

# **EMPLOYMENT AGREEMENT**

**between**

**Town of Concord, Massachusetts**

**and**

**Kerry A. Lafleur, Town Manager**

This Agreement (the "Agreement") is made and entered into this 27<sup>th</sup> day of June, 2022, by and between the Town of Concord, Massachusetts, a municipal corporation (the "Town"), acting by and through its Select Board (the "Board"), and Kerry A. Lafleur, 31 Baniulis Road, Billerica, Massachusetts ("Ms. Lafleur").

## **1. APPOINTMENT**

In accordance with Chapter 280 of the Acts of 1952 of the Commonwealth of Massachusetts, as amended (the "Charter"), the Board hereby appoints Kerry A. Lafleur as Town Manager of the Town of Concord. Pursuant to Chapter 41, Section 108N of the General Laws, the Board hereby enters into this contract with Ms. Lafleur for her services as Town Manager.

## **2. DUTIES**

A. Ms. Lafleur shall, as Town Manager of the Town of Concord, perform such functions and duties as are set forth in the Charter, the Massachusetts General Laws, and any other laws applicable to the position of Town Manager, and shall perform such other legally permissible and proper duties and functions as the Board shall from time-to-time assign.

B. As Town Manager, Ms. Lafleur shall supervise, direct and be responsible for the efficient administration of all functions under her authority as assigned by the Board and as provided by the Charter. Ms. Lafleur agrees to perform faithfully and dutifully the duties of the position of Town Manager.

C. Ms. Lafleur agrees to 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 prior approval of the Chair of the Board. It is recognized that the Town Manager must devote a great deal of time outside normal office hours to the business of the Town, and to that end Ms. Lafleur will be allowed to take, during normal office hours, reasonable time off for prolonged work hours as she shall deem appropriate.

D. Ms. Lafleur agrees to remain in the exclusive employ of the Town and not become employed by another employer while this Agreement is in effect, but may, with prior approval of the Board Chair, undertake activities designed to advance her professional reputation, even though she may be compensated therefor.

E. If Ms. Lafleur continues to serve as Town Manager after the expiration of this Agreement, and the parties have not agreed to a successor agreement, Ms. Lafleur shall continue to receive the salary she was most recently being paid under this Agreement with the same benefits she was receiving under this Agreement until such time as her salary and benefits shall be otherwise provided for by the Town or her employment is terminated. This sub-section shall survive the expiration of this Agreement.

**3. TERM OF AGREEMENT**

A. This Agreement shall be for a three (3) year period and shall take effect July 1, 2022, and remain in effect until June 30, 2025, subject to Section 3.

B. This Agreement may be renewed on the same terms and conditions as herein provided, or upon any amendment which the parties may mutually agree, for additional terms of three (3) years or less, unless the Board gives written notice to Ms. Lafleur of its intention not to renew this Agreement prior to 5:00 p.m. on December 31, 2024 (six months prior to the termination date provided herein). Ms. Lafleur shall notify the Town in writing of her intention to accept or reject such renewal within two (2) weeks of receipt of notice of same.

C. If the Board elects not to renew this Agreement, the Board agrees to provide Ms. Lafleur six (6) months' prior written notice of such non-renewal. In the event the Board fails to give six (6) months' notice of non-renewal prior to the expiration of this Agreement, the term of the Agreement shall be extended to permit the Board to provide Ms. Lafleur with six (6) months' notice of non-renewal. It is understood, however, that Ms. Lafleur shall remain subject to removal in accordance with Section 4 during any extension of this Agreement.

D. Nothing contained in this Agreement shall prevent, limit, or otherwise interfere with the right of Ms. Lafleur to resign at any time as Town Manager, subject only to the provisions set forth in Section 4D of this Agreement.

E. Nothing contained in this Agreement shall prevent, limit or otherwise interfere with the right of the Board to remove Ms. Lafleur from the office of Town Manager at any time, subject only to the provisions set forth in Sections 4A and 4B of this Agreement.

**4. REMOVAL OF TOWN MANAGER AND SEVERANCE PAY**

A. The Board may remove Ms. Lafleur at any time and for any reason not contrary to law, in accordance with the vote required by Section 7 of the Town Charter and subject to Section 4C of this Agreement.

B. In addition to the provisions of Section 7 which provides a process the Board shall follow if it wishes to remove Ms. Lafleur, the Board may terminate this Agreement and remove Ms. Lafleur from serving as Town Manager for "just cause," so long as the Charter is followed. Just cause shall mean a failure to meet agreed-upon objectives in a satisfactory manner or time, after reasonable written notice and an opportunity to correct such failure; malfeasance, misfeasance, nonfeasance, or any cause that renders Ms. Lafleur's continued

appointment as Town Manager detrimental to the discipline or efficiency of her office, and without limiting the generality of the foregoing shall include:

- (i) Failure to perform adequately the duties and responsibilities attendant to her position as Town Manager;
- (ii) Failure to comply with and/or disregard express instructions of the Board, to the extent such instructions were not inconsistent with the Charter or other applicable law; and
- (iii) Failure to conduct herself in a professional manner as expressed in the Code of Ethics of the International City Management Association.
- (iv) The inability to perform the essential functions of the position of Town Manager on a full-time basis with or without reasonable accommodation.

C. In the event the Select Board votes to remove Ms. Lafleur from the Office of Town Manager pursuant to Section 4A, the Board agrees to pay Ms. Lafleur a lump sum cash severance payment equal to six (6) months' salary (less any applicable payroll deductions), and Ms. Lafleur will have been deemed to waive the preliminary written resolution and public hearing outlined in Section 7 of the Charter. Ms. Lafleur shall also execute a full release of claims in a form acceptable to the Board. The Board shall have no obligation to pay the severance sum provided in this Section if Ms. Lafleur is removed for just cause pursuant to Section 4B of this Agreement.

D. Ms. Lafleur may resign her position as Town Manager at any time prior to the expiration of this Agreement; provided, however, that she gives the Board ninety (90) days prior written notice, unless the parties agree otherwise. During the 90-day period, after notice, the Town Manager shall continue to perform the duties of Town Manager unless the Select Board directs otherwise. Such resignation shall not preclude the Board from providing the severance sum enumerated in Section 4C, or such other severance amount the Board may determine (less any applicable payroll deductions).

## **5. DISABILITY**

If Ms. Lafleur is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity, or other failure of health, she shall be required to use all accrued paid leave prior to any unpaid leave. After four (4) weeks of successive or intermittent unpaid leave, consistent with applicable law, the Board shall have the right, then or at any time thereafter, to terminate this Agreement and Ms. Lafleur's employment based on her inability to perform the essential functions of the position of Town Manager in accordance with Section 4B (iv).

## **6. COMPENSATION**

A. Beginning upon her appointment, the Town shall pay Ms. Lafleur, for her services rendered pursuant hereto, a weekly base salary of \$4,326.92 (\$225,000 divided by 52

weeks), paid on a biweekly basis. Ms. Lafleur's base salary shall not be subject to a salary range.

B. Ms. Lafleur shall be eligible to receive a cost of living adjustment (COLA) to her annual base salary in the second and third year of this Agreement in an amount not to exceed the annual cost of living adjustment (COLA) provided to other non-union employees. Such salary adjustments shall take effect on July 1 of each fiscal year.

C. Ms. Lafleur shall be eligible to receive a merit bonus in consideration of the prior year's performance evaluation, in accordance with the provisions of Section 11. For satisfactory performance, she will earn a bonus of 3.5% of base salary. She has the opportunity to earn an additional bonus of up to 1.5% of base salary if her performance is deemed to be above satisfactory. Said merit bonus shall not be added to the following year's base salary.

D. Ms. Lafleur shall not be entitled to overtime or compensatory time. The position of Town Manager is an exempt position under the Fair Labor Standards Act.

E. Ms. Lafleur's salary shall not be reduced except by written mutual agreement between the parties.

F. On or before September 1 of each year of the Agreement, the Town shall make a payment of \$5,000 to Ms. Lafleur's account in one of the deferred compensation plans offered by the Town and selected by Ms. Lafleur (the "Deferred Compensation Account"), provided Ms. Lafleur was actively employed as of the July 1 immediately preceding the payment date. Ms. Lafleur shall notify the Town's Chief Finance Officer in writing of the Deferred Compensation Account in which the payment is to be made. For the purposes of this Section, a Deferred Compensation Account shall be deemed to include a 457 and Retirement Health Savings Account under United States Treasury Regulation 301.7701-1(a)(3).

## **7. PAID LEAVE AND OTHER BENEFITS**

A. Ms. Lafleur shall accrue twenty-five (25) days of paid vacation leave during each year of service, accrued and payable under the same terms and conditions as other senior management employees of the Town. If Ms. Lafleur's accrued vacation balance reaches thirty (30) days, she shall not accrue additional vacation leave unless approved by the Board Chair. Where policies applicable to other senior management employees of the Town only allow accrual and use of vacation leave at the discretion of the Town Manager, such benefits shall be subject to approval of the Board Chair. When the use of more than ten (10) consecutive workdays of vacation is planned, Ms. Lafleur shall consult with the Board Chair.

B. Ms. Lafleur shall be entitled to such sick, personal, holiday, bereavement and other leave benefits available to, and under the same terms and conditions as, the Town's other senior management staff; provided, however, that where policies applicable to other senior management employees of the Town only extend benefits at the discretion of the Town Manager, such benefits shall be subject to the approval of the Board Chair.

C. Ms. Lafleur shall be eligible to participate in the Town's group health, dental, life and long-term disability insurance and other benefit programs under the same terms and conditions as other senior management employees of the Town.

D. The Town agrees not to reduce any benefit for Ms. Lafleur during the term of this agreement unless such reduction is applied to all other senior management staff of the Town.

**8. ALLOWANCES**

A. Because the use of her personal automobile will be required for the performance of her duties, the Town agrees to provide Ms. Lafleur a vehicle allowance of \$231.00 per biweekly pay period (\$6,000 annually).

B. Because the use of personal mobile devices, computers, data plans, and other technology will be required for the performance of her duties, the Town agrees to provide Ms. Lafleur a technology allowance of \$46.15 per biweekly pay period (\$1,200 annually).

**9. REIMBURSEMENTS**

A. The Town shall reimburse Ms. Lafleur for all reasonable business expenses incurred in connection with the performance of her official duties provided reasonable and customary supporting documentation is supplied in accordance with the standard procedures of the Town.

B. The Town agrees to reimburse Ms. Lafleur \$5,000 towards the cost of purchasing an electric or plug-in electric vehicle. Once purchased, Ms. Lafleur agrees to regularly use an electric or plug-in electric vehicle for commuting and travel required in the performance of her duties. Ms. Lafleur shall be granted access to plug-in her vehicle at Town-owned charging facilities, during regular business hours, as needed, at no cost to her. The parties agree this provision may be accomplished by reimbursing Ms. Lafleur for the cost of charging her vehicle. Ms. Lafleur shall be responsible for all other costs associated with ownership, maintenance, and use of her vehicle.

**10. PROFESSIONAL DEVELOPMENT, DUES, AND SUBSCRIPTIONS**

The Town agrees to pay up to \$3,500 each year of the Agreement for professional dues and subscriptions as well as travel and subsistence expenses of Ms. Lafleur for professional and official travel to meetings and events, adequate to maintain Ms. Lafleur's professional development and to pursue necessary official and other functions of the Town, including but not limited to the Annual Conference of the International City Management Association, and such other national, regional, state and local government organizations and committees of which Ms. Lafleur is a member. Costs exceeding \$3,500 may be approved by the Board upon Ms. Lafleur's request.

**11. ANNUAL PERFORMANCE REVIEW**

A. Unless otherwise agreed to in writing by the parties, the Board shall review and evaluate the performance of Ms. Lafleur at least once annually. Such review and evaluation shall be in accordance with specific criteria developed jointly by the Board and Ms. Lafleur. Such criteria may be expanded or reduced as the Board may from time to time determine, after discussion with Ms. Lafleur. The Board shall provide Ms. Lafleur with a written summary statement of the findings of the Board regarding the review/ evaluation criteria and an adequate opportunity to discuss the evaluation with the Board. In the event the Board fails to complete an annual evaluation of Ms. Lafleur's performance before June 30<sup>th</sup> each year, her performance will be deemed satisfactory, and she shall be entitled to the merit bonus the Board awards to her under Section 6C.

B. Annually, no later than July 15th, after the Annual Town Meeting, the Board and Ms. Lafleur shall define in writing such goals and performance objectives as they determined desirable for the proper operation of the Town.

**12. INDEMNIFICATION**

The Town shall indemnify, defend, and save harmless Ms. Lafleur for acts performed by her in good faith and within the scope of her employment with the Town, including reimbursement for any reasonable attorneys' fees and costs incurred by her in connection with such claims or suits involving Ms. Lafleur in her professional capacity as Town Manager for the Town, in accordance with and to the extent permitted by G. L. c. 258. Said indemnification shall include alleged civil rights violations. The indemnification shall continue to apply to Ms. Lafleur after she leaves employment of the Town. The Town shall not defend, save harmless or indemnify Ms. Lafleur for any criminal act or for any intentional violation of civil rights of any person or for any claims arising under this Agreement. This paragraph shall survive the termination of this Agreement or the repeal of G. L. c. 258, §13.

**13. SURETY BONDS**

A. The Board agrees to bear the full cost of any surety or other bonds required of Ms. Lafleur by reason of her appointment as Town Manager under State law, Town Charter or bylaw.

**14. GENERAL PROVISIONS**

A. No modification of this Agreement shall be valid unless it shall have been made in writing and executed by both parties. No other agreement, either oral or written, will be considered to exist or to bind the parties on matters covered by this Agreement.

B. This Agreement shall be construed and governed by the Laws of the Commonwealth of Massachusetts and by the Town Charter.

C. If any clause or provision of this Agreement is determined to be illegal or void, the remainder of the Agreement shall not be affected thereby.

D. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Ms. Lafleur.

E. Ms. Lafleur understands and agrees that all compensation and benefits provided under this Agreement are subject to appropriation from year to year by the Town, and Ms. Lafleur shall have no rights hereunder in the absence of such appropriation.

F. Notices pursuant to this Agreement shall be given in writing by first class mail, postage prepaid, to:

Town: Chair of the Select Board  
Town of Concord  
22 Monument Square  
Concord, MA 01742

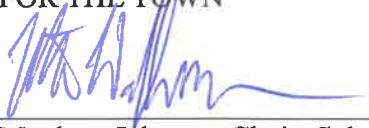
Ms. Lafleur: to Ms. Lafleur's last known residential address on file with the Town's Human Resources Department

IN WITNESS WHEREOF, the Chair of the Board, on behalf of the Town, and Ms. Lafleur have signed and executed this Agreement, in two counterparts, one of which shall be retained by Ms. Lafleur, and one of which shall be retained by the Town Clerk.

EMPLOYEE

  
\_\_\_\_\_  
Kerry A. Lafleur, Town Manager

FOR THE TOWN

  
\_\_\_\_\_  
Matthew Johnson, Chair, Select Board