

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

**FILE COPY**

THIS AGREEMENT, made and entered in accordance with Chapter 41, Section 108N of the Massachusetts General Laws this eighteenth day of March, 2014 by and between the Town of Douglas, Massachusetts, a municipal corporation, acting by and through its Board of Selectmen, who act hereunder in their representative capacity only and without personal liability to themselves, hereinafter called "Town" or "Board", as party of the first part, and Michael J. Guzinski, hereinafter called "Town Administrator", as party of the second part, both of whom understand as follows:

**WITNESSETH:**

WHEREAS, the Board desires to employ the service of said Michael J. Guzinski as Town Administrator of the Town of Douglas; and

WHEREAS, the Board, under Chapter 41, Section 108N of the General Laws, and under Section 1-1 of Chapter 145 of the Acts of 2009, "An Act Establishing a Town Administrator and a Municipal Finance Department in the Town of Douglas", may contract with the Town Administrator for such services; and

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

WHEREAS, it is the desire of the Board to retain the services of the Town Administrator, and to provide inducement for him to remain in such employment; and

WHEREAS, the Town Administrator represents that he is qualified and capable of performing the duties and responsibilities of said position, and

WHEREAS, Michael J. Guzinski desires to continue his full time employment as Town Administrator of said Town and to use his best efforts, skills, abilities and training to carry out the duties and responsibilities;

NOW THEREFORE, in consideration of mutual covenants herein contained, the parties agree as follows:

## **SECTION 1. FUNCTIONS AND DUTIES OF THE TOWN ADMINISTRATOR**

The Town hereby offers to employ said Michael J. Guzinski as Town Administrator of said Town, and the Town Administrator accepts said offer. The Town Administrator shall be the Chief Administrative Officer of the Town. The Town Administrator shall perform the duties specified in Chapter 145 of the Acts of 2009, "*An Act Establishing a Town Administrator and a Municipal Finance Department in the Town of Douglas*", as well as all applicable bylaws, rules and regulations, votes of the Board of Selectmen, general or special laws, and to perform such other legally permissible and proper duties and functions as the Board of Selectmen shall from time to time assign and/or are normally within the range of duties and responsibilities performed by a person holding the position of Town Administrator.

## **SECTION 2. TERM**

A. The term of this contract shall be from July 1, 2014 until June 30, 2018. The Town Administrator agrees to remain in the exclusive employ of the Town until June 30, 2018 and neither to accept other employment nor to become employed by any other employer until said termination date, unless said termination date is affected as hereinafter (Subject to Section 3 Paragraph F).

The term "employed" shall not be construed to include occasional teaching, writing, or consulting performed on Town Administrator's time off so long as the same does not interfere with the obligations the Town Administrator has to the Town or is adverse to the interests of the Town.

B. At least seven (7) months in advance of the expiration date of this agreement, the Town Administrator shall notify the Board in writing of the approach of the expiration date of the agreement, and the renewal provision of this agreement as specified in Section 2.C below. The parties agree to meet and confer beginning at least seven (7) months prior to the expiration date of this agreement for the purpose of discussing the continuation of the employment relationship, and to negotiate the terms of a successor agreement. It is understood by the parties that the objective of this clause is to enable the parties to know at least six (6) months prior to the expiration of this agreement whether the parties are to continue in an employment relationship, so that each may, if necessary, have the maximum amount of advance notice if the relationship is not to continue. To that end, each party agrees to act in good faith in meeting the time periods in this clause; however, the parties may agree to another time period(s). Any such agreement shall be in writing and signed by both parties.

C. Unless the Board decides by majority vote by December 31, 2017 to not renew this agreement with the Town Administrator for a successive term commencing July 1, 2018, then this agreement is deemed to continue in full force and effect for one (1) additional year, subject to any modifications in the Town Administrator's salary or their benefits which may be in force. Should the Board vote to not renew this agreement, the

Town Administrator shall be entitled to reasonable time away from the office, not to exceed ten (10) hours per week, without loss of any compensation to search for other employment.

D. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the Board of Selectmen to suspend and/or terminate the services of Town Administrator at any time, subject only to the provisions set forth in Section 3, paragraphs A, B, and C of this agreement, the provisions of the "Act Establishing a Town Administrator and a Municipal Finance Department in the Town of Douglas", and any other applicable law.

### **SECTION 3. SUSPENSION, TERMINATION & SEVERANCE PAY**

A. The Board may suspend the Town Administrator for just cause, stated in writing, with full pay and benefits at any time during the term of this agreement.

B. The Town Administrator may be terminated by the Board for just cause, stated in writing. The Town Administrator shall be entitled to a hearing on any said cause prior to being terminated and shall have the right to be represented by his legal counsel.

C. In the event that the Town Administrator is terminated by the Board before expiration of the aforesaid term of employment, then in that event the Board agrees to pay the Town Administrator a lump sum cash payment equal to one hundred eighty (180) days aggregate salary plus accrued and unused vacation time, which amount shall be paid to the Town Administrator on or before the effective date of termination of his employment.

D. In the event that the Town Administrator is terminated because of his conviction of a felony, the Town shall have no obligation to pay the aggregate salary sum designated in this section.

E. In the event that the Town Administrator resigns following a request by a majority of the Board that he resign, then, in that event, the Town Administrator may, at his option within thirty (30) calendar days of the event, be deemed to be terminated and the severance pay provision as stated in Section 3, paragraph C shall be applicable.

F. In the event the Town Administrator voluntarily resigns his position with employer before expiration of the aforesaid term of employment, then the Town Administrator shall give the Board ninety (90) days notice in advance unless the parties otherwise agree in writing, signed by both parties. In the event that the Town Administrator voluntarily resigns, he shall not be eligible for severance benefits set forth in Section 3, paragraph C except for lump sum payment for accumulated vacation leave and any other leave buy-back provisions as may apply to non-union employees of the Town.

G. The acceptance by the Town Administrator of the severance pay provided hereunder shall constitute a complete and full release of any other rights, claims or causes of action, whether in law, equity or otherwise, the Town Administrator may have against the Town, its officers, agents, officials or employees for actions undertaken while in the performance of their duties. However, the Town Administrator shall not have been deemed to have waived his rights to workers compensation benefits and unemployment benefits.

H. For the purposes of suspension, termination of employment or removal from office, the definition of just cause includes, but is not limited to the following:

1. MALFEASANCE. Defined as wrongdoing or misconduct by a public official or the commission of an act that is positively unlawful.
2. MISFEASANCE. Defined as the doing of a lawful act in an unlawful manner.
3. NONFEASANCE. Defined as the failure to perform assigned duties.
4. INSUBORDINATION. Defined as the intentional failure to carryout a lawful order of the Board.

I. Subsection C of this Section shall survive any termination of this Agreement.

#### **SECTION 4. SALARY**

A. All salary and fringe benefits provided in this agreement and obligations of the parties are subject to annual appropriation through the budget process, except for severance pay, which shall nonetheless be an obligation of the Town under this contract.

B. Subject to the terms and conditions of this agreement, the Town agrees to pay the Town Administrator for his services rendered pursuant hereto in accordance with Exhibit A, payable in installments at the same time and in the same manner as other employees of the Town are paid.

C. The salary of the Town Administrator for Fiscal Years 2015-2019 shall be as outlined in Exhibit A "Salary Schedule". Step Increases, as outlined in Exhibit A, shall be granted to the Town Administrator on an annual basis (effective July 1<sup>st</sup>) contingent upon a satisfactory annual review. The granting of step increases shall also be contingent upon step increases being granted to eligible full-time non-union Town employees. The "Salary Schedule" shall be adjusted annually in accordance with any cost of living adjustments (COLA) granted to full-time non-union employees of the Town.

D. If the Town Administrator continues in office after the expiration of this Agreement, and there is no successor agreement, he shall continue to receive the latest salary under this Section until such time as his salary shall be otherwise provided for by the Town. This Subsection shall survive the termination of this Agreement.

## **SECTION 5. PERFORMANCE EVALUATION**

A. On or before December 1, 2014, and annually thereafter, the Board shall meet with the Town Administrator to define a set of goals and objectives, which they determine necessary for the proper operation of the Town and attainment of the Board's policy objectives. The Board shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual and capital budgets and appropriations provided.

B. The Board shall review and evaluate the performance of the Town Administrator at least once annually in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed by the Board and the above-referenced goals and performance objectives set during the previous year. The Town Administrator shall have an opportunity to participate in the development of said criteria. Further, the Chairman of the Board shall provide the Town Administrator with a summary written statement of the evaluation findings of the Board and provide an adequate opportunity for the Town Administrator to discuss his evaluation with the Board. If the Board determines that the performance of the Town Administrator is unsatisfactory in any respect, they shall clearly describe in writing and in detail, specific instances of unsatisfactory performance. The evaluation shall include specific and clear recommendations and timetables as to areas of improvement in all instances where the Board deems performance to be unsatisfactory. The individual evaluation of Board members and the summary evaluation shall be made part of the Town Administrator's personnel file, subject to Section 23(e) of Chapter 30A of the Massachusetts General Laws.

C. In effecting the provisions of this Section, the Board and the Town Administrator, mutually agree to abide by the provisions of applicable law.

## **SECTION 6. HOURS OF WORK**

Due to the unique nature of this employment, it is understood and agreed that in order to properly perform the job, the Town Administrator will be required to expend additional time beyond the normal work day, and the Town Administrator agrees to do same as is required. Such additional time includes but is not limited to time required to represent the Town at various meetings and events, meetings with the Board and other Town boards, commissions, departments, and time necessitated by emergency situations. It is acknowledged that the position of Town Administrator is that of an executive nature as that term is defined in the Fair Labor Standards Act and its rules and regulations. Accordingly, there shall not be paid overtime or additional compensation for said additional time. It is further understood that the Town Administrator's work hours shall be flexible in recognition of the additional time he may spend beyond the normal work day in the conduct of the Town's business.

## **SECTION 7. OUTSIDE ACTIVITIES**

The Town Administrator shall not spend more than ten (10) hours per week in teaching, counseling or other non-Employer connected business without the prior approval of the Board.

## **SECTION 8. BENEFITS: HEALTH, DENTAL AND LIFE INSURANCE; VACATION, SICK LEAVE; VEHICLE ALLOWANCE**

A. The Town agrees to provide health, dental and life insurance for Town Administrator and his dependents at a contribution rate equal to that extended to other employees of the Town.

B. The Town Administrator shall be entitled to six (6) weeks paid vacation per contract year. A week shall be defined as five (5) working days. A maximum of three (3) weeks of unused vacation days may be carried over from one year to another. Any unused vacation leave remaining at the expiration of this Agreement (up to a maximum of three [3] weeks) shall carry over and be credited to the Town Administrator if this Agreement is extended.

C. The Town agrees to provide the Town Administrator with holidays, personal days, and sick days in accordance with the Town's Personnel Policies. In addition, any unused sick days that were credited to the Town Administrator during prior contract terms shall carry over to this contract and be usable by the Town Administrator.

D. Subject to annual budgetary appropriation, the Town agrees to provide a monthly vehicle allowance of three hundred dollars (\$300), payable at the end of each month of employment. This stipend shall cover any and all costs associated with the usage of the Town Administrator's personal vehicle while conducting official business for the Town or while representing the Town in any manner.

E. Subject to annual budgetary appropriation, the Town agrees to pay for the purchase and monthly maintenance of a cell phone for the Town Administrator for his professional and personal use. The Town Administrator may, at his own discretion, purchase the cell phone from the Town.

## **SECTION 9. DUES, SUBSCRIPTIONS, AND GENERAL EXPENSES**

Subject to annual budgetary appropriation, the Town agrees to pay for the professional dues, subscriptions, and conference expenses of the Town Administrator necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continuous professional participation, growth and advancement, and for the good of the Town. Such dues shall be limited, unless otherwise agreed to by the Board, to ICMA, MMMA, MMPA, and one civic organization of the Town Administrator's choice. The Town Administrator shall also be

reimbursed for any 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.

#### **SECTION 10. INDEMNIFICATION**

To the extent permitted by law, 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, except for claims or damages arising from the grossly negligent acts of the Town Administrator, even if said claim has been made following his termination from employment. The Town shall pay the amount of any settlement or judgment rendered thereon. The Town may in its discretion 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 pay all costs and expenses related thereto, including attorney fees. This indemnification shall also apply to the Town Administrator after he leaves the employment of the Town.

This section shall survive the termination of this Agreement.

#### **SECTION 11. BONDING**

The Town shall bear the full cost of any fidelity or other bonds required of the Town Administrator.

#### **SECTION 12. OTHER TERMS AND CONDITIONS OF EMPLOYMENT**

A. Subject to this agreement, the Board, after discussion with the Town Administrator, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance, duties and responsibilities of the Town Administrator, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement, the Act Establishing a Town Administrator and a Municipal Finance Department in the Town of Douglas, or any other law.

B. All provisions of the Town relating to Earned Leave, Retirement and Pension System Contributions, and other fringe benefits and working conditions as they now exist or hereafter may be amended, also shall apply to the Town Administrator as they would to other employees of the Town, in addition to said benefits enumerated specifically for the benefit of the Town Administrator except as herein provided.

C. This Agreement shall prevail over any conflicting personnel provisions of the Town By-Laws or Rules and Regulations.

### **SECTION 13. 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 across the board for all other employees of the Town under the Board of Selectmen's jurisdiction.

### **SECTION 14. NOTICES**

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, sent via certified mail, postage prepaid, addressed as follows:

**1. Town:**

Chairman, Board of Selectmen

Municipal Center

29 Depot Street

Douglas, MA 01516

Home Address of Chair and Vice Chair of the Board of Selectmen

**2. Town Administrator:**

Michael J. Guzinski

8 Chad Michael Court

Blackstone, MA 01504

Alternatively, notices required pursuant to this agreement may be served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or left at the last and usual place of abode of the Town Administrator or as of date of deposit of such written notice in the course of transmission in the United States Postal Service.

### **SECTION 15. GENERAL PROVISIONS**

A. The text herein shall constitute the entire agreement between the parties except to the extent that other documents are referred to herein which documents shall be deemed to be incorporated by reference herein.

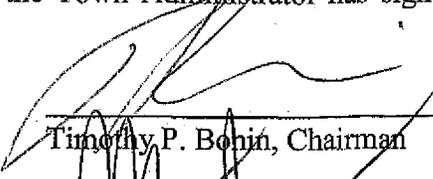
B. The agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Town Administrator.

C. If any provision or any portion thereof, contained in this agreement is held unconstitutional, 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 and effect.

D. For the purposes of the Fair Labor Standards Act, the Town Administrator shall be an "exempt employee."

E. The failure of a party to insist on strict compliance with a term or provision of this agreement shall not constitute a waiver of any term or provision of this agreement.

IN WITNESS WHEREOF, the Town of Douglas, 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.

  
\_\_\_\_\_

Timothy P. Bonin, Chairman

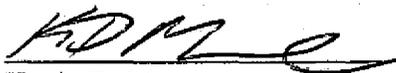
Michael D. Hughes, Vice-Chairman

  
\_\_\_\_\_

Keith F. Brown

  
\_\_\_\_\_

Harold R. Davis

  
\_\_\_\_\_

Kevin D. Morse

BOARD OF SELECTMEN  
DOUGLAS, MASSACHUSETTS

18 March 14

Date

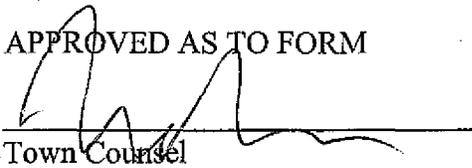
ATTEST:

  
\_\_\_\_\_

Town Clerk

(Seal)

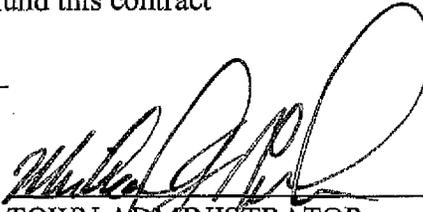
APPROVED AS TO FORM

  
\_\_\_\_\_

Town Counsel

I certify there is an appropriation to fund this contract

\_\_\_\_\_  
Town Accountant

  
\_\_\_\_\_

TOWN ADMINISTRATOR

3-18-14

Date

# EXHIBIT A

## Salary Schedule

Per Section 4. SALARY

(Each Step equals 2.25% increase)

(Steps shall be annually adjusted in accordance with non-union COLA's)

**Step 1**                      **\$110,129**  
(Beginning July 1, 2014)

**Step 2**                      **\$112,607**

**Step 3**                      **\$115,141**

**Step 4**                      **\$117,732**