

AGREEMENT BETWEEN
TOWN OF ABINGTON
AND
JOHN D'AGOSTINO

This Agreement is entered into this 27th day of April, 2010, by and between the Town of Abington, hereinafter referred to as "the Town", acting through its Board of Selectmen, hereinafter referred to as "the Board of Selectmen", and John D'Agostino, hereinafter referred to as "Town Manager".

Whereas, the Town desires to employ the services of John D'Agostino as Town Manager of the Town of Abington as provided for in Article Four and other pertinent provisions of the Town Charter; and

Whereas, it is the desire of the Town to contract for salary and benefits of the Town Manager; and

Whereas, the Town Manager desires to accept such employment as Town Manager of the Town of Abington

Now therefore, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

Section 1 Functions and Duties of Town Manager: The Town hereby employs John D'Agostino as Town Manager of the Town of Abington. The Town Manager shall perform the functions and duties as Town Manager as set forth in the Town Charter, and shall perform any other legally permissible and proper duties and functions as the Board of Selectmen may from time to time assign. The Town Manager agrees to remain in the exclusive employ of the Town during the term of this Agreement, and shall neither accept other employment or become employed by any other employer during the term of this Agreement, or any successive term of this Agreement. The term "employed" shall not be construed to include occasional teaching, writing or consulting performed on the Town Manager's time off, the same to be such as not to interfere with or conflict in any way with the Town Manager's general duties to the Town.

Section 2 Term: This Agreement shall become effective April 27, 2010, and shall be in full force and effect until April 26, 2013

Section 3 Compensation: The Town agrees to pay the Town Manager for his services an annual salary of \$118,000.00, payable in installments at the same time as other employees of the Town are paid. In addition, the Town agrees to increase the Town Manager's annual salary in such amounts as the Board of Selectmen may determine is desirable on the basis of the Town Manager's annual performance review performed on his anniversary date of employment, and taking into consideration the financial condition of the Town.

Section 4 Evaluation: The Town Manager's performance shall be reviewed and evaluated on an annual basis by the Board of Selectmen. All reviews and evaluations shall be in accordance with specific criteria developed jointly by the Board of Selectmen and the Town Manager. The Board of Selectmen shall have an annual public performance review of the Town Manager at its first meeting of the month in January. The Town Manager shall notify the Board of Selectmen by the first week in December of each year that the review and evaluation are due by the first meeting in January. Prior to conducting a public performance review of the Town Manager, each member of the Board of Selectmen shall meet individually with the Town Manager to discuss his performance, based on the criteria agreed to by the Board of Selectmen and the Town Manager the prior year. The Chairman of the Board of Selectmen shall provide the Town Manager with a summary written statement of the findings of the Board of Selectmen and provide adequate opportunity for the Town Manager to discuss his evaluation with the Board of Selectmen. The Town Manager shall also have the right to provide a written response to the evaluation. A copy of the evaluation shall be made a part of the Town Manager's personnel file along with any written response made by the Town Manager. In effecting the provisions of this Section, the Board of Selectmen and the Town Manager agree to abide by the provisions of applicable law.

Section 5 Hours of Work: The Town Manager shall be required to devote the amount of time necessary to effectively, professionally and diligently discharge the duties of the position, and manage the affairs of the Town of Abington and its employees. Due to the professional nature of the position, it is recognized by the Town Manager that he must devote a good deal of time outside of the normal office hours of Town Hall to conduct the business of the Town.

Section 6 Benefits:

- a. The Town shall provide a health insurance policy to the Town Manager similar to and subject to the same eligibility criteria as other Town employees. The Town Manager agrees to be responsible to pay 40% of the premium of said policy and the Town agrees to be responsible to pay 60% of the premium of said policy.
- b. The Town Manager shall be entitled to fifteen days of paid vacation and three paid personal days per contract year. A total of ten unused vacation days may be carried over to a subsequent contract year. No unused personal days may be carried over to a subsequent contract year. In no event shall unused vacation days accrue to more than ten days. To the extent that unused, accrued vacation days exceed ten days, such excess days shall be deemed waived and forfeited by the Town Manager.
- c. The Town Manager shall be entitled to ten days for paid sick leave per contract year. Sick leave may accrue from contract year to contract year and may be carried over from contract year to contract year. The Town Manager shall not be entitled to any sick leave buy-back.
- d. The Town Manager shall receive the following holidays, New Year's Day, Martin Luther King Day, Presidents' Day, Patriot's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.
- e. Upon the death of a member of the Town Manager's immediate family, the Town Manager shall be granted leave of four working days without loss of pay. For the purposes of this subsection, "immediate family" shall mean and include the following: spouse, child, mother, father, sister, brother, father-in-law, mother-in-law, grandparent, and grandchild. Leave may be granted without loss of pay for other family members as deemed appropriate by the Board of Selectmen.
- f. The Town Manager may participate in the Town's group life insurance program subject to all applicable eligibility criteria.
- g. The Town Manager shall be reimbursed the sum of \$50.00 monthly to provide for a cellular telephone for use in the discharge of his duties.

Section 7 Jury Leave: In the event the Town Manager is summoned to jury duty in a federal court or in the courts of the Commonwealth of Massachusetts, he shall be excused from work for the period necessary to perform said jury duty. The Town Manager shall receive from the Town the difference between his salary and the compensation he receives for such jury duty services; provided, however, he shall receive his full pay for his first three days of service for performing jury services for courts of the Commonwealth of Massachusetts.

Section 8 Court Time: In the event the Town Manager is required to testify in court pursuant to the duties of his job, he shall receive full compensation for all hours worked in this capacity.

In the event the Town Manager is required to attend proceedings in a court as a defendant, or as a witness, other than as a part of his regular employment with the Town, he shall do so in an unpaid status. The Town Manager may use personal and vacation leave for this purpose.

Section 9 Dues and Professional Development: The Town shall pay for the professional dues of the Town Manager necessary for his membership in the following professional organizations: Massachusetts Municipal Association and Massachusetts Municipal Personnel Association, and any other professional organizations deemed necessary and desirable for his continued professional participation, growth and advancement for the good of the Town, as deemed appropriate by the Board of Selectmen.

The Town shall pay the Town Manager's registration fees to the Massachusetts Municipal Association Annual Conference and the Massachusetts Municipal Manager's Association Annual Spring and Fall Conference.

Section 10 Deferred Compensation: The Town shall contribute two thousand five hundred and 00/100 Dollars (\$2,500.00) at the end of each contract year to the Town Manager's deferred compensation plan.

Section 11 Bonding: The Town shall bear the cost of any fidelity or other bonds required of the Town Manager under any law, the Town Charter, or by-law.

Section 12 Indemnification: For acts performed in good faith and without gross negligence and in the belief that he is acting in the best interests of the Town, the Town to the extent permitted by law, agrees to defend, save harmless, and indemnify the Town Manager against any tort,

professional liability claim, or demand or other legal action arising out of an alleged act or omission occurring in the performance of the Town Manager's official duties as Town Manager. Willful torts and criminal acts by the Town Manager are excepted and are not indemnified by the Town

Section 13 Automobile: It is understood the Town Manager's duties require the use of an automobile. The Town Manager shall not be entitled to the use of a Town vehicle and is responsible for the expenses of his own automobile in performing his duties as Town Manager.

Section 14 Termination:

- a. The Town may remove the Town Manager from office and terminate his employment in accordance with Section 4-7 of the Town Charter, which is incorporated by reference herein.
- b. The Town Manager may resign his position upon ninety (90) days written notice to the Town.
- c. The Town Manager shall not actively seek employment during the term of this Agreement, without the written consent of the Town.

Section 15 Non-Renewal of Agreement: At least one hundred fifty (150) days prior to the expiration of the Town Manager's term, the Town Manager shall notify the Board of Selectmen in writing of the pending expiration of the Agreement. At least one hundred twenty (120) days prior to the expiration of the Town Manager's term, the Board of Selectmen shall inform the Town Manager as to whether the Board of Selectmen will re-appoint the Town Manager to another term. If the Town Manager is not reappointed to another term and the Town Manager is willing and able to perform his duties, then the Town shall pay the Town Manager ninety (90) days' severance pay at the end of his term. Such severance pay shall be paid in the same installments as the Town Manager received while employed by the Town. The Town shall not be liable for such severance pay in the event the Town Manager's non re-appointment is attributable to illegal acts involving personal gain to himself, malfeasance, misfeasance, nonfeasance, violation of the Town Charter, unauthorized exercise of responsibility and authority

of the Board of Selectmen or actions in direct contradiction with the express policies of the Board of Selectmen.

Section 16 Disability: The Town shall comply with all applicable state and federal laws concerning employee disability.

Section 17 Notices: Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, certified mail, postage prepaid, addressed as follows:

1. Town Chairman, Board of Selectmen

 Town of Abington

 500 Gliniewicz Way

 Abington, MA 02351

2. Town Manager John D'Agostino

 175 Balcom Street

 Mansfield, MA 02048

Alternatively, notices required pursuant to this Agreement may be personally served in the manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

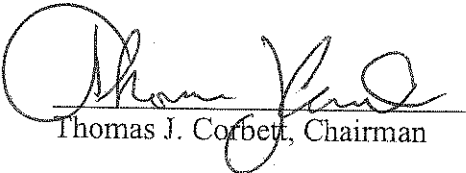
Section 18 General Provisions:

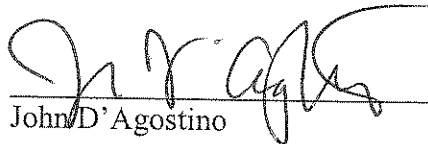
- a. This Agreement shall constitute the entire Agreement between the parties.
- b. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Town Manager.


- c. This Agreement may be modified at any time during its term upon the mutual consent of both parties. For any such modifications to be effective, they must be in writing and signed by both parties.
- d. If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof shall be deemed severable and shall not be affected and shall remain in full force and effect.
- e. The terms of this Agreement are subject to annual appropriation by Town Meeting.

TOWN OF ABINGTON
Acting by and through its
Board of Selectmen

TOWN MANAGER

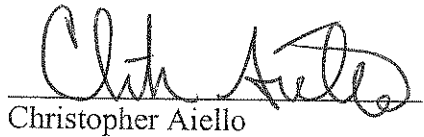

Thomas J. Corbett, Chairman

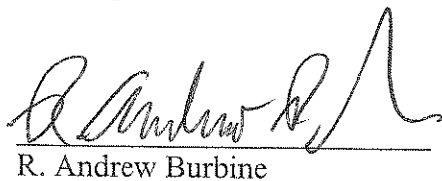

John D'Agostino


Richard D. Cunningham

DATE: 4-22-10

Gerald F. Corcoran


Christopher Aiello


R. Andrew Burbine

DATE: _____

Approved as to legal form:

Town Counsel

DATE: _____