

EMPLOYMENT AGREEMENT TOWN MANAGER

This Employment Agreement (“the Agreement”) is by and between the Town of Hampton, New Hampshire, a municipal corporation of the State of New Hampshire, with a principal place of business at 100 Winnacunnet Road, Hampton, New Hampshire (“the Town”), acting through its duly elected Board of Selectmen (“the Board”), and James B. Sullivan of 14 Longwood Drive, Hampton, New Hampshire (“the Employee”).

1. General

By this Agreement, the Employee shall remain employed by the Town as its Town Manager, pursuant to the provisions of NH RSA §37. The Employee’s employment with the Town has been continuous since January 2, 1986. Throughout the term of this Agreement, the Employee will be considered a salaried, full time Employee of the Town. Further, the Board has voted to exempt the Town Manager position/appointment from the New Hampshire Retirement System under the provisions of NH RSA §100-A:22 and any future amendments thereto.

2. Term And Exclusive Employment

Subject to the Termination and/or Severance provisions in this Agreement, the Employee agrees to remain in the exclusive employment of the Town until June 30, 2025. The Employee will have no other employment during the term of this Agreement except justice of the peace and/or notary public. Subject to Board approval the Employee may also be appointed to volunteer boards, committees, or commissions, provided that any such appointment is not incompatible with the Employee’s duties to the Town under NH RSA §37.

3. Salary

Subject to the terms and conditions of this Agreement, and while he is engaged in and performing his duties for the Town, the Employee will be paid an annual salary as follows. Effective July 1, 2021 through June 30, 2022, the Employee’s annual salary will be in the gross amount of one hundred twenty-four thousand six hundred thirty-one dollars and twelve cents (\$124,631.12), less ordinary and regular withholdings. In the first regular payroll check after the parties’ execution of this Agreement, the Employee will receive additional compensation in the gross amount of two thousand three hundred seventy-three dollars and ninety-five cents (\$2,373.95), less ordinary and regular withholdings, to compensate him for retroactive pay. Provided the Employee receives a favorable annual performance evaluation in accordance with Paragraph 7 below, on July 1, 2022, July 1, 2023 and July 1, 2024, the Employee’s annual salary will be increased by a Cost Of Living Adjustment (“COLA”) equal to the increase in the CPI-U for the Boston-Cambridge-Newton all items index, as computed by the Bureau of Labor Statistics

of the United States Department of Labor, for the immediately preceding calendar year.¹ In no event will any of these annual COLAs be less than 2% or more than 5%. For purposes of this provision, a “favorable annual performance review” will mean an annual performance review with a consensus score from the Board of at least a three (3) on a scale of one (1) to five (5). If the Employee’s annual performance review is not completed by the Board on or before July 31st of any year of this Agreement, for purposes of this provision, the Employee’s annual performance review will be deemed a “favorable annual performance review.”

4. Termination

Prior the expiration of this Agreement, the Employee’s employment may be terminated, without further financial obligation to the Town and/or the Board, on the occurrence of any of the following events.

- A. Mutual Agreement of the parties or voluntary resignation of the Employee, who shall provide at least thirty (30) calendar days’ written notice of his resignation prior to the effective date of said resignation.
- B. Death or disability of the Employee. Disability shall be determined by a neutral professional retained by the Board to determine whether the Employee can continue to perform the essential functions of his job, either with or without reasonable accommodation.
- C. Cause, in accordance with the removal procedures contained in NH RSA §37, for any of the following reasons:
 - i. The conviction of the Employee of a felony or a crime of moral turpitude in any jurisdiction by a Court of competent jurisdiction;
 - ii. Conduct by the Employee which brings disgrace or scandal to the Town;
 - iii. Failure of the Employee to comply with any term or condition of this Agreement;
 - iv. Failure of the Employee to carry out any lawfully voted order or policy directive of the Board; and/or

¹ For this index, the calendar year is November through November, it is not published on a December through December basis. The reference base is 1982-1983 equals 100 until the BLS updates the reference base, at which time the parties agree to adopt the official reference base as used by the BLS.

- v. Failure of the Employee to carry out, through malfeasance, misfeasance, or nonfeasance, the responsibilities of the office of Town Manager.

5. Severance

Should the Board desire to terminate this Agreement for any reason other than those delineated in Paragraph 4 above, the Employee will be entitled to Severance. For purposes of this provision, Severance will include of a lump sum salary payment of twelve (12) months' gross salary, calculated at the time of payment, with payroll taxes deducted based on weekly salary for the number of weeks for the service period used to calculate the lump sum payment. Additionally, Severance will include a lump sum cash payment for any unused leave (annual, sick or holidays). Severance shall also include a payment by the Town to the 457(b) Plan covering the Employee pursuant to Paragraph 12 herein for the same period for which the lump sum salary benefit is paid. The Town shall also continue health insurance benefits, including dental insurance, pursuant to Paragraph 10 herein to cover the same twelve (12) month period for which the lump sum salary benefit is paid. Any lump sum payment for salary or leave shall be based upon weekly payment schedules for taxes. Payments for health insurance (if any) shall be retained by the Town which shall continue the Employee on the Town's health insurance and dental insurance as an Employee for the full Severance period. The Town shall deduct from Severance a sum equal to any disability insurance voluntarily carried by the Employee on the same terms as if the Employee was still employed and shall pay out such deduction to the insurance carrier for the number of months of Severance as a form of continued employment in the same manner as health and dental insurance. In the case of the death of the Employee during the Severance period, all remaining benefits shall be paid in a lump sum to the Employee's beneficiaries.

6. Severance Constitutes Release

The acceptance by the Employee of the Severance provided under this Agreement will constitute a full and complete release of any rights, claims, or causes of action, whether in law, equity, or otherwise that the Employee may have against the Town, its officers, agents, elected and appointed officials, or employees. The Employee, upon acceptance of such Severance in accordance with this Agreement and its provisions, shall sign a separate comprehensive release in favor of the Town and the Board.

7. Performance Evaluation

- A. The Board shall review and evaluate the performance of the Employee every twelve (12) months, on or about July 1st of each year of this Agreement. Goals and objectives may be added to or deleted from as the Board may from time to time determine in consultation with the Employee. Further, the Board shall provide the Employee with a written summary of

the findings of the Board and provide adequate opportunity for the Employee to discuss the evaluation with the Board.

- B. The Employee and the Board shall define such goals and performance objectives as they may determine necessary to the proper operation of the Town and in the attainment of the Board's policy objectives; and shall further establish a relative priority among those various goals and objectives to reduce the said goals and objectives to writing. Goals and objectives are to be attainable within the time limitations as specified, and within the annual operating budget and appropriations provided, subject to compliance with the provisions of applicable laws.

8. Automobile Stipend

The Employee shall be paid a stipend of three hundred dollars (\$300) per month to reimburse him for the use of his personal automobile for Town business.

9. Non-Salary Compensation/Benefits

Unless otherwise specifically addressed by this Agreement, the Employee will be eligible for the non-salary compensation/benefits set forth in Chapter 3 - COMPENSATION of the Town's Personnel Policy effective January 1, 2004. For purposes of this provision, the Employee is considered a Department Head. The non-salary compensation/benefits covered by this provision are: Holidays; Annual Leave; Workers' Compensation benefits; Leaves of Absence; Life Insurance; Health Insurance; Dental Insurance; Tuition Reimbursement; and Safety.

10. Disability Insurance and Benefits

The Employee at his expense may purchase disability insurance at the group rate offered to Town Employees.

11. 457(b) Plan Contribution

In recognition of the Employee's position being exempt from coverage under the State of New Hampshire Retirement System, the Town agrees that so long as the Employee remains in the Town's employ under the terms of this Agreement, the Town shall contribute on behalf of the Employee to his 457(b) Plan established under State and Federal Law, on a weekly basis, a sum equal to 8.75% of the Employee's gross weekly salary.

12. Dues, Subscriptions, and General Expenses

The Town agrees to budget and pay for professional dues and subscriptions for the Employee necessary for his continuation and full participation in organizations which he determines necessary and desirable for his continued professional participation, growth, and advancement and for the good of the Town. The Town agrees to budget

full expenses and for the employee to attend the annual ICMA (International City Managers Association) and NHMA (New Hampshire Municipal Association) annual conference including tuition, lodging, travel, meals and other expenses. Other expenses incurred in connection with Town business shall be reimbursed pursuant to the Town's Policies and Procedures.

13. Indemnification

The Town agrees and does indemnify and hold harmless the Employee from all losses, including reasonable attorney's fees and other expenses of defense, in connection with any claim, demand, action or suit, or judgment arising out of any act or omission of the Employee, if at the time of said act or omission, the Employee was acting within the scope of his employment and without malice or bad faith. This paragraph implements the provisions of NH RSA §31:105 and §31:106.

14. Bonding

The Town shall bear the full cost of any fidelity or other bonds required of the Employee under any law, administrative regulation, or ordinance.

15. Severability

If any provision of this Agreement is found to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable, so long as the purposes of this Agreement can be achieved in the absence of the invalid or unenforceable provision of this Agreement. The parties agree to attempt to renegotiate a contractual provision substituting for the provision of this Agreement found to be invalid and unenforceable.

16. Notices

Notices pursuant to the Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, certified, or registered mail return receipt required, addressed as follows:

Town: Chairman, Board of Selectmen, Town Offices
100 Winnacunnet Road
Hampton, New Hampshire 03842

Employee James B. Sullivan, Town Offices
100 Winnacunnet Road
Hampton, New Hampshire 03842

and

James B. Sullivan
14 Longwood Drive
Hampton, NH 03842

Alternatively, notices may be personally served in the same manner as is applicable to civil judicial practice or may be hand-delivered.

17. Governing Law and Venue

This Agreement shall be governed by the laws of the State of New Hampshire and venue shall be lodged in the state courts of New Hampshire, and the parties hereby irrevocable assent to the exclusive jurisdiction and venue of such courts.


18. Merger

This Agreement constitutes the entire understanding between the parties with respect to the continued employment of James B. Sullivan as the Town Manager of the Town and may be modified only in writing signed by the parties hereto. This Agreement specifically supersedes and replaces the Agreement dated November 29, 2017 between these parties.

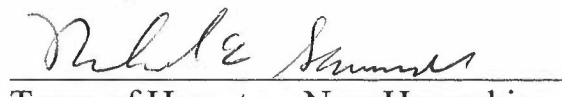
Dated: 12/6/21


James B. Sullivan


Dated: 12/7/21


Town of Hampton, New Hampshire
Chairman, Board of Selectmen


Dated: 12/9/21


Town of Hampton, New Hampshire
Board of Selectmen

Dated: 12-9-21


Town of Hampton, New Hampshire
Board of Selectmen

Dated: 12/6/21


Town of Hampton, New Hampshire
Board of Selectmen

Dated: _____

Town of Hampton, New Hampshire
Board of Selectmen