

RESOLUTION 23-02-23**AUTHORIZING EXECUTION OF EMPLOYMENT AGREEMENT
BETWEEN THE BOROUGH OF MATAWAN AND
BOROUGH ADMINISTRATOR RYAN L. MICHELSON**

WHEREAS, Ryan L. Michelson is well qualified to assume the duties of Business Administrator for the Borough of Matawan and possesses the requisite educational, professional training, and past experience to undertake the duties and obligations as Business Administrator for the Borough; and

WHEREAS, the Mayor and Council herewith approves the attached Terms and Conditions for Ryan L. Michelson in his position as Borough Administrator;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Matawan that pursuant to NJSA 40A:9-136 and 137, Ryan L. Michelson is the Borough Administrator, said term of service at the pleasure of the Governing Body.

BE IT FURTHER RESOLVED, Ryan L. Michelson shall receive a salary and benefits per attached agreement to perform all duties required of the position of Borough Administrator.

BE IT FURTHER RESOLVED, by the Council of the Borough of Matawan that the Mayor be and is hereby authorized as signatory on behalf of the Borough of Matawan.

BE IT FURTHER RESOLVED that a true certified copy of this Resolution shall be forwarded to the following Borough of Matawan Departments: Clerk, Finance, Payroll as well as Ryan L. Michelson.

CERTIFICATION AS TO AVAILABLE FUNDING

I, Nicole Horvath, Chief Financial Officer of the Borough of Matawan do hereby certify that as of the date of this certification funds are available from the 3-01-20-100-100 Budget (Salary & Wages) of the Borough of Matawan.

This certification is based solely on the information encumbered into the financial records of the Borough by the appropriate using division as of this date and relies on the completeness of financial records.

Chief Financial Officer

(Signature on file)

Nicole Horvath, CMFO

Dated: February 21, 2023

CERTIFICATION OF RESOLUTION

I, Robin Klinger, Deputy Clerk of the Borough of Matawan, County of Monmouth, and State of New Jersey, do hereby certify the foregoing to be a true and correct copy of a Resolution adopted by the Council of the Borough of Matawan on February 21, 2023.

IN WITNESS WHEREOF, I have hereunder set my hand and official seal of the Borough of Matawan this 21st day of February 2023.


Robin Klinger
Deputy Clerk

**Employment Agreement
between
the Borough of Matawan
and
RYAN L. MICHELSON**

Introduction

This Agreement is made and entered into on this 21 day of Feb 2023 by and between the Borough of Matawan, a municipal corporation, (hereinafter called "Employer") and Ryan L. Michelson, hereinafter called "Employee"), both of whom agree as follows:

Section 1: Term

This agreement shall remain in full force and effect from February 21, 2023 to December 31, 2024 or until terminated by Employer or Employee as provided in Section 9, 10 or 11 of this Agreement.

The Borough hereby retains and reserves unto itself all powers, rights, authority, duties, and responsibilities conferred upon and vested in it prior to the signing of this agreement by the laws and Constitution of the State of New Jersey and of the United States, except those limited by the specific and express terms of this Agreement, and then only to the extent that such specific and express terms hereof are in conformance with the Constitution and the laws of New Jersey and of the United States.

Section 2: Duties and Authorities

Employer agrees to employ Ryan L. Michelson as Borough Administrator to perform the functions and duties specified in the Ordinances of the Borough of Matawan and to perform such other legally permissible and proper duties and functions as authorized and directed by Matawan Borough Council and N.J.S.A. 40A:9-136.

Pursuant to state law, the Ordinances of the Borough and the regulations and policies established by the office of the Mayor, the responsibilities of the appointed Borough Administrator shall include the responsibility to:

- 1) Conduct and manage the day-to-day operations of the Borough of Matawan;
- 2) Administer and enforce rules, regulations and special emergency directives regarding the disposition and discipline of the employees of the Borough of Matawan and its personnel;
- 3) Delegate such of his authority as he may deem necessary for the efficient operation of the Borough's employees to be exercised under his direction and supervision;
- 4) Prescribe the duties and assignments of all subordinates and other personnel; and
- 5) Report at least weekly to the Mayor, or the Mayor's designee in such other form as the Borough shall require, as to the operation of the Borough and its employees during the preceding week.
- 6) Attend and be present at all Regular, Workshop and Special Meetings of the Mayor and Council unless otherwise excused by the Mayor.

Section 3: Compensation

A. Base Salary: Employer agrees to pay Employee an annual base salary of \$145,000.00 per annum (\$12,083.33/month) for calendar year 2023, payable in installments in accordance with the Employer's usual payroll schedule. The Employee's compensation for 2023 based on the salary shall be prorated from the date of employment. Employee shall be accorded annual review and increase in his base salary consistent with the annual percentage raise accorded by the Employer to non union and non tenured employees of the Borough of Matawan.

B. This Agreement shall be automatically amended to reflect any salary adjustments that are authorized by Resolution of the Matawan Borough Council.

Section 4: Health, Disability and Life Insurance Benefits

- A. The Employer agrees to provide health, hospitalization, surgical, vision, dental and comprehensive medical insurance benefits for the Employee and his legal dependents equal to that which is provided to all other non-collective bargaining unit employees of the Borough of Matawan.
- B. The Employer agrees to provide and to make the required premium payments for long-term disability coverage for the Employee in the same fashion as all other non-collective bargaining Borough employees.
- C. Employee is automatically entitled to any other standard benefits available to non-collective bargaining unit employees of the Borough as may now exist or be made available during the term of this contract.

Section 5: Vacation and Sick Leave

- A. The Employee shall be credited with 15 days of vacation per calendar year, which will be prorated for year 2023.
- B. The Employee is entitled to accrue all unused sick and vacation leave, in accordance with personnel policies for non-collective-bargaining employees in effect at the time of employment, except in the event that the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued leave as provided for in section 10. The Employee may use said sick and vacation leave, at his choice, to care for family members with health issues pursuant to the provisions of the Family Leave Act.
- C. Employee is automatically entitled to any other standard leave available to non-bargaining-unit employees of the Borough as may now exist or be made available during the term of this contract.

Section 6: Retirement

- A. The Employer agrees to enroll the Employee in the Public Employee's Retirement System (PERS) of the State of New Jersey and to make all the appropriate employer contributions on the Employee's behalf from the date of employment.

Section 7: General Business Expenses

- A. Employer agrees to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasioned only as authorized by prior approval of the Governing Body.
- B. The Borough Administrator shall be permitted to attend and be compensated for, at his regular salary, any school, seminar or retraining session conducted or sponsored by the State of New Jersey Division of Local Government Services, professional association or group of Municipal Business Administrators, or any other education program or a management or supervisory nature of the same type. All expenses, such as travel, room, food, tuition, special clothing, books, or any other charges connected with the educational program shall be borne by the Borough as long as the charges have been previously approved by the Mayor.
- C. The Borough agrees to grant time off, including travel time, and pay all associated and reasonable expenses for the Borough Administrator to attend the annual New Jersey League of Municipalities Convention.
- D. The Borough agrees to grant time off and pay all expenses incurred by the Borough Administrator in attending any meeting of the above-named associates, as long as such meetings are held within the State of New Jersey.
- E. The employee shall be provided with a Borough vehicle to attend meetings and other events while employee is on duty which is a vehicle that is in the possession of the Borough of Matawan, which may be a used vehicle owned by the Borough.
- F. The employee shall be provided with a Borough issued cell phone and number assigned for his use which shall be paid by the Employer.

Section 8: Termination

For the purpose of this agreement, termination shall occur if:

- A. Two-thirds (2/3) of the Governing Body votes to terminate the Employee at a duly authorized public meeting after proceedings held in accordance with N.J.S.A. 40A:9-138.
- B. The Employer, citizens or state legislature acts to amend any provision of the Charter of the Borough of Matawan or Matawan Codified Ordinances pertaining to the role, powers, duties, authority or responsibilities of the Employee's position that substantially changes the administrative organization of the Borough Government and eliminates the position of Borough Administrator.
- C. The Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads.
- D. The Employee resigns following a request to resign made by a representative of or representatives of the majority of the Borough Council.

Section 9: Severance

If the Employee is terminated, as set forth in Subsections A, B, C, or D of Section #8 above, the Employer shall provide payment to the Employee as set forth in N.J.S.A. 40A:9-138. This payment shall be paid over the normal course of pay cycles.

The Employee shall also be compensated for accrued earned sick leave, vacation time, and all paid holidays as allowed in the Borough Personnel Policies at the time of employment up to the date of adoption of the Resolution of Termination.

For a period of three months following the date of the adoption of the Resolution of Termination, or until such time as equivalent benefits are available through a new employer, whichever comes first, the Employer shall pay the costs to continue the following benefits:

1. Health insurance for the employee and all dependents as provided in Section 4A;

If the Employee is terminated because of a conviction of a felony, then the Employer is not obligated to pay severance or any other benefits under this section or pursuant to the Policy and Procedures Manual of the Borough of Matawan.

Section 10: Resignation

In the event that the Employee voluntarily resigns his position with the Employer, the Employee shall provide the Employer with not less than 30 days advance written notice of his resignation, unless the parties agree otherwise. The employer will have no obligation for the payment of severance or any other benefits of any type upon a resignation. The Employee shall be eligible and shall be paid any accumulated sick and vacation time.

Section 11: Performance Evaluation

Employer, through the Personnel Committee of the Borough Council, shall annually review the performance of the Employee. The evaluation process, at a minimum, shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within 30 days of the evaluation meeting.

Section 12: Hours of Work

It is expected that the Employee will typically work during normal Borough Hall office hours. However, it is recognized that the Employee must devote a great deal of time outside those normal office hours on business for the Employer. Accordingly, and to that end, Employee may establish his own work schedule, subject to reasonable direction by Employer. Employee is not eligible for overtime or paid or accrued compensatory hours. The Borough Administrator shall spend sufficient time at his or her job to insure the smooth and responsible operation of the Borough of Matawan, over which (s)he has supervisory control. The Borough Administrator shall work at least thirty-five (35) hours per week.

Section 13: Outside Activities

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept and receive compensation for limited teaching, consulting or other business opportunities as long as such arrangements do not interfere with or cause a conflict of interest with Employee's responsibilities pursuant to this Agreement, and as long as those activities are disclosed in a written form, which can be by email to the Governing Body transmitted to the Municipal Clerk.

Section 14: Indemnification

Employer 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 and arising out of the course and scope of Employee's duties as Borough Administrator, or resulting from the exercise of judgment or discretion in connection with the performance of the duties or responsibilities of the Borough Administrator, unless the act or omission involved willful or wanton conduct. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action, including any appeals brought by either party. The Employer shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs, and other reasonable costs and expenses of legal proceedings, including attorney's fees and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resolution from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his duties and occurring with the course and scope of his employment. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employer agrees to pay Employee's reasonable litigation expenses, including travel expense, throughout the pendency of any litigation to which the Employee is a party or witness. Such expense payments shall continue beyond Employee's service to the Employer as long as the litigation is pending.

Section 15: Bonding

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance, and professional liability insurance.

Section 16: Other Terms and Conditions of Employment

The Employer, upon agreement with Employee, may provide for such other terms and conditions of employment as it may determine from time to time relating to the performance and duties of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Charter of the Borough of Matawan, or applicable law.

Section 17: Notices

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER:

Borough of Matawan
c/o Borough Clerk

201 Broad Street
Matawan, NJ 07747

EMPLOYEE:

Ryan L. Michelson
27 Fleetwood Drive

Woodbridge, NJ 07095

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service

Section 18: General Provisions

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any

prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee, as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on February 27, 2023.

D. Severability. The invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties.

Adopted and approved by the Matawan Borough Council on this 21st day of February, 2023.


Witness

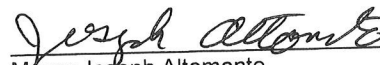
Date: 2/21/23


Ryan L. Michelson

Date: 2/21/23

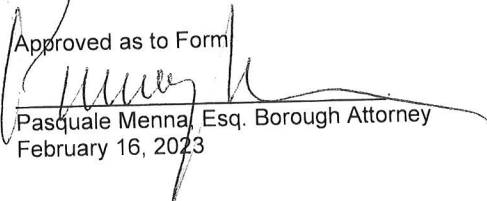

Witness

Date: 2/21/23


Mayor Joseph Altomonte

Date: 2/21/23

Approved as to Form


Pasquale Menna, Esq. Borough Attorney
February 16, 2023