

**Contract of Employment
Between**

The Town of Ayer

And

**Timothy Johnston
Fire Chief**

July 1, 2023 – June 30, 2026

Agreement made this 16th day of February 2023 by and between the TOWN OF AYER (hereinafter the “TOWN”) and Timothy P. Johnston, of Ayer MA (hereinafter the “CHIEF” or “FIRE CHIEF”).

WHEREAS the Town is desirous of securing the service of the FIRE CHIEF; and

WHEREAS the CHIEF is willing to perform the duties of FIRE CHIEF according to the terms and conditions of this contract; shall furnish the Select Board, through the Town Manager, with evidence of professional training accomplishments; and

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

1. DUTIES

The administrative control of the Fire Department for the TOWN shall be the responsibility of the FIRE CHIEF pursuant to Massachusetts General Law Chapter 48.

Shall work under the administrative direction of the Town Manager and the policy direction of the Select Board, through the Town Manager.

Shall perform work in accordance with applicable Massachusetts General Laws, Town Policies, Town By-Laws, the official Job Description for the FIRE CHIEF and all relevant Federal, State and Local regulations and standards.

The CHIEF’s duties shall include, but not be limited to the following:

- Supervise the daily operations of the Fire Department.
- Supervise all Fire Department personnel, sworn and civilian.
- Supervise all Fire Department special, auxiliary and/or reserve officers.
- Prepare and submit the Fire Department budget and capital budget.
- Manage the department within the established budget.

- Responsible for all departmental expenses, as well as the receipt of funds and property in the custody of the Fire Department
- Submit a report to the TOWN either orally or in writing when requested or required in order to ensure the proper communication between the TOWN and the Fire Department.
- Supervise and control all equipment and motor vehicles belonging to or used by the Fire Department.
- Supervise and control all training programs for departmental personnel and assign personnel to such programs.
- Issue orders, rules and regulations, policies and procedures and assign shifts and duties of all departmental personnel.
- Be available for hearings before any board of the TOWN at which the Fire Department is required to appear and before the Town Meeting when necessary.
- Be responsible for communications with the public, including the media, on matters related to fires, fire operations and departmental policy.
- The CHIEF shall at all times represent the TOWN in a professional and ethical manner and shall perform additional duties as the Town Manager shall reasonably direct and shall inform the Select Board and the Town Manager of all policies and plans of the department.
- The Town Manager shall inform and advise the CHIEF of any complaints or suggestions brought to his attention including those communicated to the Town Manager from the Select Board.
- Discipline employees as allowed by contract or policy, make recommendation to the Town Manager on discipline (beyond the CHIEF's control), hiring and firing of personnel.
- Shall perform additional duties as reasonably directed.

The duties of the FIRE CHIEF are contained in the attached Job description.

2. HOURS OF WORK

- a. The FIRE CHIEF agrees to devote that amount of time and energy which is reasonably necessary for the FIRE CHIEF to faithfully perform the duties of the FIRE CHIEF under this contract.
- b. It is recognized that the FIRE CHIEF may devote a great deal of time outside the normal office hours to the business of the TOWN, and to that end, the FIRE CHIEF shall be allowed, upon notification of the Town Manager, to take compensatory time off as he shall deem appropriate during said normal office hours at such time which the FIRE CHIEF reasonably determines will adversely impact department operations the least.

3. INSURANCE

a. Professional Liability

The TOWN agrees to furnish, at its expense, professional liability insurance for the FIRE CHIEF with liability limits of One Million (\$1,000,000.00) Dollars.

b. Health and Life Insurance

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

c. Injured on Duty

As a sworn fire officer, the FIRE CHIEF shall be entitled to injured-on-duty benefits as provided in Chapter 41, Section 111F of the Massachusetts General Laws.

4. GENERAL EXPENSES

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

5. AUTOMOBILE

The TOWN shall provide the use of a fire vehicle for the FIRE CHIEF and pay for all attendant operating and maintenance expenses and insurance. Said vehicle is to be used by the FIRE CHIEF in connection with the performance of his duties as FIRE CHIEF and for his professional growth and development. It may be used by the FIRE CHIEF at times, in his best judgment, for personal reasons since the FIRE CHIEF is "on call" in the event of an emergency.

The FIRE CHIEF may, upon mutual agreement of both parties, use his own private automobile for his official duties as FIRE CHIEF. In the event such an agreement is reached, the TOWN shall reimburse the FIRE CHIEF at the current rate listed by the IRS for all official business.

6. DISCIPLINE OR DISCHARGE

The Town Manager in consultation with the Select Board may suspend and/or dismiss the FIRE CHIEF under the terms and conditions of this agreement and in accordance with the Town Manager Act, Chapter 79 of the Acts of 2018 and the Massachusetts General Laws. Any dismissal shall terminate this agreement.

It is agreed that the FIRE CHIEF may be disciplined and/or discharged only for just cause, upon proper notice and only after a hearing. The term "proper notice" as it appears in this section means that written notice of the hearing must be given to the FIRE CHIEF

at least ten (10) business days prior to the date of the hearing and must set forth 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 FIRE CHIEF with periodic performance evaluations.

The FIRE CHIEF 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 evenly split between the FIRE CHIEF and the TOWN.

In the event of a wrongful discharge or suspension, the FIRE CHIEF shall be reinstated to duty, and shall be entitled to backpay and any other expenses as directed by the arbitrator unless otherwise agreed by the parties.

Voluntary Resignation: In the event the FIRE CHIEF intends to resign voluntarily before the natural expiration of any terms of employment, then the FIRE CHIEF shall give the TOWN thirty (30) day written notice in advance, unless the parties otherwise agree in writing. The FIRE CHIEF will be entitled to receive pay for any earned vacation time.

Involuntary Resignation: In the event the FIRE CHIEF resigns following a formal suggestion by the TOWN that he resign before the expiration of the then applicable term of employment, the TOWN agrees to pay the FIRE CHIEF no more than six (6) months' salary and benefits.

7. COMPENSATION

Effective July 1, 2023, the FIRE CHIEF shall receive annual compensation of \$136,033.20. The parties mutually agree that the position of Fire Chief is currently on the Town's Non-Union Classification and Compensation Grid as a Grade 15. The Chief shall receive a two percent (2%) compensation increase on July 1, 2024 and a two percent (2%) compensation increase on July 1, 2025 subject to a satisfactory annual job performance review. Additionally, CHIEF shall receive any annual cost-of-living adjustment (COLA) as approved by Town Meeting during the duration of this contract. The parties agree that such compensation shall be paid on a bi-weekly basis, at the discretion of the Benefits and Payroll Manager.

Either party may request to reopen this section, for compensation only once in any fiscal year. Said request shall be made in writing.

8. BENEFITS

The TOWN agrees that the FIRE CHIEF shall receive any and all benefits generally available to full time non-union employees under the town's personnel policies and procedures, with consideration to the benefits available to subordinate personnel in the Ayer Fire Department.

a. VACATION

The FIRE CHIEF shall receive six (6) weeks (30 working days) of vacation leave with pay on July 1st in each subsequent year of the contract. Such vacation shall be taken at such a time or times as shall be approved by the Town Manager. All accrued vacation days shall be handled per the Town's Personnel Policies and Procedures Manual.

b. SICK LEAVE

FIRE CHIEF shall be granted fifteen (15) sick days per fiscal year. The FIRE CHIEF may accumulate up to 2080 hours of sick leave. Upon retirement from the Ayer Fire Department (as also determined by the Middlesex County Retirement System) the FIRE CHIEF will be compensated for any unused sick time at a rate of fifty percent (50%) of his regular rate of pay not to exceed \$7,500.

c. HOLIDAYS

The FIRE CHIEF shall receive such holidays as provided by the Town of Ayer Personnel Policy and Procedures Manual.

d. PERSONAL DAYS

The FIRE CHIEF shall receive three (3) personal days off per year. Personal days must be used in each fiscal year of the contract and do not accumulate and are not reimbursable upon separation from employment with the TOWN.

e. COUNTY RETIREMENT

The FIRE CHIEF shall be a member of the Middlesex County Retirement System with the appropriate percentage withheld from his 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 FIRE CHIEF dies during the term of employment, the TOWN shall pay to the FIRE CHIEF's estate all the compensation which would otherwise be payable to the FIRE CHIEF up to the death date, including, but not limited to, earned but unused vacation and personal days.

g. PROFESSIONAL DEVELOPMENT

The TOWN recognizes its obligations to the professional development of the FIRE CHIEF and agrees that the FIRE CHIEF shall be given adequate opportunities to develop his skills and abilities as a Chief fire officer and administrator.

The FIRE CHIEF will be allowed to attend trainings, conferences, and professional development courses at the discretion of the Town Manager, without

loss of vacation or other leave, and will be reimbursed by the TOWN for all expenses (including travel) incurred while attending or traveling to the aforementioned trainings, conferences and professional development courses.

The FIRE CHIEF will be allowed a one-time attendance to the CHIEF FIRE OFFICER TRAINING at the State Fire Academy, under the same terms and conditions stated above.

h. EDUCATIONAL INCENTIVE

The FIRE CHIEF shall receive an annual Educational Incentive in the amount of 10% of his salary (Section 7 of this contract) for the attainment of a Bachelor's Degree in Fire Science.

i. TUITION REIMBURSEMENT

In each fiscal year of the contract, the FIRE CHIEF, may receive up to \$5,600 as reimbursement for tuition towards courses required for a higher education and/or for other professional courses in fire related, leadership, management and/or other related courses.

j. CLOTHING ALLOWANCE

The FIRE CHIEF shall receive a credit of \$1,800 each year of this contract to pay for and maintain multiples versions of uniforms, professional attire and equipment not otherwise supplied.

k. EMERGENCY MEDICAL TECHNICIAN STIPEND

The FIRE CHIEF shall receive an annual stipend equal to two percent (2%) of the salary under Section 7 for maintaining his certification as an Emergency Medical Technician.

l. LONGEVITY

The FIRE CHIEF shall receive the maximum longevity payment for Non-Union Personnel at \$750 paid on his anniversary date each year. The FIRE CHIEF shall receive subsequent, annual longevity payment on his anniversary date in accordance with the Town' Personnel Policies and Procedures Manual.

m. CONFERENCE EXPENSE

The FIRE CHIEF shall be allowed to attend, at the TOWN's expense, one annual conference of the IAFC; subject to availability of funds.

n. PROFESSIONAL DEVELOPMENT

The Town recognizes its obligations to the professional development of the FIRE CHIEF and the FIRE CHIEF shall be entitled to utilize and amount not-to-exceed

\$2,000 per year, subject to appropriation to the fire department budget, to be used toward the cost of membership to professional organizations and toward seminars and courses and associated expenses that are necessary for his professional development. Attendance at courses and programs require the prior approval of the Town Manager.

o. FIRE CHIEF OFFICER ACCREDITATION

The FIRE CHIEF shall receive an annual stipend equal to four percent (4%) of the salary under Section 7 for receiving accreditation as a Chief Fire Officer through the Massachusetts Fire Service Commission and for maintaining this credential in good standing.

p. EMERGENCY MANAGEMENT DIRECTOR STIPEND

The FIRE CHIEF shall receive a stipend of twelve percent (12%) of the FIRE CHIEF's base pay for holding the position of Emergency Management Director. This stipend shall be added to the FIRE CHIEF's base pay and be paid in regular bi-weekly installments. The FIRE CHIEF shall be appointed Emergency Management Director effective for FY 2024; FY 2025; FY 2026.

9. MODIFICATION

No change or modification of this contract shall be valid unless it shall be in writing and signed by both 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 this agreement shall be for a period commencing July 1, 2023 and ending June 30, 2026. However, this contract may be extended as provided by its terms.
- b.** Unless either party gives the other written notice of its intention not to renew this agreement at least sixty (60) days prior to its expiration date, that agreement shall be automatically extended for one additional year.

- c. This contract shall be formally reviewed prior to its termination, and the FIRE CHIEF shall be advised of the TOWN's decision to renew or not renew this agreement sixty (60) days prior to its expiration date.
- d. If the decision is to renew, then the FIRE CHIEF 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.

13. INDEMNIFICATION

To the extent permitted by law, the TOWN agrees to defend, save harmless and indemnify the FIRE CHIEF against any civil complaint, claim, demand, suit or judgement filed by any third party, whether groundless or otherwise, arising out of any alleged act or omission occurring in the performance of the FIRE CHIEF's duties as the FIRE CHIEF of the TOWN. This provision shall survive any termination of this agreement with respect to acts or omissions while serving as the FIRE CHIEF.

14. FUNDING

The funding for this contract is subject to the appropriations of Ayer Town Meeting

15. NO REDUCTION IN BENEFITS

The TOWN agrees that the TOWN shall not at any time during this contract reduce the salary, compensation or other benefits of the FIRE CHIEF, except to the extent that such reduction is evenly applied across the board for all non-union employees in the TOWN.

IN WITNESS WHEREOF, the Parties hereunto have set their hands and seals to this instrument on February 22, 2023.

Robert A. Pontbriand
Town Manager

Date: 2/22/2023

Timothy P. Johnston
Fire Chief

Date: 2/22/23

This Contract for Employment was presented, reviewed, and ratified by a vote of (3-0) of the Ayer Select Board on February 21, 2023.