



**EMPLOYMENT AGREEMENT**

For Town Manager

Between

The Town of Hamilton, Massachusetts

And

Joseph J. Domelowicz

Of

Swampscott, MA

For the Period

September 4, 2018 through September 4, 2021

This is an employment agreement ("Contract") made this \_\_\_\_\_, 2018 between the Town of Hamilton (hereinafter "the Town"), acting by and through its Board of Selectmen ("the Selectmen"), and Joseph J. Domelowicz of 34 Essex Avenue, Swampscott, MA 01907, referred to in this Contract as "the Employee" or "Town Manager".

WHEREAS the Town wishes to secure the services of the Employee in the position of Town Manager ("the Position"), as described more fully herein, for the period from September 4, 2018 through September 4, 2021 under the terms and conditions of this Contract, the applicable Town By-Laws and Chapter 114 of the Acts of 2009 ("Special Act"); and

WHEREAS the Employee is willing to perform for the Town the duties of the Position under the terms and conditions of this Contract, the Town By-Laws and the Special Act;

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Town and the Employee hereby agree as follows:

## **1. EMPLOYMENT**

- 1.1. The Town hereby employs the Employee for the Position, and the Employee hereby accepts this employment.
- 1.2. The Employee shall perform the duties set forth in the Special Act, a copy of which is attached as Appendix A, as well as such other duties as are customarily performed by persons holding the Position (or any comparable position) in other towns, and such other duties as may be assigned to him from time to time by the Town.
- 1.3. The Employee shall report directly to the Selectmen. Selectmen shall evaluate the Town Manager's job performance twice annually in April and October (the evaluation month) based on the goals and objectives which shall be mutually agreed upon by the Selectmen and Employee. The 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) prepare a written summary of the evaluation results. The final written evaluation shall be completed and delivered to the Employee within 30 days of the start of the process or the last day of the evaluation month, whichever is earlier.
- 1.4. The Employee shall perform his duties at all times faithfully, industriously, to the best of his ability, experience and talents, and to the reasonable satisfaction of the Town.
- 1.5. The Employee shall perform his duties at Town Hall and at such other places as the duties or the Town may require, The parties anticipate that the Employee will be physically present in Town Hall at all hours at which it is open for Town or public business so as to be reasonably available to Town officials, other Town employees and the public, except when his duties require attendance elsewhere. The Employee agrees to notify the Chairman of the Selectmen in advance if he believes it will be necessary to travel out of state in connection with his duties.

- 1.6. The Position is a full-time position. The Employee shall devote the amount of time reasonably necessary to fully and adequately perform the duties of the Position.
- 1.7. It is recognized that the Town Manager must devote a great deal of time outside the normal office hours to the business of the Town, and to that end the Town Manager will be allowed to take reasonable time off as he shall deem appropriate during said normal office hours. The Town Manager shall give notice to the Chairman of the Selectmen before using such reasonable time off if it is a full day or more.
- 1.8. In case of any absence lasting more than one day, whether for vacation or otherwise, the Employee shall designate a suitable Town employee to carry out his duties in the event of an emergency. Whenever the Employee anticipates that he may be unreachable by telephone for more than one day during such an absence, he shall notify the Chairman of the Selectmen in advance.
- 1.9. The Town shall be entitled to all rights, interests, benefits, and profits that may apply to or arise from the work of the Employee.

## **2. COMPENSATION AND BENEFITS**

- 2.1. During the term of this Contract the Employee shall receive compensation at the current annual salary rate \$140,000.00, during the term of the contract, subject to annual review and increase as provided for exempt employees in the Personnel Policies. In the event that the Town amends the Personnel Policies to provide for performance-based reviews for purposes of salary adjustments, the amended policy shall apply. The Town agrees that it shall not, at any time during the term of this Contract, reduce the salary, compensation or other benefits of the Employee except to the extent that such reduction is part of a general reduction for all exempt employees of the Town, or results from short-fall in Town meeting appropriation, subject to Item 2.5 below. The Employee shall not be eligible for overtime pay.
- 2.2 The Employee shall be entitled to four weeks' vacation per year. For the purposes of this section, five days constitutes a week's vacation. The Employee shall schedule vacation time in advance with the approval of the Selectmen. The Employee shall be entitled to carry over to the next fiscal year no more than two weeks of unused vacation, but any vacation carried over shall expire if not used in the next fiscal year. Upon retirement, resignation, or termination, the Employee is not entitled to cash compensation of unused vacation that is carried over to the next fiscal year.
- 2.3 Except where this Contract specifically provides otherwise, the Employee shall be entitled to other benefits (sick days, personal days, bereavement leave, paid holidays, health, life and worker compensation insurance, retirement plan, etc.) as provided for exempt employees in the Personnel Policies.
- 2.4 For the purposes of the Fair Labor Standards Act, the Town Manager shall be an "exempt employee", and as such, the Town Manager shall not be eligible for overtime or compensatory time.

2.5 The Employee understands that the compensation and benefits provided hereunder are subject to appropriation of funds by Town Meeting. In the event any Town Meeting decision would result in a material reduction in the compensation or benefits provided hereunder, the Town and the Employee agree to negotiate in good faith to reach a new employment agreement. If, under such circumstances, a new employment agreement is not reached within a reasonable period of time (which shall be no less than 1 month and no more than 6 months of negotiation), either party may declare an impasse and the Employee shall be deemed to have been terminated without cause.

### **3. PROFESSIONAL STANDING AND DEVELOPMENT**

- 3.1. The Employee shall obtain and maintain all professional licenses, certifications or other such qualifications that may be required by law or otherwise deemed necessary by the Town to perform his duties, including Massachusetts Certified Public Purchasing Official designation. The cost of acquiring certifications required by the Town shall be borne by the Town. Employer agrees to budget and pay for Employee's membership with International City/County Management Association (ICMA) and Massachusetts Municipal Management Association and attendance at the organizations' annual conferences. If there are any other professional dues, fees and subscriptions that the Employee deems necessary for his continued professional participation, growth and advancement, whether specific to one-time projects in Town or otherwise, the Employee shall provide a list to the Town of the entities, publications or conferences and their costs for approval by the Town.
- 3.2. In recognition by both parties that ongoing professional training and development is mutually beneficial, during the first year of the contract the Employee agrees to pursue and maintain ICMA Candidate Credentialing status as well as training specific to interpersonal communications.
- 3.3. The Employee shall, as part of the annual Town budgeting process, and in cooperation with the Selectmen, submit a request for appropriation of all sums needed for any of the purposes described in this section, including sums for reimbursement of the Employee for reasonable expenses incurred in connection with attendance at a seminar, conference or other such event.

### **4. MONTHLY VEHICLE ALLOWANCE**

- 4.1. The Town Manager shall be provided an automobile allowance of one hundred fifty dollars (\$150) each month as compensation for use of his personal vehicle in the course of performing the duties of the office of Hamilton Town Manager, which is in place of mileage reimbursement.

### **5. INDEMNIFICATION, INSURANCE AND BONDING**

- 5.1. The Town will include the Employee under its liability insurance policy in an amount not to exceed one million dollars per occurrence.
- 5.2. The Town shall defend, save harmless and indemnify the Town Manager against any tort, professional liability, claim or demand, or other legal action asserted by any party other than the Town, whether groundless or otherwise, arising out of an alleged act or omission occurring in the

performance of his duties except in the case of any intentional violation of civil rights of any person, or any intentional, willful, reckless, grossly negligent, or criminal conduct by the Employee or when indemnification is contrary to law. The Town (and/or its insurer) may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the Town Manager.

- 5.3. The Town shall reimburse the Employee for all reasonable attorney fees and costs incurred by the Employee in connection with such claims or suits involving the Town Manager in his professional capacity. For claims covered by insurance, this obligation shall be fulfilled if insurance counsel is assigned to defend the Employee. For uninsured claims for which the Town has an obligation to indemnify the Employee, the Town must approve the retention of counsel and has the right reasonably to manage counsel's efforts and expenditures. The Employee agrees to notify the Town immediately upon notice of any claim and to cooperate fully in the defense of such claim.
- 5.4. The provisions of Sections 5.2 and 5.3 shall survive the termination of this Agreement.
- 5.5. In the event that bonding is required under the provisions of Massachusetts General Laws to perform the responsibilities of the Position, the Employee shall secure a bond, as required by law, covering the performance of his duties. The Town shall reimburse the Employee for the cost of the bond.
- 5.6. The Employee shall assist the Town in arranging for any bond coverage required for employees who report to the Employee. The costs for those bonds will be paid by the Town.
- 5.7. Upon termination of this Contract, the Town shall have no further obligation to the Employee under this section, except as provided for in 5.4 above.

## **6. OTHER EMPLOYMENT, CONFLICTS OF INTEREST, AND ETHICS**

- 6.1. The Employee shall devote his time, attention, knowledge and skills solely to the business and interests of the Town, provided, however, that the Employee may teach or consult on a part-time basis, outside the Employee's regular work hours so long as any such teaching or consulting does not interfere with or conflict in any way with the Employee's duties and responsibilities to the Employer, nor constitute a conflict under the terms of Chapter 268A of the General Laws of the Commonwealth. Any such consulting or teaching shall be subject to prior approval of the Board.
- 6.2. The Employee represents that he is aware of the conflicts-of-interest laws applicable to the Position (including without limitation the provisions of Mass. Gen. L. Ch. 268A and B), and agrees that he shall at all times act in accordance with such laws.
- 6.3. The Employee represents that he is aware of the ethics and personnel rules and policies set forth in the Town's Personnel Policies, and agrees that he shall at all times act in accordance with such rules and policies.

## **7. TERM AND TERMINATION**

- 7.1. Term

7.1.1. The term of this Contract shall be as set forth in the preamble, unless the Contract is terminated or superseded as provided herein.

## 7.2. Termination or Suspension for Cause

7.2.1. During the term of this Contract, the Town may terminate or suspend the Employee for cause, including but not limited to breach of any term or condition of this Contract. Such action shall occur only after fair notice and a meeting between the Selectmen and the Employee. In the event the Selectmen believe that the meeting should be conducted in executive session, they shall give the Employee at least forty-eight hours' advance notice, unless otherwise agreed. If the Employee so requests, the meeting shall be open to the public. If an executive session is held, the Employee shall have the right to be present at the session during discussion or consideration involving the Employee; to have counsel or a representative of his own choosing present, for the purpose of advising the Employee and not for the purpose of active participation; and to speak in his own behalf. In the event that this provision is ever inconsistent with the requirements of the Open Meeting Law, the provisions of the statute will control.

7.2.2. The decision of the Selectmen at the meeting must be by supermajority (4 out of 5) and shall become effective immediately, or at such later time as the Selectmen and the Employee may agree.

7.2.3. In the event the Employee is terminated for cause, he shall not be entitled to severance pay otherwise payable under this Contract.

## 7.3. Resignation

7.3.1. In the event the Employee intends to resign voluntarily before the end of this Contract, the Employee shall give the Town sixty days' advance written notice of his intention, unless the parties otherwise agree in writing. Provided such notice is given, the Employee will be entitled to receive pay for time actually worked and for any accrued vacation under the Town's Personnel Policies. The Employee is not entitled to severance pay in the event of voluntary resignation.

## 7.4. Death or Disability

7.4.1. In the event the Employee shall, during the term of this Contract, become permanently disabled from performing the duties of the Position, as described further below, the Town may, subject to the requirements of applicable law, terminate his employment by following the procedure described herein.

7.4.2. In the event the Town elects to terminate the Employee due to disability, it shall give notice of its intention in writing, at the address of the Employee set forth in the preamble (or at such other address as the Employee may designate). The termination shall become effective on the

last day of the month in which the notice is mailed, or at such later time as the Selectmen may agree in writing.

- 7.4.3. If the Employee dies during the term of this Contract, the Contract shall terminate as of the date of death. The Town shall pay to the Employee's estate any unpaid compensation owed to the Employee as of the date of death.

## 7.5. Renegotiation

- 7.5.1. No later than six (6) months prior to the end of the Term of this Contract, the Selectmen shall give the Employee written notice of the Selectmen's intent to negotiate a new contract with the Employee or to permit the Contract and the employment relationship to expire. No later than thirty (30) days after receipt of that notice, the Employee shall inform the Selectmen whether he intends to negotiate a new contract or permit the employment relationship to expire. In the event the parties wish to continue the employment relationship, they agree to negotiate a new contract in good faith for a term of up to three (3) years.
- 7.5.2. If the Board fails to give such written notice, this Agreement and its terms and conditions shall be extended for an additional one year period.
- 7.5.3. If the Board does not give a notice of non-renewal, and the parties fail to negotiate a successor contract by the scheduled termination date of this Agreement, this Agreement and its terms and conditions shall be extended for an additional one year period.

## 7.6. Severance Pay

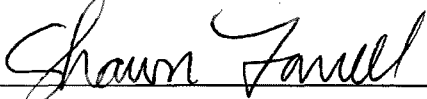
- 7.6.1. In the event the Employee is terminated by the Town for any reason other than cause, or in the event the Employee resigns following a vote by the Selectmen that he resign before the end of the term of this Contract, the Town shall issue to the Employee a lump-sum severance payment equivalent to six (6) months' salary payable on or before the effective date of termination of his employment. This severance payment shall be in lieu of any other compensation or other amount that might otherwise be recoverable at law or in equity.


## 8. OTHER TERMS

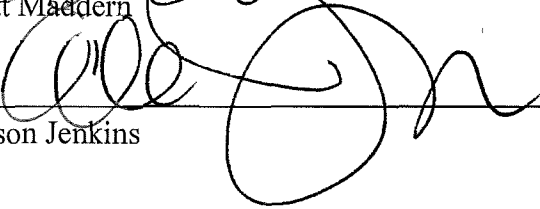
- 8.1. In the event a court of competent jurisdiction determines that any provision of this Contract is unlawful or unenforceable, the determination shall not in any way affect the remainder of the Contract.
- 8.2. No modification of this Contract shall be valid unless it is in writing and signed by both parties.
- 8.3. This Contract contains the complete employment agreement between the parties and shall, as of the effective date hereof, supersede all other agreements between the parties. Neither of the parties has relied upon any agreement or representation not specifically set forth herein. Each of the parties acknowledges that he has relied on his own judgment in entering into this Contract.

8.4. This Contract shall be governed by the laws of the Commonwealth of Massachusetts.

**For the Town of Hamilton**

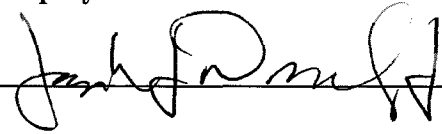
  
\_\_\_\_\_  
Shawn Farrell

  
\_\_\_\_\_  
Scott Maedern

  
\_\_\_\_\_  
Allison Jenkins

Jeffrey Hubbard  
  
\_\_\_\_\_  
William Olson

**Employee**

  
\_\_\_\_\_