

**Contract of Employment
Between**

The Town of Ayer

And

**Kevin A. Johnston
Benefits and Payroll Manager**

July 28, 2014 – June 30, 2017

A. PREAMBLE

THIS AGREEMENT, made as of July 14, 2014 by and between the Town of Ayer, acting by and through their Board of Selectmen, hereinafter referred to as "Selectmen", and Kevin A. Johnston of Shirley, Massachusetts, hereinafter referred to as "Johnston".

In consideration of the promises contained herein, the parties hereto mutually agree as follows:

B. EMPLOYMENT

The Selectmen hereby agree to employ Johnston and to appoint him to the position of Benefits and Payroll Manager hereby accepts employment on the following terms and conditions.

C. DUTIES

Johnston shall fulfill all of the duties and responsibilities of the Benefits and Payroll Manager as set forth in the Town's job description for the position as attached to this contract. Johnston is an Appointee of the Ayer Board of Selectmen and is under the direct supervision of the Town Administrator. Johnston will ensure that the Benefits and Payroll Manager's office is staffed during the Town Hall hours of operation.

D. TERMS

Johnston shall be appointed for a multi-year contract beginning July 28, 2014 and ending June 30, 2017. The contract shall be extended for successive three year period unless the Selectmen decide to terminate the contract in accordance with the non-reappointment clause of this contract.

It is expressly understood and agreed that a decision to not reappoint Johnston on the expiration of this Contract, or any renewal or extension thereof shall not be construed as a dismissal.

Either party may request that the provisions of this contract be renegotiated for any extensions beyond June 30, 2017. The parties hereby agree that said negotiations shall commence on or before April 1, 2017 of the final year of the contract.

For all purposes of this contract, a majority vote of the Full Board of Selectmen is considered to be two (2) votes out of three (3) Selectmen.

It is expressly understood that the terms and conditions of the expiring contract shall stay in full force and effect until new terms and conditions, if any, are negotiated and signed by the parties.

E. RESIGNATION, NON-REAPPOINTMENT, DISCIPLINE

1. Resignation

In the event that Johnston desires to terminate this contract before the term of service expires, he may do so by giving the Selectmen forty-five (45) days notice in writing.

2. Non-Reappointment

The Selectmen shall have the right to not reappoint Johnston to this position, without cause, on June 30, 2017, as long as the following conditions have been met:

- a. Johnston shall have been formally evaluated, using the Town's Performance Evaluation System as further detailed in section K. of this agreement, and notified, in writing, of the Selectmen's intention not to reappointment, and the reasons therefore, prior to January 1, 2017. Said notification shall be made via certified mail, return receipt requested, to his residence or may be delivered in hand and;
- b. Johnston shall be paid severance in a lump sum cash payment in an amount equal to (4) months of his salary. Said payment shall be made to Johnston on or before his last day of employment. This severance provision shall be waived if Johnston starts a new job that is economically comparable to the position in Ayer, after said notice of non-renewal but before June 30, 2017 of the final contract year and;
- c. A majority vote of the Selectmen (a 2/3rds majority).

3. Reprimand or Suspension

The Selectmen may reprimand or suspend Johnston for just cause (with or without pay and with or without benefits) at any time during the term of the contract after:

- a. Written notice of a hearing to be held to consider such reprimand or suspension is sent to Johnston at least two business day (for a reprimand) and ten (10) business days (for a suspension) prior to such hearing; the notice includes a list of charges warranting consideration of reprimand or suspension, and the notice is sent via certified mail, return receipt requested, to his residence or may be delivered in hand, and;
- b. A duly noticed hearing, to be made public at Johnston's request, at which Johnston shall be afforded all rights provided under the Open Meeting Law; and;
- c. A majority vote of the Selectmen (a 2/3rds majority).

4. Dismissal

The Selectmen may dismiss Johnston only for just cause at any time during this contract after:

- a. Written notice of a hearing to be held to consider dismissal is sent to Johnston at least fifteen (15) business days prior to such hearing, the notice to include a list of charges warranting consideration of dismissal, and the notice is sent via certified mail, return receipt requested, to his residence or may be delivered in hand, and;
- b. A duly noticed hearing, to be made public at Johnston's request, at which Johnston shall be afforded all rights provided under the Open Meeting Law; and
- c. A majority vote of the Selectmen (a 2/3rds majority).

5. Appeal

For administrative remedies, Johnston shall first have the right of appeal from a reprimand, suspension or dismissal as provided for in the Personnel Policies and Procedures Manual.

As a second level of appeal, Johnston shall have right to appeal to the American Arbitration Association. The costs associated with said arbitration shall be split between the parties unless Johnston shall prevail and then the costs shall be borne by the Town.

Johnston shall continue to receive his full salary and benefits until any such appeal in accordance with the Personnel Policies and Procedures Manual has been exhausted.

Johnston shall have the right of appeal from either suspension or dismissal to the Superior Court under the provisions of MGL Chapter 249, sec. 4 on the standard that requires sufficient evidence on the record to justify and discipline action taken by the Selectmen. Johnston would have equal access to the courts under contract law with regard to any breach of contract. Any such legal action would be at Johnston's own expense.

F. COMPENSATION

Johnston shall be paid bi-weekly at the annual salary rate of \$61,199.28

The Position of Benefits and Payroll Manager effective July 28, 2014 shall no longer be classified on the Town's Non-Union Classification and Compensation Plan. (Note: Though off of the Town's Non-Union Classification and Compensation Plan, the position of Benefits and Payroll Manager and its salary are the equivalent of a Grade 10 Employee)

Johnston shall have the right to request a contract wage reopener, once each fiscal year of the contract for the purposes of discussing/negotiating wages only. Johnston must make the request in writing to the Ayer Board of Selectmen.

G. HOURS OF WORK

Johnston agrees to devote that amount of time and energy which is reasonably required to faithfully perform the duties of Benefits and Payroll Manager. It is also recognized that this position frequently requires evening work and further that carrying out the responsibility of position requires the Benefits and Payroll Manager to be out of the Town Hall for business purposes.

H. BENEFITS

Vacation

Johnston shall be granted three (3) weeks (15 days) of vacation leave effective July 28, 2014, with said time being available at the start of each Fiscal Year, with the understanding that he would be eligible for buyback of unused vacation days only as allowed under the Personnel Policy & Procedures Manual. Johnston shall not take more than two (2) weeks consecutively without prior approval of the Town Administrator.

Sick Days, Personal Days and Holidays

Johnston shall be granted sick, personal and holiday leave as per the Personnel Policy & Procedures Manual.

Upon termination of service, unused sick days have no monetary value.

Insurance

Johnston shall be offered enrollment in the Town of Ayer's health insurance plan. The Town shall pay the same premium for such plan as it does for other town non-union employees. Johnston shall be offered enrollment in the Town of Ayer's basic life insurance plan. The Town shall pay the same premium for such plan as it does for other non-union town employees. Any additional life insurance offered by the Town may be purchased at Johnston's expense.

Automobile Allowance

Johnston shall receive reimbursement at the standard IRS mileage rate to cover all of Johnston's official duty travel miles in his personal vehicle according to the Town of Ayer's Policy.

Retirement Benefits

Johnston shall be eligible to participate in the Town's retirement system.

Leave of Absence

Johnston shall be granted such leave, including but not limited to, Family Medical Leave; Small Necessities Leave; Paternity Leave; jury duty leave; military leave and other leave as required by law.

Other Benefits

Johnston shall receive all other benefits offered to all non-union, exempt employees in the Town of Ayer.

I. INVALIDITY

If any paragraph, part of, or rider to this contract is found invalid, it shall not affect the remainder of the contract, but said remainder of the contract shall remain in full force and effect.

J. ENTIRE AGREEMENT

This contract embodies the entire agreement between the Town and Johnston and there are no other inducements, promises, terms and conditions, or obligations made or entered into by either party other than those contained herein. This contract may not be changed except in writing and signed by the parties.

K. PERFORMANCE EVALUATION

The Town Administrator shall conduct an annual performance evaluation of Johnston in accordance with the Town's Performance Evaluation System and the standard Personnel Evaluation Form attached to this contract with mutually agreed performance measures, goals and objectives. Said personnel evaluations will become part of Johnston's official Personnel File with the Town.

L. APPROPRIATION OF AYER TOWN MEETING

The funding of this Employment Contract is subject to the appropriation of funding by the Ayer Town Meeting.

IN WITNESS WHEREOF, the parties have hereunto signed and sealed this contract, in duplicate, as of the date first written above (July 14, 2014).

AYER BOARD OF SELECTMEN

Chrl R. Hillm

Christopher R. Hillman, Chair

Jannice L. Livingston

Jannice L. Livingston, Vice Chair

Gary J. Luca

Gary J. Luca, Clerk

Date: July 28, 2014

BENEFITS AND PAYROLL MANAGER

Kevin A. Johnston

Kevin A. Johnston

Date: 7/28/14