

EMPLOYMENT AGREEMENT

(Town Manager)

This Employment Agreement (“AGREEMENT”) is entered into on _____, 2022 with an effective date of June 1, 2022 by and between the **TOWN OF RANDOLPH, MASSACHUSETTS** (herein referred to as the “TOWN”), acting by and through its TOWN COUNCIL, with its offices at Town Hall, 41 South Main Street, Randolph, MA 02368, and Brian Howard, (herein referred to as “HOWARD” or “EMPLOYEE”).

RECITALS

Whereas the TOWN desires to employ EMPLOYEE as its Town Manager subject to the supervision of its TOWN COUNCIL (“COUNCIL”) and EMPLOYEE is willing to accept such employment, all on the terms as set forth below,

NOW, THEREFORE, in consideration of the promises, the mutual covenants hereinafter set forth, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

SECTION 1 - ENGAGEMENT OF EMPLOYEE

- 1.1 Pursuant to the terms of the Randolph Charter, the TOWN, by and through its TOWN COUNCIL, has appointed and hereby formally employs EMPLOYEE, and EMPLOYEE hereby accepts employment by the TOWN as its Town Manager, to perform the duties and responsibilities described in the Randolph Charter and in Section 3 of this Agreement, below.
- 1.2 Pursuant to Article 3 of the Town Charter, the Town Manager shall devote his full-time to the office of Town Manager and shall not hold any other public office, elected or appointed, nor shall he engage in any other business, occupation or profession during his term unless such action is approved, in advance, by the Town Council.

The Town Council hereby acknowledges that the EMPLOYEE is a Justice of the Peace and that, in that capacity, he is authorized by the Commonwealth of Massachusetts to perform marriage ceremonies and other functions. The Town Council hereby agrees that nothing in this Agreement shall prevent the EMPLOYEE from performing marriage ceremonies or

other Justice of the Peace duties and functions generally, and that such activities are authorized.

The Town Council additionally hereby authorizes the EMPLOYEE, during the term of this Agreement and while he is Town Manager pursuant to this Agreement, to perform marriage ceremonies on municipal premises and to collect solemnization fees as authorized by state law, as long as he does not perform those marriage ceremonies during Town Hall business hours (8:30am – 4:30pm, weekdays) and as long as his municipal duties are not adversely affected and so long as said activity complies with the requirements under the State Ethics Act listed below.

The State Ethics Act requires that said use of municipal resources meet certain criteria, that the use of said resources is:

- a. in furtherance of the public interest in general, rather than in pursuit of private gain (either of an individual or a particular private interest group);
- b. interconnected with the business of that department of municipal government;
- c. not used toward partisan political ends; and
- d. the municipal employee's appointing authority approves the use of municipal resources for that purpose.

The Town Council, as the Town Manager's Appointing Authority, hereby approves the use of municipal resources for these purposes, as described above.

1.3 EMPLOYEE's official title shall be Town Manager.

SECTION 2 – TERM AND PERIOD OF EMPLOYMENT

2.1 The term of this Agreement and EMPLOYEE's term of employment shall commence on the effective date of this AGREEMENT, June 1, 2022 (the "Commencement Date") and shall terminate on May 31, 2027 (the "Termination Date").

SECTION 3 – POWERS, DUTIES AND RESPONSIBILITIES

3.1 EMPLOYEE shall have the powers, duties and responsibilities of the Town Manager, the chief administrative and executive officer of the Town, consistent with the provisions of the Randolph Charter and all other

applicable provisions of law. As such, his duties will include, but will not be limited to, those duties contained in Article 3 of the Randolph Town Charter.

- 3.2 It is acknowledged that the duties and responsibilities of the Town Manager in terms of demands and responsibilities of his position do not permit prescribed limitation of time and may occasionally require him to work during other than usual and customary Town Hall hours, and at locations other than Town Hall.
- 3.3 The parties to this Agreement acknowledge that, in the event that the Town Manager is temporarily absent from his position, an Acting Town Manager may be designated pursuant to Article 3-5 of the Town Charter.
- 3.4 EMPLOYEE shall undertake his duties promptly upon the effective date of this AGREEMENT and will diligently and faithfully prosecute the duties set forth herein in a prompt and professional manner.
- 3.5 Pursuant to Article 3-6 of the Town Charter, there shall be an annual review of the Town Manager's job performance conducted by the Town Council.

A short written summary of any such review shall be provided to EMPLOYEE once the review is complete.

The TOWN COUNCIL may, from time to time and in consultation with EMPLOYEE, establish one or more specific objectives for EMPLOYEE to accomplish as Town Manager.

3.6 TERMINATION AND REMOVAL:

This AGREEMENT may be terminated and the Town Manager may be removed from his position as Town Manager consistent with the terms contained in Article 3-4 of the Town Charter, which states as follows:

Removal

The person serving as town manager shall cease to be town manager upon expiration of his contract or term of office.

Earlier in time than the expiration described in the preceding sentence, the town council, by affirmative vote of a two-thirds majority of the full board, may vote to terminate, remove or suspend the town manager from office in accordance with the following procedure.

Before the town manager may be removed, if he so demands, he shall be given a written statement of the reasons alleged for his removal and shall have a right to be heard thereon at a meeting of the town council prior to the final vote on the question of his removal, but pending and during such hearing the town council may suspend him from office. The action of the town council in suspending or removing the town manager shall be final, it being the intention of this section to vest all authority and to fix all responsibility for such suspension or removal in the town council. The town manager shall continue to receive his salary until the effective date of a final vote of removal. The town council may, by ordinance, establish a procedure governing the removal from office of a town manager in such detail as it may deem necessary or desirable.

No contract of employment for a town manager shall be inconsistent with this section.

- 3.6.1 If the AGREEMENT is terminated by the TOWN COUNCIL for cause, then there will be no severance payment, of any kind whatsoever, due to EMPLOYEE.

If the AGREEMENT is terminated by the TOWN COUNCIL without cause, EMPLOYEE shall be paid a total severance payment equal to twelve (12) months of his salary at the salary rate in effect at the time of termination (the "Severance Payment").

- 3.6.2 EMPLOYEE may terminate this AGREEMENT at any time, for any reason or no reason, upon Thirty (30) days written prior notice to the TOWN COUNCIL.

- 3.6.3 Upon termination of this AGREEMENT by either party, this AGREEMENT shall be deemed null and void and no further duties or obligations, in any manner whatsoever, shall be owed by EMPLOYEE or by the TOWN, except such ongoing obligations as are specifically described in this AGREEMENT.

- 3.6.4 If at the end of the term of this AGREEMENT (the Termination Date) the TOWN COUNCIL does not wish to renew this AGREEMENT and reappoint EMPLOYEE, the TOWN COUNCIL shall provide EMPLOYEE with one year's advanced written notice of such intent not to reappoint. Such notice shall be given one year prior to the

Termination Date. If the TOWN COUNCIL fails to provide one year's advanced written notice, as described in this paragraph, the term of this Agreement shall automatically be extended for one year and this Agreement shall, in such a case, terminate on May 31, 2028. In such a case, all of the terms of this Agreement that were in effect for Fiscal Year 2027 shall remain in effect for Fiscal Year 2028, through the new Agreement termination date.

3.6.5 As used in this AGREEMENT "cause" shall mean:

- (a) conviction of a crime involving moral turpitude;
- (b) willful misconduct or intentional acts detrimental to duties;
- (c) gross neglect of duties;
- (d) intentional non-performance of duties; or
- (e) material breach of this Agreement.

SECTION 4 - COMPENSATION AND BENEFITS

4.1 COMPENSATION:

As compensation for the services he is to perform as Town Manager hereunder, EMPLOYEE's annual salary rate shall be as follows:

- a) For the period running from June 1, 2022 through June 30, 2022, EMPLOYEE's annual compensation rate shall be two-hundred ten thousand dollars per year (\$210,000 per year), which shall be paid during this period on a pro rata basis.
- b) For the contract year of this Agreement beginning July 1, 2022 and ending June 30, 2023, EMPLOYEE's annual compensation rate shall be two-hundred ten thousand dollars per year (\$210,000 per year).
- c) For the contract year of this Agreement beginning July 1, 2023 and ending June 30, 2024, EMPLOYEE's annual compensation rate shall be two-hundred fifteen thousand two-hundred fifty dollars per year (\$215,250 per year).

- d) For the contract year of this Agreement beginning July 1, 2024 and ending June 30, 2025, EMPLOYEE's annual compensation rate shall be two-hundred twenty thousand six-hundred thirty-two dollars per year (\$220,632 per year).
- e) For the contract year of this Agreement beginning July 1, 2025 and ending June 30, 2026, EMPLOYEE's annual compensation rate shall be two-hundred twenty-six thousand one-hundred forty-eight dollars per year (\$226,148 per year).
- f) For the contract year of this Agreement beginning July 1, 2026 and ending May 31, 2027, EMPLOYEE's annual compensation rate shall be two-hundred thirty-one thousand eight-hundred two dollars per year (\$231,802 per year), which shall be paid during this period on a pro rata basis.

4.2 EMPLOYEE's salary shall be payable at such intervals as is customary with TOWN employees, subject to applicable withholding and other payroll taxes and otherwise in conformity with the normal payroll practices of the TOWN.

4.3 BENEFITS:

The Town Manager position is a non-union, FLSA exempt position. Unless specifically addressed separately herein, EMPLOYEE shall be due all those benefits available to full-time non-union TOWN employees as of the effective date of this AGREEMENT at the highest level of coverage available to other non-union TOWN employees, including, but not limited to, the ability to participate in the Norfolk County Retirement system, and including all benefits available to TOWN employees under local, state and Federal law. The Town shall deduct EMPLOYEE's share of the cost for such benefits from his regular paychecks at rates at least as beneficial to him as the rates provided to other non-union TOWN employees.

Should the TOWN change the benefits provided to other non-union TOWN employees during the term of this AGREEMENT, EMPLOYEE may elect, at his option, to continue with the level of each benefit available as of the effective date of this AGREEMENT, or to accept the new level of each benefit adopted by the TOWN.

4.4 VACATION:

EMPLOYEE shall be entitled to certain vacation time, with pay, during each fiscal year of this Agreement. Said vacation time is as follows:

Beginning in the fiscal year that starts on July 1, 2022, and in each fiscal year of this Agreement thereafter, EMPLOYEE shall be entitled to 30 days of vacation. These vacation days shall accrue and be due to EMPLOYEE as of the first day of each fiscal year.

EMPLOYEE shall not take more than two weeks of vacation at one time unless approved by the TOWN COUNCIL.

At the end of each fiscal year, no more than 10 days of unused vacation time can be carried forward to the next fiscal year.

EMPLOYEE shall be permitted to “buy back” up to 10 days of vacation time during each fiscal year of this Agreement. In order to “buy back” said time, the EMPLOYEE must request the “buy back” in writing, addressed to the Town Council President and the Town human resources office. In order to be effective, said writing must be provided on or before December 31 of each fiscal year of this Agreement. Within thirty days of receipt of the “buy back” request, the Town shall pay the Town Manager the value of the requested “buy back” vacation days at the Employee’s salary rate per day that is in place at the time of the request.

If this Agreement is extended beyond its Termination Date, any unused vacation days remaining as of the original Agreement Termination Date shall carry over and be credited to Employee, up to a maximum of 10 days of carried over vacation time.

If Employee is employed by the Town as the Town Manager on May 31, 2022 and if he has accrued but unused vacation days available as of May 31, 2022, then he shall be permitted to retain those vacation days through June 30, 2022 and he shall be permitted to roll over up to 10 days of such accrued but unused vacation time into the fiscal year beginning on July 1, 2022.

4.5 SICK:

EMPLOYEE shall be entitled to certain sick time, with pay, during each fiscal year of this Agreement. Said sick time is as follows:

During each fiscal year of this Agreement, Employee shall accrue 15 days of sick time. These sick time days shall accrue and be due to Employee as of the Commencement Date for the initial year of this Agreement, and on the first day of each fiscal year thereafter.

At the end of each fiscal year, any unused sick time may be re-categorized as Sick Bank Time for Employee, up to the maximum allowable Sick Bank Time. No more than two hundred (200) Sick Bank Time days may exist at any one time. Sick Bank Time may be used by Employee as paid sick days consistent with the terms of this Agreement. EMPLOYEE must inform the Council President in the event that any time designated as Sick Bank Time is to be utilized.

Any sick days that do not become Sick Bank Time at the end of the fiscal year shall not be carried over into the next fiscal year.

Upon the termination of his employment hereunder, EMPLOYEE shall be entitled to receive no compensation for any accrued but unused sick days or Sick Bank Time.

If this Agreement is extended beyond its Termination Date, any unused sick days or Sick Bank Time days remaining as of the original Agreement Termination Date shall carry over and be credited to Employee as Sick Bank Time, up to a maximum of 200 days of carried over Sick Bank Time.

If Employee is employed by the Town as the Town Manager on May 31, 2022 and if he has accrued but unused sick or Sick Bank Time days available as of May 31, 2022, then he shall be permitted to roll over up to 200 days of such accrued but unused sick or Sick Bank Time days through June 30, 2022 and also into the fiscal year beginning on July 1, 2022 as Sick Bank Time.

4.6 PERSONAL:

EMPLOYEE shall be entitled to 3 paid personal days during each fiscal year of this Agreement. These personal days shall accrue and be due to EMPLOYEE as of the first day of each fiscal year. At the end of each fiscal year, any unused personal days cannot be carried forward to the next fiscal year.

4.7 HOLIDAYS:

EMPLOYEE shall be entitled to all paid holidays available to full-time non-union TOWN employees. EMPLOYEE may use vacation, sick or personal time on days before or after paid holidays without loss of holiday pay.

4.8 BEREAVEMENT; JURY DUTY:

EMPLOYEE shall be entitled to the following paid Bereavement leave time:

- a. Five (5) consecutive working days off in the event of the death of said Employee's spouse, daughter, son, mother, father, sister or brother.
- b. Three (3) consecutive working days off in the event of the death of said Employee's grandparents, mother-in-law, father-in-law, grandparents of the Employee's spouse or of a relative of the Employee or the Employee's spouse who is living in the household of the Employee at the time of death.

EMPLOYEE shall be entitled to the benefit of the following Jury Duty leave provision:

Upon submission of adequate proof to the Council President or the Finance Director and as permitted by law, when the Employee serves as a juror he shall receive from the Town the difference between his salary and the compensation he received for such jury service, exclusive of any travel or other allowance. The Employee shall suffer no loss of pay, vacation leave or other benefits because of his jury service, except as required by law.

4.9 PROFESSIONAL DEVELOPMENT:

The COUNCIL recognizes the importance of ongoing professional development on the part of EMPLOYEE. The COUNCIL shall reimburse EMPLOYEE for the cost of membership fees and dues in professional associations, the cost of professional development conferences or seminars and the cost of subscriptions to professional journals and publications. The COUNCIL further agrees to reimburse EMPLOYEE for reasonable costs of travel, food and lodging directly associated with EMPLOYEE's membership and participation in certain professional associations and his ongoing professional development. These associations may include, but are not

limited to, the Massachusetts Municipal Association, the Massachusetts Municipal Personnel Association and the National League of Cities.

The TOWN's responsibility to reimburse EMPLOYEE for costs associated with EMPLOYEE's membership and participation in professional associations and his professional development, as those activities are described in the preceding paragraph, shall not exceed \$5,000 in any year, calculated on a fiscal year basis.

4.10 TRAVEL AND REIMBURSED EXPENSES:

During the term of this Agreement, EMPLOYEE shall receive a monthly payment in the amount of \$500 for his automobile travel allowance. In the event that this Agreement is terminated during its term, Employee shall receive the full payment for the month in which the Agreement is terminated, and shall not receive any travel allowance for any month thereafter.

EMPLOYEE shall also be entitled to reimbursement by the TOWN for reasonable TOWN-related expenses that he incurs during the term of this Agreement. All such expense reimbursements may be reviewed by the TOWN COUNCIL.

4.11 DISABILITY INSURANCE:

The TOWN will pay fifty percent (50%) of the premium cost of a short-term disability insurance policy and a long-term disability insurance policy covering EMPLOYEE. The terms and the providing insurance carrier(s) of these insurance policies must be mutually acceptable to both the TOWN and EMPLOYEE.

4.12 INDEMNIFICATION:

EMPLOYEE, as Town Manager, shall be indemnified by the TOWN as a municipal officer as per Massachusetts General Laws, Chapter 258, including M.G.L. ch. 258, section 13, which states as follows:

Chapter 258: Section 13. Indemnity of municipal officials

Section 13. Any city or town which accepted section one hundred I of chapter forty-one on or before July twentieth, nineteen hundred and seventy-eight, and any other city which accepts this section according

to its charter, and any town which accepts this section in the manner hereinafter provided in this section shall indemnify and save harmless municipal officers, elected or appointed from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission, except an intentional violation of civil rights of any person, if the official at the time of such act or omission was acting within the scope of his official duties or employment.

This act shall be submitted for acceptance to the voters of each town at an annual town meeting in the form of the following question which shall be placed on the official ballot to be used for the election of town officers at said meeting:—"Shall the town vote to accept the provisions of section thirteen of chapter two hundred and fifty-eight of the General Laws which provides that the town shall indemnify and save harmless municipal officers, elected or appointed, from personal financial loss and expense including reasonable legal fees and costs, if any, in an amount not to exceed one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission except an intentional violation of civil rights of any person under any law, if the official at the time of such act or omission was acting within the scope of his official duties or employment?" If a majority of the votes in answer to said question is in the affirmative, said provisions shall thereupon take full effect, but not otherwise.

The TOWN represents that this provision of the Massachusetts General Laws has been accepted by the TOWN and agrees that the provisions provided above shall apply to EMPLOYEE.

This section 4.12 of the AGREEMENT shall survive the termination of this AGREEMENT.

4.13 DEFERRED COMPENSATION:

Beginning on July 1, 2022, Employee shall receive twelve thousand dollars (\$12,000) during each fiscal year of this Agreement to support Employee's retirement planning and savings. This amount shall be received by Employee as follows. The maximum amount permitted by law, up to twelve thousand dollars per year of this Agreement, shall be placed in an eligible 457 deferred compensation plan in Employee's name during the first month of each fiscal year of this Agreement. Any remaining amount in any fiscal

year shall be paid directly to employee, as additional compensation, and may be used by Employee in any way that Employee sees fit to support his retirement planning and savings efforts.

SECTION 5 - GENERAL PROVISIONS

- 5.1 Neither party may assign, transfer or otherwise dispose of this AGREEMENT or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party, and any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.
- 5.2 Except as otherwise expressly provided in this AGREEMENT any decision or action by the TOWN relating to this AGREEMENT, or its operation, shall be made by a lawful vote of the TOWN COUNCIL.
- 5.3 This AGREEMENT is the entire agreement between the TOWN and EMPLOYEE regarding the subject matter hereof and supersedes any and all prior agreements, understandings, promises, warranties and representations, whether made orally or in writing. This AGREEMENT may be changed (amended, modified or terms waived) only in writing by the TOWN and EMPLOYEE by way of mutual consent.
- 5.4 This AGREEMENT is governed by, and shall be construed in accordance with, the laws of the Commonwealth of Massachusetts without regard to its choice of law rules and any dispute arising under this AGREEMENT shall be adjudicated by a Court sitting in Massachusetts.
- 5.5 Unless the parties expressly agree in writing to extend or renew this AGREEMENT, this AGREEMENT, and the employment relationship between the TOWN and EMPLOYEE provided for hereunder, shall terminate upon the expiration of the term hereof.
- 5.6 If there exists, now or in the future, any conflict between the terms of this AGREEMENT and any local Town personnel by-law, Town ordinance, Town rule or Town regulation, the terms of this AGREEMENT shall prevail.

5.7 SEVERABILITY:

If any clause, article, provision or section of this AGREEMENT or any amendments thereto should be determined to be unconstitutional, illegal,

unenforceable or invalid by operation of law or by any Court of competent jurisdiction, the remainder of this AGREEMENT and any amendments thereto shall not be affected thereby, shall be deemed severable, and shall remain in force and effect.

- 5.8 Each person executing this Agreement warrants that he/she is authorized to execute this AGREEMENT on behalf of the party for whom he/she signs.
- 5.9 This AGREEMENT shall be binding on and will inure to the benefit of the parties hereto and their respective heirs, successors and assigns.
- 5.10 As of the Effective Date of this Agreement, this Agreement replaces and supersedes the Employment Agreement that was entered into on July 29, 2019 with an effective date of July 16, 2019 by and between the TOWN and EMPLOYEE.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

TOWN OF RANDOLPH, acting by and through its TOWN COUNCIL,

By: _____
William Alexopoulos – President

By: _____
Christos Alexopoulos

By: _____
Richard Brewer, Jr.

By: _____
James F. Burgess, Jr.

By: _____
Natacha Clerger

By: _____
Ryan Egan

By: _____
Jesse Gordon

By: _____
Katrina Huff-Larmond

By: _____
Brian Howard