

RESOLUTION NO. 3706

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
CORTE MADERA APPROVING A FIRST AMENDMENT
TO THE FIRST RESTATED AND AMENDED
EMPLOYMENT AGREEMENT WITH DAVID
BRACKEN AS TOWN MANAGER**

WHEREAS, the Town of Corte Madera and David Bracken entered into an agreement for David Bracken to be employed as the Town Manager on January 1st, 2007, which was amended by the First Restated and Amended Employment Agreement with David Bracken as the Town Manager on October 16, 2007; and

WHEREAS, David Bracken's terms of compensation as the Town Manager have been established by agreement with the Town of Corte Madera and were last modified by the First Restated and Amended Employment Agreement; and

WHEREAS, the Town Council adopted Resolution No. 3697 on February 21, 2012, which made certain modifications to the terms of compensation of the Town Manager and Department Heads, including discontinuing payment of Employee's Required Member Contributions to the Public Employees' Retirement System, portions of the Employer's contributions to the PERS Retirement Tax Deferral Plan, and deferred compensation with said amounts being included in the Town Manager's and Department Head's gross salary; and

WHEREAS, David Bracken and the Town Council wish to incorporate the changes made by Resolution No. 3697 by amending the First Restated and Amended Employment Agreement to reflect said changes; and

WHEREAS, a First Amendment to First Restated and Amended Employment Agreement between David Bracken and the Town has been prepared with said changes being incorporated into the Town Manager's agreement; and

WHEREAS, David Bracken and the Town Council wish to also incorporate new requirements established by AB 1344 effective January 1, 2012, into the Town Manager's agreement with the Town; and

WHEREAS, the First Amendment to First Restated and Amended Employment Agreement between David Bracken and the Town also incorporates these new provisions of state law.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Corte Madera approves the attached First Amendment to the First Restated and Amended Employment Agreement with David Bracken and authorizes the Mayor to execute same on behalf of the Town of Corte Madera.


I, the undersigned, hereby certify that the foregoing is a full, true and complete copy of a

resolution passed and adopted by the Town Council of the Town of Corte Madera a regular meeting thereof held on the 17th day of April, 2012, by the following vote:

Ayes, Councilmembers: Cock, Condon, Furst, Ravasio

Noes, Councilmembers: - None -

Absent, Councilmembers: Lappert



BOB RAVASIO, Mayor

ATTEST:



CHRISTINE GREEN, Town Clerk

FIRST AMENDMENT TO
FIRST RESTATED AND AMENDED EMPLOYMENT AGREEMENT

This Agreement, made and entered into this 17th day of April 2012, by and between the TOWN OF CORTE MADERA, hereinafter called "EMPLOYER" and DAVID BRACKEN, hereinafter called "EMPLOYEE, both of whom understand as follows:

WITNESSETH

WHEREAS, EMPLOYEE is employed by EMPLOYER pursuant to the terms of the First Restated and Amended Employment Agreement ("Agreement") between the parties dated 16th day of October 2007; and

WHEREAS, EMPLOYER adopted Resolution No. 3697 on February 21, 2012, modifying the compensation received by all Department Heads and the Town Manager effective with the pay period March 5, 2012 through March 18, 2012 and continuing thereafter; and

WHEREAS, Resolution No. 3697 provides that for those affected employees the EMPLOYER shall no longer pay the Employee's Required Member Contributions to the Public Employees' Retirement System and deferred compensation and said amounts shall be included in the EMPLOYEE's gross salary; and

WHEREAS, Resolution No. 3697 establishes that the EMPLOYEE shall pay designated percentages of the EMPLOYER'S contributions to the PERS Retirement Tax Deferral Plan in accordance with a graduated schedule set forth by Resolution No. 3697 and reproduced hereinbelow; and

WHEREAS, EMPLOYER and EMPLOYEE have agreed to the modifications made by Resolution No. 3697 to EMPLOYEE'S compensation effective with the pay period March 5, 2012 through March 18, 2012 and desire that EMPLOYEE's Agreement be amended to reflect said modifications and make all other changes necessary to be consistent with Resolution No. 3697; and

WHEREAS, AB 1344 effective January 1, 2012 establishes new requirements for contracts involving persons in EMPLOYEE's position through its addition of Section 53243.2 to the Government Code, which new requirements are to be incorporated into the agreement; and

WHEREAS, the parties desire to incorporate the relevant provisions of AB 1344 into EMPLOYEE's Agreement with EMPLOYER;

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

AGREEMENT

1. The Agreement shall be amended in the following manner to read as follows:

A. Section 4A.(1) Effective March 5, 2012, EMPLOYER agrees to pay EMPLOYEE for his services rendered pursuant hereto, an annual salary of TWO HUNDRED EIGHT THOUSAND SIX HUNDRED EIGHTY DOLLARS (\$208,680) payable in installments at the same time as other employees of the EMPLOYER are paid ("base salary").

B. Section 4A(2) shall be amended as indicated below to read as follows:

In addition, EMPLOYER agrees to increase said base salary and/or other benefits of EMPLOYEE in such amounts, if any, and to such extent, if any, as the EMPLOYER may determine on the basis of an annual performance and salary review of said EMPLOYEE.

C. Section 6A shall be amended as indicated below to read as follows:

EMPLOYEE shall be covered by the retirement program (i.e., P.E.R.S.) by which all department head employees are covered. EMPLOYEE shall pay the following percentages of the Town's required contribution towards P.E.R.S.:

- 1) 1.5% from March 5, 2012 through July 7, 2013;
- 2) 3.0% from July 8, 2013 through July 6, 2014;
- 3) 4.5% from July 7, 2014 through July 5, 2015.

D. Section 6B shall be deleted in its entirety as follows:

~~EMPLOYER shall pay EMPLOYEE's eight percent (8%) member contribution to the said retirement system's cost ("employer pickup) at the time each Town contribution is made to the system. Said contribution made by EMPLOYER shall be counted as additional compensation for purposes of calculating EMPLOYEE's P.E.R.S. retirement benefits.~~

E. Section 9D shall be amended as indicated below to read as follows:

During the term of this agreement, Employee shall be entitled to the same benefits described in this subsection, below, which are currently offered to all other employees covered under the Department Head Resolution. The benefits covered by this subsection D are: (1) health insurance for EMPLOYEE and his family; (2) dental insurance for EMPLOYEE and his family; (3) \$50,000 life insurance policy covering the life of EMPLOYEE; (4) long term disability insurance covering EMPLOYEE; and (5) vision care. In the event that EMPLOYEE wishes to obtain life insurance greater than that currently provided to the EMPLOYER's department head employees pursuant to the Department Head Resolution, EMPLOYER shall pay the same, up to \$100,000 in total coverage.

F. Section 9E shall be amended as indicated below to read as follows:

With the exception of those benefits contained in Section 9, Paragraphs A through D, and to the extent not otherwise inconsistent with the terms contained in this Agreement, EMPLOYER shall provide EMPLOYEE those benefits ("standard benefits") including, but not necessarily limited to, insurance allowances for active employees and retiree medical insurance

allowances provided to all the Department Head employees who are covered under the Department Head Resolution. Said standard benefits shall be adjusted and provided to EMPLOYEE under the same terms and conditions offered to all the department head employees, provided, however, that EMPLOYEE's salary shall not be governed by the terms and conditions of the Department Head Resolution, but shall be set by the procedures described in this Agreement.

G. Section 9I shall be added after Section 9H to read as follows:

In accordance with Government Code Section 53243.2, in the event that this Agreement is terminated any cash settlement which is related to the termination that EMPLOYEE shall receive from EMPLOYER shall be fully reimbursed to EMPLOYER if EMPLOYEE is convicted of a crime involving an abuse of his or her office or position.

2. Except as specifically set forth above, all terms of the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the Town of Corte Madera has caused this First Amendment to the Agreement to be signed and executed in its behalf by its Mayor and duly attested by its Town Clerk, and the EMPLOYEE has signed and executed this Agreement, the day and year first written above.

EMPLOYER
TOWN OF CORTE MADERA

EMPLOYEE

By:



BOB RAVASIO, Mayor

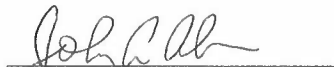


DAVID BRACKEN

ATTEST:


CHRISTINE GREEN, Town Clerk

APPROVED AS TO FORM:


JOHN A. ABACI
Assistant Town Attorney