

CONTRACT FOR TOWN MANAGER SERVICES

by and between

TOWN OF ANDOVER, MASSACHUSETTS

and

REGINALD S. STAPCZYNSKI

## CONTRACT FOR TOWN MANAGER SERVICES

### TOWN OF ANDOVER, MASSACHUSETTS

This AGREEMENT pursuant to Massachusetts General Laws, Chapter 41, Section 108N, is made and entered into by and between the Town of Andover, Commonwealth of Massachusetts, a municipal corporation, acting by and through its Board of Selectmen (hereinafter called "the Board"), who act hereunder in their representative capacity only and without any personal liability to themselves, as party of the first part, and Reginald S. Stapczynski, hereinafter the "Town Manager", as party of the second part, both of whom understand as follows:

#### WITNESSETH:

WHEREAS, The Town of Andover, Massachusetts, through its Board of Selectmen duly authorized, seeks to provide for the services of a competent and professional Town Manager for the general purposes of successfully performing the functions of that office pursuant to requirements of the Town Charter (Charter 571 of the Acts of 1956) and other laws of the Commonwealth of Massachusetts and otherwise satisfactorily achieve the legislative and policy objectives of the Board of Selectmen and Town Meeting as specified by those bodies and as may be modified from time to time by their official acts; and

WHEREAS, Reginald S. Stapczynski seeks to be re-appointed as the Town Manager of Andover and execute the duties and responsibilities of that office and otherwise perform to the reasonable satisfaction of the Board of Selectmen.

NOW, THEREFORE, IT IS VOTED BY THE BOARD OF SELECTMEN OF THE TOWN OF ANDOVER that Reginald S. Stapczynski be re-appointed to the position of Town Manager of the Town of Andover in accordance with the provisions of the Town Charter.

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

**1. COMPENSATION.**

The parties agree that the annual salary of the Town Manager for fiscal year 2011 (ending June 30, 2011) is defined in Section 9 of this agreement. Adjustments to the Town Manager's compensation are defined in Section 9 and modifications to compensation will be reviewed and considered annually, by the Board of Selectmen, on the basis of an annual review of the Town Manager in accordance with the provisions of this Agreement.

**2. PERFORMANCE EVALUATION.**

A. The Board shall review and evaluate the performance of the Town Manager annually. Said review and evaluation shall be in accordance with specific criteria, such criteria to be developed jointly by the Town Manager and Board by August 1 annually. Said criteria may be amended as the Board may from time to time determine, in consultation with the Town Manager. The Board shall provide the Town Manager with an annual summary written statement of attainment of the prior fiscal year objectives by August 1, commencing in August, 2011, except that during the final year of this contract such statement shall be provided within two weeks of the contract termination date. The Board shall provide an adequate opportunity for the Town Manager to discuss his evaluation with the Board.

B. Annually by August 1, the Board and the Town Manager shall define in writing such goals and performance objectives that they determine necessary for the proper and efficient operation of the Town of Andover and for the attainment of the Board's policy objectives and shall further establish a relative priority among those goals and objectives. The goals and objectives shall generally be such as are reasonably attainable within the time limitations as specified, the appropriations provided, and circumstances within the Town Manager's control. The Board and the Town Manager shall meet every six months to review the progress of said goals and performance objectives.

**3. FRINGE BENEFITS.**

The following fringe benefits shall apply to the Town Manager:

A. Vacation, Bereavement, Personal Days, and Sick Days. The Town Manager shall receive four weeks paid leave per fiscal year, which leave shall include vacation and personal days.

The annual leave becomes effective July 1<sup>st</sup> of each fiscal year. Vacations should be taken in the fiscal year in which they accrue. Commencing July 1, 2010 there shall be no annual accumulation. Subject to the terms and conditions of this Agreement, upon termination or expiration of this Agreement for any reason, the Town Manager shall be paid in one lump sum for the unused leave accrued during the fiscal year in which the termination occurs, pro-rated, (except sick leave) and for all carryover leave (except sick leave) from fiscal years prior to that commencing on July 1, 2010. The Town Manager shall receive five days sick leave per fiscal year, such total to accrue upon the commencement of the fiscal year in question. The Town Manager is authorized to take bereavement leave as may be required.

B. Health Insurance. The Town shall pay 65% of all premiums for a family plan under Blue Cross/Blue Shield Medical Insurance or other equivalent plans which may be offered to Town employees. The balance remaining shall be deducted from the Town Manager's pay. Should the Town enter into a contract with any group of employees under which the Town agrees to pay a higher percentage of premiums for a family plan under Blue Cross/Blue Shield Medical Insurance or other equivalent plan, both parties have the option of requesting re-negotiation of this provision for the purpose of revising the Town's payment obligation.

C. Disability Insurance. The Town Manager does not belong to or have access to the employee Sick Leave Bank. The Town agrees to purchase disability insurance for the Town Manager to the maximum allowable up to and not to exceed premiums of \$150.00 a month.

D. Life Insurance. The Town shall provide the Town Manager with a renewable term life insurance policy paid for by the Town in an amount equal to his annual salary.

E. Effect of Termination. If the Town Manager's employment is terminated by the Board under this Agreement, the Town Manager shall remain on the Town's health, disability and life insurance plans until the effective date of said termination. The Town also agrees to permit the Town Manager to remain enrolled in the Town's health insurance plan for a further eighteen (18) months after the expiration of this Agreement or after the Town Manager's termination, provided that the Town Manager remits to the Collector-Treasurer the maximum allowed by law of the insurance premiums attributable to his enrollment, monthly and in advance. If termination is based

on the Town Manager's engaging in any criminal offense, violation of the State Ethics Law, embezzlement, fraud, conduct involving moral turpitude, or as a result of willful failure to perform his duties and responsibilities as Town Manager, the preceding health care and associated benefits may be rescinded at the time of termination at the discretion of the Board. Nothing contained herein shall restrict the Town Manager's rights, if any, under the federal law known as "COBRA".

**4. EXPENSE ACCOUNT.**

The Town shall provide the Town Manager with an expense account for all official and necessary functions in his office. Said sum shall be determined by the Board of Selectmen from time to time and shall not exceed the amount appropriated and approved in the annual Town Manager's operating budget. Out-of-state travel expenses will be determined by vote of Town Meeting. Any expenses which directly pertain to Town related activities, such as Massachusetts Municipal Association activities and similar activities and memberships, are eligible for reimbursement hereunder. Personal affiliations, memberships, and other non-Town related expenses are not reimbursable.

**5. RETIREMENT.**

A. Membership in the Massachusetts Contributory Retirement System is mandatory for all permanent full-time employees, including the Town Manager.

B. The Town authorizes the Town Manager to participate in and contribute to the ICMA Retirement Program, a/k/a Deferred Compensation Program.

**6. PROFESSIONAL DEVELOPMENT.**

Subject to approval of the Board, the Town shall pay for the cost and expenses for the Town Manager's professional development. Expenses associated with professional development cannot exceed \$2,000.00 in a calendar year without prior written authorization of the Board acting in its discretion.

**7. INDEMNIFICATION.**

The Town shall indemnify, hold harmless, and defend the Town Manager against any claim, liability, demand, judgment, or other legal action, groundless or otherwise, arising out of, or relating to, the Town Manager's performance of his duties and responsibilities, to the full extent authorized

by G.L. c. 258, § 9 or other applicable law. The Town agrees that its obligation to indemnify as set forth in the immediately preceding sentence shall apply to all such claims, liabilities, demands, judgments, or other legal actions, groundless or otherwise, whether such are brought during the Town Manager's employment or after his employment has terminated, provided that such arise out of the Town Manager's performance of his duties and responsibilities. The Town further agrees that with respect to all such claims, liabilities, demands, judgments, and other legal actions it shall make available to the Town Manager during and after his employment such insurance coverage as it then has in place for other present and former Town officials with respect to the performance of their duties and responsibilities, and shall furnish notice of any such claims, liabilities, demands, judgments, and other legal actions to the Town's insurer. The Town Manager agrees to cooperate with the Town and with its insurers in defending any such claim, liability, demand, judgment or other legal action, including but not limited to providing timely notification to the Town of any such claim, liability, demand, judgment or other legal action of which he becomes aware. The Town Manager further authorizes the Town to resolve or settle any such claim, liability, demand, judgment or other legal action in its discretion.

**8. DURATION AND TERMINATION OF AGREEMENT.**

A. The term of this Agreement shall be for five years, commencing July 1, 2010 and ending June 30, 2015, and may be renewed in increments of five (5) year periods thereafter in accordance with the provisions of this Agreement, the Town Charter and other laws of the Commonwealth of Massachusetts. This Agreement, subject to such modifications as provided for herein and subject to the provisions regarding termination of the Agreement herein and in the Town Charter, shall remain in force and effect throughout the duration of the appointment (July 1, 2010 to June 30, 2015) of Reginald S. Stapczynski as the Town Manager of the Town of Andover.

B. The Board may terminate the services of the Town Manager in accordance with the Town Charter, except that the Board shall provide the Town Manager with a written notice of its intent to terminate his services, and cancel this Agreement and the reasons therefor a minimum of ninety (90) days in advance of such actions being officially taken. If the termination of the Town Manager is involuntary, he shall be compensated with ninety (90) days gross pay as severance pay

and is to be paid in one lump sum. Upon termination, all accumulated vacation and leave shall be paid in one lump sum, in accordance with Section 3, above. Termination of employment and cancellation of this Agreement shall otherwise be in accordance with provisions of the Town Charter and all other applicable laws. Any severance obligation of the Town under this Agreement shall survive the termination of this Agreement. If termination is based on the Town Manager's engaging in any criminal offense, violation of the State Ethics Law, embezzlement, fraud, conduct involving moral turpitude, or as a result of willful failure to perform his duties and responsibilities as Town Manager, the preceding severance pay and associated benefits may be rescinded at the time of termination subject to the direction of the Board acting in its discretion.

C. Should the Board decide not to renew this Agreement at the end of any five (5) year period as defined above, the Board shall provide the Town Manager with a written notice of its intent not to renew at least ninety (90) calendar days prior to the expiration date of this Agreement.

D. The Town Manager may terminate his employment or otherwise cancel this Agreement with the Town of Andover upon ninety (90 days) written notice to the Board, a copy of said resignation and notice of cancellation to be placed on file with the Town Clerk. Upon such termination, or death of the Town Manager, accumulated vacation and leave pay shall be paid in one lump sum, in accordance with Section 3, above.

## **9. COMPENSATION.**

The Town Manager's base salary for the fiscal year commencing July 1, 2010 shall be \$144,546. In addition, the Town Manager shall be eligible for a bonus in an amount of up to 1.5% of base salary for FY 2011, based upon the attainment of the goals and performance objectives referred to in Section 2 B, above. Such eligibility shall be conditioned on the Town Manager being employed for the entire fiscal year in question, unless otherwise mutually agreed to in writing by the parties. The Town Manager shall also be eligible for a merit increase in an amount of up to 2.5% of base salary, based upon the attainment of the goals and performance objectives referred to in Section 2 B, above. Any such merit increase shall be added to the Town Manager's current base salary in order to establish his base salary for FY 2012 and shall result in no other rights or payments. The annual goals and objectives, and the merit increase amount and bonus amount

attributable to the attainment of such goals and objectives, shall be set forth in the document referred to in Section 2 B, above. . The amount of any such merit increase and of any such bonus based on the attainment of goals and performance objectives during FY 2012 shall be determined on or before August 1, 2011 by the Board, subject to the condition of the general economy and the Town's fiscal condition. The foregoing provisions regarding the establishment of goals and objectives; of the amount, if any, of a bonus or a merit increase; and of the amount of base salary for the ensuing fiscal year, shall also apply to fiscal years beyond FY 2012 covered by this Agreement..

**10. GENERAL PROVISIONS.**

A. This Agreement may be amended in writing at any time by mutual consent of the parties except as otherwise provided for herein.


B. If any portion of this Agreement is in conflict with any provision of the Town Charter, the requirements of the Charter shall govern. Neither party shall be deemed to have reduced or waived any of its rights, duties or obligations as provided for by virtue of having entered into this Agreement.


C. Should any section, paragraph, sentence, clause, phrase or word of this Agreement be declared invalid by a proper authority, such declaration shall not affect the remaining portions of this Agreement.

D. This Agreement shall take effect as of July 1, 2010.

THE TOWN OF ANDOVER, BY ITS BOARD OF  
SELECTMEN

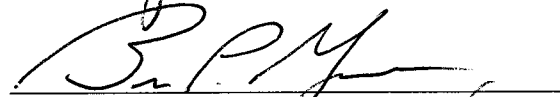
  
Reginald S. Stapczynski, Town Manager

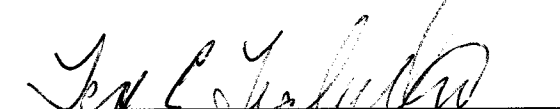
  
Alex J. Wispoli, Chairman

  
Mary K. Lynch, Vice-Chairman


A TRUE COPY ATTEST

Entered this 8<sup>TH</sup> day of November, 2010  
by the Board of Selectmen on a vote of  
5 to 0 at a regular meeting  
held at the Town Offices, Andover, MA.

  
Brian P. Major, Secretary

  
Ted E. Teichert

  
Lawrence J. Murphy, Town Clerk

  
John P. Hess