

Contract of Employment

Between

The Town of Ayer

And

**Robert A. Pontbriand
Town Manager**

July 1, 2022 – June 30, 2025

A. PREAMBLE

THIS AGREEMENT, made as of March 1, 2022, by and between the Town of Ayer; acting by and through their Select Board, hereinafter referred to as "Select Board", and Robert A. Pontbriand of Dunstable, Massachusetts, hereinafter referred to as "Pontbriand".

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

B. EMPLOYMENT

The Select Board hereby agreed to employ Pontbriand and to appoint him to the position of Town Manager and Pontbriand hereby accepts employment on the following terms and conditions.

C. DUTIES

Pontbriand shall fulfill all of the duties and responsibilities of the Town Manager in conformance with MGL Chapter 79 of the Acts of 2018: *An Act Establishing the Position of Town Manager in the Town of Ayer* and the duties and responsibilities set forth in the Town's job description for the position. Pontbriand will ensure that the Select Board Office is staffed during Town Hall hours of operation.

D. TERMS

Pontbriand shall be appointed for a multi-year contract beginning July 1, 2022 and ending June 30, 2025. The contract shall be extended for successive three-year periods unless the Select Board decided 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 Pontbriand 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 extension beyond June 30, 2025. The parties hereby agree that said negotiations shall commence on or before March 1, 2025, of the final year of the contract.

For all purposes of this contract, a majority vote of the full Select Board is considered to be two (2) votes out of three (3) Select Board Members (a 2/3rds majority).

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 Pontbriand desires to terminate this contract before the term of service expires, he may do so by giving the Select Board a forty-five (45) day notice in writing.

2. Non-Reappointment

The Select Board shall have the right to not reappoint Pontbriand to this position, without cause, on June 30, 2025, as long as the following conditions have been met:

- a. Pontbriand shall have been formally evaluated, using a performance evaluation tool as further detailed in Section M of this agreement, and notified, in writing, of the Select Board's intention not to reappoint, and the reasons therefore, prior to January 1, 2025. Said evaluation and notifications shall be made via certified mail, return receipt requested, to his residence or may be delivered in hand and;
- b. Pontbriand shall be paid severance in a lump sum cash payment in an amount equal to four (4) months of his salary. Said payment shall be made to Pontbriand on or before his last day of employment. This severance provision shall be waived if Pontbriand starts a new job that is economically comparable to the position in Ayer, after said notice of non-renewal but before June 30, 2025, of the final contract year and;
- c. A majority vote of the Select Board (a 2/3rds majority).

3. Reprimand or Suspension

The Select Board may reprimand or suspend Pontbriand 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 Pontbriand at least two (2) business days (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 Pontbriand's request, at which Pontbriand shall be afforded all rights provided under the Massachusetts Open Meeting Law and;
- c. A majority vote of the Select Board (a 2/3rds majority).

4. Dismissal

The Select Board may dismiss Pontbriand 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 Pontbriand 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 notice hearing, to be made public at Pontbriand's request, at which Pontbriand shall be afforded all rights provided under the Massachusetts Open Meeting Law; and
- c. A majority vote of the Select Board (a 2/3rds majority).

5. Appeal

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

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

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

Pontbriand 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 any discipline action taken by the Select Board. Pontbriand would have equal access to the courts under contract law with regard to any breach of contract. Any such legal action would be at Pontbriand's own expense.

F. COMPENSATION

Pontbriand shall be paid bi-weekly at the annual salary rate of \$149,646.96 (Grade 17, Step 11; Stepped-out) for FY 2023. Compensation for FY 2024 shall be (Grade 17, Step 11; Stepped-out); and Compensation for FY 2025 shall be (Grade 17, Step 11; Stepped out) as established by the Town's Classification and Compensation plan in conformity with the Town's Personnel Policy.

The position of Town Manager shall be classified on the Town's Non-Union Classification and Compensation Plan and the compensation of the position of Town Manager shall be governed by the Town's Non-Union Classification and Compensation Plan.

Pontbriand shall be eligible for any Cost-of-Living Adjustment (COLA) each year as authorized by the Town.

The Parties agree to re-open this section of the agreement should the Town's Classification and Compensation Plan be amended during the term of this agreement.

Pontbriand 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. Pontbriand must make the request in writing to the Select Board.

G. HOURS OF WORK

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

H. BENEFITS

Vacation

Pontbriand shall be granted four (4) weeks of vacation leave effective July 1, 2022, 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 Town of Ayer Personnel Policies and Procedures Manual. Pontbriand shall not take more than two (2) weeks consecutively without prior approval of the Select Board. Upon mutual agreement between the parties, Pontbriand shall be eligible to buy-back up to two (2) weeks of vacation leave during each fiscal year of this agreement.

Sick Days, Personal Days and Holidays

Pontbriand shall be granted sick, personal and holiday leave as per the Town of Ayer Personnel Policies and Procedures Manual. Upon termination of service, unused sick days have no monetary value.

Insurance

Pontbriand 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. Pontbriand 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 Pontbriand's expense.

Automobile Allowance

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

Retirement Benefits

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

Professional Development and Membership

The Town recognizes its obligation to the professional development of the Town Manager and Pontbriand shall be given an annual allowance, subject to the limitation of the 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.

Education Incentive

Pontbriand shall receive an annual education incentive for having attained a Master's Degree as follows: Five percent (5%) of base salary for FY 2023; Ten percent (10%) of base salary for FY 2024; and Fifteen percent (15%) of base salary for FY 2025.

Outside Employment

Pontbriand shall be allowed to perform outside employment, with the following conditions:

1. Any outside employment shall be approved in writing, in advance, by a majority of the Select Board (2/3rds vote).
2. Any outside employment shall be compatible with the professional standing of the Town Manager.
3. The outside employment shall not conflict with his responsibilities as the Town Manager.

Leave of Absence

Pontbriand 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

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

I. INDEMNIFICATION

The Select Board agree to maintain Professional Liability Insurance for the Town of Ayer in the amount of \$1,000,000 per occurrence, or any such greater amount allowed under the law, which policy shall cover Pontbriand, to provide legal counsel for Pontbriand in accordance with the provisions of MGL Chapter 28, Section 2, in defense of any action in which Pontbriand is named as a party except as may relate to his reprimand, suspension or dismissal; and to indemnify, defend, save and hold harmless Pontbriand in any demands, claims actions, suits and legal proceedings brought against him in his official capacity, as an agent of the Town in accordance with the provisions of MGL Chapter 258, Section 9 and 13. This indemnification shall survive and endure the expiration of this contract.

Should, subsequent to his service as Town Manager, the Town call or summons Pontbriand to provide information about or testify as to actions that took place during his tenure as Town Manager, he agrees that, if requested in writing by the Select Board, he will cooperate. The Town agrees to reimburse him for his reasonable per diem expenses associated with such testimony or cooperation.

J. 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.

K. ENTIRE AGREEMENT

This contract embodies the entire agreement between the Select Board and Pontbriand 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.

L. GOALS AND OBJECTIVES

The Select Board shall meet with Pontbriand annually no later than June 30th for the purposes of jointly discussing and establishing a set of goals and objectives for the ensuing twelve months and for reviewing any previously established goals.

M. PERFORMANCE EVALUATION

The Select Board may conduct a performance counseling session by December of each fiscal year and shall write a performance evaluation of Pontbriand by June of each fiscal year. The performance evaluation shall be conducted in accordance with the Town's standard Personnel Evaluation Form with mutually agreed performance measures, goals, and objectives. These written evaluations shall be submitted to Pontbriand, who may offer a written response. The evaluations and response shall then be discussed by the Select Board and Pontbriand. Within fifteen (15) days following the discussion of evaluation and responses by Pontbriand, the Select Board shall adopt, by majority vote, a consolidated written evaluation which, together with any written response Pontbriand may offer, shall be placed in Pontbriand's personnel file.

N. APPROPRIATION OF AYER TOWN MEETING

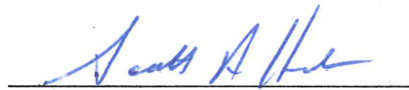
The Funding of this Employment Contract is subject to appropriation of funding by the Ayer Town Meeting.

IN WITNESS WHEREOF, the parties have hereunto signed and sealed this contract, in duplicate, as of the date first written above (March 1, 2022).

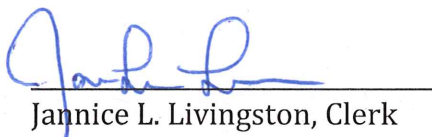
AYER SELECT BOARD



Shaun C. Copeland, Chair



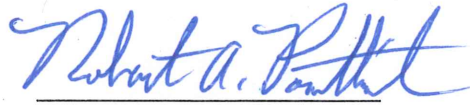
Scott A. Houde, Vice Chair



Jannice L. Livingston, Clerk

Date: March 1, 2022
March 1, 2022

TOWN MANAGER



Robert A. Pontbriand
Town Manager

Date: March 1, 2022
March 1, 2022