

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

This agreement, pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, made and entered into this 17th day of September, 2018, by and between the Town of Southborough, Commonwealth of Massachusetts, a municipal corporation in Worcester County, hereafter called the "Town," acting by and through its Board of Selectmen, with no personal liability to themselves, hereafter referred to as "the Board" and Mark J. Purple of Shrewsbury, Massachusetts hereafter called "Town Administrator".

WHEREAS, the Town desires to employ the professional services of Mark J. Purple as Town Administrator of the Town of Southborough as provided by the Bylaws of the Town contained in Article II, Section 27-2 as amended;

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

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

WHEREAS, it is the desire of the Board to obtain the professional services of the Town Administrator, and to provide inducement for him to remain in such employment; and to make possible the full work production of the Town Administrator and utilization of all skills attributable hereto;

WHEREAS, Mark Purple agrees to accept employment as Town Administrator of said Town and devote the necessary time, skills, education, professional services, and efforts in carrying out all of his obligations, responsibilities and duties to the Town and for this the Town Administrator represents that he has, and will maintain the skills, desires and ability to perform such obligations, responsibilities and duties to the extent he is able to do so under Section VIII.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Board and the Town Administrator agree as follows:

Section I. Functions and Duties of the Town Administrator.

The Town hereby agrees to employ Mark J. Purple as Town Administrator of the Town of Southborough, and the Town Administrator accepts said offer. The Town Administrator shall act as the Chief Administrative Officer for the Board of Selectmen and shall perform the duties specified in the attached job description for Town Administrator [Exhibit A which is integrated herein by reference] and Town By-Laws in compliance with all other applicable laws and such other duties as the Board shall from time to time assign to him.

Section II. Term.

- A. This agreement shall become effective October 18, 2018, and shall remain in full force and effect until October 17, 2021 unless sooner terminated as provided for hereunder or by law. The Agreement shall be for a term of three [3] years.
- B. Parties agree to endeavor to meet and confer approximately seven months prior to the expiration date of this agreement for the purpose of discussing whether the agreement will be extended, subject to the provisions of Section XII.

Section III. Termination and Severance Pay.

- A. The Board may terminate the Town Administrator for cause during the term of this agreement by majority vote.
- B. In the event the Town Administrator is terminated by the Town prior to the expiration of the term of this agreement, the Town agrees that it shall pay the Town Administrator a lump sum cash payment equal to ten (10) 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 commission of a felony, conduct unbecoming a managerial employee or incompetence, the Town shall have no obligation to pay the base severance pay provided 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 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. The Town Administrator shall not be allowed use of paid vacation leave during this time without prior approval of the Board of Selectmen.

Section IV. Salary.

- A. The Town shall pay in accordance with its normal payroll practices, an annual salary to the Town Administrator as set forth below.
 - 1. In the first year of the Agreement, the Town Administrator shall receive an increase of 4%, effective October 18, 2018, for a total annual base salary of \$163,524, subject to applicable withholdings and deductions.
 - 2. In the second year of the Agreement, the Town Administrator shall receive an increase of 4%, effective October 18, 2019, for a total annual base salary of \$170,065, subject to applicable withholdings and deductions.
 - 3. In the third year of the Agreement, the Town Administrator shall receive an increase of 3%, effective October 18, 2020, for a total annual base salary of \$175,167, subject to applicable withholdings and deductions.

- B. Effective October 18, 2018, and for all subsequent years of this agreement, the Town will make an annual payment of 6.0% of base pay towards a deferred compensation plan offered by the Town and selected by the Town Administrator. The Town Administrator shall notify the Town Treasurer in writing of the deferred compensation plan in which the payment is to be made.
- C. The Town shall pay the annual cost of a long-term disability insurance policy for the Town Administrator, up to \$1,200, as selected by the Town Administrator. The Town Administrator shall provide a copy of the invoice for the insurance premium to the Town for payment.

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 goals and objectives developed jointly and mutually agreed to by the Board of Selectmen and the Town Administrator. Further, the Chairman of the Board shall provide the Town Administrator with a summary written statement of the evaluation findings annually by the Board and shall provide an adequate opportunity for the Town Administrator to discuss his evaluation with the Board.
- 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, reduced to writing.
- C. The Town Administrator shall conduct, at least annually, during the term of this agreement a complete assessment of his own performance in a written document approved in advance by the Board for this purpose, soliciting subjective feedback from individuals as determined by the Board of Selectmen with input from the Town Administrator. The results of this assessment will be made available to the Board.

Section VI. Hours of Work.

- A. The Town Administrator's workweek shall ordinarily consist of five (5) business days, (Monday through Friday), plus whatever evening and/or weekend hours that may be necessary in order to properly respond to the demands of the position. It is understood that the Town Administrator shall also generally participate in the Board of Selectmen's meetings, Town Meetings and other meetings at which his attendance would be beneficial to the orderly conduct of the Town's business. Because of the nature of the position it is also understood that the Town Administrator will not be entitled to additional compensation for any hours spent beyond normal office hours.
- B. The Town Administrator is an exempt employee for the purpose of the Fair Labor Standards Act.

- C. The Town Administrator shall notify and coordinate with the Chair of the Board of Selectmen if he shall be absent from duty or on leave for more than a full day and who shall be responsible for the administration of the Town during such absence or leave.

Other Employment: The Town Administrator position is a full-time job. Other employment must be approved in writing by the Board. If the Employee accepts employment without prior written approval, this employment agreement may be terminated immediately by the Town.

Exempt Activities: The Town Administrator may engage in additional professional activities related to the position of Town Administrator, such as guest lecturing and participation in professional activities, provided that such participation does not interfere with his job duties and responsibilities and with prior notice to the Board of Selectmen.

Section VII. Health and Dental Insurance

The Town shall provide the Town Administrator health and dental insurance policies which are consistent with the policies which other non-union Town employees are eligible.

Section VIII. Vacation, Holidays, Sick Leave, Bereavement Leave, and Personal Leave.

A. Vacation

1. The Town Administrator shall be entitled to four (4) weeks paid vacation per fiscal year. A week shall be defined as five (5) working days.
2. The Town Administrator shall be compensated for up to 5 unused days of vacation per year or carry over up to 5 unused days of vacation per year, but at no time shall the accrued paid vacation leave of the Town Administrator exceed five (5) weeks in any fiscal year.

B. Holidays

The Town Administrator shall receive one day's pay at his regular rate for the following:

New Year's Day
Martin Luther King Day
Presidents' Day
Patriot's Day
Memorial Day
Independence Day

Labor Day
Columbus Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving Day
Christmas Day
Day before or after Christmas Day (as set by the
Town from year to year)

C. Sick Leave

The Town Administrator shall receive 15 sick days per year. Absences on account of sickness in excess of that authorized shall be charged to vacation or other available paid leave. Sick leave shall be payable only in cases of genuine illness, non-work connected accident, or work connected accidents not covered by Massachusetts General Laws Chapter 152 (Workers' Compensation).

D. Bereavement Leave

In the event of the death of a spouse, father, mother, child, father-in-law, mother-in-law, brother, sister, grandparent, or of any other person then residing with the Town Administrator, he shall be entitled to receive three days' leave for the purpose of the funeral and disposition of the deceased. If out-of-state travel is required, the Board may authorize up to two additional days of travel time.

E. Personal Leave

The Town Administrator shall be entitled to three personal days per year, which shall be approved by the Board. Personal days shall not accumulate from year to year.

Section IX. Professional Development, Dues and Subscriptions.

The Town agrees to budget and to pay, subject to appropriation and Board approval in advance for the professional dues, subscriptions and conference expenses of Town Administrator necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the Town.

Section X. Expenses.

A. The Town Administrator shall be reimbursed for any normal and reasonable expenses incurred in the performance of his duties, or as an official representative of the Town, including attendance by him at civic or social events.

B. The Town Administrator's duties require that he be on duty and available 24 hours a day. The Town Administrator shall be paid a total mileage stipend of \$4,000 in each year of the contract. Such payments shall be made in two equal installments. His mileage, parking, tolls and gasoline shall be considered part of this allowance.

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 duties. The Town shall pay the amount of any settlement or judgment rendered thereon, subject to M.G.L. Chapter 258 Section 13. 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 have the discretion to determine whether to assign counsel or reimburse the Town Administrator for his reasonable attorneys' fees and costs in connection with such claims or suits involving the Town Administrator in his professional capacity, provided that the Town Administrator acted within the scope of his duties. Separate counsel will be assigned to the Town Administrator in the case of a conflict of interest between the Town and the Town Administrator's interests in any such matter.

This indemnification shall also apply to the Town Administrator after he leaves the employment of the Town. The provisions of this section shall not apply to disputes between the Town and the Town Administrator regarding the terms and provisions of this Agreement.

This section shall survive the termination of this Agreement.

Section XII. Non-Renewal of Agreement.

If the Board decides not to renew this Agreement, the Board shall give the Town Administrator written notice a minimum of six (6) months before the expiration of this Agreement. The Town Administrator has an affirmative obligation to notify the Board in writing of the renewal provision, at least nine (9) months before the last day of this contract. If the Board fails to give such written notice of non-renewal, this Agreement shall be extended for an additional one year period.

Should the Town Administrator decide not to renew this agreement, the Town Administrator will provide written notice to the Board a minimum of six [6] months in advance of the expiration of the contract.

Section XIII. 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 consistent with the reduction for all other management employees of the Town.

Section XIV. Death During Term of Employment

If the Town Administrator dies during the term of his employment, the Town shall pay to the Town Administrator's estate all the compensation which would otherwise be payable to the Town Administrator up to the date of the Town Administrator's death, including accrued unused vacation and personal leave. The Town shall continue to contribute its share of the health insurance

premiums to the Town Administrator's surviving spouse and family, if they are otherwise eligible under Chapter 32B and such other benefits as are available to other Town non-union employees.

Section XV. 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. This agreement shall prevail over any conflicting provisions of the Town by-laws or rules and regulations.
- D. If any provision or any portion thereof, contained in this Agreement is held, 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. This agreement shall be interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts.
- E. If the Town moves to a Town Manager form of government, the Board shall consider the Town Administrator for that Town Manager position prior to its consideration of other applicants to the extent allowed under State Law and Town by-law.
- F. Any prior discussions or verbal agreements between the parties made prior, to this agreement shall not be binding upon the agreements unless reduced to writing, dated and signed by both parties.
- G. This Agreement shall become effective when executed by both parties.

IN WITNESS WHEREOF, the Town of Southborough, 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 SOUTHBOROUGH
Acting by and through its Board of Selectmen

TOWN ADMINISTRATOR

Lisa M. Braccio, Chairman

Mark J. Purple

Brian G. Shifrin, Vice-Chairman

Daniel L. Kolenda, Selectman

Brian E. Shea, Selectman

Bonnie J. Phaneuf, Selectman

DATE: _____

DATE: _____

TOWN CLERK ATTESTATION _____

Approved as to legal form and Content

Tim Norris, Labor Counsel