

RESOLUTION NO. 2024-3303

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE EMPLOYMENT AGREEMENT OF PETER JANKOWSKI AS TOWN MANAGER PURSUANT TO THE EMPLOYMENT AGREEMENT ATTACHED HERETO AS EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Surfside (Town") voted at its Special Meeting on July 8, 2024, to appoint Peter Jankowski to the position of Town Manager;

WHEREAS, the Town Commission now desires to formalize the terms and conditions of his employment as Town Manager in accordance with the Employment Agreement attached hereto as Exhibit "A";

WHEREAS, the Employment Agreement attached hereto as Exhibit "A" has been executed by Peter Jankowski, demonstrating his acceptance of the terms and conditions by which he will serve the Town as its Town Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Approval of Employment Agreement. The Employment Agreement between Peter Jankowski and the Town attached hereto as Exhibit "A" is hereby approved.

Section 3. Implementation of Contract. The Mayor is hereby authorized to take any and all necessary or further action to execute and implement said Employment Agreement.


Section 4. Effective Date. This Resolution shall be effective immediately upon adoption and as set forth in the Employment Agreement.

PASSED AND ADOPTED this 23rd day of July, 2024.

Motion By: Vice Mayor Paul
Second By: Commissioner Velasquez

FINAL VOTE ON ADOPTION

Commissioner Ruben Coto	<u>Yes</u>
Commissioner Nelly Velasquez	<u>Yes</u>
Commissioner Gerardo Vildostegui	<u>Yes</u>
Vice Mayor Tina Paul	<u>Yes</u>
Mayor Charles W. Burkett	<u>Yes</u>

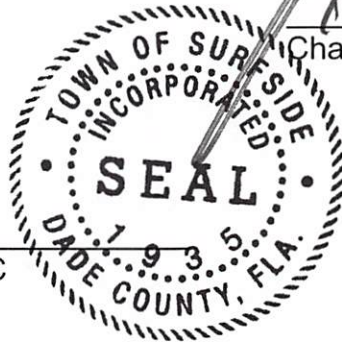


Charles W. Burkett, Mayor

ATTEST:



Sandra N. McCready, MMC
Town Clerk



APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:



Mark Blumstein, Esq.
Interim Town Attorney

EMPLOYMENT AGREEMENT
TOWN MANAGER

This Employment Agreement (“Agreement”) is made and entered into 23 July 2024, between the Town of Surfside, a Florida municipal corporation (the “Town”) and Peter Jankowski (“Jankowski” or “Town Manager”).

RECITALS

WHEREAS, Section 34 of the Town Charter (the “Charter”) requires that there shall be a Town Manager who is the Chief Administrative Officer of the Town; and

WHEREAS, Jankowski was appointed as Town Manager by the Town Commission at its July 8, 2024 Special Commission Meeting; and

WHEREAS, Jankowski represents that he has the expertise and skills to serve as Town Manager; and

WHEREAS, the Town desires to employ the services of Jankowski as Town Manager and Jankowski wishes to accept such employment; and

NOW, THEREFORE, in consideration of the premises and mutual covenants contained in this Agreement, the parties agree as follows:

Section 1. Recitals.

The above and foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Duties.

2.1 The Town Manager shall have all powers and perform all duties and responsibilities required by this Agreement and prescribed in the Charter and applicable sections of the Town Code.

2.2. The Town Manager shall also perform such other duties and carry out such policy directives as determined by the Town Commission from time to time.

2.3. The Town Manager shall provide the Town Commission with a monthly report, which shall include a list of directives from the Town Commission and the status of achievement of the same. The report shall be included in the monthly Commission Agenda Package.

2.4 The Town Manager shall attend all Commission meetings unless excused by the Commission, he shall also attend the Town's Planning & Zoning Board meetings, Tourist Board meetings and Pension Board meetings. In addition, he shall attend other standing and ad hoc committee meetings and other meetings as appropriate to fulfill his duties as Town Manager unless he has scheduled conflicts that preclude his attendance. The Town Manager may assign a designee to attend certain meetings, if he is unavailable.

2.5 The Town Manager shall be available to confer and/or meet with the Mayor and Commissioners, as requested and as needed.

Section 3. Salary.

3.1 The Town Manager shall receive an initial annual salary in the amount of **\$200,000.00** upon the Effective Date of this Agreement and passage of a Town Resolution ratifying this Agreement, payable in equal installments in accordance with the Town's existing pay periods. Upon a satisfactory Town Manager report after 90 days following the Effective Date, the Town Commission agrees to increase the Town Manager's salary to **\$225,000.00**.

3.2 For purposes of this Agreement, the Town Manager's anniversary date for his first annual performance evaluation shall be **August 19, 2024** (the "Anniversary Date").

Section 4. Performance Evaluations.

4.1 The Town agrees to conduct formal performance evaluations of the Town Manager in a format acceptable to the Town Commission by **August 19, 2025**, and after twelve (12) and twenty-four (24) months of service from the Town Manager's Anniversary Date. The Town

Commission shall thereafter evaluate the performance of the Town Manager at least once annually on or before the Anniversary Date of each year. It is understood and agreed that if the Town Manager receives a positive evaluation from the Town Commission, the Town Manager may receive a salary or benefit increase, but any such increase is solely within the discretion of the Commission, approved at a public meeting.

4.2 The evaluation specified in Sections 4.1 shall be based upon: (i) the Town Manager's performance of the duties specified in Section 2; (ii) the Town Manager's achievements of the Town Commission's policy directives; and (iii) the Town Manager's progress towards completion of appropriate professional development programs.

Section 5. Holidays.

The Town Manager shall be entitled to all holidays recognized by the Town.

Section 6. Annual (Vacation) Leave.

6.1 The Town Manager shall accrue **30 business days** of annual leave per calendar year on a pro rata basis equally per pay period. The Town Manager shall submit leave slips for annual leave usage in accordance with Town policy for all other Town employees.

6.2 In all instances other than in the event of an emergency, where prior verbal or written notice and approval is not feasible, the Town Manager shall not be absent or take leave more than ten (10) consecutive business days without prior verbal or written notice to and approval of the Mayor or designee. Prior to such leave, the Town Manager shall notify the Commission of who the Acting Town Manager will be during that leave and how the Town Manager may be reached while on leave in case of an emergency.

Section 7. Sick Leave.

The Town Manager shall accrue 14 business days of sick leave per calendar year on a pro rata basis equally per pay period. The Town Manager shall submit leave slips for sick leave usage in accordance with Town policy for all other Town employees.

Section 8. Retirement Plan.

Within 14 business days of the Effective Date of this Agreement, the Town Manager shall elect either to (i) receive a **15% contribution** of his base salary into an ICMA/Mission Square retirement plan (such contribution to be made on a pro rata basis equally per pay period) or (ii) he may choose to continue to participate in the Town's Retirement Plan as codified in Chapter 2 of the Town Code, as may be amended from time to time. The Town Manager shall make such election in writing to the Town's Human Resource Director. If no such election is made, the Town Manager shall participate in the ICMA/Mission Square retirement plan as set forth above.

Section 9. Health Insurance.

The Town shall provide the Town Manager and his eligible dependents with insurance coverage (i.e., medical, dental and vision), at the Town's cost, in the Town's health insurance plans available to all other Town employees, upon the Effective Date of this Agreement.

Section 10. Life Insurance.

The Town shall provide the Town Manager with term life insurance equal to his annual salary.

Section 11. Professional Dues and Expenses.

11.1 The Town shall pay for all customary professional dues and subscriptions necessary for the Town Manager's participation in the ICMA/Mission Square, FCCMA and/or AICP. In addition, the Town Manager's participation in other municipal and professional organizations shall be as approved in the Town's annual budget.

11.2 The Town shall pay for the Town Manager's participation in those local civic and non-profit job-affiliated organizations that the Town Manager is authorized to participate in by the Town Commission, as approved in the Town's annual budget.

11.3 The Town shall pay reasonable non-personal job-related expenses incurred by the Town Manager as part of his duties. Such payments shall be made on a reimbursement basis, based upon the Town Manager's actual receipts and expense vouchers.

11.4 The Town shall provide the Town Manager with an automobile allowance of **\$750 per month**, upon the Effective Date of this Agreement.

Section 12. Cellular.

The Town shall provide the Town Manager with a cellular telephone or provide an allowance of **\$100 per month**.

Section 13. Travel.

The Town Manager is hereby approved to attend the annual FCCMA Conference or an equivalent conference at the Town's expense, provided that his attendance at this Conference does not interfere with the performance of his duties as Town Manager. In addition, the Town shall pay for the reasonable and customary registration and travel expenses of the Town Manager for meetings and professional development activities as directed or annually budgeted by the Town Commission.

Section 14. Days.

Any reference to days in this Agreement means calendar days unless otherwise stated.

Section 15. Bonds.

The Town shall pay for the cost of any bonds for the Town Manager required by Florida Law or the Town Charter.

Section 16. Indemnification.

The Town shall indemnify the Town Manager against any tort, professional liability claim, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring during the performance of the Town Manager's duties. This provision shall not apply to acts or omissions of the Town Manager committed while acting outside the course and scope of his employment, committed in bad faith or with malicious purpose, or committed in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Section 17. Term.

The Effective Date of this Agreement shall be **August 19, 2024**, a date subsequent to the Town Commission adopting Resolution No. _ approving this Agreement. The Town Manager shall serve at the pleasure of the Town Commission. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town Commission to terminate the services of the Town Manager at any time during a regular or special Commission meeting, subject to the provisions set forth in this Agreement.

Section 18. Termination.

18.1 In accordance with the Charter, the Town Manager shall serve at the pleasure of the Town Commission. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town Commission to terminate the services of the Town Manager at any time during a regular or special Town Commission meeting.

18.2 In the event the Town Commission terminates the Town Manager without cause, the Town Manager shall receive a lump sum severance pay equal to 12 weeks of his regular base salary at the time of termination ***only if*** employed by the Town for at least 90 days following the Effective Date of this Agreement. The Town shall also continue to pay the premium for the Town Manager's insurance for 12 weeks (calculated to the closest end of the month to the 12th

week) after 90 days following the Effective Date of this Agreement. The Town shall not provide the Town Manager with his automobile allowance, cellular telephone allowance, or any other benefit or reimbursement (except that specifically set forth in this paragraph) beyond the date of his termination. Any severance payments (excluding the continuation of his insurance benefits) shall be paid to the Town Manager in a lump sum within thirty (30) days of his termination. The severance referenced above shall not be due if termination without cause occurs during the first 90 days of employment with the Town.

18.3 Notwithstanding the provisions of Section 18.2, in the event Town Manager is terminated for misconduct, as defined in Section 443.036(29), Florida Statutes, the Town shall have no obligation to provide the Town Manager with any form of continued employment with the Town or any severance pay or payouts for unused vacation or sick leave. Misconduct includes, but is not limited to: (i) breach of any material term or condition of this Agreement; (ii) conviction of a felony; (iii) gross insubordination; (iv) willful neglect of duty; or (v) adjudicated violation of the Florida Code of Ethics for Public Officers and Employees, the Miami-Dade Conflict of Interest and Code of Ethics, the Town Charter, or the Town's Conflict of Interest Ordinance.

18.4 Upon payment of the severance specified in Section 18.2, upon resignation or retirement as provided for in Section 18.5, or resignation as provided for in Section 18.6, the Town shall have no further contractual obligations to the Town Manager. Any severance payment shall constitute stipulated and liquidated damages and the maximum amount of financial liability for which the Town may be liable in the event of termination or breach of contract.

18.5 If the Town Manager voluntarily resigns his position during the Term of this Agreement, the Town Manager shall provide the Town with 60 days' advance written notice, unless the parties agree in writing to a different period. In the event of resignation by the Town

Manager under this Section, the Town Manager shall not be entitled to receive the severance package specified in Section 18.2, but the Town Manager shall receive payment for any accrued, unused vacation and sick leave calculated at the Town Manager's rate of pay in effect upon the date of resignation in accordance with Town policy for non-union civilian employees.

18.6 If the Town Manager voluntarily resigns with less than 60 days' advance written notice, the Town Commission may elect to terminate the Town Manager immediately or allow the Town Manager to continue to serve until the date specified in the Town Manager's resignation. In the event of a resignation or termination under this paragraph, notwithstanding any other provisions of this Section, the Town Manager shall not be entitled to receive any severance payment, but the Town Manager shall receive payment for any accrued, unused vacation and sick leave calculated at the Town Manager's rate of pay in effect upon the date of resignation in accordance with Town policy for non-union civilian employees.

18.7 If the Town Manager is unable to perform his duties as specified in Section 2 of this Agreement for a period of 30 consecutive days or 60 non-consecutive days during any, one-year period for any reason other than an approved Family Medical Leave Act ("FMLA") absence, the Town Commission may terminate this Agreement. If the Town Manager takes FMLA-approved leave and exceeds his statutorily-protected FMLA-approved leave in any, one-year period, the Town Commission may terminate this Agreement. In the event of the Town Manager's death, this Agreement shall be terminated.

Section 19. Miscellaneous Provisions.

19.1 **Complete Agreement.** It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreement, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation

from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

192 **Amendment.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and with equal dignity herewith.

193 **No Waiver.** The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

194 **Severability.** If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portions thereof, shall not be affected and shall remain in full force and effect.

195 **Non-Assignment.** The rights and obligations herein granted are personal in nature and cannot be transferred or assigned by the Town Manager.

196 **Governing Law.** Florida law shall govern this Agreement and any litigation which may arise from this Agreement shall be filed and litigated in the Circuit Court in and for Miami-Dade County, Florida, or, if in Federal Court, in the Southern District of Florida.

197 **Notice.** Notice to either party shall be deemed given if sent by certified mail, return receipt requested, by recognized public or private postal facilities, by hand delivery, or delivered at a Town Commission meeting. Notice shall be sent as follows:

For the Town:

Charles W. Burkett,
Mayor Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154
(305) 861-4863 (Telephone)

With a copy to: Mark Blumstein, Esq.
Interim Town Attorney
Town of Surfside
9293 Harding
Avenue
Surfside, Florida 33154
(305) 861-4863 x 225 (Telephone)

For the Town Manager: Peter Jankowski
Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154
(305) 861-4863 (Telephone)

Section 20. WAIVER OF JURY TRIAL.

BOTH THE TOWN AND THE TOWN MANAGER KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVE THEIR RIGHT TO A TRIAL BY JURY IN ANY CIVIL PROCEEDINGS THAT MAY BE INITIATED BY EITHER PARTY WITH RESPECT TO ANY TERM OR CONDITION OF THIS AGREEMENT.

[INTENTIONALLY OMITTED]

IN WITNESS WHEREOF, the Town, by signature of the Mayor, as authorized by the Town Commission, in accordance with Resolution No. _____ passed on ____ July 2024, has executed this Agreement the day and year first above written.

TOWN OF SURFSIDE

By: _____
Charles W. Burkett, Mayor

Date: _____

ATTEST:

Sandra N. McCreedy, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE OF THE TOWN OF SURFSIDE ONLY:**

Mark Blumstein, Esq.
Interim Town Attorney

TOWN MANAGER

Peter Jankowski

Date _____