



**EMPLOYMENT AGREEMENT BETWEEN
TOWN OF TOPSFIELD AND
FIRE CHIEF**

This agreement is made and entered into on this 13th day of April 2020, by and between the Town of Topsfield (the "Town"), Commonwealth of Massachusetts, a municipal corporation, acting by and through its Board of Selectmen (the "Board") and Jenifer Collins- Brown, 15 Grove Street, Topsfield, Massachusetts (the "Fire Chief" or "Chief").

WHEREAS, the Town desires to employ the services of Jenifer Collins-Brown as Fire Chief for the Town of Topsfield, and

WHEREAS, Jenifer Collins-Brown represents that she is qualified and capable of performing the duties and responsibilities of said position, and

WHEREAS, the Town Administrator desires to appoint Jenifer Collins-Brown as Fire Chief; and

WHEREAS, the Board has voted to confirm the Town Administrator' s appointment of Jenifer Collins-Brown as Fire Chief; and

WHEREAS, Massachusetts General Laws (MGL) c.41 § 1080, authorizes the Board to establish an employment contract for a Fire Chief for a period of time, to provide for salary, fringe benefits and other conditions of employment;

NOW, THEREFORE, the Town Administrator hereby appoints Jenifer Collins-Brown to serve as Fire Chief and Jenifer Collins-Brown hereby accepts employment with the Town subject to the following terms and conditions:

Section 1 - Term

The term of this Agreement shall begin July 1, 2020 and terminate on June 30, 2023, unless earlier terminated as provided herein.

Section 2 - Duties

Under the direction of the Board and the Town Administrator as the Board's designee, the Fire Chief shall be the executive head of the Topsfield Fire Department and, as such, the Fire Chief shall have day to day administrative and supervisory control of the Department as provided by

the rules and regulations of the Topsfield Fire Department, applicable law, the attached mutually agreed upon Job Description, and the policies and directives of the Board, promulgated from time to time. The authority of the Fire Chief shall be as set forth in the said laws, policies and regulations.

Section 3- Hours of Work

The Fire Chief shall be a salaried Officer of the Town. It is understood that the Fire Chief shall devote full time and attention to the public safety of the Town and shall not engage in any other business during her scheduled work week, except with the prior approval of the Board and the Town Administrator.

The parties acknowledge that the Chief is an "exempt" employee under the Fair Labor Standards Act ("FLSA") and is therefore not entitled to overtime as provided for under the FLSA.

It is understood that the Fire Chief shall also generally participate in the Board's meetings, Town Meetings and other meetings where her attendance would be beneficial to the orderly conduct of the Town's business and operations.

- A. The Fire Chief agrees to devote that amount of time and energy which is reasonably necessary for her to faithfully perform her duties under this Agreement.
- B. The workweek shall ordinarily consist of a five (5) day week, Monday through Friday totaling forty (40) hours per week.
- C. It is recognized that the Fire Chief must devote a great deal of time outside the scheduled work week to the business of the town and to that end, she shall adjust her schedule as she shall deem appropriate during said scheduled work week at such time which she reasonably determines will not adversely impact Department operations. Such time shall not be eligible for financial reimbursement nor shall it constitute a financial liability for the Town upon the Fire Chief's separation from service.
- D. The Fire Chief shall inform the Town Administrator when she will not be available in excess of one day due to attending out-of-town meetings, vacations, and otherwise.

Section 4 - Compensation

Subject to the terms and conditions of this Agreement, and while engaged as and performing the duties of Fire Chief, the Town agrees to pay the Fire Chief for her services rendered and shall be paid an annual salary of One Hundred Twenty-five thousand, two hundred, and fifty and 00/100 Dollars (\$125,250.00) effective on July 1, 2020.

For each of the fiscal years commencing on July 1, 2021 and July 1, 2022 respectively, said salary shall be increased two percent (2.00%) above the prior year.

The Fire Chief will not work paid details.

Section 5 - Paid Leaves

- A. **Vacation:** The Fire Chief shall receive five (5) weeks/twenty-five 25 days (based on eight-hour days) of vacation during each fiscal year. Except for the number of authorized weeks, all other vacation provisions of the Town of Topsfield's Personnel By-Law as it may be amended from time to time, shall apply. The scheduling of vacations of five (5) or more consecutive days shall be subject to the approval of the Town Administrator and said approval shall not be unreasonably withheld.
- B. **Holidays:** The Fire Chief shall be entitled to holidays as provided under the Town of Topsfield's Personnel Rules, Regulations and Procedures, as it may be amended from time to time.
- C. **Longevity:** The Fire Chief shall not be entitled to a longevity incentive.
- D. **Personal Days:** The Fire Chief shall be entitled to personal days as provided under the Town of Topsfield's Personnel, Rules, Regulations and Procedures as it may be amended from time to time. Such accumulated personal days shall not be eligible for financial reimbursement nor shall it constitute a financial liability for the Town upon the Fire Chiefs separation from service. Personal days shall not accumulate year to year.
- E. **Sick Leave:** Commencing with the effective date of this agreement, the Fire Chief shall continue to earn 1.25 sick days for each month of service, any portion of such sick days not used in any year will be accumulated up to an aggregate limit of two hundred and twenty (220) days. All unused sick days accrued since the Fire Chiefs original date of hire shall be carried into this Agreement, up to the aggregate limit.

Upon retirement, the Chief will be eligible for a sick time buy back. Said buy back shall consist of a one-time reimbursement from the Town for twenty-five percent (25%) of the Chiefs accumulated sick time as defined above. The Chiefs hourly rate of pay upon retirement shall determine the reimbursed amount.
- F. **Bereavement Leave:** The Fire Chief shall be entitled to bereavement leave as provided under the Town of Topsfield's Personnel Rules, Regulations and Procedures, as it may be amended from time to time.

Section 6 - Insurance Benefits

- A. **Professional Liability:** The Town agrees to furnish, at its expense, professional liability insurance for the Fire Chief in the amount of one million dollars (\$1,000,000).
- B. **Health and Life Insurance:** The Fire Chief shall be eligible for all health and life insurance benefits for which general government employees are eligible, in accordance with MGL c. 32B. The Town agrees to contribute towards the cost of a health insurance plan as is available to, and at the rate paid by the Town for other nonunion employees.
- C. **Injured in the Line of Duty:** As a sworn officer of the Fire Department the Fire Chief shall be eligible for injured-on-duty benefits as provided in MGL c. 41 § 111 F.

Section 7 - Professional Development

- A. **Conferences, Courses and Seminars:** The Town recognizes the need for the professional development of the Fire Chief, and agrees that the Chief shall be given adequate opportunities to develop her skills and abilities as a professional administrator. Accordingly, the Chief may attend the Massachusetts Fire Chiefs Association, International Association of Fire Chiefs Conference and the Essex County Fire Chiefs Association Conference as well as attendance at short courses, institutes, and seminars that, in her reasonable judgment, are necessary for the professional development of the Fire Chief without loss of vacation or other leave. The Chief will be reimbursed up to \$2,000 each year by the Town for actual expenses incurred, including travel and registration expenses upon presentation of receipts.
- B. **Dues and Subscriptions:** The Town agrees to pay for the professional dues and subscriptions of the Fire Chief which are necessary for her membership in the following professional organizations:

Massachusetts Fire Chiefs Association
International Association of Fire Chiefs
Essex County Fire Chiefs Association
Association of Public Safety Communications Officials
National Emergency Number Association

Section 8 - Annual Goals

Annually, the Board, Town Administrator and the Fire Chief shall work together to define and prioritize goals and objectives for the fiscal year. The goals shall generally be attainable within the time limits specified and within the annual operating and capital budgets and the appropriations and revenues provided by the Town.

Based upon said goals and objectives, the Town Administrator, in consultation with the Fire Chief, shall develop performance appraisal criteria.

Based upon the performance appraisal criteria, the Town Administrator, utilizing the Town's performance appraisal form, shall conduct a written evaluation of the Chiefs performance. To the extent allowable by law, the evaluation shall be considered a confidential personnel record and shall be signed by both the Town Administrator and the Fire Chief for placement in the Town's personnel files.

The Town Administrator shall report to the Board the results of the evaluation as it relates to the duties and responsibilities of the Fire Chief.

Section 9- Other Benefits

- A. **Automobile:** The Town shall provide a Fire vehicle for use by the Chief in connection with the performance of her duties as Fire Chief and for her professional growth and development. Since the Chief may have reason to use the vehicle at all hours of the day, there shall be no restriction on the use of the vehicle.
- B. **Estate Compensation:** If the Fire Chief dies during the term of her employment, the Town shall pay to the Chiefs estate, compensation for services rendered and benefits accrued up to the date of the Chiefs death including accrued but unused vacation, personal days, and sick time. In no event shall the Town be held liable to the Chiefs estate for payment of compensation or other benefits under this Agreement for time not actually worked.
- C. **Uniform Allowance:** The Town agrees to provide the Fire Chief with a uniform allowance in the amount of \$1,400 annually in the month of July.

Section 10- Suspension, Termination, Resignation and Severance Pay

- A. **Suspension and Termination:** A supermajority of four (4) Selectmen may vote to suspend the Fire Chief with full pay and benefits for any period at any time during the term of this Agreement. After a hearing conducted in accordance with the Open Meeting Law (MGL c. 30A § 18-25), a supermajority of four (4) Selectmen may vote to suspend or terminate the Fire Chief for cause provided that the Fire Chief has been given written notice setting forth any charges at least ten (10) days prior to such hearing by the Selectmen. A supermajority of four (4) Selectmen may vote to terminate the Fire Chief without cause. If termination is without cause, "Section 10 B Severance Pay" shall apply. If termination is for cause, the Fire Chief shall not be entitled to severance pay unless a supermajority of four (4) Selectmen vote to approve an amount of severance pay, which in any case shall not exceed the amount provided for in "Section 10 B Severance Pay."
- B. **Severance Pay:**
 - i. In the event the Fire Chief is terminated by the Board before the expiration of the aforesaid term of employment for any reason other than cause and

during such time that the Fire Chief is willing and able to perform her duties under this Agreement then in that event, the Board agrees to pay the Fire Chief a lump sum payment equal to six months' aggregate salary, provided, however that in the event the Fire Chief is terminated for cause, then in that event, the Town shall have no obligation to pay the aggregate severance sum as specified in this paragraph.

- ii. In the event the Fire Chief voluntarily resigns her position with the Town before expiration of the aforesaid term of this employment, then the Fire Chief shall give the Board a ninety-day written notice in advance unless the Parties agree otherwise. In the event of a voluntary resignation of the Fire Chief, such provisions as are enumerated in this Section 10, shall not apply.
- C. **Renewal:** In the event the Fire Chief wishes to renew the Agreement with the Town, the Fire Chief shall provide written notice to the Town no earlier than nine (9) months but no later than six (6) months prior to the expiration of this Agreement. The Board of Selectmen, in its discretion and sole option, may extend the duration of this Agreement for an additional one (1) year period. At no time, however, shall the duration of this agreement extension exceed one (1) year.
- D. **Discipline:** Except as otherwise provided in Section 10A, it is agreed that the Fire Chief can be disciplined only for cause, upon proper notice and only after a hearing at which she shall have the right to be represented by counsel. The parties acknowledge that the provisions of the Open Meeting Law apply to such a hearing.

Section 11 - Indemnification

To the extent allowed under MGL c. 258 or any other applicable law, the Town shall defend, hold harmless and indemnify the Fire Chief against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise arising out of any alleged act or omission arising out of the performance of the Chief's duties. This Section shall not apply to: (1) any willful or intentional torts; (2) criminal violations of MGL c. 268A; (3) any criminal acts; and (4) any act or omission not arising from the performance of the duties as Fire Chief.

This Section shall survive the expiration of this agreement to the extent that it shall apply to all acts or omissions covered herein which occurred during the course of the Chief's employment, even when the claim was made after resignation, termination or the expiration of this Agreement. In no event, however, shall the Town be liable to indemnify the Fire Chief for any costs, expenses, legal fees, and/or damages arising out of any complaints, lawsuits, or other legal actions commenced by her against the Town or any Town employees and/or officials.

Section 12 - General Conditions

- A. **Relationship to Town's Personnel By-Law, Rules, Regulations and Policies:**
Any matter relating to benefits that are not specifically addressed herein shall be

subject to and controlled by the terms and conditions of the Personnel Rules, Regulations and Procedures of the Town of Topsfield as it may be amended from time to time.

- B. **Subject to Appropriation:** All salary, fringe benefits and other obligations provided for in this Agreement are subject to appropriation by the Topsfield Town Meeting. The Board shall timely submit to the Town Meeting appropriation requests sufficient to fund this Agreement.

Section 13- General Provisions

- A. **Heirs:** This Agreement, to the extent specified therein, shall be binding upon and inure to the benefit of the heirs at law and executors of the Fire Chief.
- B. **Benefits Conditional on Employment:** All benefits and obligations of the Town, except as otherwise provided herein, shall be conditional upon the Fire Chief being employed as and performing the services required of the Fire Chief of the Town.
- C. **Compliance Failure Is Not A Waiver:** The failure of a party to insist on strict compliance with a term or provision of this Agreement shall not constitute a waiver of any term or provision of this Agreement.
- D. **Severability:** This Agreement is subject to the laws of the Commonwealth of Massachusetts. If any portion of this Agreement is deemed to be invalid, unconstitutional, or unenforceable, it shall not affect the remainder of said Agreement, which shall remain binding and effective against all parties.
- E. **Entire Agreement:** This Agreement shall constitute the entire agreement between the parties except to the extent that other documents are referred to herein, which documents shall be deemed to be incorporated by reference herein.

Section 14- Notices

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

- A. **Town:** Board of Selectmen, 8 West Common Street, Topsfield, MA 01983.
- B. **Fire Chief:** Jenifer Collins-Brown, 15 Grove Street, Topsfield, MA 01983.

Alternately, notice required pursuant to this Agreement may be served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or left at the last and usual place of abode of the Fire Chief or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have hereunto signed and sealed their Agreement and a duplicate thereof this thirteenth day of April in the year two thousand and Twenty.

BOARD OF SELECTMEN

FIRE CHIEF

John K. Spencer, Chair

Jenifer Collins-Brown

Lynne Bermudez, Vice-Chair & Clerk

Date: April 13, 2020

Boyd R. Jackson, Member

Boyd R. Jackson, Member

A Richard Gandt, Member

A Richard Gandt, Member

TOWN ADMINISTRATOR

Kevin Harutunian

Date: April 13, 2020