

**CONTRACT
BETWEEN
TOWN OF BOXBOROUGH
AND
MICHAEL JOHNS
BOXBOROUGH TOWN ADMINISTRATOR**

Contract made effective as of the 28 day of September, 2022 between the Town of Boxborough (hereinafter the "Town"), a duly authorized municipal corporation in Massachusetts in the County of Middlesex and Michael Johns (hereinafter "JOHNS" or "Town Administrator").

WHEREAS, the Town wishes to appoint JOHNS as the Town Administrator of the Town; and,

WHEREAS, JOHNS has agreed to accept the appointment as Town Administrator of said Town; and

WHEREAS, it is the desire of the Board to establish the conditions of employment and set the compensation and benefits of said Town Administrator such as to secure the services of the Town Administrator and to provide inducement for him to remain in the Town's employ; and

WHEREAS, JOHNS is willing to undertake and perform the duties of Town Administrator of said Town; and

NOW THEREFORE, the Town and JOHNS hereby agree that the following terms and conditions shall govern the employment of JOHNS and the salary and benefits to which JOHNS shall be entitled as Town Administrator pursuant to M.G.L. Chapter 41 § 108N and any successive Acts. JOHNS will be deemed an exempt employee as defined by the Fair Labor Standard Act (FLSA).

1. DUTIES AND HOURS OF SERVICE:

The Town Administrator is the Chief Operating Officer (COO) of the Town and shall perform the duties of Town Administrator as prescribed by statute, the Town's By-Laws, the job description attached hereto, and as lawfully assigned, directed or delegated by the Board.

The Town Administrator shall devote that amount of time and energy which is reasonably necessary to faithfully perform the duties of the Town Administrator under this contract. JOHNS will devote full time and attention to the business of the Town for no less than thirty-seven and one half (37.5) hours per week and will not engage in any other business during office hours, except with the approval of the Select Board. A timecard must be submitted only for weeks in which paid leave is taken. It is recognized that the Town Administrator must devote a great deal of time outside the normal office hours to the business of the Town, and to that end the Town Administrator will be allowed to take reasonable time off as he shall deem appropriate during said normal office hours, provided reasonable notice is given to the Select Board.

The Town Administrator shall attend all meetings of the Select Board unless excused by the Chairperson of the Board, the Annual and Special Town Meetings, and such other meetings that may be required in the performance of his duties as the Town Administrator of the Town.

2. COMPENSATION:

The Town shall pay JOHNS, subject to such statutory deductions as are required and any voluntary contributions and/or deductions desired by the Town Administrator, on the same schedule as all other Town employees are paid. The Town Administrator shall receive an annual salary of one hundred sixty-two thousand dollars (\$162,000.00) for the period of November 7, 2022 through November 6, 2023. The Town Administrator shall be eligible to receive an annual salary of one hundred sixty-six thousand eight hundred and sixty dollars (\$166,860.00) for the period of November 7, 2023 through November 6, 2024, and an annual salary of one hundred seventy-three thousand five hundred and thirty-four dollars (\$173,534.00) for the period of November 7, 2024 through November 6, 2025.

The above November 7, 2023 and November 7, 2024 salary increases shall be contingent upon the Town Administrator receiving a performance review of at least "proficient" for the one year period that precedes the date that the increase is to take effect on. Said performance review shall be completed within thirty (30) days of the end of the performance year to be measured as set forth in Section 3 below.

The Town Administrator shall be paid all monetary compensation and reimbursement under this Agreement through direct deposit.

In the event the performance review is not conducted as provided above, the Town Administrator's compensation shall be adjusted as if a "proficient" review rating had been achieved.

After 6 months of continuous employment, the Town shall contribute a sum of four thousand dollars (\$4,000.00) to the Town Administrator's deferred compensation plan. Additionally, every subsequent 6 months, for the duration of this Agreement, the Town shall contribute an additional sum of four thousand dollars (\$4,000.00) to the Town Administrator's deferred compensation plan. The Town Administrator shall notify the Town Treasurer in writing of the deferred compensation plan in which the payment is to be made.

In addition, the results of the Town Administrator's annual performance review will also be used for merit and performance bonus consideration. For the review period of November 7, 2022 through November 6, 2023, an overall rating of "proficient" shall entitle the Town Administrator to a one-time bonus of four thousand dollars (\$4,000.00); for an overall rating of "highly effective" the Town shall pay him a one-time bonus of twelve thousand dollars (\$12,000.00); for an overall rating of "outstanding" the Town shall pay him a one-time bonus of seventeen thousand dollars (\$17,000.00). Payment of such bonus shall be issued to the Town administrator within ten (10) days of the date the Board voted to approve the applicable performance evaluation. In the event the performance review is not conducted as required by Section 3 below, the Town shall pay the Town Administrator a one-time bonus as if a "proficient" review rating had been achieved.

For the review period of November 7, 2023 through November 6, 2024, an overall rating of "proficient" shall entitle the Town Administrator to a one-time bonus of five thousand dollars (\$5,000.00); for an overall rating of "highly effective" the Town shall pay him a one-time bonus of thirteen thousand five hundred dollars (\$13,500.00); for an overall rating of "outstanding" the Town shall pay him a one-time bonus of eighteen thousand five hundred dollars (\$18,500.00).

Payment of such bonus shall be issued to the Town administrator within ten (10) days of the date the Board voted to approve the applicable performance evaluation. In the event the performance review is not conducted as required by Section 3 below, the Town shall pay the Town Administrator a bonus as if a "proficient" review rating had been achieved.

3. TOWN ADMINISTRATOR EVALUATION:

The Select Board shall review and evaluate the Town Administrator annually within 30 days of his employment anniversary. Said review and evaluation shall be based on the goals and objectives developed jointly and mutually agreed to by the Board of Selectmen and the Town Administrator. Further, the Chairperson of the Board shall provide the Town Administrator with a summary written statement of the evaluation findings annually by the Board, and shall provide an adequate opportunity for the Town Administrator to discuss his evaluation with the Board.

Annually the Board and the Town Administrator shall mutually define the goals and objectives which they determine necessary for the proper operation of the Town and the attainment of the Board's policy objectives, and shall further establish a general priority among those various goals and objectives, reduced to writing. Goals shall be added by the end of every employment anniversary for the following year as an appendix which will be an addendum to this Agreement.

The Town Administrator shall conduct, at least annually during the term of this Agreement, a complete assessment of his own performance in a written document approved in advanced by the Board for this purpose, soliciting subjective feedback from individuals as determined by the Board of Selectmen with input from the Town Administrator. The result of this assessment will be made available to the Board.

4. TRAVEL AND COMMUNICATIONS:

For ordinary business-related automobile travel within the Commonwealth of Massachusetts, the Town shall provide the Town Administrator a fixed One Hundred and Twenty Dollars and No Cents (\$120.00) weekly reimbursement for vehicle expenses together with any costs paid for parking, tolls, and other ordinary travel and per-diem expenses upon receipt of an itemization and proper documentation for those out of pocket costs in accordance with the standard personnel policies of the Town. Such reimbursement shall be payable, in arrears, together with the compensation due above. If required by the Town to travel outside of the Commonwealth of Massachusetts for business required by the Town, excluding travel between primary residence and the Town of Boxborough, the Town shall reimburse the Town Administrator for mileage at the then IRS approved rate.

In lieu of providing the Town Administrator with a Town paid cell phone for ease of timely and continual communications with the Town Administrator, the Town shall provide the Town Administrator a fixed Twenty Dollars and No Cents (\$20.00) weekly reimbursement for cell phone expenses. Such reimbursement shall be payable, in arrears, together with the compensation due above.

5. BENEFITS:

The Town Administrator shall be entitled to the following benefits:

Vacation: The Town Administrator shall be entitled to accrue up to five (5) weeks' vacation per contract year. A vacation week shall be defined as five (5) working days. Vacation time shall accrue at the rate of sixteen and sixty-seven one-hundredths (16.67) hours per month. No more than one hundred sixty (160) hours of vacation leave may be carried forward into a new contract year.

The Town Administrator shall be allowed to use vacation in half-day increments. Vacation time shall not be accrued during any unpaid Leave of Absence.

Should the Town Administrator separate from employment during the life of this Agreement for any reason, the Town Administrator will be entitled to receive payment for only that portion of vacation leave that has been accrued through the date of separation.

Holidays: The Town Administrator shall receive the following paid holidays, and is not expected to report to work on:

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
President's Day	Indigenous Peoples Day
Patriots Day	Veterans Day
Memorial Day	Thanksgiving
Juneteenth	Christmas Day

Each holiday will be observed by the Town on the day designated by State law.

Bereavement Leave: In the event that the spouse/partner, child, foster child, step-child, grandchild, father, mother, step-parent, sister, brother, grandparent, father-in-law, mother-in-law, son-in-law or daughter-in-law of the Town Administrator shall die, the Chairperson of the select board shall grant the Town Administrator a leave of absence with pay for a period not to exceed five (5) working days.

Bereavement Leave must begin within one day of the notification of death. One day may be reserved for a future burial or memorial service, provided it is taken within 6 months of the notification of death.

Jury Duty: If the Town Administrator is called to serve on jury duty, the Town Administrator shall be paid the difference between his compensation for serving on jury (excluding reimbursement for out-of-pocket expenses) and the compensation provided for the Town Administrator's salary. The Town Administrator shall make every reasonable attempt to report for work on the days on which he serves. Reasonable documentary proof of actual service of jury duty must be presented for this compensation to be paid.

Parental Leave: In addition to the unpaid parental leave benefit set forth in the provisions of MGL Ch. 149, §105D, the Massachusetts Parental Leave Act (“MPLA”), the Employee, for the purpose of giving birth, or for the placement of a child under the age of 18 for adoption with the Employee who is adopting or intending to adopt the child, or under the age of 23 if the child is mentally or physically disabled, and after them having been employed by the Town in a full-time capacity for a period of at least twelve (12) consecutive months, shall be eligible to receive a matching paid day of leave time from the Town, subject to a maximum of 20 paid days, for each day of accrued paid leave that the employee utilizes from the employee’s own leave balances during the parental leave period. The matching days from the Town may be used upon the commencement of the parental leave period and must be used within 6 months of the commencement of the parental leave period. Such days cannot be accumulated, cashed out or utilized outside of this time period.

All parental leave taken pursuant to this section shall be counted against the employee’s annual leave allowance under the Family and Medical Leave Act and MPLA.

Personal Leave: The Town Administrator shall be entitled to four (4) personal days per contract year. Personal leave may be used for personal reasons and such leave shall be taken with the prior approval of the Chairperson of the Select Board. Such approval shall not be unreasonably withheld.

Unused personal leave can never be used during another contract year, nor can it be converted to pay or compensation of any kind.

Sick Leave: The Town Administrator shall be entitled to ten (10) days of sick leave per contract year. The Town Administrator shall also be entitled to join the Sick Leave Bank in accordance with the policies that govern enrollment and use.

Medical Insurance: If the Town Administrator does not enroll in the Town’s health insurance plan in a given month, the Town Administrator will be entitled to receive a sum equal to seventy-five percent (75%) of what the Town’s monthly contribution to the most popular family plan health insurance plan would have been for the month that said health insurance coverage was not received by the Town Administrator.

Absences: The Town Administrator shall notify the Chairperson of the Selectboard of any absences. Any use of vacation time in excess of three (3) days shall be pre-approved, with said approval not to be unreasonably withheld, by the Chairperson of the Select Board.

Absences Pre-Planned At the Time of Contract Execution: Reserved

6. PROFESSIONAL DEVELOPMENT, DUES AND SUBSCRIPTIONS:

The Town recognizes its obligations to the professional development of the Town Administrator. The Town agrees to pay up to four thousand dollars (\$4,000.00) annually for dues, subscriptions, registration, travel and subsistence expenses of the Town Administrator for memberships, conferences, short courses, institutes and seminars that are necessary for his professional development, as approved by the Select Board, including without limitation, to the ICMA Annual Conference, the Massachusetts Municipal Association Annual Conference, the

Massachusetts Municipal Manager's Association Annual Spring Conference and the Massachusetts Municipal Human Resources Association. Time spent in professional development activities shall not be deducted from vacation leave.

7. **GENERAL EXPENSES:**

The Town Administrator shall be reimbursed for any reasonable and necessary expenses incurred in the performance of his duties, or as an official representative of the Town, including attendance by him at civic or social events.

8. **RESIDENCY & USE OF TOWN VEHICLE**

Reserved

9. **UNIFORMS AND EQUIPMENT**

Reserved

10. **TAXATION OF CERTAIN ITEMS**

Reserved

11. **INDEMNIFICATION AND LITIGATION**

The Town shall defend, save harmless and indemnify, without limitation, the Town Administrator against any tort, professional liability, claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of his duties as Town Administrator, even if said claim is brought/filed following his separation from employment. The Town (and/or its insurer) shall pay the amount of any settlement or judgment rendered thereon, and further, the Town (and/or its insurer) may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon without recourse to the Town Administrator.

In connection with those claims or suits involving the Town Administrator in his professional capacity and covered above, the Town, at its sole option, shall either retain and pay for an attorney to represent the Town Administrator (including all fees and costs) or reimburse the Town Administrator for any attorneys' fees and costs incurred by the Town Administrator in connection with same, provided the Town Administrator submits proper invoices and evidence of payment of same.

In the event the Town Administrator has left the service of the Town, but has been called upon to provide a deposition, testimony, document review, or advice as an expert witness or party in litigation on behalf of the Town, the Town shall compensate the Town Administrator on a per diem basis of Seven Hundred Fifty Dollars and No Cents (\$750.00) for such services. In addition, the Town shall pay the ordinary and necessary expenses of air and ground transport, lodging, meals, fees and sundry items relative thereto.

The provisions of Section 11 shall not apply to disputes between the Town Administrator and the Town regarding his employment or concerning any of the terms and provisions of the Agreement.

This Section shall survive the termination of this Agreement

12. INSURANCE:

The Town agrees to furnish, at its own expense, public officials and general liability insurance for the Town Administrator with liability limits of one million (\$1,000,000.00) dollars.

The Town shall pay the full premium of a ten thousand dollar (\$10,000.00) Accidental Death and Dismemberment Insurance Policy for the duration of this Agreement.

The Town shall pay fifty percent (50%) of the premium for Disability Insurance or equivalent that is presently in effect, should the Town Administrator elect to enroll.

13. DISCIPLINE AND DISCHARGE:

Except as otherwise set forth in the "Severance" section below, during the term of this contract, the Town may discipline or discharge the Town Administrator only for just cause upon a majority vote of the duly elected Select Board. The Town Administrator shall have the right to a pre-disciplinary or pre-discharge hearing and he shall be entitled to receive written notice of the charges against him at least 14 calendar days prior to the hearing. The Town Administrator shall have the option of choosing whether or not any such hearing shall be closed to the public or shall be held as an open or public hearing. The Town Administrator shall have the right to be represented by counsel or a representative of his choosing.

For the purpose of discipline or discharge, the definition of just cause includes, but is not limited to, the following:

- a) Malfeasance – defined as wrongdoing or misconduct by a public official or the commission of an act that is positively unlawful.
- b) Misfeasance – defined as the doing of a lawful act in an unlawful or improper manner so that there is an infringement on the rights of others.
- c) Nonfeasance – defined as the failure to do what duty requires to be done.

14. SEVERANCE:

In the event the Board of Selectmen wishes to terminate this Agreement prior to the end of its term for other than just cause, the Town shall pay the Town Administrator a lump sum equal to his annual base salary, plus any unused accrued vacation he may have at the time of termination, and an additional amount equal to seventy five percent (75%) of the Town's portion of his health and life insurance benefits for a twelve (12) month period following termination. This section shall survive the termination of this agreement.

15. TERM:

- a. The term of this Contract shall begin November 7, 2022 and terminate on November 6, 2025 (“Termination Date”) unless sooner terminated in accordance with Section 13 or Section 14.
- b. Unless either party provides written notice to the other of its intention to renegotiate and/or not to renew this contract no less than six (6) months prior to November 6, 2025, it shall automatically be extended, on the then applicable terms and conditions, for an additional year.
- c. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of the Town to terminate the services of the Town Administrator at any time, subject only to the provisions set forth in Sections 13 and 14 of this Contract.
- d. In the event the Town Administrator wishes to resign his position with the Town during the term of this Agreement, he shall provide the Town with a minimum of ninety (90) days’ written notice of such intent.

16. NOTICES:

Notices pursuant to this Contract shall be given personally in hand or by first-class mail, postage prepaid, addressed as follows, unless either party hereafter informs the other party in writing of a change of address:

TOWN:

Select Board
Boxborough Town Hall
29 Middle Road
Boxborough, MA 01719

TOWN ADMINISTRATOR:

Michael Johns
[REDACTED]
[REDACTED]

Notice shall be deemed as given as of the date of personal service or as the postage mark of such written notice as sent by first-class mail.

17. RIGHTS IN DEATH:

Upon the death of the Town Administrator, the Town shall pay to the Town Administrator’s estate all compensation which would otherwise have been payable to the Town Administrator, up to and including the date of their death.

18. AMENDMENTS:

This Contract may be modified at any time in writing by the mutual consent of the parties executed in the same manner as this original Contract.

19. ENTIRE CONTRACT:

The text herein contains the entire Contract of the parties. No prior understanding, oral interpretation, direction or change, unless executed in writing, shall be valid.

20. INTERPRETATION OF CONTRACT:

The Contract will be interpreted and construed for all purposes under the laws of the Commonwealth of Massachusetts.

21. SEVERABILITY:

Should any clause or provision of this Contract determined to be illegal by a court of competent jurisdiction, the remainder of this Contract shall not be affected thereby and shall remain in full force and effect.

22. Delegation of Authority

Reserved.

This Contract is executed as a sealed instrument this 28 day of September, 2022

Town of Boxborough
Acting by and through its Select Board
As Voted 4 Yes, 0 No, 1 Absent 09/26/2022

Michael C. Johns

Jennifer T. Campbell

Michael Johns
10/04/2022

Chair, Select Board
10/04/2022

Date: _____

Date: _____

Attest to Signature:

[Signature]

Town Clerk
10/04/2022

Date: _____

See Additional Signatures on the following page:

Approved as to Legal Form by:

Joseph Faur

Town Counsel
10/03/2022

Date: _____

Certified that there is an appropriation in
Account ¹⁰⁰⁰⁰⁻¹²³⁻⁵¹⁻⁵¹⁰⁰⁻⁰⁰⁰⁰ _____, to fund this
Contract.

Kelli Pontbriand

Town Accountant
10/03/2022

Date: _____