

# **Town Council of the Town of Tiverton**

## **Personal Services Agreement**

**WHEREAS**, the TOWN of TIVERTON, RI, a municipal corporation, hereinafter referred to as **EMPLOYER**, desires to retain the services of Christopher Cotta, hereinafter referred to as the **EMPLOYEE**, to serve as **TOWN ADMINISTRATOR**; and

**WHEREAS**, the **EMPLOYEE** desires to accept employment as Town Administrator, and the undersigned desire to reduce the terms to writing:

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

**1. DUTIES / COMMAND STRUCTURE:**

The **EMPLOYEE** shall serve as Town Administrator for the Town of Tiverton, RI pursuant to the Tiverton Home Rule Charter (as amended) and all relevant state and local laws, regulations and rules. The **EMPLOYEE** shall report to and be responsible to the Town Council as a whole, provided that when the Town Council is not in session, the **EMPLOYEE** shall report to the Town Council President and shall be responsible to the Town Council President so long as the instructions therefore do not contradict state law, local law, the Town Charter, or established Town Council policy. In the event the Town Council President is unavailable, the **EMPLOYEE** shall report to the Town Council Vice President.

**2. COMMITMENT:**

The **EMPLOYEE** agrees to commit his time and professional skills to his position as Town Administrator. The **EMPLOYEE** agrees that he shall not engage in any other regular employment activity during the terms of this agreement, however this language will not restrict the **EMPLOYEE** from voluntarily serving on the Board of Directors to the National White Collar Crime Center (NW3C) of both Richmond VA and Fairmont WV, as he has since 1998.

**3. TERM:**

The term of this agreement shall be three (3) years, beginning not later than October 1, 2023~~0~~ and ending on September 30, 2026~~3~~. However, it is agreed that this document would extend the initial full time employment contract that began on October 1, 2020 which ends on September

~~30, 2023 and the~~ previous six (6) months, between April 1, 2020 and September 30, 2020 have served as an initial successful probationary time served as Interim Town Administrator. Furthermore, it is agreed and understood that if the **EMPLOYEE** is terminated pursuant to requirements specified in the Tiverton Home Rule Charter (as amended) during such time the **EMPLOYEE** is willing and able to perform his duties under this agreement, the **TOWN** agrees to pay **EMPLOYEE** a sum equal to ninety (90) days salary and benefits. If **EMPLOYEE** has secured substantially similar employment, to include compensation and benefits, elsewhere, then the **TOWN'S** obligations hereunder shall terminate. However, if the dismissal is associated with conviction for criminal activity or clear evidence of moral turpitude, there shall be no severance payment whatsoever.

4. **EMPLOYEE NOTICE:**

The **EMPLOYEE** agrees, so long as he is reasonably able, to remain in the position at least through September 30, 202~~6~~<sup>3</sup> and to provide the **EMPLOYER** with at least sixty (60) days advance notice , exclusive of vacation time, of his intention to terminate, whenever that may be.

5. **SALARY:**

The **EMPLOYER** agrees to pay the **EMPLOYEE** for his services pursuant to this agreement a base salary of ~~One Hundred and Eleven Ninety Five~~ Thousand dollars (\$~~11195~~,000.00 effective 10/1/2022) for the first contract year, payable in installments paid to **EMPLOYER'S** other **EMPLOYEES**. The position average hours per week are expected to be 40 and this is a salaried position. The actual hours may be more or less and attendance at evening meetings is expected. There will be no overtime or compensatory time.

~~Note: Salary adjustment for the period 10/1/2021 forward includes a three percent increase (3%) above the initial first year listed above. The adjusted salary amount was approved via Town Council action on 10/11/2021~~

6. **ANNUAL REVIEWS:**

Based upon satisfactory performance as determined by the TOWN COUNCIL annual evaluation, the **EMPLOYEE** salary for FY202~~5~~<sup>2</sup> and FY202~~6~~<sup>3</sup> shall increase by an approved percentage increase **authorized by the Town Council which shall be effective at the start (10/1)** of each contract year.

The evaluation is performed to constructively assist him in achieving TOWN expectations and such evaluation shall be conducted in executive session. Additionally, the **TOWN** shall provide the **EMPLOYEE** with Public Officials Liability Insurance through the Rhode Island Interlocal Trust for all services performed as Town Administrator.

7. **HEALTH INSURANCE:**

The **EMPLOYEE** currently carries health benefits as a condition of retirement with the state and waives the **TOWN** from providing health benefits until such time state mandates the **EMPLOYEE** to utilize the current **EMPLOYER** health benefits.

~~NOTE: Effective 11/1/2021 the EMPLOYEE will lose state covered post-retirement pre-Medicare health benefits as a result of attaining age 65 in November of 2021. EMPLOYEE will be permitted to utilize TOWN health care from the period 11/1/2021 through the term of this Agreement with required deductible co-shares required of other non-union management directors.~~

8. **DENTAL:**

The **EMPLOYEE** will be granted the ability to enroll in the municipal family dental plan for **EMPLOYEES**.

9. **HOLIDAYS:**

The **EMPLOYEE** will be granted the same HOLIDAY's as all other Municipal Employees.

10. **VACATION / SICK / PERSONAL TIME:**

The **EMPLOYEE** shall be entitled to four (4) weeks of vacation accrued on a monthly basis with two weeks advanced at the start of this contract due to the fact the **EMPLOYEE** was not granted vacation during the period served as Interim Town Administrator. The **EMPLOYEE** will be allowed to ten (10) sick days per year. The **EMPLOYEE** may accumulate both vacation and sick days but is limited to carry over from year to year no more than ten vacation days. Any unused vacation days will be paid upon termination. Unused sick days will be allowed to be accumulated up to sixty days; however there shall be no provision for payment for accrued unused sick leave. **EMPLOYER** will provide **EMPLOYEE** three (3) personal days that will not accumulate or be paid upon termination.

**11. BEREAVEMENT:**

The **EMPLOYEE** will be granted a maximum of five (5) consecutive work days of leave for the death in the immediate family (wife, siblings, child or grandchild). For other relatives one day will be granted for the purpose of attending burial rituals.

**12. ERRORS AND OMISSIONS:**

**EMPLOYER** shall provide **EMPLOYEE** with insurance protection, including commercial general liability, and errors and omissions coverage applicable to all acts or omissions of the **EMPLOYEE** arising out of his employment. Also **EMPLOYER** will provide a term life insurance policy for \$100,000.00 during the term of **EMPLOYEE'S** service.

**13. DEFERRED COMPENSATION:**

The **EMPLOYER** will permit the **EMPLOYEE** to enroll in a deferred compensation plan or 457B plan with the International City/County Management Association (ICMA), or other legally recognized plan as directed by the **EMPLOYEE**, and will contribute a match of employee contributions up to six percent (86%) of the **EMPLOYEE'S** annual salary.

**14. ERSRI:**

The **EMPLOYEE** waives all rights to participate in the Rhode Island Employee's Retirement System pursuant to Rhode Island General Law 36-10-36 (d) (1). It will be the **EMPLOYEE'S** responsibility to notify the Rhode Island Employee's Retirement System of his status relative to his pension.

**15. TOWN VEHICLE / CELL PHONE:**

The **EMPLOYEE** waives any right to a Town owned vehicle, municipal fuel use or cell phone.

**16. PROFESSIONAL DUES / SEMINARS:**

The **EMPLOYER** agrees to pay for the professional dues and subscriptions of the **EMPLOYEE** necessary for his continuation and full participation in the Rhode Island League of Cities and Towns, the Rhode Island Cities and Town Managers Association and the International City/County

Management Association. The **EMPLOYEE** shall be reimbursed up to a maximum of \$2,500.00 per year in costs associated with continuing education/seminars as related to the position.

**17. EXPENSE REIMBURSEMENT:**

The Town recognizes that certain limited and reasonable expenses of a non-personal, community or job-affiliated nature may be incurred by the **EMPLOYEE** from time-to-time, agrees to reimburse any such expenditures upon receipt of expense reports with appropriate receipts, statements or affidavits, subject to budgetary constraints.

**18. POST EMPLOYMENT REPRESENTATION:**

The **EMPLOYER** agrees to provide the full cost of legal representation post-employment for any matter occurring out of the official actions of the **EMPLOYEE** during the term of this agreement.

**19. TERMINATION:**

Notwithstanding the term of this employment contract, termination may occur either by:

- a. Mutual Agreement of the parties
- b. Retirement of the Employee at least forty five (45) days prior to the date of retirement or within such other time period as may be mutually agreeable to the parties. All obligations and agreements of the parties as contained in this Agreement shall cease as the date of the retirement.
- c. Disability. Recognizing that such an eventuality would pose a substantial and undue burden on the **EMPLOYER**, this Contract shall terminate, and all obligations thereunder cease, if the **EMPLOYEE** is disabled from performing the usual and normal functions of his job for a period of more than six (6) months in any twelve (12) month period.
- d. Discharge for Cause; **EMPLOYEE** may be discharged for cause during the term of this agreement. As used herein, the term "cause" shall include:
  1. The **EMPLOYEE'S** willful refusal to perform the employment duties reasonably required of him, as outlined in this agreement, in his job description, or as provided in written instructions by the Town.;
  2. Conviction of the **EMPLOYEE** by a court of competent jurisdiction, or pleading guilty or no contest to any criminal offense involving his employment with the Town, dishonesty, breach of trust, or moral turpitude or any felony, or a charge, indictment, or signed

information for any felony, provided that such charge, indictment, or signed information is not dismissed within sixty (60) days of its issuance.

3. Any material dereliction by the **EMPLOYEE** with respect to the **EMPLOYEE'S** obligation to perform the duties outlined in this Agreement or reasonably assigned to the **EMPLOYEE**, or failure or refusal by the **EMPLOYEE** in any material way to comply with the provisions of this Agreement, which failure or refusal continues for more than ten (10) after written notice is given to the **EMPLOYEE**;
4. Any act or omission by the **EMPLOYEE** within the **EMPLOYEE'S** control which is in reckless disregard of the Town and which materially adversely affects the Town.
5. Death of the **EMPLOYEE**.

**20. TOWN PROPERTY:**

Upon termination of this employment contract, the **EMPLOYEE** shall return to the Town all documents, files, books, records, computers, software, materials, discs, keys equipment, passes, ID materials, and all other property of the Town. Any passwords the **EMPLOYEE** used to log into any software or accounts on behalf of the Town must be provided to the Town.

This offer of Employment shall become binding upon the parties upon execution. This agreement is the sole and entire agreement between the parties and shall, as of the date of its execution, supersede any and all other agreements between the parties. It may not be modified or terminated orally, but only by a writing signed by the parties. In the event that any breach of this agreement by **EMPLOYEE** is waived by **TOWN** such waiver shall not constitute a waiver of any subsequent breach by **EMPLOYEE**. If one or more of the provisions of this Agreement shall be found invalid or otherwise unenforceable, the validity, effectiveness, and enforceability of any and all other provisions hereof shall not be affected. This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island.

The Tiverton Town Council approved modifications to this agreement by vote on \_\_\_\_\_

And it is executed on its behalf by the Tiverton Town Council President.

\_\_\_\_\_  
Denise DeMedeiros, Council President

Date \_\_\_\_\_

This agreement executed by Christopher Cotta, on October 1, 2020.

\_\_\_\_\_

Date \_\_\_\_\_

Christopher Cotta

Approved as to form on October 1, 20201 by Michael Marcello, Town Solicitor

\_\_\_\_\_

Date \_\_\_\_\_

Michael Marcello

\_\_\_\_\_

Date \_\_\_\_\_

TOWN CLERK, Nancy Mello - witness