

PROFESSIONAL EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into this 13th day of February, 2018, by and between the Town of Palm Beach, Florida, a municipal corporation (hereinafter called the "Town") and Kirk Blouin (hereinafter called "Employee") (collectively the "Parties").

WITNESSETH:

WHEREAS, the Town desires to employ the services of Kirk Blouin as Town Manager of the Town of Palm Beach, as provided by the Town Charter and Code of Ordinances; and

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

WHEREAS, it is the desire of the Town Council to (1) secure and retain the services of Employee and to provide inducement for him to remain in such employment; (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security; and (3) to provide a just means for terminating Employee's services at such time as he may be unable fully to discharge his duties or when Town may desire to otherwise terminate his employment; and

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

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

Section 1. Duties

Town hereby agrees to employ Kirk Blouin as Town Manager of the Town to perform the functions and duties specified in the Town Charter and Code of Ordinances and to perform such other legally permissible and proper duties and functions as the Town Council shall from time to time assign. The Employee will be required to maintain his Florida certification as a law enforcement officer pursuant to section 943.1395, Florida Statutes, and perform law enforcement supervisory duties while serving as Town Manager.

Section 2. Term

A. The Employee shall be relieved of all duties as Director of Public Safety and shall begin work as Town Manager on February 13, 2018 ("Commencement Date") and shall continue thereafter until this Agreement is terminated by either Party as hereinafter provided.

B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town Council to terminate the services of Employee. The Employee acknowledges that he is an employee at will and serves at the pleasure of the Town Council who may terminate such employment, with or without notice, with or without cause, at any time, subject only to the provisions set forth in Section 3 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 the Town, subject only to the provision set forth in Section 3, Paragraph C of this Agreement. The Town acknowledges the right of Employee to resign his employment, subject to the notice provisions contained herein.

Section 3. Termination and Severance Benefits

A. Termination Without Cause. Termination by the Town Council for any other reasons other than cause as defined below shall be deemed without cause. In the event Employee is terminated by the Town Council, without cause, the Town agrees to pay Employee severance pay equal to twenty (20) weeks base salary (less applicable payroll taxes), based upon the salary paid Employee as of the date of notice of termination, plus all life, health, dental and disability insurance benefits provided by the Town ("Severance Benefits"). Employee shall be relieved of all duties, as of the date of notification of termination. Payment of severance pay shall be made in installments on the Town's normal payroll cycle over the next twenty (20) weeks following notice of termination ("Severance Period"). If Employee becomes employed by a subsequent employer during the Severance Period, he shall still be entitled to the remainder of the twenty (20) week severance pay. All life, health, dental and disability insurance benefits provided by the Town shall continue in full force and coverage at Town's expense until the end of the Severance Period or until similar coverage is provided to Employee by a subsequent employer, whichever comes first. Employee shall be entitled to full rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) at the end of the Severance Period. Other employment benefits, including pension, shall not continue to accrue or be paid during the Severance Period. As a condition of receiving the Severance Benefits, Employee will provide the Town with a general release of all other claims in a form satisfactory to the Town and must be in compliance with the confidentiality and non-disparagement provisions contained herein. If Employee breaches the confidentiality and/or non-disparagement provisions of this agreement, he shall forfeit all rights to Severance Benefits and shall return those Severance Benefits which he has received.

B. Termination for Cause. In the event the Employee is terminated for cause, which is defined as death, permanent disability rendering Employee unable to perform official duties, conviction of a felony relating to official duties or involving moral turpitude or because of his conviction of any illegal act involving personal gain to him, or due to breach of the confidentiality and non-disparagement provisions contained herein, the Town shall have no obligation to pay the Severance Benefits above.

C. Other Termination. In the event the Town at any time during the employment term reduces the salary or other financial benefits of Employee in a greater percentage than an applicable across-the-board reduction for all Town employees, or in the event the Town refuses, following written notice to comply with any other provision benefitting Employee herein, or the Employee resigns following a suggestion by the Town Council that he resign, or in the event the Town Council ever fails to appoint the Employee as Town Manager as provided for annually by the Town Charter and Code of Ordinances, then in that event, Employee may at his option, be deemed to be "terminated without cause" at the date of such reduction, such refusal to comply, such suggestion to resign, or such failure to appoint.

D. Voluntary Resignation. In the event Employee voluntarily resigns his position with the Town, then Employee shall give the Town forty-five (45) days' notice in advance. Employee shall not be entitled to the severance pay and benefits referenced in this section in the event of voluntary resignation.

Section 4. Salary

Town agrees to pay Employee for his services rendered pursuant hereto an annual base salary of \$211,513.63 payable in installments on the Town's normal payroll cycle at the same time as other employees of the Town are paid.

Section 5. DROP Program and Town Retirement System

Employee currently participates in the Town's deferred retirement option program (DROP) for police officers. The parties have agreed that Employee will be required to maintain his Florida certification as a law enforcement officer pursuant to section 943.1395, Florida Statutes, and perform law enforcement supervisory duties as Town Manager. Accordingly, Employee may continue to participate in the police DROP while serving as Town Manager. It is further agreed that following the execution of this Agreement, the Town will amend the DROP ordinance to extend Employee's period of DROP participation by five years to a maximum period of up to ten years if Employee is still employed by the Town at the end of the current DROP period. All provisions of the DROP will apply to Employee during the term of this Agreement. Employee shall not be entitled to any additional benefits under the Town's retirement system for his service as Town Manager, beyond his participation in the DROP as set forth herein.

Section 6. Automobile

The Town shall either continue to provide Employee with a Town vehicle or, at Employee's option, the Town shall provide Employee with a monthly automobile allowance of \$500, payable in equal proportionate amounts each pay period to cover all work related usage of his personal vehicle. The Town shall not be responsible for mileage reimbursement, fuel, repairs or any other expenses related to the operation of the Employee's personal vehicle.

Section 7. Performance Evaluation

On intervals at least annually, from the effective date of this Agreement, the Town Council shall consider the Employee's performance, under guidelines the Town Council deems appropriate. If the Town Council determines the Employee's performance is satisfactory or better, the Town Council shall consider the base salary herein for a possible increase, said increase, if any, to be determined within the sole discretion of the Town Council.

Section 8. Professional Development

The Town agrees to provide Employee the usual and necessary funding applicable for Town travel and subsistence and professional and community organizations dues and subscriptions necessary for the Employee's professional development and for the good of the Town, approval of said amount to be within the sole discretion of the Town Council.

Section 9. Insurance

Town agrees to provide such life, health, dental, and disability insurance for Employee and his dependents and to pay the premiums thereon as is equal to that which is provided to Administrative and Executive Town employees. This insurance coverage shall be in full force and effect as of the commencement of this Agreement, without a waiting period for pre-existing conditions.

Section 10. Non-Disparagement

Employee will not make disparaging or defamatory remarks, comments, or publications of any nature concerning the Town or its elected officials. Employee has any doubt as to whether a remark, comment or publication is disparaging or defamatory, he shall first consult with the Mayor, whose judgment shall control. This clause shall survive termination of employment.

Section 11. Confidentiality

Employee acknowledges and agrees that as a direct result of employment by the Town, Employee has had access to, learned about, and became familiar with confidential and proprietary information relating to and/or belonging to the Town, its elected officials, and/or its staff which is not of public record ("Confidential Information"). Employee shall not utilize or disclose to any third parties any Confidential Information in any manner whatsoever, unless required by law. If Employee is contacted by any governmental agency concerning the Town, its elected officials and/or its staff or is served with a subpoena to provide information, he shall immediately notify the Town of the same and shall provide the Town an opportunity to object or take another action with regard to the same. If Employee has any questions concerning the confidentiality of any information, he shall first make inquiry of the Town Mayor before disclosure. The Town Mayor's judgment shall control as to confidentiality determinations. This clause shall survive termination of employment.

Section 12. Dispute Resolution

A. All disputes under this Agreement (except injunctive relief by the Town to enforce the confidentiality and non-disparagement clauses) or otherwise arising out of the employment relationship must be resolved only by mediation and arbitration as follows. The mediation and arbitration shall be held in the state of Florida in Palm Beach County, Florida.

- (1) *Mediation.* The Parties agree to attend mandatory confidential mediation and to confer in good faith to resolve all controversies or claims arising out of any alleged breach or violation of this agreement or arising out of the employment relationship as a pre-condition to arbitration. Such mediation should be held within thirty (30) days of one Party's notice to the other of the dispute and demand for mediation, scheduling permitting. Each Party shall share equally in the mediator's fees and costs. The Parties shall jointly select a mediator who shall be a Florida certified civil mediator or a Florida attorney knowledgeable with the subject matter of the dispute. Thereafter, any such claim which cannot be resolved within

sixty (60) days of notice and demand for mediation shall be submitted to binding arbitration.

- (2) *Arbitration.* Arbitration may be initiated by either Party making a written demand for arbitration on the other party no later than one hundred sixty (160) days from the conclusion of the mediation. A panel of three arbitrators shall decide the controversy unless otherwise agreed. The arbitration shall be held in accordance with the rules for arbitration of the American Arbitration Association. The arbitration panel shall then hear and determine the questions in dispute, and the written decision of the arbitrator shall be binding upon the parties. The arbitration panel shall have all powers and may initiate any and all remedies provided in any fair employment law or statute (federal, state, or local). Each Party shall share the cost of the chosen arbitrators and all other expenses of the arbitration, other than the respective Party's attorney's fees and expert witness fees. The cost on arbitrators' expenses of arbitration may be assessed by the arbitrators to the prevailing party. Enforcement of the award shall be governed by the provisions of the Florida Arbitration Code and shall be fully enforceable in a court of law.

B. If Employee breaches the provision relating to confidentiality and non-disparagement, the Town may seek appropriate relief in circuit court for injunction and damages. Employee waives any right to trial by jury relating thereto. The prevailing party shall be entitled to attorneys' fees in any such action.

Section 13. Other Terms and Conditions of Employment

A. The Town Council 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, Town Code of Ordinances, or any other law.

B. All provisions of the Town Charter and/or Code, and regulations and rules of the Town relating to general pay increases, vacation and sick leave, longevity pay, personal days, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended also shall apply to Employee as they would to other employees of Town, in addition to said benefits enumerated specifically for the benefit of Employee, except as herein provided.

C. The Town shall bear the full cost of any fidelity or other bonds required of the Employee under any ordinance. The Town shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as Town Manager, and for which Employee was acting within the scope of his duties as Town Manager.

D. Inasmuch as the Employee has been a Town employee, the Employee shall be entitled to include all previous service credits from the date of his initial employment by the Town through the Commencement Date of his employment as Town Manager for determining accrued vacation, sick leave, longevity service, and all other benefits at the full accrued values, in accordance with policies of the Town, or, in the event Town Policy at a later time increases these benefits, then in the amount of the increase. Employee's past service with the Town has already been reflected in his accrued benefits under the Town's retirement system, including the DROP benefit, in accordance with the retirement system ordinance.

E. This Agreement shall become effective commencing on the date of its execution by each party.

F. If any provision, or any portion thereof, contained in this Agreement is held to be 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.

[Signature Page Follows]

IN WITNESS WHEREOF, the Town of Palm Beach has caused this Agreement to be signed and executed in its behalf by a majority of its Town Council 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.

WITNESS:

Dated: _____

Kirk Blouin, Employee
Dated: _____

TOWN COUNCIL:

Richard M. Kleid
Dated: _____

Danielle H. Moore
Dated: _____

Julie Araskog
Dated: _____

Bobbie Lindsay
Dated: _____

Margaret Zeidman
Dated: _____

MAYOR:

Gail L. Coniglio

Dated: _____

TOWN CLERK

Kathleen Dominguez

Dated: _____

APPROVED AS TO LEGAL FORM
AND SUFFICIENCY

TOWN ATTORNEY

John C. Randolph

Dated: _____

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