

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

This agreement (the “Agreement”), pursuant to Chapter 41, Section 108O of the Massachusetts General Laws, is made and entered into this 20th day of May 2024, by and between the Town of Southborough, Commonwealth of Massachusetts, a municipal corporation in Worcester County, hereafter called the “Town,” acting by and through its Select Board, with no personal liability to themselves, hereafter referred to as “the Board” and Andrew R. Puntini of Ashland, Massachusetts hereafter called “Fire Chief”, each of whom shall be considered a “Party” and collectively shall be considered the “Parties”.

WHEREAS, the Town desires to employ the professional services of Andrew R. Puntini as Fire Chief of the Town of Southborough as provided by the Bylaws of the Town contained in Article II, Section 27-2 as amended;

WHEREAS, Andrew R. Puntini agrees to accept employment as Fire Chief of said Town and devote the necessary time, skills, education, professional services, and efforts in carrying out all of his obligations, responsibilities, and duties to the Town and for this the Fire Chief represents that he has, and will maintain, the skills, desires, and ability to perform such obligations, responsibilities and duties to the extent he is able to do so.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Board and the Fire Chief agree as follows:

Section I. Functions and Duties of the Fire Chief.

The Town hereby agrees to employ Andrew R. Puntini as Fire Chief of the Town of Southborough, pursuant to and in accordance with Massachusetts General Laws, Chapter 48, Section 42, as amended, and the Fire Chief accepts said offer. The Fire Chief shall act as the head of the Southborough Fire Department and shall perform the duties specified in the attached job description for Fire Chief [Exhibit A which is integrated herein by reference] and Town By-Laws in compliance with all other applicable laws and such other duties that shall from time to time be assigned to him. The Fire Chief shall be responsible to the Select Board, through the direction of the Town Administrator. The Fire Chief shall maintain his basic EMT certification throughout the term of this Agreement.

Section II. Term.

- A. This Agreement shall become effective May 20, 2024, and shall remain in full force and effect until June 30, 2027, unless sooner terminated as provided for hereunder or by law. The Agreement shall be for a term of three [3] years and 41 days.

- B. The Parties agree to endeavor to meet and confer approximately seven months prior to the expiration date of this Agreement for the purpose of discussing whether the Agreement will be extended, subject to the provisions of Section XII.
- C. The Fire Chief shall maintain a residence in a town whose boundaries are located within fifteen (15) miles of the boundaries of Southborough.

Section III. Termination and Severance Pay.

- A. In accordance to M.G.L. c. 48, §42, the Fire Chief may only be suspended or terminated for just cause, upon proper notice and only after a hearing at which time the Fire Chief shall have the right to be present, to be represented by counsel, and to cross-examine witnesses and to provide witnesses to speak on his behalf. 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; 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, or misconduct. The Board or its designee shall, upon notice of an alleged infraction or occurrence giving rise to possible disciplinary action of the Fire Chief, initiate an investigation as to the facts surrounding said allegation. During the course of said investigation, the Town Administrator may place the Fire Chief on paid administrative leave, which leave shall not be deemed discipline. The Board may review this decision at its next meeting. The Board shall endeavor to complete said investigation within a reasonable period of time. Upon completion of the investigation, the Board shall determine whether further action is warranted. The Fire Chief shall be notified forthwith of the results of the Board's determination. If the Board finds that a hearing is required, the Fire Chief shall be duly notified in writing of the date, time, and location of the hearing, and the reasons for calling the hearing and make findings, conclusions, and recommendations. To the extent allowed by law, the Fire Chief shall have the option of choosing whether any such hearing shall be closed to the public or be held as an open hearing. The Select Board shall render decisions as soon as possible after the close of the hearing. A decision to discipline, suspend, or discharge the Fire Chief shall require a majority vote by the Board.
- B. In the event the Fire Chief is terminated by the Town prior to the expiration of the term of this Agreement, the Town agrees that it shall pay the Fire Chief a lump sum cash payment equal to five (5) months aggregate salary, which amount shall be paid to the Fire Chief within five (5) business days of the Fire Chief's execution of a mutually-agreeable form of a full and complete release of any and all rights, claims, or causes of action, both known and unknown, whether in law (inclusive of action including without limitation the Massachusetts Wage Act), equity or otherwise; provided, however, that in the event the Fire Chief is terminated for commission of a felony, conduct unbecoming a managerial employee, or incompetence, the Town shall have no obligation to pay the base severance pay provided in this paragraph. The Fire Chief shall also be paid for any accrued but unused vacation time. The acceptance by the Fire 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, inclusive of the Massachusetts Wage Act, equity or otherwise, that the Fire Chief may have against the Town, including all of its employees, elected or appointed officials, officers, agents, representatives and attorneys of such entities.

C. In the event the Fire Chief voluntarily terminates his position with the Town before the expiration of the term of this Agreement, the Fire Chief shall give two [2] month's written notice in advance, unless the Parties agree otherwise. A copy of the resignation shall be filed with the Town Clerk. The Fire Chief shall not be allowed use of paid vacation leave during this time without prior approval of the Town Administrator.

Section IV. Salary.

A. The Town agrees to pay the Fire Chief for services rendered under this Agreement, an annual base salary of \$168,000 subject to applicable withholdings and deductions, beginning on the Fire Chief's expected start date of May 20, 2024, and effective through June 30, 2025, payable in installments at the same time as other employees of the Town are paid, and pro-rated for the first year. The foregoing total salary [\$168,000] is specifically intended to include all educational incentives, including any and all amounts due pursuant to M.G.L. c. 41, §108L, any subsequently enacted statutory educational incentive, or any internal Town educational incentive enacted through policy, bylaw or agreement with employees. To the extent that this section may be construed to modify §108L, such modification is in consideration of the total compensation and other benefits accorded to the Fire Chief under this Agreement.

1 In the second year of the Agreement, the Fire Chief shall receive an increase in annual base salary of 2%, with eligibility of an additional 2% based on the results of a favorable performance evaluation, which shall be completed on or before July 1, 2025, for a total annual base salary of up to \$174,720, subject to applicable withholdings and deductions.

2 In the third year of the Agreement, the Fire Chief shall receive an increase in annual base salary of 2%, with eligibility of an additional 2% based on the results of a favorable performance evaluation, which shall be completed on or before July 1, 2026, for a total annual base salary of up to \$181,709, subject to applicable withholdings and deductions.

B. The Town agrees to furnish at its expense professional liability insurance for the Fire Chief with liability limits of One Million Dollars (\$1,000,000.00).

Section V. Fire Chief Evaluation.

- A. The Town Administrator shall review and evaluate the Fire Chief every year from the date of appointment. Said review and evaluation shall be based on the goals and objectives developed jointly and mutually agreed to by the Town Administrator and the Fire Chief. Further, the Town Administrator shall provide adequate opportunity for the Fire Chief to discuss his evaluation with the Select Board.
- B. Annually the Town Administrator and the Fire Chief shall define the goals and objectives which they determine necessary for the proper operation of the Town and the attainment of the Select Board's policy objectives and shall further establish a general priority among those various goals and objectives, reduced to writing.
- C. The Fire Chief shall conduct, at least annually, during the term of this Agreement a complete assessment of his own performance in a written document approved in advance by the Town Administrator for this purpose, soliciting subjective feedback from individuals as determined by the Town Administrator with input from the Fire Chief. The results of this assessment will be made available to the Select Board.

Section VI. Hours of Work.

- A. The Fire Chief's workweek shall ordinarily consist of five (5) business days, (Monday through Friday), plus whatever evening and/or weekend hours that may be necessary in order to properly respond to the demands of the position. It is understood that the Fire Chief shall also generally participate in the Select Board's meetings, Town Meetings, and other meetings at which his attendance would be beneficial to the orderly conduct of the Town's business. Because of the nature of the position, it is also understood that the Fire Chief will not be entitled to additional compensation for any hours spent beyond normal office hours. It is recognized that the Fire Chief must devote a great deal of time outside normal office hours to conduct the business of the Town. The Fire Chief, therefore, shall be allowed to take compensatory time off and alter the Fire Chief's schedule as the Fire Chief deems appropriate during normal office hours, and at such times that will least adversely impact Department operations.
- B. The Fire Chief is an exempt employee for the purpose of the Fair Labor Standards Act.
- C. The Fire Chief shall notify and coordinate with the Town Administrator if he shall be absent from duty or on leave for more than three full days and who shall be responsible for the administration of the Fire Department during such absence or leave.
- D. Other Employment: The Fire Chief position is a full-time job. Other employment must be approved in writing by the Town Administrator. If the Employee accepts employment without prior written approval, this employment Agreement may be terminated immediately by the Town, said violation to be deemed just cause pursuant to the terms of this Agreement.

E. Exempt Activities: The Fire Chief may engage in additional professional activities related to the position of Fire Chief, such as guest lecturing and participation in professional activities, provided that such participation does not interfere with his job duties and responsibilities and with prior notice to the Town Administrator.

Section VII. Health and Dental Insurance

The Town shall provide the Fire Chief health and dental insurance policies, which are consistent with the policies which other non-union Town employees are eligible.

Section VIII. Vacation, Holidays, Sick Leave, Bereavement Leave, and Personal Leave

A. Vacation

The Fire Chief shall be entitled to four (4) weeks paid vacation per fiscal year. A week shall be defined as five (5) working days. Unused vacation days may not be carried over from year to year. However, the Fire Chief shall be compensated for up to five (5) unused days of vacation per year, subject to the approval of the Town Administrator.

B. Holidays

The Fire Chief shall receive one day's pay at his regular rate for the following:

| | |
|------------------------|---|
| New Year's Day | Labor Day |
| Martin Luther King Day | Columbus Day |
| Presidents' Day | Veteran's Day |
| Patriot's Day | Thanksgiving Day |
| Memorial Day | Day after Thanksgiving Day |
| Independence Day | Christmas Day |
| Juneteenth | Day before <u>or</u> after Christmas Day (as set by the Town from year to year) |

C. Sick Leave

The Fire Chief shall receive 15 sick days per year, which may be accrued up to a maximum of 120 days per Section 11 (c)2 of the Salary Administration Plan. Absences on account of sickness in excess of that authorized shall be charged to vacation or other available paid leave. Sick leave shall be payable only in cases of genuine illness or non-work connected accidents.

As a firefighter, the Fire Chief shall be entitled to injured-on-duty benefits as provided in Chapter 41, Section 111F of the Massachusetts General Laws.

D. Bereavement Leave

In the event of the death of a spouse, father, mother, child, father-in-law, mother-in-law, brother, sister, grandparent, or of any other person then residing with the Fire Chief, he shall be entitled to receive three days' leave for the purpose of the funeral and disposition of the deceased. If out-of-state travel is required, the Town Administrator may authorize up to two additional days of travel time.

E. Personal Leave

The Fire Chief shall be entitled to three personal days per year, which shall be approved by the Town Administrator. Personal days shall not accumulate from year to year.

Section IX. Professional Development, Dues and Subscriptions.

The Town agrees to budget and to pay, subject to appropriation and Town Administrator approval in advance for the professional dues, subscriptions, and conference expenses of the Fire Chief necessary for his continuation and full participation in a national, regional, state and local association, necessary and desirable for his continued professional participation, growth and advancement, and for the good of the Town.

Section X. Expenses.

XI. The Fire Chief shall be reimbursed for any normal and reasonable expenses incurred in the performance of his duties, or as an official representative of the Town, including attendance by him at civic or social events subject to G.L. c. 268A.

XI. The Fire Chief's duties require that he be on duty and available 24 hours a day. The Fire Chief will be provided a vehicle by the Town of Southborough in connection with the performance of his duties. The Fire Chief shall be allowed to use the town vehicle outside of the state borders.

The Town shall pay for all attendant operating and maintenance expenses and insurance. It may be used by the Fire Chief for personal reasons, since the Fire Chief is "on-call" in the event of emergency. The vehicle will not be used for out of state vacations or for any out of state use in excess of seven (7) days without the permission of the Town Administrator. The Fire Chief will be responsible for any retirement contributions resulting from the availability and use of such vehicle. The value of said authorized personal use has been taken into account in setting the Fire Chief's salary.

XI. The Town shall also provide and pay for a cell phone for use by the Fire Chief.

XI. The Fire Chief's clothing allowance will match the amount contained within the Permanent Firefighter's collective bargaining agreement.

Section XI. Indemnification.

The Town shall defend, save 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 an alleged act or omission occurring in the performance of his duties as Fire Chief, even if said claim has been made following his termination from employment, provided that the Fire Chief acted within the scope of his duties. The Town shall pay the amount of any settlement or judgment rendered thereon, subject to M.G.L. Chapter 258 Section 13. The Town may compromise and settle any such claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the Fire Chief.

The Town shall have the discretion to determine whether to assign counsel to represent Fire Chief or to reimburse the Fire Chief for his reasonable attorneys' fees and costs in connection with such claims or suits involving the Fire Chief in his professional capacity, provided that the Fire Chief acted within the scope of his duties. Separate counsel will be assigned to the Fire Chief in the case of a conflict of interest between the Town and the Fire Chief's interests in any such matter.

This indemnification shall also apply to the Fire Chief after he leaves the employment of the Town. The provisions of this section shall not apply to disputes between the Town and the Fire Chief regarding the terms and provisions of this Agreement or his employment with the Town.

This section shall survive the termination of this Agreement.

Section XII. Non-Renewal of Agreement.

If the Board decides not to renew this Agreement, the Board shall give the Fire Chief written notice a minimum of six (6) months before the expiration of this Agreement. The Fire Chief has an affirmative obligation to notify the Board in writing of the renewal provision, at least six (6) months before the last day of this contract. If the Board fails to give such written notice of non-renewal, this Agreement shall be extended for an additional one-year period.

Should the Fire Chief decide not to renew this Agreement, the Fire Chief will provide written notice to the Board a minimum of six (6) months in advance of the expiration of the contract.

It is expressly understood that a decision not to renew this Agreement shall not be construed as a discipline, suspension, or discharge within the meaning of the Agreement, nor shall it trigger the removal procedures required hereunder or under the Salary Administration Plan.

Section XIII. No Reduction in Benefits.

The Town shall not at any time during the term of the Agreement reduce the salary, compensation or other benefits of the Fire Chief, except to the degree such a reduction is consistent with the reduction for all other management employees of the Town.

Section XIV. Death During Term of Employment

If the Fire Chief dies during the term of his employment and is enrolled in the Town's health insurance and benefit program, the Town shall pay to the Fire Chief's estate all the compensation which would otherwise be payable to the Fire Chief up to the date of the Fire Chief's death, including accrued unused vacation and sick leave. The Town shall continue to contribute its share of the health insurance premiums to the Fire Chief's surviving spouse and family, if they are otherwise eligible under Chapter 32B.

Section XV. General Provisions.

- A. The text herein 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 Fire Chief.
- C. This Agreement shall prevail over any conflicting provisions of the Town by-laws or rules and regulations.
- D. If any provision or any portion thereof, contained in this Agreement is held, 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. This Agreement shall be interpreted and enforced in accordance with the laws of the Commonwealth of Massachusetts.
- E. Any prior discussions or verbal agreements between the Parties made prior to this Agreement shall not be binding upon the Parties unless reduced to writing, dated and signed by both Parties.
- F. 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.
- G. This 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 Agreement.
- H. This Agreement shall become effective when executed by both Parties.

IN WITNESS WHEREOF, the Town of Southborough, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Select Board, and the Fire Chief has signed and executed this Agreement, both in duplicate.

TOWN OF SOUTHBOROUGH
Acting by and through its Select Board

Andrew R. Dennington II, Chair

Kathryn M. Cook
Kathryn M. Cook, Vice Chair

Sam Stivers
Sam Stivers

Marguerite Landry
Marguerite Landry

Alfred Hamilton
Alfred Hamilton

DATE: 4/30/2024

ATTESTED TO BY LABOR COUNSEL:

Katherine Feodoroff, Attorney
JASON TALERNAN

FIRE CHIEF

Andrew R. Puntini
Andrew R. Puntini

DATE: 4/30/2024

DATE: 5/2/24

EXHIBITA

TOWN OF SOUTHBOROUGH
Job Description

FIRE CHIEF

Basic Duties and Responsibilities

Administrative and supervisory work in directing life safety services in the protection of life and property inclusive of the prevention and extinguishing of fires; emergency medical services, public education and environmental services. Serve as Civil Defense Director (Emergency Management Director), Hazard Material Coordinator, Right-to-Know Coordinator, and other positions as needed by the Select Board.

Principal End Results

Works under the policy direction of the Select Board and under the rules and regulations of the Massachusetts General Laws, Chapter 48, Section 42, 780 CMR, 527 CMR, Chapter 148, MGL Chapter 21 E, 21 J, MGL Chapter 110.

Performs highly responsible duties requiring independent judgment and initiative in planning, organizing and directing the work of the life safety services, and in the enforcement of statute law, town bylaws, and departmental rules and regulations, and regional protocols.

Supervises the equivalent of more than twenty but seldom over fifty (including mutual aid for multiple alarms) full-time employees, call personnel, and volunteers.

Establishes policies and procedures for Fire, EMS and any other emergency operations, including training.

Plans, implements, monitors and evaluates Fire and EMS programs for the Town in order to better carry out the policies and goals, reviews Departmental performance and effectiveness; formulates programs and policies to alleviate deficiencies.

Prepares the annual budget, capital improvement plan, and long-range master plan.

Supervises and participates in the inspection of buildings and other properties for fire hazards and enforces fire prevention codes and ordinances. Makes recommendations for the prevention of fires as needed.

Handles grievances, maintains departmental discipline, and the conduct and general behavior of assigned personnel. Keeps the Town Administrator and Select Board informed on any serious matters pertaining to litigation, discipline and employee relations.

Prepares and submits reports to the Select Board and Town Administrator regarding the Department's activities and prepares a variety of other reports as appropriate including the annual report of activities.

The Fire Chief must maintain day to day working relationships with other town agencies, departments, Federal, State, regional, and local authorities.

Has access to extensive confidential information concerning personnel records, criminal investigations, bid proposals, litigation, homeland security information, and medical records of all ambulance patients.

Work in general is performed under typical office conditions; at firefighting operations, work is performed under varying weather conditions with exposure to hazardous conditions that may involve considerable personal danger.

Participates in mutual aid with other area municipalities.

Keeps abreast of developments in the field and technology of firefighting equipment, procedures, and emergency preparedness.

The Fire Chief serves as a community leader with strong customer service focus in the delivery of municipal fire and emergency management services. Consistent with the town-level public service goals of the Select Board, the Chief implements policies and operational practices that enhance the public safety of the community and maximize the public confidence in the Fire Department.

Examples of Work:

Supervises the operation of the Fire Department, including duty assignments of officers and personnel, care and maintenance of stations, apparatus, and the communications system, the requisition of equipment and supplies, the formulation of department policies, and works to develop and update Rules and Regulations and Standard Operating Guidelines in a participative manner.

Submits budget recommendations for equipment, personnel and special services, and furnishes documentation to support requests; maintains control of department

expenditures; monitors appropriation account balances to ensure compliance with budgetary constraints; approves payroll and overtime.

Supervises the operation of the emergency ambulance service and the maintenance of equipment and apparatus in conformance with state statutes.

Performs emergency medical service work in a leadership role; supervises emergency medical technicians, and develops Advanced Life Support capabilities at the local and regional level.

Responds to structure fires, accidents, and other emergency incidents at a first alarm level or greater. Directs emergency operations by assuming command or coaching subordinate personnel.

Investigates all fires of suspicious origin to determine cause in conjunction with the state fire marshal and local police; recommends prosecution of suspected violators of fire codes and statutes; submits reports to the state fire marshal's office for further action where necessary.

Promotes regional life safety-oriented programs and activities that would benefit the community.

Functions as the Infection Control Officer as mandated by the Ryan White Act. Provides for the establishment and implementation of suitable programs of training in fire prevention, public education, firefighting techniques, emergency medicine, hazardous materials, and maintenance and testing of equipment.

Submits bimonthly and special reports on department activities; maintains complete and accurate records of departmental activities. Provides an annual report on department operations to the public.

Conducts quarterly inspections of all public buildings, schools, hospitals, nursing homes, convalescent homes (places of assembly), and annual inspections of business buildings within the town; makes recommendations for fire prevention and/or reports violations in accordance with established procedures; issues required permits.

Represents the department in court regarding all cases involving fire, arson, emergency medical services or hazardous materials under Massachusetts General Law 21 E and 21 J.

The Chief pursues and manages grant funds through the Federal Department of Homeland Security.

Errors can be costly in terms of decreased or less efficient protection to persons and property, confusion and delay, and result in direct financial and legal repercussions to the Town.

RECOMMENDED MINIMUM Qualifications:

Education and Experience

Must have a Bachelors Degree, preferably in Fire Science, Public Administration or a related field (Masters preferred); a minimum of seven to ten years of firefighting experience including seven years in a full-time supervisory command position as an officer in a fire department with significant administrative responsibilities; Massachusetts Emergency Medical Technician certification; Massachusetts Chief Fire Officer management training program certification; National Fire Academy Executive Fire Officer Graduate preferred.

Special Requirements:

Fire Chief – Massachusetts Credentialed

Fire Chief Officer Certification

EMT Certification

Firefighter I & II

AED & CPR Certification

Hazmat Technician desirable

CDL license desirable

Knowledge, Ability and Skill

Thorough knowledge of firefighting, fire prevention and suppression principles, public education practices and equipment. Thorough understanding of hazardous materials response and knowledge of hazardous chemicals travelling through all transportation systems.

Thorough knowledge of emergency medical services. Thorough knowledge of the geography of the town. Comprehensive knowledge of departmental policies and regulations and of laws and ordinances affecting fire department operations. Ability to read and understand blueprints, building plans, and hydraulic calculations, as the Chief shall participate as a member of the Minor Site Plan Review Committee. Knowledge of chemistry is helpful. Ability to direct large-scale operations of personnel and equipment under emergency conditions. Comprehensive knowledge of Town bylaws, building

codes, hazardous materials and town water systems. Knowledge of Federal and State laws related to Homeland Security.

Ability to establish and maintain effective and harmonious relationships with subordinates, the general public, and town officials. Ability to organize, assign, train and direct the work of subordinates. Ability to communicate clearly and concisely both in writing and orally.

Massachusetts Class D motor vehicle operator's license required, without record of suspension or revocation in any state.

Knowledge of requirements imposed by Federal, State and local legislation, such as ADA requirements, affirmative action, sexual harassment, discrimination, health care, communicable diseases and blood born pathogens.

Working knowledge of Incident Command System (ICS), including current legislation.

Work Environment

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work is performed primarily in office, vehicles, and outdoor settings in all weather conditions, including temperature extremes, during day and night shifts. Work is often performed in emergency and stressful situations. Individual is exposed to the hazards associated with firefighting and emergency medical work, including smoke and hazardous materials. The Chief is on-call at all times to respond to major fires and other emergencies.

The employee occasionally works near moving mechanical parts and in high, precarious places and is occasionally exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risk of electrical shock and vibration.

The noise level in the work environment is usually quiet in office settings, and loud at emergency scenes.