in any Employee benefit plan established by the Town. (Note: this includes life insurance policies equal to (1X) the annual wages and is provided to all FT employees at Town's expense.)
- 4.02 The Town agrees to pay the required contribution for Senior Management of the Employer portion for inclusion in the Florida Retirement System. The employee shall be required to pay the employee portion just as other Town employees.
- 4.03 Employee shall annually accrue sick leave on the same basis and at the same rate as other Town employees and is held to the same limits per the Employee Manual. Employee may participate in any refunding program for sick leave offered to other employees.
- 4.04 Employee will earn 18 days' vacation annually, accrued at 1-1/2 days per month. The Employee shall be required to take five consecutive days off each year per the Employee Manual. The Employee shall notify Town Council when the Employee will be absent for more than one regular business day and shall designate an acting Town Manager to make time sensitive decisions during the absence.

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- 4.05 The Town agrees to provide health and dental insurance coverage at the same rate as other Town employees per the Employee Manual. Such insurance coverage shall be effective immediately and without interruption.
- 4.06 Town hereby agrees to budget for and to pay the travel and subsistence expenses of Employee for "Town Business" official travel, meetings, conferences and seminars to adequately pursue the necessary official and other functions for the Town. Employee shall use his own personal automobile for official business and receiving a monthly automobile allowance of three hundred dollars (\$300.00) per month to be paid monthly. It is the intent of this paragraph to provide a lump sum reimbursement to the Employee for all travel on Town Business without regard to mileage. Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and replacement of such vehicle. Either party to this agreement may request a change in the automobile allowance during the term of this Agreement, to be mutually agreed upon.

The Town also agrees to budget and to pay for the registration fees of Employee for short courses, institutes and seminars that are necessary for their professional development and for the good of the Town.

The Town shall pay 100% of the Employee's annual professional organizational dues.

- 4.07 The Town shall defend, save harmless and indemnify Employee *pursuant to F.S. 111.07 and 111.071*. The City shall be required to provide independent legal representation at the Town's expense to the Employee for any matter for which this indemnity shall apply. Legal representation, provided by the Town for Employee, shall extend until a final determination of the legal action including any appellate proceedings. Employee recognizes that the Town 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.

ARTICLE V

Termination, Severance Pay, and Suspension

- 5.01 Except as provided for in Article I, in the event employment of Employee is terminated at the pleasure of the Town or for any reason other than those set forth in paragraph 5.02 of this article, the Employee shall receive a lump sum cash payment equal to eight (8) weeks aggregate salary computed as of the time of termination. Employee shall also receive full pay for unused vacation and accrued sick leave up to the caps provided in the Employee Manual.
- 5.02 In the event Employee is terminated for cause then the Town shall have no obligation to pay aggregate future salary but shall pay accumulated vacation above up to the caps provided in the Employee Manual. For purposes herein the Term "for cause" shall mean the grounds for removal from office in *F.S. 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, breach of this Agreement, violation of the Town Charter, code of ordinances, resolutions and rules or employment policies of the town. For

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purposes of this section the term "conviction" shall mean a plea of no contest, a plea or adjudication of guilt or withholding guilt, or any plea involving entry into or participation in any diversion program. The Town Council may terminate the Employee without full pay and benefits at any time during the term of this Agreement based upon the grounds in this section, but only if after a public hearing a majority of the Council (3 members) votes to terminate Employee, "for cause", provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing.

- 5.03 In the event Employee voluntarily resigns their position with the Town, then Employee shall give the Town thirty (30) days written notice in advance, unless the parties otherwise agree. Employee will be entitled to full pay for all accumulated vacation and accrued sick leave at their then-current salary up to the caps as set forth in the Employee Manual. The employee shall be entitled to compensation for work performed before the effective date of their resignation.
- 5.04 Suspension: The Town Council 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 (3 members) votes to suspend Employee, "for cause", as defined in section 5.02 above, provided; however, that Employee shall have been given written notice setting forth any charges at least 10 days prior to such hearing.
- 5.05 Disability: If Employee is permanently disabled or is otherwise unable to perform their duties because of sickness, accident, injury, mental incapacity, or health for a period of four successive weeks beyond any accrued sick leave, The Town shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 5.01. Nothing herein is intended to override the provisions of the Family Medical Leave Act.

ARTICLE VI

Performance Evaluation

- 6.01 The Town Council shall conduct a performance review of the Employee during the first 120 days of employment. The purpose of the review is to identify the Employee's progress during the first 120 days of the employment and is not intended to replace the annual review and evaluation required under sections 6.02 and 6.03 of this Agreement
- 6.02 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 jointly by the Town and Employee. 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 Town 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 their evaluation with the Council. The evaluation shall be used as a consideration by the Council in its deliberations and determinations for salary and benefit increases or decreases.
- 6.03 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.