

TOWN MANAGER – EMPLOYMENT AGREEMENT

THIS AGREEMENT pursuant to Massachusetts General Laws, Chapter 41, Section 108N, made and entered into this 31 day of October, 2022, by and between the Town of Sandisfield (“the Town”), Commonwealth of Massachusetts, a municipal corporation, acting through its Select Board as party of the first part, and Jonathan Sylbert of Monterey, Mass. (“Mr. Sylbert”), as party of the second part, both of whom understand as follows:

WHEREAS, the Town desires to employ the services of said Mr. Sylbert as Town Manager (“Town Manager”) of the Town of Sandisfield, and

WHEREAS, it is the desire of the Select Board to provide certain benefits, establish certain conditions of employment and to set working conditions of Mr. Sylbert; and

WHEREAS, it is the desire of the Select Board to (1) secure and retain the services of Mr. Sylbert and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Mr. Sylbert’s morale and peace of mind with respect to future security, (3) to act as a deterrent against malfeasance or dishonesty for personal gain on the part of Mr. Sylbert; and (4) to provide a just means for terminating Mr. Sylbert’s services at such time as he may be unable fully to discharge his duties due to disability or when the Town may otherwise desire to terminate his employ; and

WHEREAS, Mr. Sylbert desires to accept employment as Town Manager of Sandisfield, beginning at a mutually agreed on number of days after the date of execution of this Agreement;

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

SECTION 1. DUTIES

A. The Town hereby agrees to employ Mr. Sylbert as Town Manager of Sandisfield to perform the functions and duties specified in the Town Bylaws (including those duties to be performed by a Town Administrator), those obligations specified in Attachment A, “Town Manager Job Description,” and to perform other legally permissible and proper duties and functions as the Select Board shall from time to time assign.

B. The Town hereby agrees to the principle of noninterference in the administration as necessary to the orderly and efficient implementation of Select Board policy and agrees to direct concerns and communications to the administration through Mr. Sylbert. Mr. Sylbert agrees to respond promptly to all inquiries from the Select Board whether made individually or collectively.

C. Mr. Sylbert shall devote the amount of time necessary to effectively, professionally and diligently discharge the duties of the office, and manage the affairs of the Town and the employees under his supervision. The work week shall include evening and/or weekend hours for attendance at all meetings of the Select Board, Annual and Special Town Meetings as well as periodic meetings of other Boards and Committees, as well as relevant and affiliated meetings of

other organizations. The Town Manager is an exempt employee under the Fair Labor Standards Act and is not entitled to receive overtime.

SECTION 2. TERMS

A. This Agreement shall commence on the date written above and shall end on June 30, 2023, with an option to extend the agreement annually for two (2) consecutive years, until June 30, 2025, subject to compensation set forth below.

B. Compensation. Subject to appropriation, the Town agrees to pay Mr. Sylbert for his services rendered an annual base salary of \$85,000 for Fiscal year 2024, and an annual base salary of \$90,000 for Fiscal Year 2025, payable in installments at the same time as other employees of the Town are paid.

In addition, the Town agrees to increase said base salary and/or other benefits of Mr. Sylbert in such amounts and to such extent as the Town may determine that it is desirable to do so made at the same time as similar consideration is given other employees generally. Beginning on July 1, 2022, and each subsequent year of the agreement, Mr. Sylbert will receive the same annual COLA increase in salary as approved by the Select Board for Department Heads, unless a different increase in salary is approved by the Annual Town Meeting.

C. Mr. Sylbert agrees to remain in the exclusive employ of the Town until June 30, 2025, and neither to accept other employment nor to become employed by any other Town or organization until said termination date, unless said termination date is affected as hereinafter.

The term “employed” shall not be construed to include occasional teaching, writing, consulting or military reserve service performed on Mr. Sylbert’s time off. Also excluded from the term “employed” shall be the conduct of a private business that has no relation or conflict with the Town as decided by the Select Board.

D. If the Town has not found a town manager to replace Mr. Sylbert by June 30, 2025, then the Town may extend this Agreement by a period of 60 days. Written notice of such extension must be provided to Mr. Sylbert no later than 30 days prior to the expiration of the Agreement. If another extension of this Agreement is needed at the end of this 60 day period, the Town must again provide Mr. Sylbert with at least 30 days’ written notice of such further extension.

SECTION 3. SUSPENSION

The Town may suspend Mr. Sylbert with full pay and benefits at any time during the term of this Agreement. If, after a public hearing for which Mr. Sylbert has been provided written notice setting forth any charges at least ten days in advance, a majority of the Select Board votes to suspend Mr. Sylbert for just cause, the Select Board may suspend Mr. Sylbert without pay until further notice. Nothing herein shall limit the Select Board’s authority to suspend Mr. Sylbert without pay for just cause and after a hearing before the Select Board.

SECTION 4. TERMINATION AND SEVERANCE PAY

Either party as below may terminate this Agreement, by:

- A. Mutual written Agreement – signed by the Town and the Town Manager, on such terms and conditions as may be acceptable to both parties at the time of such Agreement.
- B. The parties mutually agree that the terms of this or any successor Agreement, with the exception of automatic extension, shall remain in full force during subsequent negotiations unless and until changes, if any, are agreed upon, put in writing and executed by both parties. The parties may mutually agree to negotiate any terms and conditions of this Agreement at any time. In the event of non-renewal of this Agreement with thirty (30) or more days' notice by the Select Board, the Town agrees to pay Mr. Sylbert the equivalent of any accrued and unused vacation and sick leave benefits, less any applicable payroll deductions.
Non-renewal of this Agreement upon its natural expiration shall not be considered termination and just cause shall not be required for such non-renewal.
- C. Termination Without Just Cause – In the event this Agreement is terminated by the Select Board without just cause and before expiration of the then applicable term of employment and during such time that Mr. Sylbert is willing and able to perform his duties under this Agreement, then in that event the Town agrees to pay Mr. Sylbert a lump sum severance payment equal to the remainder of Mr. Sylbert's term of employment, but not less than six (6) months, to be paid at the highest rate of pay during his term of Town employ, including the equivalent of any accrued and unused vacation and sick leave benefits, less any applicable payroll deductions.
- D. Resignation or Retirement. In the event the Town Manager voluntarily resigns his position with the Town before expiration of the aforesaid term of his employment, then Mr. Sylbert shall give the Town at least 30 days' notice in advance, unless the parties otherwise agree. In the event of resignation or retirement in good standing, he shall receive the equivalent of all accrued and unused vacation and sick leave benefits. All severance pay shall only be made upon the execution of a full release of any and all claims against the Town, as well as compliance with the terms of Section 15 B of this Agreement.
- E. Just Cause. Termination for just cause shall be immediate by the Select Board, if the Select Board finds just cause after a public hearing for which Mr. Sylbert has been provided written notice setting forth any charges at least ten days in advance. For the purposes of this Agreement, the term "just cause" shall include, but not be limited to, 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 or nonfeasance, or any just cause or act that renders Mr. Sylbert's continued appointment as

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

- a) Failure to perform adequately the duties and responsibilities attendant to his position as Town Manager;
- b) Failure to comply with and/or disregard of, express instructions of the Select Board, to the extent that such instructions were not inconsistent with the Bylaws of the Town or other applicable law; and/or
- c) Failure to conduct himself in a professional manner as expressed in the Management Code of Ethics of the International City Management Association.

In such case the Town shall have no obligation to pay any severance designated in this Section beyond what may be required by Massachusetts law.

In the event the Town at any time during the term of this Agreement reduces the salary or other financial benefits of Mr. Sylbert, or in the event the Town refuses, following written notice, to comply with any other provision benefiting Mr. Sylbert herein, then, in that event, Mr. Sylbert may, at his option and communicated to the Town by written notice, be deemed to be “terminated” pursuant to Part C of this Section at the date of such refusal.

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Select Board to terminate services of Mr. Sylbert at any time, subject only to the provisions set forth in this Section of this Agreement.

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Mr. Sylbert to resign at any time from his position with The Town, subject only to the provisions set forth in this Section of this Agreement.

SECTION 5. DISABILITY

If Mr. Sylbert is permanently disabled or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, or for twenty working days over a thirty working day period, the Town shall have the option to terminate this Agreement, subject to the severance pay requirements of Section 4, paragraph C, including the equivalent of any accrued and unused vacation and sick leave benefits, less any applicable payroll deductions..

SECTION 6. PERFORMANCE EVALUATION

A. The Select Board agrees to meet with Mr. Sylbert in January or February each year for the purpose of defining goals and performance objectives which they determine necessary for the proper operation of the Town and the attainment of the Town’s policy objectives. The Select Board shall establish a relative priority among the various goals and objectives and reduce them to writing. Said goals and objectives shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

B. Select Board and Mr. Sylbert shall meet at least annually to evaluate and assess performance of Mr. Sylbert in meeting or progressing towards the goals formally adopted by Select Board. These annual evaluations shall be conducted at least 60 days prior to the annual renewal date of the Agreement. A performance bonus may be awarded in accordance with Town policy.

C. Select Board members shall be encouraged to periodically identify their concerns to Mr. Sylbert by either informal discussions with Mr. Sylbert or by more formal means during Select Board meetings.

D. In the event Select Board determines that the performance of Mr. Sylbert is unsatisfactory in any respect or needs significant improvement in any area, Select Board shall describe these concerns in writing and in reasonable detail or with specific examples so as to be objective and positive. An adequate opportunity shall be provided for Mr. Sylbert to discuss the evaluation with the Select Board.

E. In effecting provisions of this Section, Select Board and Mr. Sylbert mutually agree to abide by the provisions of applicable law.

SECTION 7. HOURS OF WORK

Because Mr. Sylbert will devote a great deal of time outside normal office hours to the business of the Town, flexibility in hours worked and work schedules benefit both the Town and Mr. Sylbert, Mr. Sylbert has some discretion as to his work schedule, hours worked, and remote work, provided that he shall be available to the Select Board and to the public during his posted hours at Town Hall. Work in excess of an average 35-hour week shall be deemed part of the professional responsibility for which Mr. Sylbert shall not be paid overtime; but for which he may be allowed to offset, in part, by taking reasonable flex time off for prolonged work hours as he shall deem appropriate, subject to the approval of the Chair of the Select Board.

SECTION 8. OUTSIDE ACTIVITIES

Mr. Sylbert shall not spend more than 10 hours per week in teaching, counseling or other non-Town connected business without prior approval of The Town.

The Town agrees to compensate Mr. Sylbert for use of his private vehicle to perform work related activities (excluding commuting to/from work) at a rate not to exceed the current IRS reimbursement rate, (\$0.625 per mile in 2022), plus parking, tolls and other ordinary travel expenses on presentation of proper documentation.

SECTION 9. VACATION, PERSONAL AND SICK LEAVE

Mr. Sylbert shall be entitled to the benefits, in addition to his salary, provided in the Town's Personnel Policies. Mr. Sylbert shall accrue, and have credited to his personal account, sick, holiday and personal leave at the same rate as other general employees of the Town, as specified in the Town's Personnel Policies. Vacation leave will be credited annually at the highest rate for town employees delineated in the Town's Personnel Policies, set at 25 days as of September 30,

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2022. Mr. Sylbert will be able to carry leave from one year of this contract to the next as specified and in the manner provided in the Town's Personnel Policies.

SECTION 10. MEDICAL, DENTAL, DISABILITY AND LIFE INSURANCE

A. The Town agrees to make required premium payments for Mr. Sylbert for insurance policies for life and disability income benefits and for the Town's share of medical and dental benefits covering Mr. Sylbert, which policies are under the group programs offered by the Town.

SECTION 11. RETIREMENT BENEFITS

A. The Town agrees that the Town Manager is eligible to enroll into the Berkshire County Retirement System.

SECTION 12. DUES AND SUBSCRIPTIONS

The Town agrees to budget and to pay for professional dues and subscriptions of Mr. Sylbert necessary for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the Town, such as the Massachusetts Municipal Managers Association (MMMA) and the Small-Town Administrators of Massachusetts (STAM). All professional dues and subscriptions shall be within the previously budgeted amount.

SECTION 13. PROFESSIONAL DEVELOPMENT

A. The Town agrees to budget for and to pay travel and subsistence expenses of Mr. Sylbert for professional and official travel, meetings and occasions adequate to continue his professional development and to adequately pursue necessary official and other functions for the Town, including but not limited to the annual Conference of the Massachusetts Municipal Association, and such other governmental groups and committees thereof which Mr. Sylbert may serve as a member. Any training or conference attendance shall be subject to funding and time availability as pre-approved by the Select Board.

B. The Town also agrees to budget and to pay for travel and subsistence expenses of Mr. Sylbert for short courses, institutes and seminars that are necessary for his professional development and for the good of the Town.

SECTION 14. GENERAL EXPENSES

The Town recognizes that certain expenses of a nonpersonal and generally job-affiliated nature are incurred by Mr. Sylbert, and hereby agrees to reimburse or to pay said general expenses and the Treasurer is hereby authorized to disburse such monies upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits, subject to the prior approval of the Select Board.

SECTION 15. COMMUNICATIONS AND LAPTOP COMPUTER

The Town Manager is to be available to the Town at all times, except during periods of illness, vacation or other leave, and acknowledges the need of the Town to have an efficient means of communication and contact with them when off-duty or out of town, for any and all reasons.

- A. In order to facilitate timely communication between the Town Manager and the Town, the Town shall provide the Town Manager with a mobile telephone at its reasonable expense. The Town shall also provide a laptop computer to the Manager for his work-related use while away from the office.
- B. Upon any termination of this Agreement, the Town Manager shall return to the Town all equipment, keys, passwords, codes, authorizations and any other documents or materials under his control and belonging to the Town Manager's scope of activity.

SECTION 16. INDEMNIFICATION

To the extent permitted by Law, the Town shall defend, save harmless and indemnify Mr. Sylbert 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 and within the scope of Mr. Sylbert's duties as Town Manager, provided that he has acted in good faith, without gross negligence or misconduct and within the authority of her position, even if said claim has been made following his termination of employment, excepting an intentional violation of the civil rights of any person. The Town will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon.

The provisions of this section shall not apply to disputes between the Town and the Town Manager regarding any of the terms of this Agreement or in the event the Town Manager retains counsel relative to a disciplinary matter advanced against him by the Select Board.

This section shall survive the termination of this Agreement.

SECTION 17. BONDING

The Town shall bear full cost of any fidelity or other bonds required of Mr. Sylbert under any law or ordinance.

SECTION 18. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

A. The Select Board, in consultation with the Town Manager, shall fix any such other terms and conditions of employment as may be determined from time to time, relating to the performance of Mr. Sylbert, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Town bylaws or any other law.

B. All provisions of the bylaws, Town Personnel Policies and regulations and rules of the Town relating to vacation and sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended, also

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shall apply to Mr. Sylbert as they would to other employees of the Town, in addition to said benefits enumerated specifically for the benefit of Mr. Sylbert except as herein provided.

SECTION 19. NO REDUCTION OF BENEFITS

The Town shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of Mr. Sylbert.

SECTION 20. GENERAL PROVISIONS

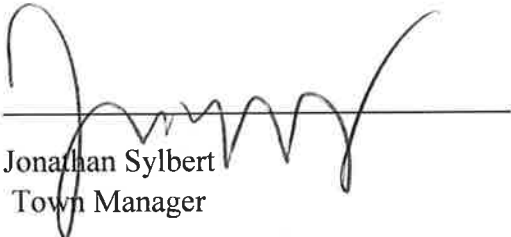
- A. The text herein shall constitute the entire Agreement between the parties.
- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Mr. Sylbert.
- C. All provisions of this Agreement are subject to annual appropriation by Town Meeting.
- D. If any provision, 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.
- E. This Agreement is entered unto under the laws of the Commonwealth of Massachusetts and shall be construed and interpreted in accordance with its laws.
- F. Notices pursuant to this Agreement shall be in writing and considered properly served if they are delivered by hand or by first class mail, postage prepaid, to:

The Town: Chair of the Select Board
Sandisfield Town Hall
66 Sandisfield Road
Sandisfield, MA 01255

Town Manager: To Mr. Sylbert's last known residential address on file with the Town.

G. This Agreement shall become effective commencing on October 31, 2022.

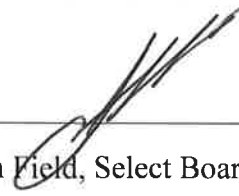
IN WITNESS WHEREOF, the Select Board, on behalf of the Town of Sandisfield, and Mr. Sylbert have signed and executed this Agreement, in two counterparts, one of which shall be retained by Mr. Sylbert, and one of which shall be retained by the Town Clerk.


Jonathan Sylbert
Town Manager


Steve Seddon, Chair, Select Board



Alex Bowman, Select Board



John Field, Select Board

