

**EMPLOYMENT AGREEMENT  
BETWEEN  
TOWN OF TYNGSBOROUGH, MASSACHUSETTS  
AND  
CURT T. BELLAVANCE**

THIS Agreement, entered into as of the 17<sup>th</sup> day of November, 2014 by and between the Town of Tyngsborough, Massachusetts, a municipal corporation (the "Town"), acting through its Board of Selectmen (the "Board"), and Curt T. Bellavance ("Bellavance"),

WITNESSETH:

WHEREAS the Town desires to engage the services of Bellavance to hold the position and perform the duties of Town Administrator; and

WHEREAS Bellavance is willing to undertake and perform the duties of said position of Town Administrator of the Town; and

WHEREAS the Town is authorized to enter into an employment agreement with Bellavance pursuant to G.L. c. 41, § 108N;

NOW, THEREFORE, for mutual consideration, the parties agree as follows:

1. DUTIES

The Town agrees to employ Bellavance as Town Administrator of the Town to perform the functions and duties specified in the Job Description attached hereto as Exhibit A and, in addition, to perform those duties usually and customarily performed by a Town Administrator. Bellavance shall perform, faithfully and to the best of his ability for the Selectmen and the Town, all duties and responsibilities of a Town Administrator generally imposed by or implied from the laws of the Commonwealth of Massachusetts, including, but not limited to the Town Bylaws, the Selectmen's policy, other applicable laws, rules and/or regulations, customs and practices within the Commonwealth of Massachusetts, and such other duties and responsibilities as from time to time may now or hereafter be assigned to Bellavance by the Board of Selectmen and which are within the customary range of duties and responsibilities performed by persons holding similar positions with municipalities of comparable size. Bellavance hereby agrees to perform such duties in a timely and efficient manner, consistent with applicable professional standards.

## 2. TERM OF APPOINTMENT AND CONTRACT

- A. Bellavance agrees to remain in the exclusive employ of the Town from December 1, 2014, until November 30, 2017, and not to accept other employment, except as provided in Section 8 of this Agreement, nor to become employed by any other employer until said termination date, unless said termination date is affected as below provided.
- B. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the Board to terminate the services of Bellavance at any time, subject only to the provisions set forth in Section 11, paragraphs A and B of this Agreement.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Bellavance to resign at any time from his position with the Town, subject only to the provisions set forth in Section 11, paragraph C of this Agreement.
- D. If this Agreement and/or the term of appointment will not be renewed upon its expiration on November 30, 2017, the Board shall provide one hundred twenty (120) days written notice to Bellavance of its intent not to renew. If such advance notice is not given, then the contract and term of appointment shall automatically renew for a single one (1) year term.
- E. If both the Town and Bellavance mutually agree to extend this contract beyond November 30, 2017, both shall make a good faith effort to negotiate a new contract to become effective December 1, 2017.

## 3. HOURS OF WORK

Except as otherwise authorized, Bellavance shall devote, at a minimum, such time and effort as is necessary to properly perform the duties and responsibilities of the position. Due to the unique nature of the municipal management function, it is understood and agreed that, in order to properly perform the job required, Bellavance may have to expend additional time beyond the normal Town Hall work day; and Bellavance agrees to expend time as is required, including, but not limited to, time required to represent the Town at various meetings and events, including Town Meetings, meetings with the Selectmen and other Town boards, committees, commissions, and departments, and time necessitated by emergency situations. It is acknowledged that the position is one of an executive/ administrative nature as that term is used in the Fair Labor Standards Act, its rules and regulations. Where Bellavance is required to devote substantial time to properly discharge his duties and where he is not granted any compensatory time, he is allowed a flexible work schedule and may take time away from the normal work day.

There shall be no paid overtime or additional compensation for such additional time.

#### 4. SALARY

The Town shall pay Bellavance for his services rendered at an annual salary One Hundred Fifteen Thousand Dollars (\$115,000) commencing on December 1, 2014, payable in installments and at the same time as other employees of the Town. This salary will be prorated to account for the period of unpaid vacation leave that will occur between December 22, 2014 and January 2, 2015 as set forth in Section 5 of this Agreement. Effective December 1, 2015, Bellavance's annual salary shall be One Hundred Seventeen Thousand Dollars (\$117,000). Effective December 1, 2016, Bellavance's annual salary shall be One Hundred Nineteen Thousand Dollars (\$119,000).

#### 5. VACATION, SICK, AND OTHER LEAVE

- A. Effective December 1, 2014, Bellavance will be entitled to twenty (20) days paid vacation to be used over the next twelve (12) months. Effective December 1, 2015, Bellavance will be entitled to twenty-five (25) days of paid vacation to be used over the next twelve months. Effective December 1, 2016, Bellavance will be entitled to twenty-five (25) days of paid vacation to be used over the next twelve months. Such vacation is to be taken by Bellavance at such time or times as shall be approved by the Chairman of the Board. Up to a maximum ten (10) days of unused vacation may be carried over from one (1) year to the next.

Upon resignation, retirement, or termination, previously accrued and accumulated unused vacation days shall be paid on the basis of Bellavance's then current salary.

It is recognized due to a previously scheduled vacation that Bellavance will be on vacation and outside of the Commonwealth from December 22, 2014 to January 2, 2015. During this period, Bellavance will be considered to be on unpaid vacation leave.

- B. On start date, twenty-five (25) days of paid sick leave shall be credited to Bellavance's account. Bellavance will accrue sick days at a rate of one (1) additional day per month during the term of this Agreement with a maximum of ninety (90) days at any given time. Bellavance shall notify the Chairman of the Board in the event of any absence. Bellavance shall not be paid for accrued unused sick days at the time of resignation, retirement, or termination.

- C. Upon the death of the Town Administrator's spouse, his children, grandchildren, or his parents the Town Administrator will be granted leave of five (5) working days without loss of pay. Upon the death of the Town Administrator's siblings, father-in-law, sister-in-law or brother-in-law, the Town Administrator will be granted leave of three (3) working days without loss of pay.
- D. Except as otherwise provided for in this Agreement, Bellavance shall be eligible to all other leave benefits available to full-time, non-union employees of the Town as specified in the Town Bylaws, including the Personnel Bylaw, as in effect from time to time. If any benefit is covered both by the terms of this contract and any Town Bylaw, the terms of this contract shall supersede and prevail.

## 6. HEALTH INSURANCE AND OTHER BENEFITS

Bellavance shall enjoy all retirement, insurance, and other benefits generally available to full-time, non-union employees of the Town under the same terms and conditions unless specifically limited or otherwise provided for under the terms of this Agreement.

The Town shall pay seventy per cent (70%) and Bellavance shall pay thirty per cent (30%) of the premium for the health insurance provided by the Town for Bellavance.

If Bellavance is employed by the Town and does not enroll in Town-provided health insurance for the entirety of health insurance plan years June 1, 2014 through May 31, 2015; and does not enroll in Town provided health insurance for the succeeding plan year, the Town shall pay Bellavance \$3,000 in the payroll succeeding the end of each aforementioned respective health insurance plan year. In the event this contract is extended, this provision shall continue into succeeding years. For the first year of the Agreement, the \$3,000 will be prorated for the months worked in the fiscal year.

The Town shall pay for a term life insurance policy or policies for Bellavance with a total premium not to exceed One Thousand Dollars (\$1,000) annually.

## 7. GENERAL EXPENSES

Bellavance shall be entitled to Twenty-five Hundred Dollars (\$2,500) per year payable monthly for use of personal business expenses including mileage and personal cell phone use.

## 8. PROFESSIONAL DEVELOPMENT

The Board recognizes its obligation to encourage the professional development of Bellavance and agrees that Bellavance shall be given adequate opportunity to develop his skills and abilities as a Town Administrator. Bellavance shall devote his full time, attention, and energy to the business of the Town; but Bellavance may accept incidental speaking, writing, lecturing, or other engagements of a professional nature, provided such activities do not derogate from or interfere with his duties as Town Administrator. In the event any such outside activity shall require Bellavance to be absent from the Town for more than two (2) consecutive days, he shall give notice to the Chairman of the Board.

Bellavance shall be entitled to receive up to Two Thousand Dollars (\$2,000) each year for professional development, payment of dues relating to membership in professional associations, including national, regional, state and local associations and/or organizations, and for attending seminars and conferences, upon submission of such receipts to the Board and subject to the approval of the Board. Attendance at such seminars and conferences shall be allowed during normal work hours subject to the approval of the Board and shall not be charged to vacation or other leave.

## 9. PERFORMANCE EVALUATION

There shall be an annual performance evaluation of Bellavance by the Board, to be held no later than December 31 of each contract year. Failure of the Board to evaluate Bellavance's performance shall in no way prejudice any of the Town's rights.

The purpose of this evaluation is to:

- a) Review the performance of Bellavance;
- b) Determine if any improvements and/or training are required;
- c) Determine any changes needed in the job description;
- d) Develop mutually agreed upon goals.

The Chairman of the Board shall provide Bellavance with a summary written statement of the Board's findings. The Board shall provide an adequate opportunity for Bellavance to discuss his evaluation with the Board, and attach any written comments, before the review is made a part of Bellavance's personnel records. All meetings by the Board concerning Bellavance's performance evaluation will be done in open session in accordance with M.G.L. c. 30A and the written evaluation will be considered to be a public record.

## 10. INDEMNIFICATION

To the extent allowed under M.G.L. c. 258, the Town shall defend, save harmless and indemnify Bellavance 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 Bellavance's duties as Town Administrator, even if such tort claim or demand occurs following his term of employment with the Town.

The Town shall not be required to indemnify, hold harmless or defend Bellavance for violation of any civil rights if he acted in a grossly negligent, willful or malicious manner or for any claims arising out of conduct determined by a court of competent jurisdiction to be outside the scope of Bellavance's duties or are the result of gross negligence or willful, criminal, or malicious misconduct. The Town may compromise and settle any claim or suit for which Bellavance is indemnified and pay the amount of any settlement or judgment rendered thereon. The Town shall be required to obtain the consent of Bellavance to settle any such claim, and such consent shall not be unreasonably withheld by Bellavance.

This Section shall not apply to any legal expenses or costs incurred for any proceeding, hearing or appeal related to any action brought by either party under Section 11 of this Agreement and Bellavance shall not be eligible for any indemnification related to any such proceeding, hearing or appeal.

## 11. TERMINATION, SUSPENSION, AND SEVERANCE PAY

- A. The Board may terminate Bellavance at any time during the term of this Agreement, but only if (a) a four-fifths (4/5) majority of the Board and Bellavance agree, or (b) after a hearing, a four-fifths (4/5) majority of the Board votes to terminate Bellavance for reasons that are not arbitrary and capricious, provided, however, that Bellavance shall have been given written notice at least ten (10) days prior to such hearing by the Board. The Board shall convene any hearing held pursuant to this section, and Bellavance shall be accorded all rights, under M.G.L. c. 30A, § 18-25. The Board may place Bellavance on paid administrative leave pending such hearing.
- B. In the event that Bellavance is terminated by the Board before the expiration of the aforesaid term of employment, the Board agrees to pay Bellavance a lump sum cash payment equal to three (3) months aggregate salary; provided, however, that in the event Bellavance is terminated because of his conviction of any illegal act involving personal gain to him or any other intentional or willful misconduct in the office, the Town shall have no obligation to pay the aggregate severance sum.

- C. In the event Bellavance voluntarily resigns his position with the Town before the expiration of the aforesaid term of his employment, Bellavance shall give the Board sixty (60) days written notice, unless the parties otherwise agree.
- D. Upon termination, the Town agrees to provide Bellavance with a complete copy of his personnel file, if requested.
- E. If Bellavance dies during the term of this Agreement, the employment relationship created by this Agreement will terminate; and Bellavance's salary shall continue to be paid to his designated beneficiary or, if none, to his estate representative through the end of the month in which his death occurs.

## 12. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

Subject to the terms and conditions set forth in Section 1, the Board may, with the assent of Bellavance, fix any other terms and conditions of employment, as it may determine from time-to-time, relating to the performance of Bellavance, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Town by-laws, or any other law.

## 13. NO REDUCTION OF BENEFITS

The Town shall not at any time during the term of this Agreement reduce the salary, compensation, or other financial benefits of Bellavance, except to the degree of such reduction across-the-board for all employees of the Town.

## 14. NOTICES

Any and all notices required or permitted to be given under this Agreement will be sufficient if furnished in writing, sent by registered mail to Bellavance's last known address, in the case of Bellavance, or to the Town's principal office in Tyngsborough, Massachusetts, in the case of the Town.

## 15. GENERAL PROVISIONS

- A. The text herein shall constitute the entire Agreement between the parties. If any provision, or portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this

Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

- B. This Agreement may be amended at any time by mutual written consent of the parties, except as otherwise provided herein.
- C. Bellavance understands and agrees that all compensation and benefits provided under this Agreement are subject to appropriation from year to year by the Town Meeting. In the event that the Town Meeting does not vote to fund the monetary provisions, the parties shall attempt to renegotiate this Agreement. In such event, the Town shall be obligated, at a minimum, to provide Bellavance the severance afforded in Section 11.
- D. For the purposes of the Fair Labor Standards Act, Bellavance shall be an "exempt employee."

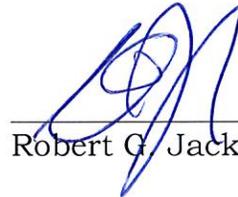
IN WITNESS THEREOF, as of the day and year first written above, the Town of Tyngsborough, in its corporate name and by its Board of Selectmen, and Curt T. Bellavance has set their hand and seal:

CURT T. BELLAVANCE,



Curt T. Bellavance

BOARD OF SELECTMEN



Robert G. Jackson, Chairman



Richard D. Reault, Vice Chairman



Karyn M. Puleo, Clerk



Corliss F. Lambert



William F. Gramer