

Employment Agreement – Town Administrator

AGREEMENT made this 3rd day of April, 2017, between The Town of Durham, a municipal Town located in the County of Strafford and the State of New Hampshire, (hereinafter “Town”)

and Todd I. Selig of Durham, New Hampshire (hereinafter “Selig”).

WHEREAS, Selig and the Town desire to set forth in writing their Contract with respect to Selig’s employment by the Town as its Town Administrator;

NOW, THEREFORE, in consideration of their mutual promises set forth herein, the parties hereby agree as follows:

1. **Employment.** The Town hereby employs Selig as its Town Administrator, and Selig hereby accepts such employment, upon the terms and conditions set forth in this Agreement.
2. **Duties and Authority.**
 - A. Selig will hold the position of Town Administrator.
 - B. As Town Administrator, Selig will have the powers granted to that position by the Charter and Administrative Code of the Town and pertinent State statutes including RSA 49-D:2(c) and RSA 37, subject to the control of the Town Council to the extent permitted by the Charter and statute. He shall have general supervision, direction and control over the business and affairs of the Town and its employees. Selig will be primarily responsible in addition to his Statutory and Charter duties, for carrying out all orders and resolutions of the Town Council and such duties as may from time to time be assigned to Selig by the Town Council.
 - C. Selig agrees to devote his full time, attention and best efforts to the performance of his responsibilities as Town Administrator.
 - D. Selig shall not, during the term of this Agreement, directly or indirectly engage in any business, either as an employee, corporation, principal, corporate officer, or in any other capacity, whether or not compensated, without the prior written consent of the Town.
 - E. Notwithstanding anything to the contrary contained in paragraph 2.D above, Selig may engage in teaching in an adjunct position, writing or consulting during his normal time off provided that he first inform the Town Council of his activities and provided, further, that those activities

do not unreasonably interfere with his duties and responsibilities to the Town.

F. It is recognized that Selig must devote a great deal of time outside the normal office hours on business for the Town, and to that end Selig shall be allowed to establish an appropriate work schedule.

3. **Term of Employment.** The term of employment shall be for a period of nine (9) years (except as it may be modified as explained herein) commencing on January 01, 2017 and ending December 31, 2025.
4. **Compensation.** Selig shall receive compensation during the term of this Agreement as follows: A base annual salary of \$137,500 for 2017 which shall increase by 2% annually thereafter during the contract term, effective each January 1st. Notwithstanding the above, as of 1/1/18, 1/1/20, 1/1/22, and 1/1/24, Selig's base annual salary shall be reset at the greater of 2% above his prior year's base annual salary or the average of the actual base annual salaries of the full time town/city managers within the following NH communities as of January 1st of said year: Bedford, Concord, Derry, Dover, Hanover, Keene, Merrimack, Portsmouth, and Rochester.
5. **Medical and Group Insurance.** The Town agrees to provide Selig with all of the benefits offered to non union employees in the Town's Personnel Plan including participation in the Town group medical, hospital and dental plan(s) of the Town, as well as all other insurance plans which the Town offers to its employees on the same terms and conditions as that of the Town's other non-unionized employees. Notwithstanding the above, Selig shall pay twenty percent (20%) of the monthly health and dental premiums. The Town shall pay eighty percent (80%) of the appropriate monthly premiums.
6. **Vacation.** Selig shall be entitled to thirty (30) days of paid vacation during each year of employment; the time for the vacation shall be mutually agreed upon by Selig and the Town Council. If vacation is not taken Selig shall be reimbursed at his base salary rate for time not taken in excess of 240 hours of accrual by December 31st of the succeeding year.

In addition to the vacation listed in the first paragraph, in recognition of Selig's completion of 21 years of service with the Town of Durham in 2022, and every six years thereafter, Selig shall be afforded a six (6) week paid sabbatical for personal and professional rejuvenation. The sabbatical shall not be used to fulfill the notice requirement outlined in Section 14.C of this contract.

7. **Automobile.**

A. The Town shall provide to Selig, during the term of his employment, the use of a Town automobile of Selig's choice, for business use, to be selected from the Town's inventory. The Town shall pay all automobile operating expenses incurred by Selig in the performance of Selig's business duties. In the event that Selig utilizes his personal automobile for Town business, he shall be reimbursed for the mileage at the then prevailing Internal Revenue Service reimbursement rate.

B. The Town shall provide to Selig, during the term of his employment, an annual stipend in the amount of \$7,500.00 in lieu of unlimited personal use of a Town vehicle.

8. **Dues and Subscriptions.** The Town shall budget and pay the dues, expenses and subscriptions of Selig for his continuation and participation in local, city, county, state, national, and international associations that he deems prudent and fiscally responsible for his continued effective management of the Town.

9. **Professional Development.** The Town shall budget and pay for the registration, travel and subsistence expenses of Selig to attend the annual conferences of the New Hampshire Municipal Association and the International City/County Management Association, and such other conferences, short courses, and seminars that Selig deems prudent and fiscally responsible for his professional development and for the continued, effective management of the Town. The Town recognizes that Selig is a Board member of the New Hampshire Center for Public Policy Studies, and the Town encourages such activities and other similar activities as part of Selig's professional development.

In addition, during the term of this contract the Town shall support Selig's attendance with pay at three specialized advanced training courses such as those offered at the Harvard Kennedy School of Government or equivalent experiences that Selig deems prudent and fiscally responsible for his professional development and for the continued, effective management of the Town.

10. **Expense Reimbursement.** Selig shall be entitled to reimbursement for all reasonable expenses, including travel and entertainment, incurred by him in the performance of his duties. Selig shall maintain records and written receipts and shall submit vouchers for expenses for which reimbursement is made.

11. **General Expenses.** The Town recognizes that certain expenses of a personal nature are or may be incurred by Selig in the performance of his business duties, and the Town agrees that it shall reimburse Selig for all such reasonable expenses upon receipt of expense vouchers, receipts, statements or personal affidavits detailing the expenses related to the performance of Selig's business duties.

Selig shall be responsible for obtaining a mobile data telephone device that meets the specifications of the Town's IT infrastructure such that he is reasonably accessible to the Town during times of emergency. Upon the execution of this Agreement, Selig's Town-issued iPhone shall become the personal property of Selig, and Selig shall bear the cost of the device (as well as future devices) and the associated telephone/data plan thereafter.

12. **Permanent Disability.** In the event Selig becomes permanently disabled (herein defined as a disability which substantially impairs or limits Selig from performing the essential duties of his position) as determined by a licensed physician mutually agreed upon by the Town and Selig, or if Selig is otherwise unable to perform his duties because of sickness, accident or injury for a period of six (6) months, the Town may terminate this Agreement subject to the provisions of paragraph 14D.

13. **Death.** In the event that Selig dies during the term of this Agreement, this Agreement shall immediately terminate.

14. **Termination.**

- A. **By the Town with Cause.** This Agreement may be terminated by the Town for cause, in accord with the provisions of Section 4.3 of the Town Charter, if Selig willfully breaches or habitually neglects the duties to be performed under Paragraph 2 of this Agreement; engages in dishonest conduct; or for the conviction of any crime for which the punishment involves incarceration.

- B. In the event Selig's employment is terminated pursuant to subparagraph A, Selig shall be entitled to his base salary compensation earned prior to the date of termination (minus all appropriate federal, state and authorized withholdings), as provided for in Paragraph 4 of this Agreement, computed pro rata up to and including the date of termination, as well as any other benefits to which he may be entitled as a matter of law.

- C. **By Selig.** This Agreement may be terminated by Selig, without cause, by giving eight (8) months' notice to the Town.

- D. **By the Town without Cause.** In the event that this Agreement is terminated by the Town for reasons other than those outlined in subparagraph A above, the Town shall be responsible for the payment to Selig of one (1) full year's base salary (minus all appropriate federal, state and authorized withholdings) plus all benefits (or their monetary equivalent) accrued during that one (1) year period regardless of the length of the remaining term of this Agreement.
15. **Renewal.** The parties contemplate that they will want to renegotiate, extend or modify the length of this Agreement for so long as the relationship is mutually satisfactory. Notwithstanding anything contained herein, the parties may mutually agree to modify any or all provisions of this Agreement at any time for so long as those modifications are in writing and signed by the authorized parties.
16. **Renewal Negotiations.** If either the Town or Selig wishes to renew this Agreement at the conclusion of its original nine (9) year term, that party shall notify the other of such intent no later than December 31, 2024. In the event that the parties have not successfully concluded their negotiations by March 1, 2025, subsection 14C shall not apply and Selig shall be free to seek and obtain employment elsewhere at any time, even during the remaining term of this Agreement.
17. **Performance Evaluation.**
- A. Commencing in April of 2017, and each succeeding April thereafter, the Town Council and Selig shall mutually establish goals and objectives which they deem necessary and appropriate for the proper management of the Town during the succeeding twelve (12) months. Such goals and objectives shall be committed to writing and formally adopted by the Town Council. The funds necessary for the attainment of those goals and objectives shall be included in the annual budget for the same time period.
- B. Commencing in January 2018, and for each January thereafter, the Town Council shall review/evaluate Selig's performance in accord with the criteria provided to Selig by the Town the preceding April. The Town Council shall provide Selig with a written summary of this Annual Performance Evaluation and shall provide Selig with an opportunity to discuss this evaluation with the Town Council.
18. **Indemnification.** The Town agrees to include Selig under its general insurance coverage and further agrees that it shall indemnify and hold Selig harmless for any liability related to, or arising out of, his position as Town Administrator in accord with the provisions of New Hampshire R.S.A. 31:105.

19. **Residency.** In accord with the provisions of the Town Charter, Selig agrees to live within the corporate limits of the Town for so long as he serves as its Town Administrator.
20. **Supplemental Retirement Plan.** In addition to the base annual salary paid by the Town to Selig, the Town shall pay \$18,000 annually on Selig's behalf into a Section 457 deferred compensation plan. This payment shall be increased by \$500 annually beginning in 2022 so long as the additional contribution is permissible pursuant to Section 457 deferred compensation regulations.
21. **Notices.** Any notice provided for in this Agreement shall be given in writing. Notices shall be effective from the date of service, if served personally on the party to whom notice is to be given, or on the second day after mailing, if mailed by first class mail, postage prepaid. Notices shall be properly addressed to the parties at their respective addresses or to such other address as either party may later specify by notice to the other.
22. **Entire Agreement.** This Agreement contains the entire agreement and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof. This Agreement may be changed only by an agreement in writing signed by the party against whom any waiver, change, amendment or modification is sought.
23. **Waiver.** The waiver by the Town of a breach of any of the provisions of this Agreement by Selig shall not be construed as a waiver of any subsequent breach by Selig.
24. **Governing Law; Venue.** This Agreement shall be construed and enforced in accordance with the laws of the State of New Hampshire. The Strafford County Superior Court shall be proper venue for any litigation arising out of this Agreement.
25. **Paragraph Headings.** Paragraph headings are for convenience only and are not intended to expand or restrict the scope or substance of the provisions of this Agreement.
26. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall remain in full force and shall in no way be impaired.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 3rd day of April, 2017.

THE TOWN OF DURHAM:

By: Katherine Marple
Katherine Marple, Chairman
Duly Authorized

TOWN ADMINISTRATOR:

Todd I. Selig