

**TOWN OF AYER, MASSACHUSETTS  
DEPARTMENT OF PUBLIC WORKS  
WATER AND SEWER SUPERINTENDENT C O N T R A C T**

April 11, 2022 to June 30, 2025

AGREEMENT made April 5, 2022, to be effective from April 11, 2022 until June 30, 2025, by and between the Town of Ayer (hereinafter the "TOWN") and Kimberly Abraham, of Worcester, Massachusetts (hereinafter the "SUPERINTENDENT" or "Abraham").

WHEREAS, the TOWN is desirous of securing the services of the Water and Sewer Superintendent of the Ayer Department Public Works; and

WHEREAS, SUPERINTENDENT is willing to perform the duties of the position of SUPERINTENDENT according to the terms and conditions of this contract; and shall furnish the Town Manager with evidence of professional training, licenses and certifications.

NOW, THEREFORE, the TOWN and Abraham hereby agree that the following terms and conditions shall govern the salary and fringe benefits payable under this contract to which said Abraham shall be entitled as SUPERINTENDENT.

**1. DUTIES**

Abraham shall perform all the duties in accordance with the job description for Water and Sewer Superintendent. Abraham works under the administrative direction of the DPW Director and under the policy direction of the Ayer Select Board through the Town Manager.

Abraham will assist the Department of Public Works and Town Boards/Departments in matters relating to the water and wastewater divisions.

The SUPERINTENDENT's duties shall include all of the requirements of the attached job description.

**2. HOURS OF WORK**

SUPERINTENDENT agrees to devote that amount of time and energy which is reasonably necessary for SUPERINTENDENT to faithfully perform the duties of the SUPERINTENDENT under this contract.

It is recognized that the SUPERINTENDENT may devote a great deal of time outside normal office hours to the business of the TOWN, and to that end, the SUPERINTENDENT shall be allowed, upon notification of the DPW Director, to take administrative time off as he shall deem appropriate during said normal office hours at such time which the SUPERINTENDENT reasonably determines will least adversely impact department operations.

**3. INSURANCE**

**A. Professional Liability**

The Select Board agree to maintain Professional and General Liability Insurance for the Town of Ayer in the amount of \$1,000,000 per occurrence which policy shall cover the SUPERINTENDENT to provide legal counsel for the SUPERINTENDENT in accordance with the provisions of Massachusetts General Laws Chapter 258, section 2 in defense of any action in which the SUPERINTENDENT is named as a party except as may relate to reprimand, suspension or dismissal, and to indemnify, defend, save and hold harmless the SUPERINTENDENT in any demands, claims actions, suits and legal proceedings brought against her in her official capacity, as an agent of the TOWN in accordance with the provisions of Massachusetts General Law 258, Sections 9 and 13. This indemnification shall survive the expiration of this contract.

#### **B. Health and Life Insurance**

The SUPERINTENDENT shall be eligible for all health and life insurance benefits for which other non-bargaining unit, general government employees are eligible.

### **4. GENERAL EXPENSES**

The TOWN agrees that if expenses of a non-personal and job-related nature are incurred by the SUPERINTENDENT after having been pre-approved by the DPW Director, the TOWN will reimburse said expense according to the normal warrant process.

### **5. AUTOMOBILE**

The SUPERINTENDENT is authorized to use a DPW vehicle for business purposes only, and the TOWN shall pay for all attendant operating and maintenance expenses and insurance. Said vehicle is to be used by the SUPERINTENDENT in connection with the performance of her duties as SUPERINTENDENT, and for her professional growth and development.

The SUPERINTENDENT may, upon mutual agreement of both parties, use her own private automobile for her official duties as SUPERINTENDENT if the assigned Town automobile is not available. In the event such agreement is reached, the TOWN shall reimburse the SUPERINTENDENT at the current rate approved by the Select Board.

### **6. DISCIPLINE OR DISCHARGE**

The DPW Director may suspend and/or dismiss the SUPERINTENDENT under the terms and conditions of this agreement and in accordance with the Massachusetts General Laws.

Any dismissal shall terminate this agreement. In the case of dismissal, the Town Manager shall give the SUPERINTENDENT forty-five (45) days' notice and rights to a hearing in accordance with Massachusetts General Law Ch. 30A, Section 21.

It is agreed that the SUPERINTENDENT can be discharged only for cause, upon proper notice, and only after a hearing for which the SUPERINTENDENT shall have the right to be represented by counsel. The terms "proper notice" as it appears in this section meant that written notice of the hearing must set for the following: (i) the date, time and location of the hearing; (ii) the reason for the hearing; (iii) the charges alleged; and (iv) the range of discipline considered. The principles of progressive discipline will apply, and the TOWN recognizes its obligation to provide the SUPERINTENDENT with periodic performance evaluations.



The SUPERINTENDENT shall have the option of choosing whether or not the hearing shall be closed to the public or held as an open public hearing.

The SUPERINTENDENT may appeal any discharge or discipline by the appointing authority, after such hearing to the American Arbitration Association. The cost for such arbitration shall be split equally between the SUPERINTENDENT and the TOWN.

## **7. COMPENSATION**

- A. Effective April 11, 2022, the SUPERINTENDENT shall receive annual compensation of Grade 14, Step 7, \$99,869.04 (based on 52.2 weeks at \$1,913.20 per week). The parties agree that such compensation shall be paid on a bi-weekly basis, at the discretion of the Town Treasurer.
- B. The annual salary will be increased by one (1) Step on July 1 of each year of the Contract in accordance with the Non-Union Personnel Classification and Compensation Grid and subject to the completion of a satisfactory annual job performance evaluation. The annual salary will be increased by any a cost-of-living-allowance (COLA) as voted by Town Meeting for non-union employees. The Step increase shall be based on the SUPERINTENDENT's current Step at the time.
- C. The annual salary may be adjusted once annually in succeeding fiscal years of this agreement by a cost-of-living-allowance (COLA) that may be determined in the sole discretion of the Select Board. Either party may request to reopen this section, for compensation only, one-time in any fiscal year. Additionally, the Parties agree that if any other Department Head receives an increase in compensation (during the term of this Contract), then this reopener clause shall take effect.

## **8. BENEFITS**

The TOWN agrees that the SUPERINTENDENT shall receive any and all benefits generally available to full time non-union employees, under the same terms and conditions, unless specifically modified under the terms of this agreement.

### **A. Vacation**

Effective for fiscal year 2023 and each fiscal year thereafter, Abraham shall receive twenty (20) working days of vacation leave. Abraham shall receive a prorated amount of working days of vacation based on the remaining days in FY22 relative to her start date. Such vacation shall not be accrued to more than twice the annual leave and such leave shall be taken at such time or times as may be approved by the Town Manager.

### **B. Sick Leave**

The SUPERINTENDENT shall be granted fifteen (15) sick days per fiscal year. The SUPERINTENDENT may accumulate up to one hundred sixty (160) sick leave days. Sick leave accumulated but not used is not reimbursable at termination.

### **C. Holidays**

The SUPERINTENDENT shall receive holidays as per the Personnel Policies and Procedures Manual.

D. Personal Days

The SUPERINTENDENT shall receive three (3) personal days off per fiscal year. Personal Days may not be carried over from one fiscal year to another and shall not be reimbursable at termination.

E. County Retirement

The SUPERINTENDENT shall be a member of the Middlesex County Retirement System with the appropriate percentage withheld from her salary and with appropriate payments made to the system by the TOWN, and shall receive the benefits provided by that system in accordance with the applicable law.

F. Death During Term of Employment

If the SUPERINTENDENT dies during the term of employment, the TOWN shall pay SUPERINTENDENT's estate all the compensation which would otherwise be payable to the SUPERINTENDENT up to the date of SUPERINTENDENT's death, including, but not limited to, unused vacation, holidays, and personal days.

G. License Increments – The SUPERINTENDENT shall be given an annual License Increment equal to five (5%) percent of the salary, payable as detailed in Section 7 above, so long as she maintains the following licensures in active status:

- a. Drinking Water Distribution D4 and Treatment T1
- b. Cross Connection Tester and Surveyor
- c. Certified Wastewater Collection Systems Operator Grade 3
- d. The TOWN shall pay all application and license fees related to these licenses.

At the time of obtaining the following licenses, the SUPERINTENDENT shall receive an additional license increment equal to two and one half (2.5%) percent of the salary under Section 7 and will continue to receive said license increment as long as she maintains the licensures in active status:

- a. Commonwealth of Mass. Drinking Water Supply Certified Operator Grade T2
- b. Wastewater Certified Operator Grade 2
- c. The Town shall pay all application and license fees related to these licenses.

H. Professional Development and Expenses - The TOWN recognizes its obligations to the professional development of the SUPERINTENDENT and agrees that the SUPERINTENDENT shall be given adequate opportunities to develop her skills and abilities as a manager and administrator.

The TOWN shall pay any and all reasonable professional expenses associated with the duties of SUPERINTENDENT. The SUPERINTENDENT will be allowed to attend trainings, conferences, and professional development courses at the discretion of the DPW Director without loss of vacation or other leave. Expenses shall include but are not limited to: dues and subscriptions to professional associations; seminars and conferences for the acquisition of required certification educational units; travel and subsistence expenses to occasions adequate to continue the professional development. Overnight and out-of-state travel must be approved by the DPW Director.

I. Tuition Reimbursement

In each fiscal year of the contract, Abraham may receive up to \$3,200 as Employer-Provided Educational Assistance reimbursement for tuition towards courses required for a higher education advanced degree such as a Master's Degree. Upon completion of each course, Abraham shall submit an expense report, in accordance with Section 4 above, for tuition reimbursement. Reimbursement shall not exceed a total of \$3,200 per fiscal year.



## **9. MODIFICATION**

No change or modification of this contract shall be valid unless it shall be in writing and signed by both of the parties.

## **10. LAW GOVERNING**

This contract shall be construed and governed by the laws of the Commonwealth of Massachusetts.

## **11. SEVERABILITY OF PROVISIONS**

If any clause or provision of this contract shall be determined to be illegal by a court of competent jurisdiction, the remainder of this contract shall not be affected thereby.

## **12. LENGTH OF CONTRACT**

- A. The term of appointment shall be for a period commencing April 11, 2022 and ending June 30, 2025.
- B. This contract shall be formally reviewed prior to its termination, and the SUPERINTENDENT shall be advised of the Town Manager's decision to renew or not to renew this agreement sixty days (60) prior to its expiration date.
- C. If the decision is to renew, then either the SUPERINTENDENT or the TOWN may request that the provisions be renegotiated. It is expressly understood and agreed by the parties that a decision not to renew is not to be construed as a dismissal.
- D. If the SUPERINTENDENT desires to terminate this agreement before the end of the term of service shall have expired, the SUPERINTENDENT may do so by giving the Town Manager thirty (30) calendar day notice of such intention.

## **13. PERFORMANCE**

On or before July 1st of each year of the term of this agreement, the TOWN may provide the SUPERINTENDENT with an annual performance review using the approved performance review set forth in the Town's Personnel Policies Manual.

## **14. FUNDING**

The funding of this contract is subject to the appropriation of Ayer Town Meeting.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals to this instrument on

April 5 2022.

TOWN OF AYER:



Robert A. Pontbriand  
Town Manager

FOR THE WATER AND SEWER  
SUPERINTENDENT:



Kimberly A. Abraham  
Water and Sewer Superintendent



Dan Van Schalkwyk  
DPW Director

Date: 4/5/2022

Date: 4/5/22