

# Employment Agreement – Town Manager Town of Falmouth, Maine, and Nathan A. Poore

## Introduction

This Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20172023, by and between the Town of Falmouth, Maine, a municipal corporation, (hereinafter called “Employer”) and Nathan A. Poore, (hereinafter called “Employee”) an individual who has the education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

## Section 1: Term

The term of this Agreement shall be in full force in effect from the signing date until terminated by the Employer or Employee as provided in Section 9 and 10 of this Agreement.

## Section 2: Duties and Authority

Employer agrees to employ Nathan A. Poore as Town Manager to perform the functions and duties specified in Town’s charter and to perform other legally permissible and proper duties and functions.

## Section 3: Compensation

A. Base salary: Employer agrees to pay Employee an annual base salary of \$124,274175,000, payable in installments at the same time that the other management employees of the Employer are paid.

B. The Employer agrees to increase the compensation of the Employee dependent upon the results of the performance evaluation conducted under the provisions of Section 10 of this Agreement. The Employee also will participate in any fixed annual increases granted to other town employees, beginning July 1, 20172024, and subsequent years after, based on cost of living adjustments.

C. Employer agrees to pay Employee retroactive pay starting July 1, 2023, at the new base salary established in Section 3.A minus any payments received, since July 1, 2023, by the Employee for vehicle allowance at a rate of \$500/month per Section 6.

## Section 4: Health, Disability and Life Insurance Benefits

A. The Employer agrees to provide and to pay the premium for health insurance for the Employee and his/her dependents equal to that which is provided to all other employees of the Employer or, in the event no such plan exists, to provide coverage for the Employee and dependents.

B. The Employer agrees to put into force and to make required premium payments for short-term disability coverage for the Employee.

C. The Employer shall pay the amount of premium due for term life insurance in the amount of three (3) times the Employee’s annual base salary, including all increases in the base salary during the life of this agreement. The Employee shall name the beneficiary of the life insurance policy.

## Section 5: Vacation and Sick

- A. ~~Upon commencing employment, the Employee shall be credited with 10 sick days.~~ The Employee will then accrue sick and vacation leave at an annual basis of ~~10-12~~ sick days and (4) weeks of vacation. ~~No vacation may be taken during the first six months without the permission of the Town Council.~~
- B. ~~The Employee is entitled to annually convert one week of unused sick time (40 hours) to wages at 100% the value of the sick time.~~
- C. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, 50% of accrued sick time, and other benefits to date.

## Section 6: Automobile

The Employee's duties require ~~the exclusive and unrestricted~~ use of an automobile. ~~to be mutually agreed upon and provided to the Employee at the Employer's cost, subject to approval by Employer which shall not be withheld without good cause. It shall be mutually agreed upon whether the vehicle is purchased by the town, provided under lease to the town or to the Employee, or provided through a monthly allowance.~~

~~If a monthly allowance is provided for use of a vehicle, the Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of \$6,000 per year, payable monthly, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle. The Employee may use an Employer fleet vehicle if available, for any business use, beyond the greater Falmouth area. For purposes of this Section, use of the car within the Falmouth area is defined as travel to locations within a 20-mile radius of the Town Office.~~

## Section 7: Retirement

Employer agrees to execute ~~and maintain~~ all necessary agreements provided by ~~ICMA Retirement Mission Square Retirement Corporation (ICMA-RC)~~ or other Section 457 deferred compensation plan ~~and 401 (a) plan for Employee's participation in said retirement plan and~~, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to 17% of Employee's base salary, or maximum dollar amount permissible under Federal and state law, whichever is less, into the designated plan on the Employee's behalf, in equal proportionate amount each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

The Employee can also participate in MainePERS and the Employer will pay the annual match for that program.

## Section 8: General Business Expenses

1. Employer agrees to budget for and to pay for professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, growth, and advancement, and for the good of the Employer.

2. Employer agrees to budget for and to pay for travel and subsistence expenses of Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of Employee and to pursue necessary official functions for Employer, including but not limited to the ICMA Annual Conference, and such other national, regional, state, and local governmental groups and committees in which Employee serves as a member.

3. Employer also agrees to budget for and to pay for travel and subsistence expenses of Employee for short courses, institutes, and seminars that are necessary for the Employee's professional development and for the good of the Employer.

4. Employer recognizes that certain expenses of a non-personal but ~~job-related~~job-related nature are incurred by Employee, and agrees to reimburse or to pay said general expenses. The Finance Director is authorized to disburse such ~~moneys~~money upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits. ~~The Employer will reimburse the Employee for internet access at Employee's home.~~

5. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations.

6. The Employer shall provide Employee with a computer, software, ~~cell phone~~, and other necessary mutually agreed upon technology required for the Employee to perform the job and to maintain communication. The Employee has the option to own any such equipment as long as it is not a computer related security risk for the Employer.

~~7. The Employer shall pay the Employee an annual stipend of \$2000.00.~~

## **Section 9: Termination and Severance**

The Employer shall have the right to terminate this Agreement without cause. In the event of such termination, Employee shall be paid an aggregate lump-sum payment equal to ~~one (1) month for each year of service, or part thereof, for a maximum of~~ twelve (12) months. Payment shall be made in full at ~~timethe time~~ of termination. At the same time, Employee shall be compensated for any vacation and sick time accrued to date of termination, calculated at the rate of pay in effect upon termination. In addition, all life insurance, health insurance, and disability coverage, retirement benefits and all other Employer provided benefits shall continue in full force and coverage as provided herein during the severance period.

The Employer also has a right of termination for cause. The Employer's right to terminate this Agreement for cause shall be based upon official removal action under the terms of Town's charter and personnel policy. In the event the Employee's employment is terminated for cause, the Employer's only obligation to the Employee is to pay all compensation and benefits accrued, but unpaid, at the time of termination.

## **Section 10: Resignation**

In the event that the employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of 30 days notice unless the parties agree otherwise.

## **Section 11: Performance Evaluation**

Employer shall annually review the performance of the Employee subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within 30 days of the evaluation meeting.

## **Section 12: Hours of Work**

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

### **Section 13: Outside Activities**

The employment provided for by the Agreement shall be the Employee's sole employment, unless other outside activities are mutually agreed upon by Employer and Employee.

### **Section 14: Indemnification**

Employer shall defend Employee against any claim or demand or other legal action arising out of an alleged act or omission occurring in the performance of Employee's duties as Town Manager or other official appointment and further Employer shall indemnify Employee in accordance with the 14 M.R.S. Section 8112(1) of the Maine Tort Claims Act, including circumstances when the Employer is not liable.

The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation and indemnity, as described above, provided by Employer for Employee, shall include any claims made during and after the Employee's service to the Employer and extend, until a final determination of the legal action including any appeals brought by either party, regardless of whether the extension occurs during or beyond the Employee's service to Employer.

### **Section 15: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

### **Section 16: Other Terms and Conditions of Employment**

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Town charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other appointed officials, appointed employees, department heads or general employees of the Employer as provided in the charter and regulations or by practice.

### **Section 17: Residency**

The Employee shall not be required to be a resident of the Town.

### **Section 18: Notices**

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER: Town of Falmouth, 271 Falmouth Rd, Falmouth, Maine 04105

EMPLOYEE: Nathan A. Poore, [Address on file with the Finance Department](#)

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as it applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United State Postal Service.

**Section 19: General Provisions**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on its signing date.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

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Nathan A. Poore, Town Manager

Date

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Chair, Falmouth Town Council

Date