

**POLICE CHIEF EMPLOYMENT AGREEMENT
BETWEEN
TOWN OF KINGSTON, MASSACHUSETTS
AND
MAURICE J. SPLAINE**

THIS AGREEMENT made and entered into this day of February, 2021, by and between the TOWN of Kingston (hereinafter referred to as the “TOWN”), Commonwealth of Massachusetts, a municipal corporation, acting by and through its Board of Selectmen (hereinafter referred to as the “Board”) and Maurice J. Splaine, (hereinafter the “CHIEF” or “POLICE CHIEF”).

WHEREAS, the TOWN is desirous of securing the services of the CHIEF in the administration of the Police Department; and

WHEREAS, the TOWN and the POLICE CHIEF voluntarily enter into this Agreement pursuant to the authority granted under G.L. c. 41, §1080; and

WHEREAS, the CHIEF desires to accept the appointment and continued employment with the TOWN as CHIEF OF POLICE; and

WHEREAS, the CHIEF is willing to perform the duties of the position of CHIEF OF POLICE according to the terms and conditions of this Agreement;

NOW, THEREFORE, the TOWN and the CHIEF hereby agree that the following terms and conditions shall govern the salary and fringe benefits payable under this Agreement to which said CHIEF shall be entitled as CHIEF OF POLICE.

1. DUTIES

- A. The administrative control of the Police Department for the TOWN shall be the responsibility of the CHIEF OF POLICE.
- B. The CHIEF shall perform all duties and functions subject to the provisions of Chapter 41, Section 97A of the General Laws of the Commonwealth of Massachusetts, as specified by by-law, rule or regulation of the TOWN. The duties of the CHIEF shall be delineated in the attached job description, which is made part of this Agreement.

2. HOURS OF WORK

- A. The basic workweek shall be as the job demands, but ordinarily consists of a five (5) day week, Monday through Friday, and the CHIEF agrees to devote that amount of time and energy which is reasonably necessary for the CHIEF to faithfully perform the duties of CHIEF OF POLICE under this Contract.
- B. It is recognized that the CHIEF must devote a great deal of time outside the normal

office hours to the business of the TOWN, and to that end, the CHIEF shall be allowed to take reasonable time off at such time which the CHIEF reasonably determines will not adversely impact Department operations.

- C. Due to the unique nature of the public safety management function, it is understood and agreed that in order to properly perform the job required, the CHIEF may have to expend additional time beyond the normal workday, and the CHIEF agrees to do same as required. 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. There shall be no paid overtime or hour for hour additional compensation for said additional time.

3. INDEMNIFICATION

- A. The TOWN agrees that the TOWN shall defend, save harmless and indemnify the CHIEF against any tort, professional liability claim or demand or other civil or criminal legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the CHIEF's duties as CHIEF OF POLICE of the TOWN. Consistent with applicable laws applying to municipal employees in general, and police officers in particular, and the TOWN's insurance policies, the CHIEF shall be indemnified from personal financial loss and expenses, including legal fees and costs, if any, in an amount not to exceed \$1,000,000 arising out of any claim, action award, compromise, settlement or judgment by reason of an intentional tort, or by reason of any act or omission occurring in the performance of the CHIEF's duties on behalf of the TOWN which constitutes a violation of the Civil Rights of any person under any federal or state law provided the CHIEF was acting within the scope of his official duties of employment and provided no indemnification for a violation of such rights shall occur if the CHIEF acted in a grossly negligent, willful or malicious manner. This provision shall survive any termination of this Agreement with respect to acts or omissions while serving as Chief. Further, the CHIEF shall be indemnified in accordance with Massachusetts General Laws, Chapter 258, Section 13.

4. INSURANCE

A. Professional Liability

- 1. The CHIEF shall be indemnified in accordance with Massachusetts General Laws, Chapter 258 and shall be covered by the TOWN's liability insurance policies, with liability limits of not less than One Million (\$1,000,000.00) Dollars.

B. Miscellaneous

- 1. The CHIEF shall be eligible for all health and life insurance benefits for which other non-bargaining unit, general government employees are eligible. The TOWN agrees to contribute towards the cost of such insurance programs an amount or percentage not less than the highest applicable amount or percentage

available to officers of any rank of the Kingston Police Department.

C. Injured on Duty

1. As a sworn police officer, the CHIEF shall be entitled to injured-on-duty benefits as provided in Chapter 41, Section 111F of the Massachusetts General Laws.

5. DUES AND SUBSCRIPTIONS

- A. Subject to the availability of funds and annual appropriation, the TOWN agrees to budget and to pay an appropriate amount for the professional dues and subscriptions of the CHIEF for his continuation and full participation in regional, state and local associations and organizations necessary and desirable for his continued professional growth and advancement, and for the good of the TOWN, including but not limited to the International Association of Chiefs of Police, New England Association of Chiefs of Police, the Massachusetts Chiefs of Police Association , the Plymouth County Police Chiefs Association, and the Southeastern Massachusetts Police Chiefs Association. Nothing in this section shall preclude the CHIEF from joining other national organizations at his own expense.

6. PROFESSIONAL DEVELOPMENT

- A. The TOWN recognizes its obligations to the professional development of the CHIEF, and agrees that the CHIEF shall be given adequate opportunities to develop his skills and abilities as a law enforcement administrator; accordingly , the CHIEF will be allowed to attend the Massachusetts Chiefs of Police Conferences each year without loss of vacation or other leave, and will be reimbursed by the TOWN for all expenses (including travel expenses) incurred while attending or traveling to the aforementioned conferences. Subject to the availability of funds and annual appropriation, the TOWN also agrees to budget and pay for travel and subsistence expense of the CHIEF for short courses, institutes, and seminars that, in his reasonable judgment, are necessary for his professional development. Nothing in this section shall preclude the CHIEF from attending New England or International Association of Chiefs of Police Conferences at his own expense and on his own time.

7. DEATH DURING TERM OF EMPLOYMENT

- A. If the CHIEF dies during the term of his employment, the TOWN shall pay to the CHIEF's estate all the compensation which would otherwise be payable to the CHIEF up to the date of the CHIEF's death, including, but not limited to, unused vacation holidays and personal days. No compensation or benefits that would have been earned or accrued from the date of death to the expiration date of this agreement shall be owed to the CHIEF's estate.

8. DISCIPLINE OR DISCHARGE

- A. It is agreed that the CHIEF can be disciplined, discharged, or not reappointed only for just cause, upon proper notice and only after hearing conducted by the Board of Selectmen and consistent with the terms included in this section.
1. The Chief shall have the option of choosing whether or not any such hearing shall be closed to the public or be held as an open or public hearing.
 2. The term “proper notice” as it appears in this section means that written notice of the hearing must be given to the Chief at least ten (10) business days prior to the date of the hearing and must set forth the following: (i) the date, time and location of the hearing; (ii) the reason for the hearing; (iii) the charges alleged and the evidence in support thereof in such specificity so that the Chief may understand and prepare his defense; and (iv) the range of discipline considered.
 3. The subject matter to be presented at the hearing shall be only those charges as were specifically detailed in the written notice to the Chief of Police.
 4. During the hearing, the Chief of Police shall have the right to be represented by a representative of his choosing, to question, confront and cross-examine witnesses, to introduce evidence and to conduct oral arguments.
 5. In its decision, the Board of Selectmen shall consider only those facts which were presented at the hearing and shall make its findings of fact based upon a preponderance of the evidence presented.
 6. The Chief of Police shall be provided with a written notice of the findings and decision of the Board of Selectmen and such notice shall include the relevant facts and reasons for their findings.
 7. The principles of progressive discipline will apply, and the Town recognizes its obligation to provide the Chief with performance evaluations; however, it is understood that the principle of progressive discipline need not apply for a more serious, egregious offense where suspension or termination might be the appropriate action.
- B. For the purposes of this Agreement, just cause shall include, but not be limited to the following: incapacity, namely the inability to perform services for a period of six (6) months or longer, except for medical reasons; malfeasance, namely felonious criminal misconduct or such other similar intentional or deliberate acts involving moral turpitude, whether or not such acts are committed in the course of the CHIEF' s employment with the Town; inefficiency, namely the inability to complete assignments in a timely manner on a routine basis in accordance with principals of reasonable care; neglect, namely failure to perform the duties of the position in a reasonably competent manner; insubordination, conduct unbecoming, misconduct, or for other good cause shown.
- C. Disciplinary action shall require a supermajority vote of the Board of Selectmen with a minimum of four (4) members present and voting based on the following

reasons: incapacity, namely the inability to perform services for a period of six (6) months or longer, except for medical reasons; inefficiency, namely the inability to complete assignments in a timely manner on a routine basis in accordance with principals of reasonable care; neglect, namely failure to perform the duties of the position in a reasonably competent manner; insubordination, conduct unbecoming, misconduct, or for other good cause shown.

- D. Disciplinary action shall require a simple majority vote of the Board of Selectmen with a minimum of four (4) members present and voting based on the following reasons: malfeasance, namely felonious criminal misconduct or such other similar intentional or deliberate acts involving moral turpitude, whether or not such acts are committed in the course of the CHIEF' s employment with the Town.
- E. With respect to any such proceedings instituted under this section, the following rights of appeal shall apply:
 - 1. The Chief may appeal any discipline, discharge, or non-reappointment to a single arbitrator subject to the Labor Arbitration Rules of the American Arbitration Association with the cost of this arbitration to be shared equally by both parties.
 - 2. The Chief may appeal any discipline, discharge, non-reappointment, or decision upheld by the arbitrator to any superior court having jurisdiction. Each of the aforementioned courts shall have jurisdiction of any petition for writ of mandamus for reinstatement of the Chief if he alleges that he has been improperly suspended or discharged.

9. SEVERANCE

- A. In the event the POLICE CHIEF resigns following a formal suggestion by the Board that he resign before the expiration of the then applicable term of employment or that the POLICE CHIEF is terminated by the Board during such time that he is willing and able to perform his duties under this agreement, except for just cause as set forth in Section 8 herein, then the Board agrees to pay the POLICE CHIEF a lump sum cash payment equal to the balance of any term of appointment, but in no event less than six months aggregate salary plus accrued and unused vacation time and sick time as specified Article 11, Section B.2., which amount shall be paid to the POLICE CHIEF on or before the effective date of termination of his employment.
- B. The acceptance by the POLICE CHIEF of the severance benefits provided under this Agreement shall constitute a full and complete release of any other rights, claims, or causes of action whether in law, equity or otherwise, including but not limited to claims pursuant to the Massachusetts Wage Act or G.L. c. 41, that the POLICE CHIEF may have against the TOWN, including all of its employees, elected or appointed officials, officers, agents, representatives, and attorneys of such entities.

C. This Section shall survive the termination of this agreement.

10. COMPENSATION

A. The TOWN shall pay the CHIEF a total salary with market adjustment, effective February 20, 2021, an annual salary of \$166,048.00. Effective February 20, 2022 the annual salary will increased by two percent (2%) to \$169,368.96. Effective February 20, 2023 the annual salary will increased by two percent (2%) to \$172,756.34.

1. Such salary is inclusive and in lieu of any of the following: base salary, an amount for overseeing the Harbor Master Division, career incentive pay under the provisions of Chapter 41, Section 108L of the Massachusetts General Laws and annual holiday pay. Said salary shall be carried forward to subsequent years of the Agreement, and the CHIEF shall not be entitled to any salary increases or benefits accorded to other town employees, unless the TOWN agrees to same by an amendment to this Agreement.
2. The Town Administrator shall conduct an annual performance evaluation. Upon a satisfactory performance rating, the CHIEF may become eligible for an additional increase to the annual base salary contingent upon appropriation and an amendment to this Agreement.

B. The duties of the Chief of Police require that the Chief have exclusive and unrestricted use of a police vehicle at all times during his employment with the Town. The Town shall provide a police vehicle, outfitted with emergency equipment at the Town's expense for use by the Chief. Said vehicle use is provided incident to the law enforcement duties of the Chief enabling the Chief to report directly to crime scenes and emergency situations. The Town shall be responsible for paying for liability, property damage, and comprehensive insurance and for the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Chief shall be permitted to use said vehicle for personal reasons, and during off-duty hours, since the Chief is "on call" in the event of an emergency. The Chief shall be exempt from being assessed a vehicle fringe benefit value pursuant to Internal Revenue Service regulations.

C. If the CHIEF's assigned town vehicle should be disabled and no other official police vehicle is available, the CHIEF may utilize his personal vehicle and be reimbursed for actual mileage at a rate not less than that paid to other town employees.

11. BENEFITS

A. Vacation

1. The CHIEF shall be granted an additional twenty-five (25) days on July 1st for each successive year he remains employed by the TOWN. Vacation days may be used singularly or consecutively, such days off being subject to the needs of the department.

2. The CHIEF shall be permitted to carry over up to five (5) vacation days into the succeeding year for use in that same succeeding year. During each fiscal year, the CHIEF shall have the right to sell back to the TOWN one (1) week accrued vacation leave if an existing budgetary appropriation is available in the Police Department budget. No additional funds shall be budgeted for this benefit. The CHIEF shall be compensated for his then current balance of vacation leave upon separation from the TOWN.
3. The CHIEF shall notify the Town Administrator of all vacation time in excess of three days.

B. Sick Leave

1. The CHIEF shall accrue one and one-quarter (1 1/4) sick days per month upon the first day of each month. Sick leave days accumulated after execution of this agreement are not eligible for buy back upon separation.
2. The CHIEF's balance of one hundred fifty (150) days earned prior to the Employment Agreement dated February 20, 2018 shall be frozen and upon retirement, the TOWN agrees to buy back 50% of the days, less days used, at the rate of pay that the CHIEF was compensated as a Lieutenant (\$371.62 per day). The sick leave earned under the CHIEF's Agreement shall not be used to back fill the frozen leave if the CHIEF has used any of the frozen sick leave for an extended illness.

C. Personal Leave

1. The CHIEF shall be entitled to three (3) personal leave days each calendar year. Any unused balance shall not be carried over into the following calendar year.

D. Bereavement Leave

1. Bereavement leave up to five (5) days shall be allowed for a death in an officer's immediate family (wife, husband, mother, father, children, brother, sister, grandmother, grandfather, mother-in law, father-in-law, and domestic partner). Officers shall be granted leave of up to five (5) days without loss of pay in the event of a death in the officer's family of a step-child, step-sibling, or stepparent. Bereavement leave up to three (3) days without loss of pay shall be granted for the death of the officer's brother-in-law, sister-in-law, aunt, uncle, niece, or nephew.

E. Holidays

1. The CHIEF shall be entitled to a day off with pay for the following holidays: New Year's Day, Martin Luther King Day, President's Day, Patriot's Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving, one-half day before Christmas and Christmas Day. The CHIEF shall be compensated under

the provisions of Chapter 147, Section 17A, of the Annotated Laws of Massachusetts.

F. Clothing Allowance

1. The TOWN shall provide a uniform allowance each fiscal year for the CHIEF, through an account maintained by the TOWN. The CHIEF's annual clothing allowance will be One Thousand Two Hundred (\$1,200.00). In addition, the CHIEF shall be entitled to have two (2) uniforms (shirt and pant) cleaned per week, at the expense of the TOWN and through a contractor chosen by the TOWN.

G. Miscellaneous

1. The CHIEF shall be eligible to participate in the TOWN's voluntary deferred compensation plan, and in the TOWN's cafeteria plan for his portion of health and life insurance premiums.

12. NO REDUCTION OF BENEFITS

1. The TOWN agrees that the TOWN shall not at any time during this Agreement reduce the salary, compensation, or other benefits of the CHIEF OF POLICE, except to the extent that such reduction is evenly applied across-the-board for all employees of the TOWN.

13. DRUG TESTING

- A. The TOWN may conduct random drug testing and will retain a laboratory certified under the Department of Health and Human Services (HHS) Mandatory Guidelines for federal workplace drug testing programs. The use of a certified laboratory ensures that the highest standards of forensic toxicology are being met. The most current procedures and guidelines will be strictly adhered to.
- B. Random drug testing will be done while on duty. Tests will be conducted for illegal drugs only. If a test indicates a positive result, there will be a second test to ensure against a false positive.
- C. An essential part of the drug-testing program is the final review of confirmed positive results from the laboratory. A positive test result does not automatically identify an applicant as having used drugs. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of results. This review shall be performed by a Medical Review Officer (MRO) prior to the transmission of the results to the TOWN. The Medical Review Officer will be a licensed physician who is responsible for receiving laboratory drug testing results who has knowledge of substance disorders and has appropriate medical training to interpret and evaluate a positive test relative to the medical history and other relevant biomedical information. The MRO shall not be an employee of the laboratory conducting the drug test. The role of the MRO is to review and interpret

confirmed positive tests results obtained through the department's testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action may include conducting a medical interview and review of the medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested when a confirmed positive test could have resulted from legally prescribed medication. Prior to making a final decision to verify a positive test result the MRO shall give the CHIEF an opportunity to discuss the test result with him. Following verification of a positive test result, the MRO shall refer the case to the TOWN. A verified positive result shall result in disciplinary action, up to and including termination.

14. RENEWAL OF CONTRACT.

- A. This contract shall be formally reviewed prior to its expiration, and the POLICE CHIEF shall be advised of the Board's decision to renew or not to renew this agreement at least six (6) months prior to its expiration date. If the decision is to renew, then either the POLICE CHIEF or the Board may request that the provisions be renegotiated with mutually satisfactory terms. Unless either party provides written notice to the other of its intention to renegotiate and/or not to renew this agreement no less than six (6) months prior to the end of its initial or any extended terms, this agreement shall automatically be extended on the then applicable terms and conditions for an additional one (1) year period.
- B. If the Board of Selectmen votes not to renew this Agreement for a further term, such notice shall be given to the CHIEF at least six (6) months in advance. Failure to notify the CHIEF shall entitle him to six (6) month's severance pay, conditioned upon acceptance of said severance in accordance with Section 9(b) of this Agreement. Such notice shall be sent by registered mail, return receipt requested, to the CHIEF's residence at least six (6) months in advance.
- C. Otherwise, the parties may agree to a one (1) year extension of this agreement upon the same terms as are current at that time.

15. LENGTH OF AGREEMENT

- A. This Agreement shall be in effect from the effective date until February 20, 2024. This Agreement shall remain in effect until a successor Agreement is executed and ratified unless terminated sooner in accordance with this Agreement.
- B. Notwithstanding the terms of this agreement, the CHIEF may secure secondary employment in the teaching profession, outside of the ordinary working hours and such that he can still fulfill his duties to the TOWN.
- C. In the event the CHIEF intends to resign voluntarily before the natural expiration of any term of employment, then the CHIEF shall give the TOWN thirty (30) days written notice in advance, unless the parties otherwise agree in writing. Provided such notice is given, the CHIEF will be entitled to receive pay for any unused

vacation, holiday, and personal leave.

16. CONTRACT TERMINATION

- A. This Contract may be terminated by either party as provided below:
- B. By mutual written agreement, signed by the Board and the POLICE CHIEF, upon such terms and conditions as may be acceptable to both parties at the time of termination;
- C. By the POLICE CHIEF upon 30 days' written notice to the Board, which resignation shall be filed with the Town Clerk. Until the effective date of resignation, the POLICE CHIEF shall continue to perform his duties and shall, if requested, cooperate with the Board in a search for a successor;
- D. If the POLICE CHIEF dies during the Term of this Agreement;
- E. In the event the Board determines not to renew the POLICE CHIEF's Contract; or
- F. In the event the POLICE CHIEF's employment is terminated pursuant to Section 8 herein, this Agreement shall automatically be terminated.

17. NOTICES

- A. Notice shall be delivered in hand or sent to the address of the CHIEF.

18. MISCELLANEOUS

- A. No Change or modification of this Contract shall be valid unless it shall be in writing and signed by both parties.
- B. This contract shall be construed and governed by the laws of the Commonwealth of Massachusetts.
- C. If any clause or provision of this contract shall be determined to be illegal by a court of competent jurisdiction the remainder of this contract shall not be affected thereby.
- D. This writing constitutes the complete agreement of the parties as of the date of execution, and supersedes any prior agreements.
- E. Any and all notices required or permitted to be given under this agreement will be sufficient if furnished in writing, sent by first class mail to the POLICE CHIEF's last known address or to the TOWN's principal office in Town Hall, with a copy to Town Counsel.
- F. No waiver of satisfaction of a condition or nonperformance of an obligation under this agreement will be effective unless it is in writing and signed by the party granting the waiver.

- G. This Agreement shall be executed in duplicate to take effect as a sealed instrument, and each copy there of shall be deemed an original.
- H. This Employment Agreement is the result of negotiation and compromise by and among the parties and no party shall be prejudiced as having been the drafter of the Employment Agreement.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals to this instrument the date and year first

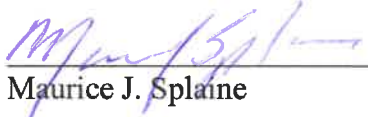
TOWN OF KINGSTON

Acting by and through its Board of
Selectmen


CHIEF OF POLICE



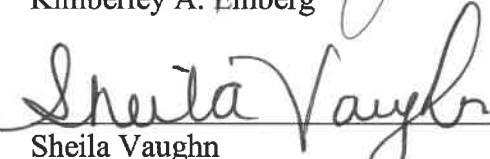
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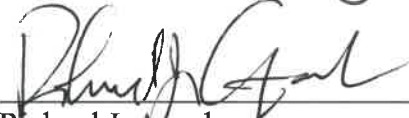
Maurice J. Splaine



Kimberley A. Emberg



Sheila Vaughn



Richard J. Arruda



Donald J. Alcombright