

RESOLUTION NO. 22

SERIES 2023

A RESOLUTION APPOINTING THE TOWN MANAGER AND APPROVING THE EMPLOYMENT AGREEMENT.

WHEREAS, the appointment of the Town Manager of the Town of Breckenridge ("Town Manager") is established per Section 7.1 of the Charter; and

WHEREAS, the Town Council of the Town of Breckenridge ("Town Council") desires to appoint Shannon Haynes as the Town Manager pursuant to Section 7.1 of the Charter; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. The Town Council hereby approves a Resolution appointing the Town Manager upon the terms and conditions set forth in the Employment Agreement, attached hereto as Exhibit A.

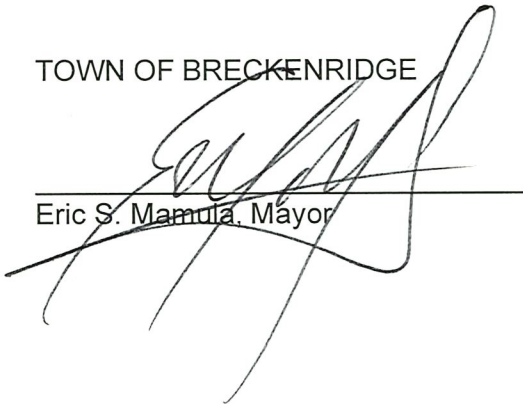
RESOLUTION ADOPTED AND APPROVED this 24th day of October 2023.

ATTEST:



Helen J. Cospolich, CMC, Town Clerk

TOWN OF BRECKENRIDGE



Eric S. Mamula, Mayor

APPROVED IN FORM



Town Attorney

11.28.23
Date

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made and entered into at Breckenridge, Colorado this 24th day of October, 2023, by and between the TOWN OF BRECKENRIDGE, a Colorado municipal corporation (“Town”) and SHANNON B. HAYNES (“Haynes”).

Recitals

WHEREAS, the Town is a home rule municipal corporation organized and existing pursuant to Article 20, Section 6 of the Colorado Constitution; and

WHEREAS, the electors of the Town have adopted the Town of Breckenridge Home Rule Charter (“Charter”); and

WHEREAS, Section 2.4 of the Charter provides that the Town government is to be a “Council-Manager” form of government; and

WHEREAS, the office of the Town Manager of the Town of Breckenridge (“Town Manager”) was created by Section 7.1 of the Charter; and

WHEREAS, the Town Council of the Town of Breckenridge (“Town Council”), acting for and on behalf of the Town, desires to employ Haynes as the Town Manager pursuant to Sections 2.4 and 7.1 of the Charter; and

WHEREAS, the Town Council desires to provide certain benefits, establish certain conditions of employment and to set the working conditions for Haynes; and

WHEREAS, it is the further desire of the Town Council to: (i) provide certain inducements for Haynes to remain as the Town Manager; (ii) make possible full work productivity by assuring Haynes morale and peace of mind with respect to future job security; and (iii) provide a fair, equitable and agreed means for terminating Haynes services as described in this Agreement; and

WHEREAS, Haynes desires to accept employment as the Town Manager, all in accordance with, and subject to, the terms and conditions of this Agreement.

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

1. Appointment of The Town Manager; Duties. The Town hereby employs Haynes as the Town Manager of the Town to perform the functions and duties specified in the Charter and ordinances of the Town, and to perform such other legally permissible and proper duties and functions as the Town Council shall from time to time direct. Haynes hereby accepts such employment in accordance with, and subject to, the terms and conditions of this Agreement.

Haynes shall devote her full time and attention to the performance of her duties under this Agreement.

2. Effective Date. Haynes shall assume the position of the Town Manager of the Town and commence her duties hereunder on December 19, 2023 (“Effective Date”).

3. Term; Termination.

A. This agreement will begin on the Effective Date and shall be in effect for a term of four (4) years unless terminated by either party as set forth in this Paragraph 3.

B. Haynes may resign her employment as the Town Manager, and hereby terminate this Agreement, at any time; provided, that Haynes shall give the Town Council not less than one hundred eighty (180) days’ prior written notice of her resignation.

C. The Town may terminate this Agreement, without being liable for breach of this Agreement, for any of the following reasons.

1. If Haynes fails to maintain permanent, full-time residence in the Upper Blue River Basin as required by Paragraph 8 of this Agreement.

2. If Haynes is convicted of any felony offense; an offense involving fraud or dishonesty; or any offense related to governmental operations under Article 8 of Title 18 of the Colorado Criminal Code; or if Haynes evidences undesirable character traits as determined by the Town Council.

3. If Haynes commits an act of gross negligence or malfeasance in office as determined by the Town Council.

4. Upon proof of fraud, misstatement of a material fact, or omission to state a material fact in connection with the information provided by Haynes to the Town Council as part of the Town Manager hiring process. All of such information, whether provided in writing, verbally or otherwise, is hereby deemed to be material to the Town Council’s decision and determination to employ Haynes as the Town Manager.

5. Subject to any limitation imposed by applicable law, if Haynes is disabled and unable to perform the duties of the Town Manager for more than ninety (90) consecutive calendar days.

D. The Town may also terminate this Agreement without cause and without being liable for breach of this Agreement upon the vote of the majority of the entire the Town Council in accordance with the provisions of Section 7.1 of the Charter.

4. Severance Compensation and Benefits.

A. If Haynes resigns as provided in Paragraph 3, then the Town shall pay Haynes her salary and benefits earned to the effective date of her resignation, but the Town shall not be obligated to pay Haynes any severance compensation or provide any of this severance benefits.

B. If this Agreement is terminated by the Town for one of the reasons described in Subparagraphs D1 – 5, then the Town shall pay Haynes her salary and benefits earned to the effective date of her termination, but the Town shall not be obligated to pay Haynes any severance compensation or provide any other severance benefits.

C. If this Agreement is terminated by the Town without cause as described in Paragraph 3, then the Town shall pay Haynes severance compensation and additional severance benefits as follows:

1. Except as provided in Subparagraph 4C3, below, if Haynes' employment is terminated by the Town without cause prior to the end of the Term, then the Town shall pay Haynes a lump sum cash payment equal in amount to the total annual salary which Haynes would have received during the entirety of the Term, less any annual salary previously paid by the Town to Haynes pursuant to this Agreement, but in no event shall the severance pay due to Haynes under this Subparagraph be less than six (6) months' salary. The calculation of severance pay due to Haynes under this Subparagraph C1 shall be based upon her then-current salary at the time of termination; and such calculation shall be final for all purposes. In addition to the cash payment, the Town shall provide the same coverage or employee elected coverage for health and life insurance at the employee premium rate for the remainder of the term of the contract; and additional coverage for health and life insurance at the employee premium rate up to and including the time in which Haynes is eligible for the Town's retiree medical plan.

2. Notwithstanding the provisions of Subparagraph C1 if Haynes' employment is terminated without cause by the Town Council during the six months (6) immediately following the seating and swearing in of a Mayor following the Town's regular municipal election, then in lieu of the provisions of Subparagraph C1 the Town shall pay Haynes a lump sum cash payment equal to the greater of: (i) twelve (12) months' then-current salary or (ii) the total amount of annual salary which Haynes would have received during the entirety of the term of this Agreement, less any annual salary previously paid by the Town to Haynes pursuant to this Agreement. In addition to the cash payment, the Town shall provide the same coverage or employee elected coverage for health and life insurance at the employee premium rate for the remainder of the term of the contract; and additional coverage for health and life insurance at the employee premium rate up to and including the time in which Haynes is eligible for the Town's retiree medical plan.

D. Any monetary compensation due to Haynes pursuant to this Paragraph 4 shall be paid by The Town in full within twenty (20) days of the date of Haynes' termination.

5. Compensation; Retirement Plan.

A. For services rendered pursuant to this Agreement, The Town agrees to pay Haynes an initial annual salary of Two Hundred Forty-five Thousand (\$245,000), payable in the same manner and as such time as all other employees of the Town are paid.

B. Annually in conjunction with the budget process, the Town Council shall determine what salary adjustment will be made in Haynes' annual salary. The Town Council may, in its sole discretion, review Haynes' performance at any time and may, based upon that review, adjust Haynes' salary accordingly; provided, however, that during the term of this Agreement, Haynes' annual salary shall not be less than Two Hundred Forty-Five Thousand (\$245,000), unless otherwise agreed to in writing by the Parties. Any adjustment to Haynes' annual salary may be received, applied and invested by Haynes in whatever form on a cafeteria basis as determined in Haynes's sole discretion.

C. Haynes shall participate in the ICMA retirement plan and the Town's contribution thereto on Haynes' behalf shall be seventeen percent (17%) of Haynes's salary which is payable each month. Haynes shall be one hundred percent (100%) vested in her retirement plan upon her commencement of duties as The Town Manager.

D. The Town shall pay its portion of the FICA contribution for Haynes's compensation as provided by law.

6. Hours of Work. Haynes is employed to perform the job of the Town Manager regardless of the number of hours of work each workweek which are require to accomplish the job. It is agreed that Haynes is exempt from the provisions of the Fair Labor Standards Act, and any comparable state wage law, and as such she shall not receive any overtime compensation for hours worked in excess of forty (40) hours in a workweek.

7. Automobile Allowance. In recognition of the requirement by the Town that Haynes shall be available to perform services for the Town twenty-four (24) hours a day, the Town shall provide Haynes as additional compensation an automobile allowance of One Thousand Dollars (\$1,000.00) per month. Haynes shall be responsible for all costs of operation, fuel, maintenance, insurance, and licensing of her vehicle.

8. Residence. It is a condition of Haynes's employment that she reside within the Upper Blue River Basin (the area bounded by Farmers Korner on the north and Hoosier Pass on the south) during her employment as the Town Manager. Haynes' failure to continuously maintain such permanent, full-time residency within the Upper Blue River Basin, shall be cause for

termination of this Agreement, and in the event of such termination Haynes shall not be entitled to severance pay.

9. Defense and Indemnification. The Town shall defend and indemnify Haynes from and against all claims, demands and suits arising within the scope of her duties and subject to the limitations of, the Colorado Governmental Immunity Act, Part 1 of Article 10 of Title 24, C.R.S., as from time to time amended.

10. Dues and Subscriptions. As limited by the budget and in the sole discretion of the Town Council, the Town agrees to pay Haynes' appropriate professional dues and subscriptions which are necessary for her continuation and full participation in national, regional, state and local associations and organizations which are necessary and desirable for her continued professional participation, growth and advancement and which are in the best interests of the Town.

11. Professional Development.

A. As limited by the budget and in the sole discretion of the Town Council, the Town agrees to pay registration, reasonable travel and subsistence expenses for Haynes for professional and official travel, meetings and occasions adequate to continue Haynes' professional development and to attend necessary official and other functions for the Town, including, without limitation, the annual conference of the International City Management Association, the Colorado Municipal League, and other national, regional, state and local government groups and committees of which Haynes or the Town is member.

B. Subject to The Town Council approval, the Town shall further pay for Haynes' reasonable tuition, travel and subsistence for short courses, institutes and seminars that are necessary for Haynes' professional development and which are in the best interests of the Town.

12. General Expenses. The Town recognizes that certain reasonable and necessary expenses of a non-personal and generally job-related nature will be incurred by Haynes in connection with the performance of her duties under this Agreement. The Town agrees to reimburse or to pay such general expenses.

13. Vacation; Other Benefits.

A. Except as otherwise expressly provided in this Agreement to the contrary, Haynes shall be entitled to receive all benefits provided by the Town to its full-time employees from time to time throughout the term of this Agreement.

B. Haynes shall accrue vacation leave in accordance with the Town's Employee Guidelines. Vacation leave shall be taken during the course of each year, subject to The Town Council approval. Haynes understands that it is the policy of the Town to encourage the use of

vacation leave during the year in which it is accrued. The maximum amount of accrued but unused vacation leave which may be carried over from one year to another shall be the same for Haynes as for other full-time Town employees, as established from time to time throughout the term of this Agreement in the Town's Employee Guidelines. Any amount of vacation leave to be carried over in excess of the amount Haynes is entitled to carryover as a matter of right by the Employee Guidelines must be authorized in writing by the Mayor or the Town Council. The question of whether Haynes shall be paid for her accrued but unused vacation leave in the event of her resignation or the other termination of this Agreement shall be determined by the Town's Employee Guidelines in effect at the time of such resignation or termination. In making any calculation required with respect to payment for accrued but unused vacation leave, Haynes' rate of pay shall be determined using her then-current rate of pay.

C. Haynes shall be entitled to sick leave, personal leave and cafeteria benefit in accordance with the terms of the Town's Employee Guidelines.

14. Performance Evaluation. The Town Council shall provide Haynes with a formal evaluation of her performance annually at a time approximate to the anniversary date of her assumption of the duties of the Town Manager, or as otherwise needed or as requested by Haynes.

15. Other Terms and Conditions of Employment. The Town Council shall fix any such other terms and conditions of Haynes' employment as it may determine from time to time, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Charter, the ordinances of the Town, or other applicable law.

16. Applicable Law. This Agreement is subject to the provisions of the Charter, the ordinances of the Town and other applicable law. In the event of a conflict between the provisions of this Agreement and applicable law, the applicable law shall govern; provided, however, that all provisions of this Agreement which are not in conflict with applicable law shall remain in full force and effect.

17. Assignment. This Agreement is for personal services predicated upon Haynes' special abilities or knowledge. Haynes shall not assign this Agreement in whole or in part.

18. Annual Appropriation. Notwithstanding anything herein contained to the contrary, the Town's obligations under this Agreement are expressly subject to an annual appropriation being made by the Town Council in an amount sufficient to allow the Town to perform its obligations hereunder. In the event sufficient funds shall not be appropriated for the payment of sums due to or to become due to Haynes hereunder, this Agreement may be terminated by either party without penalty; provided, however, that in the event of such termination Haynes shall be paid severance pay as provided in Paragraph 4 of this Agreement. The Town's obligations under this Agreement shall not constitute a general obligation indebtedness or multiple year direct or

indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

19. Waiver. The failure of either party to exercise any of their rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by the party waiving such rights.

20. Applicable Law. This Agreement shall be interpreted in all respects in accordance with the laws of the State of Colorado.

21. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties and supersedes any prior agreement or understanding relating to the subject matter of this Agreement.

22. Severability. In case one or more of the provisions contained in this Agreement, or any application hereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement and the application hereof shall not in any way be affected or impaired thereby.

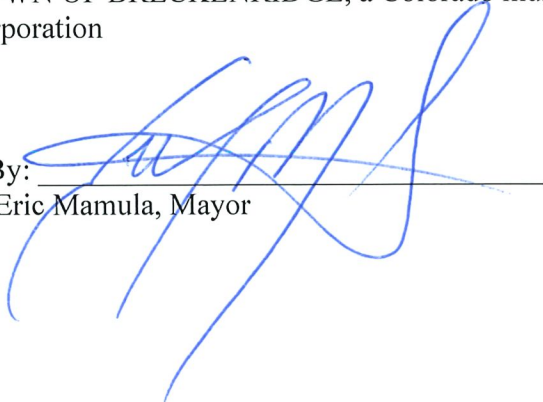
23. No Adverse Inference. This Agreement shall not be interpreted or construed against either party on the basis that such party drafted this Agreement. Both parties stipulate and agree that they had the opportunity to participate fully in the drafting of this Agreement.

24. Paragraph Headings. Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

25. Binding Effect. The provisions of this Agreement with regard to compensation and severance pay shall be binding upon and shall inure to the benefit of Haynes' heirs at law and personal representatives.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above.

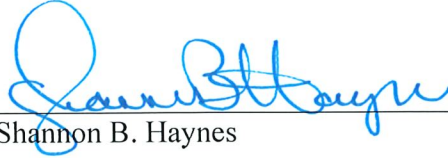
TOWN OF BRECKENRIDGE, a Colorado municipal corporation

By: 
Eric Mamula, Mayor

ATTEST:



Helen Cospolich, Town Clerk



Shannon B. Haynes

Shannon Haynes TM Employment Agreement 092623