

**EMPLOYMENT AGREEMENT
BETWEEN
TOWN OF GRAFTON
AND
TOWN ADMINISTRATOR**

THIS AGREEMENT, pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, made and entered into this 5th day of May, 2015, by and between the Town of Grafton, Commonwealth of Massachusetts, a municipal corporation, hereinafter called the "Town," acting by and through its Board of Selectmen, hereinafter called "Board" and Timothy P. McInerney, hereinafter called "Town Administrator", as follows:

WITNESSETH:

WHEREAS, the Town desires to employ the services of said Timothy P. McInerney as Town Administrator of the Town of Grafton, as provided by Article 4 of the Grafton Home Rule Charter; and

WHEREAS, the Board, under Chapter 41, Section 108N of the General Laws may contract with the Town Administrator for such services; and

WHEREAS, in accordance with Section 4-2 of the Town Charter, it shall be the function of the Town Administrator to be the Chief Administrative Officer; and

WHEREAS, it is the desire of the Board to contract for the salary and benefits of, and establish certain conditions of employment for, said Town Administrator; and

WHEREAS, it is the desire of the Board to obtain the services of the Town Administrator, and to provide inducement for his to remain in such employment; and

WHEREAS, Timothy P. McInerney, agrees to accept employment as Town Administrator of said Town.

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

Section I, Functions and Duties of the Town Administrator.

The Town hereby offers to employ said Timothy P. McInerney as Town Administrator of said Town, and the Town Administrator accepts said offer. The Town Administrator shall be the Chief Administrative Officer of the Town. The Town Administrator shall perform the duties specified in the Massachusetts General Laws and the Town Charter and such other duties as the Board shall from time to time legally assign to his. The Town Administrator shall perform his duties in a professional and competent manner.

Section II, Term.

This Agreement shall become effective April 7, 2015, and shall be in full force and effect until April 7, 2018, subject to the provisions of the Grafton Home Rule Charter Article 4-1, which stipulates that the appointment of the Town Administrator shall be for an indefinite term. The Agreement shall be for a term of three (3) years, subject to Section XIV, and shall be binding on the Town in each year of its duration.

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Town to terminate the employment and services of the Town Administrator at any time, and for any reason, subject to the provisions set forth in Section III of this Agreement and Article 4 of the Town Charter.

Section III, Termination and Severance Pay.

- A. The Board may terminate the Town Administrator in accordance with Article 4 Section 4-5 of the Town Charter, which is incorporated herein by reference.
- B. In the event the Town Administrator is terminated by the Town prior to the expiration of the term of this Agreement, and the Town Administrator is otherwise willing and able to perform his duties under this Agreement, the Town agrees that it shall pay to the Town Administrator a lump sum cash payment equal to six (6) months aggregate salary, which amount shall be paid to the Town Administrator on or before the effective date of termination of his employment; provided, however, that in the event the Town Administrator is terminated for negligence, misconduct in office or other just cause, the Town shall have no obligation to pay the aggregate severance sum provided for in this paragraph.
- C. In the event the Town Administrator voluntarily terminates his position with the Town before the expiration of the term of this Agreement, the Town Administrator shall give the Town two (2) month's written notice in advance, unless the parties agree otherwise. A copy of the resignation shall be filed with the Town Clerk. In the event of a voluntary resignation, the benefits enumerated in Subsection B above will not apply.
- D. Subsection B of this Section shall survive any termination of this Agreement.

Section IV, Salary.

- A. The Town agrees to pay the Town Administrator for services rendered under this Agreement an annual base salary of \$132,503.28, subject to applicable withholdings and deductions, effective April 7, 2015 and continuing through April 7, 2016; upon satisfactory performance appraisal by the Board of Selectmen an annual increase shall be given up to 3.5% of base salary, subject to applicable withholdings and deductions, effective April 7, 2016 and continuing through April 7, 2017; upon satisfactory performance appraisal by the Board of Selectmen an annual increase shall be given up to 3.5% of base salary, subject to applicable withholdings and deductions, effective April 7, 2017 and continuing through April 7, 2018. Said salary shall be payable in installments at the same time as other employees of the Town are paid.

Section V, Town Administrator Evaluation.

- A. The Board shall review and evaluate the Town Administrator every year from the date of appointment. Said review and evaluation shall be based on the evaluation tool and annually defined goals and objectives developed jointly by the Board and the Town Administrator. These goals and objectives may be added to or deleted from as the Board may from time to time determine, in consultation with the Town Administrator. Further, the Chairman of the Board shall provide the Town Administrator with a summary written statement of the evaluation findings of the Board and shall provide an adequate opportunity for the Town Administrator to discuss his evaluation with the individual Board members prior to the public meeting.
- B. Annually the Board and the Town Administrator shall define the goals and objectives which they determine necessary for the proper operation of the Town and the attainment of the Board's policy objectives, and shall further establish a general priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limits specified and within the annual operating and capital budgets and appropriations provided by the Town and the events that have occurred during the year.

Section VI, Hours of Work.

The Town Administrator will devote full time and attention to the business of the Town and will not engage in any other business during office hours, except with the written approval of the Board.

It is recognized that the Town Administrator is a professional position and requires a great deal of time outside of normal office hours to the business of the Town, and that, as a result, the Town Administrator will have the flexibility to adjust his schedule as needed with notification to his office staff. It is understood that the Town Administrator shall also generally participate in all Selectmen's Meetings, Town Meetings, and other meetings at which his attendance would be beneficial to the orderly conduct of the Town's business and operations.

Section VII, Health Insurance, Vacation, Holidays, Sick Leave, Funeral Leave, Jury Duty and Disability Insurance.

- A. Health Insurance. The Town shall provide the Town Administrator a health insurance policy similar to other non-bargaining unit Town employees. The Town's contribution toward such health insurance policy shall be the same as that made to other non-union Town employees in a similar plan. The Town's contribution towards health insurance during retirement shall be the same as that made to other non-union employees in a similar plan.
- B. Life Insurance. The Town's contribution toward an M.G.L. Chapter 32B life insurance policy shall be the same as that made to other non-union Town employees in a similar plan.

In addition, the Town shall make available a personal life insurance policy for the Town Administrator for a cost not to exceed \$2,000 during each year of this Agreement.

- C. Vacation. The Town Administrator shall be entitled to five (5) weeks paid vacation during each of the first and second years of this Agreement, and five (5) weeks paid vacation during the third year of this Agreement. A week shall be defined as five (5) working days. Unused vacation days may be carried over from one contract year to another up to a maximum of ten (10) days. No cash payments will be made in lieu of unused vacation time that exceeds the ten (10) days allowed to be carried over. Unused vacation time shall be paid in full to the Town Administrator upon termination.
- D. Sick Leave. Upon commencement of this agreement, the Town Administrator shall be credited by the Town with thirty (30) days sick leave in his sick leave account, which may be used during the term of this Agreement. In addition, the Town Administrator shall accrue sick leave benefits equal to those made to other non-union town employees.
- E. Vacation and Sick Leave Carry Over. Any unused vacation or sick leave remaining at the expiration of this Agreement shall carry over (up to the maximum defined in the personnel by-laws) and be credited to the Town Administrator if this Agreement is extended, except that only a maximum of ten (10) vacation days may be carried over.
- F. Holidays. The Town Administrator shall receive the following holidays provided by Town policy for non-bargaining unit employees.
- | | |
|------------------------|-------------------------|
| New Years Day | Labor Day |
| Martin Luther King Day | Columbus Day |
| Presidents Day | Veterans Day (observed) |
| Patriots Day | Thanksgiving |
| Memorial Day | Day After Thanksgiving |
| Independence Day | Christmas |
- G. Bereavement Leave. Upon the death of any of the following immediate family members, the Town Administrator will be granted leave of three (3) working days without loss of pay: the Town Administrator's spouse, children, mother, father, mother-in-law, father-in-law, sister, brother, grandparents or grandchildren.

- H. Jury Duty Leave. In the event that the Town Administrator serves as a juror in a federal court or in the Courts of the Commonwealth, he shall receive from the Town the difference between his salary and the compensation he received for such jury services, exclusive of any travel or other allowance; provided, however, he shall receive his full pay for his first three days of service for the Commonwealth of Massachusetts.
- I. Professional Development Leave. Should the Town Administrator attend the International City Management Association's (I.C.M.A.) Annual Conference or other professional conferences, time spent at such conferences shall not be deducted from his vacation leave and shall be considered as professional development leave.
- J. Disability Insurance. The Town will provide to the Town Administrator the same disability insurance as it does to other non-union Town employees or, at the option of the Town Administrator, reimbursement for the cost of a personal disability policy up to a maximum of \$500.00 during each year of this Agreement.
- K. Personal Leave. The Town Administrator shall receive three (3) days personal leave each contract year.

Section VIII, Deferred Compensation.

The Town shall contribute \$12,500 annually to the Town Administrator's deferred compensation for each year of the contract. Such contribution shall be in periodic equal payments or one lump sum as mutually agreed between the Town and the Town Administrator.

Section IX, Professional Development.

- A. The Town agrees to pay for the registration, travel and subsistence expenses of the Town Administrator for short courses, institutes and seminars that are necessary for his professional development and for the good of the Town, subject to the prior approval of the Board and subject to the availability of an appropriation.
- B. The Town shall pay the Town Administrator's registration fees(s), travel and subsistence expenses to and from the Massachusetts Municipal Association Annual Conference, and the ICMA Annual Conferences, subject to availability of funds.
- C. The Town agrees to pay for the professional dues and subscriptions of the Town Administrator necessary for his membership in the International City Management Association (I.C.M.A.) and the Massachusetts Municipal Administrators' Association.

Section X, Professional Expenses.

- A. The Town agrees to reimburse the Town Administrator, subject to Town Meeting appropriation, for the use of the Town Administrator's personal vehicle for official purposes at the rate of \$300 per month.
- B. The Town shall provide a portable computer, a PDA and cell phone, or combination of such technologies, as determined by the Board, for the Town Administrator's use. The equipment shall remain the property of the Town. The Town shall also provide the connective service for said devices to operate.

Section XI, Indemnification.

The Town shall defend, save harmless and indemnify the Town 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 his duties as Town Administrator, even if said claim has been made following his termination from employment, provided that the Town Administrator acted within the scope of his official duties and in good faith, and further provided that such alleged act or omission shall not constitute gross negligence or a wrongful intentional act. The Town shall pay the amount of any settlement or judgment rendered thereon. The Town 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 Administrator.

The Town shall reimburse the Town Administrator for any attorneys' fees and costs incurred by the Town Administrator in connection with such claims or suits involving the Town Administrator in his professional capacity.

This section shall survive the termination of this Agreement.

Section XII, Bonding.

The Town shall bear the full cost of any fidelity or other bonds required of the Town Administrator under law. The Town Administrator must be bondable.

Section XIII, Non-Renewal of Agreement.

If the Board decides not to renew this Agreement at its termination, the Board shall give the Town Administrator written notice at least six (6) months in advance of its intent not to renew this Agreement. If the Board fails to give such written notice, this Agreement shall be extended for an additional one year period. If the Town Administrator elects not to seek a renewal of his employment agreement, he shall notify the Board by the same date.

Section XIV, Other Terms and Conditions of Employment.

- A. All provisions of law of the Commonwealth of Massachusetts relating to retirement, health insurance and other fringe benefits shall apply to the Town Administrator as they generally apply to other non-bargaining unit employees of the Town, in addition to said benefits enumerated herein specifically for the benefit of the Town Administrator, except as otherwise provided in this Agreement.
- B. All other general provisions of the Town's By-Laws relating to fringe benefits shall also apply to the Town Administrator as they apply to other employees of the Town, in addition to the benefits enumerated specifically for the benefit of the Town Administrator, except as otherwise provided in this Agreement.
- C. This Agreement shall prevail over any conflicting personnel provisions of the Town By-Laws or Rules and Regulations.

Section XV, No Reduction in Benefits.

The Town shall not at any time during the term of the Agreement reduce the salary, compensation or other benefits of the Town Administrator, except to the degree such a reduction is across the board for all other non-union employees of the Town.

Section XVI, Notices.

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

1. TOWN: Chairman of Board of Selectmen
Brook Padgett
30 Providence Road
Grafton, MA 01519

2. TOWN ADMINISTRATOR: Timothy P. McInerney
21 Cortland Way
Grafton MA 01519

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

Section XVII, General Provisions.

- A. The text herein shall constitute the entire Agreement between the parties.

- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Town Administrator.

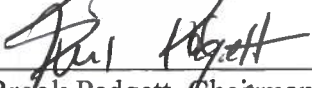
- C. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

- D. For the purposes of the Fair Labor Standards Act, the Town Administrator shall be an "exempt employee."

IN WITNESS WHEREOF, the Town of Grafton, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen and duly attested by its Town Clerk, and the Town Administrator has signed and executed this Agreement, both in duplicate.

TOWN OF GRAFTON


Acting by and through
Its Board of Selectmen



Brook Radgett, Chairman



Craig Dauphinais, Vice Chairman



Jennifer Thomas, Clerk



Dennis Flynn, Member



Bruce Spinney, Member

DATE: May 5, 2015

TOWN ADMINISTRATOR



Timothy P. McNerney

DATE: 5/4/15

Attest to Signature:

Town Clerk

DATE: _____

Approved as to Legal Form

Labor Counsel

DATE: _____

I certify there is an appropriation in Account _____
to fund this contract.

Town Accountant

DATE: _____