

**EMPLOYMENT AGREEMENT
BETWEEN
MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS
AND
DON G. DONALDSON**

THIS AGREEMENT, made and entered into on _____, by and between the Board of County Commissioners of Martin County, Florida, a political subdivision of the State of Florida, hereinafter called "County", and Don G. Donaldson, hereinafter called "Administrator", both of whom agree as follows:

WITNESSETH

WHEREAS, County desires to employ the services of Don G. Donaldson as County Administrator of Martin County, Florida pursuant to Chapter 1, Article 3, General Ordinances, Martin County Code; and

WHEREAS, it is the desire of the County, to provide certain benefits, to establish certain conditions of employment and to set working conditions for Administrator; and

WHEREAS, it is the desire of the County to secure and retain the services of Administrator and to provide inducement for him to remain in such employment; and

WHEREAS, Administrator desires to accept employment as County Administrator of Martin County.

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

Section 1: Appointment

Pursuant to Chapter 1, Article 3, General Ordinances, Martin County Code, and Chapter 125, Part III, Florida Statutes, the Board of County Commissioners hereby appoints Don G. Donaldson to be employed as the County Administrator of Martin County, Florida, effective July 1, 2022.

Section 2: Duties

The County Administrator shall exercise those powers enumerated in Section 1.63, General Ordinances, Martin County Code, attached hereto as Exhibit "A", and shall perform any other legally permissible duties and functions as may be assigned by the Martin County Board of County Commissioners. Pursuant to Section 1.63A, the Board of County Commissioners may from time to time amend the powers which the County Administrator may exercise. There shall be a direct line of authority through Administrator to and from department directors. Hiring of department directors shall be through Administrator, subject to confirmation by the Board of County Commissioners.

Section 3: Term

A. The term of this Employment Agreement shall commence at 12:01 a.m. on July 1, 2022 and expire at midnight on July 1, 2023, the Agreement will renew automatically for additional terms of one year unless the County gives written notice to the Administrator by April 30 of any year that the Agreement will not be extended the following July 1. For example, the Agreement will renew

automatically for the period of July 1, 2023 through July 1, 2024, unless the County notifies the Administrator by April 30, 2023 that it will not renew the Agreement. Any such renewal will not affect the parties' rights to terminate the Agreement under the provisions of Sections 4 and 5 below. The County's failure to renew the Agreement shall constitute termination, and the Administrator will be entitled to the termination benefits provided in Section 4A below.

- B. If the Agreement is not renewed, then, upon mutual consent of the parties, Administrator may continue to function in the role of County Administrator until a permanent replacement is selected by the Commission or through the remainder of the Agreement term then in effect. In the absence of such mutual agreement, Administrator shall be free of all obligations of services to Martin County.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Administrator to resign at anytime from his position as County Administrator, subject only to the provisions set forth in Section 5 of the Agreement.

Section 4: Termination and Severance Pay

- A. The County may at any time whatsoever, terminate the employment of the County Administrator, without cause, by an affirmative vote, upon notice, of not less than three (3) members of the Board of County Commissioners. If such event should occur, the County Administrator will be given written notice of the decision of the Board of County Commissioners not less than thirty (30) days prior to the effective date of the termination. Upon termination, the County Administrator will be entitled to:
 - 1. A severance payment equal twenty (20) weeks of base salary and deferred compensation under Sections 6 and 7 below, and
 - 2. A lump sum payment at the County Administrator's hourly rate of base salary and deferred compensation for all annual leave hours accumulated but unused as of the date of termination, and
 - 3. Continuation of the County Administrator's health insurance for a period of twenty (20) calendar weeks following the date of termination.

The County may elect to pay the severance payment in a lump sum or periodic payments for a period not to exceed twenty (20) weeks. Notwithstanding the language contained in this section no severance pay shall be made when the officer, agent, employee, or contractor has been fired for misconduct, as defined in F.S. 443.036(29), by the unit of government, i.e. County.

- B. The County may also, for cause, terminate the employment of Administrator at any time whatsoever, by affirmative vote, of not less than three (3) members of the Board of County Commissioners. Administrator shall be entitled to a hearing before the Board of County Commissioners if, within five (5) business days, he requests a hearing in writing to the County Attorney. The County Administrator may be represented by legal counsel. In the event Administrator is terminated for cause, County shall be under no obligation to pay severance pay. The term "for cause" shall be deemed to include: gross negligence in the handling of County affairs; willfully disregarding a direct and lawful order, demand, or policy of the Board of County Commissioners; conduct unbecoming a public employee; habitual drug abuse; conviction of a felony; or conviction of any crime involving moral turpitude or relating to official duties. For the purpose of this paragraph, if Administrator pleads guilty or nolo contendere or is found guilty of a felony, he shall be deemed to have been convicted, notwithstanding a suspension of sentence or a withholding of adjudication. Upon termination for cause, Administrator will be

entitled to only a lump-sum payment at Administrator's hourly rate of base salary for all annual leave, and sick leave hours accumulated but unused as of the date of termination.

- C. Should Administrator be permanently disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued leave, the Commission shall have the right to terminate this Agreement subject to the severance provisions in Section 4A above.
- D. The terms of this Agreement shall remain in full force and effect and hold over until employment is terminated under the terms herein, or a new Agreement has been negotiated and entered into by Administrator and Commission.

Section 5: Resignation

In the event Administrator voluntarily resigns his position with the County before expiration of the aforesaid term of his employment, Administrator hereby agrees to give the County not less than sixty (60) days notice prior to the effective date of any voluntary resignation, unless the parties agree otherwise. Administrator shall be entitled to a lump sum payment at the Administrator's hourly rate of base salary for all annual leave accumulated but unused as of the date of resignation.

Section 6: Compensation

- A. The County shall pay Administrator an annual base salary of two hundred twenty thousand dollars (\$220,000.00); payable in equal installments pursuant to County policy. This salary shall be reviewed annually within 60 days of the anniversary date.
- B. County shall annually contribute on Administrator's behalf to a deferred compensation program designated by the County Administrator in the maximum amount as allowed by law.

Section 7: Retirement

The County shall contribute to the Florida Retirement System on Administrator's behalf, at the Senior Management Rate, pursuant to Florida law. At Administrator's option, County shall contribute to an alternative annuity plan which meets the requirements of Section 121.055, Florida Statutes.

Section 8: Automobile

The County shall reimburse Administrator for use of a personal vehicle for official business in the amount of \$500.00 monthly, payable in accordance with County policy, for costs including insurance operation, maintenance and licensing. Administrator will be allowed to utilize County vehicles should travel more than ninety miles be approved according to the County's travel policy.

Section 9: Other Benefits

- A. Except as may be amended by this Agreement, Administrator shall be entitled to annual leave, sick leave, holidays and such other benefits as are granted generally to other employees of the County, in accordance with adopted County policy.

- B. Administrator shall have the ability in his sole discretion to annually liquidate up to eighty hours of accrued PTO hours. This shall be in addition to any ability to liquidate PTO afforded all employees in accordance with an adopted County policy.
- C. The County, in consultation with the Administrator, may fix any such other terms and conditions of employment as it may determine from time to time relating to performance of Administrator, provided that such terms and conditions are not inconsistent with or conflict with the provisions of this Agreement or other applicable law.

Section 10: Insurance

The County shall provide term life insurance at no cost to Administrator in the amount of One Hundred Thousand Dollars (\$100,000), as well as medical, dental and vision insurance (individual and dependent coverage) available to County employees on the same terms as other non-bargaining unit(s) Martin County employees.

Section 11: No Reduction of Benefits

The County Commissioners shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of Administrator, except to the degree of such a reduction across-the-board for all non-bargaining unit(s) employees of the Board of County Commissioners.

Section 12: Professional Development

County agrees to budget for and to pay the professional dues, travel and subsistence expenses of Administrator associated with the Certified Public Manager, as well as for professional participation and travel, meetings and occasions adequate to continue his professional development or to maintain certification(s). Said participation on County time to include, but not limited to continuing education, attendance at local government seminars and functions, and participation in the Florida Association of Counties and the Florida City and County Managers Association.

Administrator agrees to remain in the exclusive, full time, employ of the Board of County Commissioners of Martin County. The term "employed" however, shall not be construed to include occasional teaching, writing, speaking or consulting, even if outside compensation is provided for such services, if activities are approved in advance by the Board of County Commissioners. Said activities are expressly allowed, provided that in no case is any activity allowed which would present a conflict of interest with the Board of County Commissioners of Martin County or with the performance of his duties as County Administrator.

Section 13: Performance Evaluation

The Board of County Commissioners shall review and evaluate the performance of Administrator no later than ninety (90) days prior to the anniversary date (July 1) of each year. Said review and evaluation shall be in accordance with such specific criteria developed jointly by County and Administrator. Said criteria may be added to or deleted from as County may from time to time determine, in consultation with Administrator. The first such review shall occur for the anniversary date of July 1, 2023.

County agrees to increase base salary and/or benefits of Administrator at time of said review, in such amounts and to such extent as the Board of County Commissioners may determine that it is desirable to do so, in light of performance by Administrator. Administrator will be entitled to base salary adjustments in accordance with any salary adjustments that are provided to the non-bargaining unit(s) employees in the form of a market adjustment or Consumer Price Index (CPI).

Annually, the Board of County Commissioners and Administrator shall jointly define such goals and performance objectives that they determine necessary for the proper operation of the Martin County organization, and in the attainment of the Board of County Commissioner'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 operation budget and capital budget and appropriations provided.

Section 14: Suspension

The County may suspend Administrator with full pay and benefits at any time during the term of this Agreement, but only if three (3) Commissioners and Administrator agree. In the alternative, the County may suspend Administrator after a public hearing if three (3) of the Commissioners vote to suspend Administrator for "just cause", provided, however, that Administrator shall have been given written notice setting forth any charges at least ten (10) days prior to such hearing, by the Commission members bringing such charges. County Administrator may be represented by legal counsel.

Section 15: Indemnification

If allowed by law, the County shall defend, hold harmless and indemnify Administrator 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 Administrator's duties as County Administrator. The County will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. Said indemnification shall extend beyond termination of employment, and the otherwise expiration of this Agreement, to provide full and complete protection to Administrator, by the County, as described herein, for any acts undertaken or committed in his capacity as County Administrator, regardless of whether the notice or filing of a lawsuit for such tort, claim, demand, or other legal action occurs during or following Administrator's employment with Martin County.

Section 16: Residency

County Administrator shall reside within the County limits during his tenure in office.

Section 17: General Provisions

A. It is understood and agreed by both parties that it is the sole and exclusive prerogative of the Board of County Commissioners to grant salary and benefit increases, or other perquisites of office. These are the proper subjects of negotiations during budget deliberations and performance evaluations, and both parties pledge their good-faith efforts in discussing these matters, keeping in mind the best interests of the County and the continued high morale of Administrator.

- B. The text herein shall constitute the entire Agreement between parties, and shall be binding upon, and inure to, the benefit of Administrator, his heirs, and his executors.
- C. This Agreement shall become effective upon adoption and approval by the Board of County Commissioners of Martin County.
- D. If any provisions, or any portion thereof, contained in this Agreement are held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.
- E. Governing Law and Venue. This Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Agreement shall be in the 19th Judicial Circuit, in and for Martin County, Florida.

IN WITNESS WHEREOF, the County, by its Chairman of the Board of County Commissioners or other authorized official, and Administrator have signed and executed this Agreement on the day, month, and year first written above.

WITNESSES:

ADMINISTRATOR

 Don G. Donaldson
 Date: _____

COUNTY, BY BOARD OF COUNTY
 COMMISSIONERS OF MARTIN COUNTY, FLORIDA

ATTEST:

 CAROLYN TIMMANN, CLERK OF THE
 CIRCUIT COURT AND COMPTROLLER

 DOUG SMITH, CHAIRMAN
 Date: _____

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

 SARAH W. WOODS, COUNTY ATTORNEY