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Contract Database Metadata Elements

Title: **Gowanda, Village of and Joesph J. Alessi (2004)**

Employer Name: **Gowanda, Village of**

Union: **Joesph J. Alessi**

Effective Date: **01/01/04**

Expiration Date: **01/01/06**

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5- 6/29/04

PLT
7605

VILLAGE OF GOWANDA
27 East Main Street
Gowanda, New York 14070

January 1, 2003

1/1/04 - 1/1/06

Mr. Joseph J. Alessi
P.O. Box 264
N. Collins, New York 14111

Re: Employment Agreement

Dear Joseph:

This letter is to confirm our understanding with respect to your future employment by the Village of Gowanda, a municipal corporation (collectively referred to herein as the "Village") (the terms and conditions agreed to in this letter shall hereinafter be referred to as the "Agreement"). In consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, we have agreed as follows:

1. Employment.

The Village will employ you, and you agree to be employed by the Village, as Chief of Police, an annually appointed non-Civil Service position. You shall have the responsibilities, duties and authority commensurate with such position. In addition to your primary duties, you shall perform such other services for the Village as may be assigned to you from time to time by the Village Board of Trustees. You shall devote your time and best efforts in the performance of the foregoing services.

2. Term of Employment.

(a) Term/Termination. Your employment hereunder shall commence as of the date hereof and shall continue until January 1, 2004. Thereafter, your employment will automatically renew for the period January 1, 2004 to January 1, 2005 and for the period January 1, 2005 to January 1, 2006. Notwithstanding the foregoing your employment will terminate upon the happening of any of the following:

- (i) immediately upon your death; or
- (ii) by the Village, upon written notice:

(A) following your failure, due to illness, accident or any other physical or mental incapacity, to perform the services provided for hereunder for an aggregate of (1) ninety (90) consecutive business days within any period of three hundred sixty (360) consecutive

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NYS PUBLIC EMPLOYMENT
RELATIONS BOARD

business days or (2) one hundred twenty (120) business days within any period of three hundred sixty (360) consecutive business days during the term hereof;

(B) for Cause, as defined in Section 2(b) below.

Except as provided in Section 2(c) below, in the event your employment shall be terminated by the Village, no further compensation or benefits of any kind shall be payable to you hereunder; provided, however, that you shall continue to be bound by the terms and conditions of this Agreement (other than Section 1 hereof).

(b) Definition of "Cause". For purposes of this Agreement, "Cause" shall include: (i) conviction of a felony (ii) repeated and consistent willful misconduct or gross negligence which is not cured within the ten-day period after written notice is given to you which specifies in reasonable detail the alleged willful misconduct or gross negligence; provided, that, there shall be no requirement of notice pursuant to this Subsection (b) and no cure period if the willful misconduct or gross negligence (A) is not susceptible of cure or (B) is similar to a prior act of willful misconduct or gross negligence with respect to which you were given the requisite notice and cure period, (iii) commission of an act of intentional disloyalty to the Village. In making any determination under this Section 2(b), the Village Board of Trustees shall act fairly and in utmost good faith and shall give you an opportunity to appear and be heard at a meeting of the Board of Directors or any committee thereof and present evidence on your behalf, except that no such meeting shall be necessary if termination is as a result of subsection b(i) above. For purposes of this Section, no act or omission on your part shall be considered "willful" unless done, or admitted to be done, by you in bad faith and without reasonable belief that such act or omission was in the best interest of the Village.

(c) In the event of any termination of your employment for any reason, you (or your estate) shall be paid such portion of your salary as has accrued by virtue of your employment during the period prior to termination and has not yet been paid, together with any amounts for expense reimbursement and similar items which have been properly incurred in accordance with the provisions hereof prior to termination and have not yet been paid, and, except in the event of termination by you pursuant to Section 2(a)(iii), for accrued but unused vacation time, which amounts shall be paid within thirty (30) days of the termination date.

3. Salary. The Village shall pay you as your exclusive compensation for your services and agreements hereunder during the first twelve (12) months of your employment hereunder (the "First Employment Year") a salary at the rate of \$30,000.00 per year, less any amounts required to be withheld under applicable law. After the First

the parties hereto irrevocably consents to the service of process of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by certified mail, postage prepaid, to the party at its address set forth in Section 9(a) hereof.

(i) Severability. The parties intend this Agreement to be enforced as written. However, (i) if any portion or provision of this Agreement shall to any extent be declared illegal or unenforceable by a duly authorized court having jurisdiction, then the remainder of this Agreement, or the application of such portion or provision in circumstances other than those as to which it is so declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law; and (ii) if any provision, or part thereof, is held to be unenforceable because of the duration of such provision or the geographic area covered thereby, the Village and you agree that the court making such determination shall have the power to reduce the duration and/or geographic area of such provision, and/or to delete specific words and phrases ("blue-pencilling"), and in its reduced or blue-pencilled form such provision shall then be enforceable and shall be enforced.

(j) Headings and Captions. The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify, or affect the meaning or construction of any of the terms or provisions hereof.

(k) No Waiver of Rights. Powers and Remedies. No failure or delay by a party hereto in exercising any right, power or remedy under this Agreement, and no course of dealing between the parties hereto, shall operate as a waiver of any such right, power or remedy of the party. No single or partial exercise of any right, power or remedy under this Agreement by a party hereto, nor any abandonment or discontinuance of steps to enforce any such right, power or remedy, shall preclude such party from any other or further exercise thereof or the exercise of any other right, power or remedy hereunder. The election of any remedy by a party hereto shall not constitute a waiver of the right of such party to pursue other available remedies. No notice to or demand on a party not expressly required under this Agreement shall entitle the party receiving such notice or demand to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the party giving such notice or demand to any other or further action in any circumstances without such notice or demand.

(l) Expenses. Should any party breach this Agreement, in addition to all other remedies available at law or in equity, such party shall pay all of any other party's costs and expenses resulting therefrom and/or incurred in enforcing this Agreement, including legal fees and expenses.

(m) Counterparts. This Agreement may be executed in one or more counterparts, and by different parties hereto on separate counterparts, each of which shall

time of the delivery thereof to the receiving party at the address of such party set forth above, (ii) if made by telex, telecopy or facsimile transmission, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, (iii) if sent by overnight courier, on the next business day following the day such notice is delivered to the courier service, or if (iv) sent by registered or certified mail, on the fifth business day following the day such mailing is made.

(b) Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supercedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement shall affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement.

(c) Modifications and Amendments. The terms and provisions of this Agreement may be modified or amended only by written agreement executed by the parties hereto.

(d) Waivers and Consents. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by written document executed by the party entitled to the benefits of such terms or provisions. No such waiver or consent shall be deemed to be or shall constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each such waiver or consent shall be effective only in the specific instance and for the purpose for which it was given, and shall not constitute a continuing waiver or consent.

(e) Assignment. Your rights and obligations under this Agreement may not be assigned by you without the prior written consent of the Village.

(f) Benefit. All statements, representations, warranties, covenants and agreements in this Agreement shall be binding on the parties hereto and shall inure to the benefit of the respective successors and permitted assigns of each party hereto. Nothing in this Agreement shall be construed to create any rights or obligations except among the parties hereto, and no person or entity shall be regarded as a third-party beneficiary of this Agreement.

(g) Governing Law. This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the law of the state of New York, without giving effect to the conflict of law principles thereof.

(h) Jurisdiction and Service of Process. Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the state of New York or of the United States of America for the Western District of New York. By execution and delivery of this Agreement, each of the parties hereto accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. Each of

Employment Year, your salary shall be reviewed annually by the Village Board, and increased, but not decreased, in its sole discretion based upon a review of your performance. Such compensation will be reduced by any disability payments which you receive, after taking into account the tax benefits (if any) of such payments.

4. Benefits and Reimbursement of Expenses.

(a) Vacation. You shall be entitled to 3 weeks of vacation leave in each year at a time or times (either consecutively or not consecutively) mutually agreeable to the Village and you. If you do not use your vacation leave in any calendar year, you may carry up to ten (10) unused days over from year to year. The Village will not pay you any additional compensation for any vacation time which is not used. Your vacation leave will be reviewed annually by the Village Board in conjunction with the review of your salary under Section 3 above for the relevant year.

(b) Employee Benefit Plans. You shall also be entitled to participate in any employee benefit plans which the Village provides or may establish for the benefit of its employees generally (including, without limitation, group life, medical, dental and other insurance, retirement, pension, profit-sharing and similar plans), but only if and to the extent provided in such employee benefit plans.

(c) Reimbursement of Expenses. You shall be entitled to reimbursement for all ordinary and reasonable out-of-pocket business expenses which are reasonably incurred by you in furtherance of the Village's business in accordance with reasonable policies adopted from time to time by the Village.

5. Records. Upon termination of your relationship with the Village, you shall deliver to the Village any property of the Village which may be in your possession including products, materials, memoranda, notes, records, reports, or other documents or photocopies of the same.

6. No Conflicting Agreements. You hereby represent and warrant that you have no commitments or obligations inconsistent with this Agreement and you hereby agree to indemnify and hold the Village harmless against loss, damage, liability or expense arising from any claim based upon circumstances alleged to be inconsistent with such representation and warranty.

7. General.

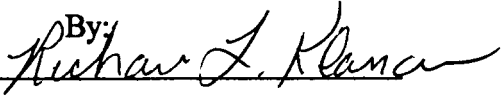
(a) Notices. All notices, requests, consents and other communications hereunder shall be in writing, shall be addressed to the receiving party's address set forth on the first page of this Agreement or to such other address as a party may designate by notice hereunder, and shall be either (i) delivered by hand, (ii) made by telex, telecopy or facsimile transmission, (iii) sent by overnight courier, or (iv) sent by registered or certified mail, return receipt requested, postage prepaid. All notices, requests, consents and other communications hereunder shall be deemed to have been given either (i) if by hand, at the

be deemed an original, but all of which together shall constitute one and the same instrument.

If the foregoing accurately sets forth our agreement, please so indicate by signing and returning to us the enclosed copy of this letter.

Very truly yours,

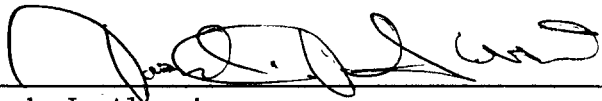
VILLAGE OF GOWANDA

By: 

Name.

Title: Mayor

Accepted and Agreed:


Joseph J. Alessi

Dated: 11-19-2002