

**TOWN OF TOWNSEND
CONTRACT OF EMPLOYMENT
FIRE-EMS CHIEF**

FILE

This Contract of employment (Contract) made this _____ day of _____ 2016 by and between the Town of Townsend and Mark Boynton

WITNESSETH THAT:

1. **EMPLOYMENT:** The Town, by and through its Board of Selectmen (the "BOARD" or the "TOWN") hereby appoints, employs and contracts Mark Boynton as FIRE-EMS CHIEF of the Town (the "FIRE-EMS CHIEF"), pursuant to Massachusetts General Law, Chapter 48, Section 42 and Article 3 of the Townsend Charter.
2. **TERM:** The term of this Contract shall be for a three year period ("Term") commencing June 1, 2017 and ending June 30, 2020.
3. **HOURS OF WORK:** The FIRE-EMS CHIEF agrees to devote that amount of time that is reasonably necessary to faithfully perform the duties of the position of FIRE-EMS CHIEF. It is recognized that the FIRE-EMS CHIEF must devote a great deal of time outside of normal office hours to the business of the Town, and to that end, the hours of work for the FIRE-EMS CHIEF shall not be specified.
4. **COMPENSATION:** The FIRE-EMS CHIEF and the Board agree that the position of FIRE-EMS CHIEF is hereby removed from the Town's non-union compensation and classification plan. The Town shall pay the FIRE-EMS CHIEF during the term of this Contract on the following basis, subject to a favorable performance evaluation:
 - a) **Effective for fiscal year 2018:** Annual Base Salary of \$108,000.
 - b) **Effective for fiscal year 2019:** Annual Base Salary of \$118,000.
 - c) **Effective for fiscal year 2020:** Annual Base Salary of \$125,000.
5. **INSURANCE BENEFITS:** The FIRE-EMS CHIEF shall be entitled to all health, life and dental benefits to which other Town employees are entitled on at least the same terms.
6. **INDEMNIFICATION:**

To the extent permitted by law, the Town shall defend, save harmless and indemnify the FIRE-EMS CHIEF against any tort, professional liability, claim or demand, or other civil legal action, whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of his duties as FIRE-EMS CHIEF, even if said claim has been made following his termination from employment, except an intentional violation of the civil rights of any person, provided that the FIRE-EMS CHIEF acted within the scope

of his duties. The Town shall pay the amount of any settlement or judgment rendered thereon. The Town may compromise and settle any claim or suit and will pay the amount of any settlement or judgment rendered thereon without recourse to the FIRE-EMS CHIEF.

The TOWN shall have the discretion to determine whether or not to assign counsel or reimburse the FIRE-EMS CHIEF for his reasonable attorneys' fees and costs in connection with such claims or suits involving the FIRE-EMS CHIEF in his professional capacity, provided that the FIRE-EMS CHIEF acted within the scope of his duties. Separate counsel will be assigned to the FIRE-EMS CHIEF in case of a conflict of interest between the TOWN and the FIRE-EMS CHIEF'S interests in any such matter.

The provisions of this Section 6 shall not apply to disputes between the TOWN and the FIRE-EMS CHIEF regarding the termination or other separation of his employment, or concerning any of the terms and conditions of this Agreement. This section shall survive the termination of this Agreement.

7. ANNUAL VACATION, SICK, PERSONAL AND BEREAVEMENT LEAVE:

- a) The FIRE-EMS CHIEF shall be entitled to a grant of thirty (30) days in FY18 and thirty-five (35) days in FY19 and in each year thereafter. The FIRE-EMS CHIEF shall notify the TOWN of the name of the officer in charge (OIC) prior to taking vacation leave of five or more days. In recognition of the demands serving as FIRE-EMS CHIEF the FIRE-EMS CHIEF may sell back two weeks of accrued but unused vacation time in each fiscal year. Remaining unused vacation time shall be forfeited.
- b) The FIRE-EMS CHIEF shall be entitled to a grant of four (4) personal days per year, non-cumulative, for the purpose of transacting or attending to personal, business, or household matters.
- c) The FIRE-EMS CHIEF shall be entitled to a grant of sick leave in the amount of 15 days per year of this contract and any successor contracts, cumulative to a maximum of one-hundred-fifty (150) days. Further, this contract acknowledges that sick time has no monetary value, and as such, any sick time remaining at the time of the FIRE-EMS CHIEF'S retirement or other separation from employment will be forfeited at no cost to the Town. If the FIRE-EMS CHIEF is out sick for three or more days the TOWN may require a doctor's certificate at the TOWN'S expense.
- d) The FIRE-EMS CHIEF shall receive up to three (3) consecutive working days leave with full pay for making arrangements and attending the funeral upon the death of a family member of his or her immediate family, which shall include the following persons: wife, children, mother, father, brother, sister, mother-in-law, father-in-law, grandparents. All other relatives who do not fall into this category, bereavement time shall be one (1) day.

8. **HOLIDAYS:** The following days or days observed as such, shall be recognized as paid holidays:

New Years Day	Thanksgiving Day	Memorial Day
Washington's Birthday	Independence Day	Christmas Day
Columbus Day	Veterans Day	Labor Day
Martin Luther King Day	Patriot's Day	

9. **AUTOMOBILE:** The Town shall provide a fire command vehicle for use by the Chief and shall be responsible for all necessary maintenance, expenses and insurance on such vehicle. Said vehicle is to be used by the Chief in connection with the performance of his duties as Fire-EMS Chief and for his professional growth and development. Since the Chief is required to be "on-call" twenty-four (24) hours a day and may be required to report to an incident or event, the fire command vehicle may be used by the Chief for personal reasons. The Chief may not use the vehicle for family vacations or recreational trips when the Chief would not be reasonably expected to respond to an incident or event.

10. **RETIREMENT BENEFITS:** The FIRE-EMS CHIEF shall be eligible to participate in the Town's retirement program in accordance with chapter 32 of the Massachusetts General Laws.

11. **DUTIES:** The Chief shall have all the powers and duties conferred upon a Fire Chief under MGL C. 48, s. 42, the Townsend Charter, and any other applicable state, federal or local law, any applicable job description, and other such duties as may be assigned from time to time by the TOWN.

12. **PROFESSIONAL DEVELOPMENT:** The TOWN agrees that the FIRE-EMS CHIEF shall be given adequate opportunities to develop his skills and abilities as a FIRE-EMS CHIEF; accordingly, with the prior permission of the TOWN the FIRE-EMS CHIEF will be allowed to attend professional 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.

The TOWN also agrees, with the prior approval of the TOWN, to pay for reasonable travel and related expense of the TOWN ADMINISTRATOR for short courses, institutes, and seminars that, in the FIRE-EMS CHIEF'S reasonable judgment, are necessary for his professional development.

The TOWN shall reimburse the FIRE-EMS CHIEF for reasonable expenses incurred in connection with his attendance at professional management development courses and/or seminars, including, but not limited to, tuition for one college level course per semester at a college of the FIRE-EMS CHIEF'S choice, subject to the prior approval of the TOWN and subject to appropriation.

13. **DUES AND SUBSCRIPTIONS:** The TOWN agrees to budget an amount of \$1,500.00 subject to appropriation, and to pay for the professional dues and subscriptions of the FIRE-EMS CHIEF, subject to the approval of the TOWN,

for his continuation and full participation in national, regional, state and local associations and organizations necessary and desirable for his continued professional growth and advancement, and for the good of the TOWN.

14. DISCIPLINE - REMOVAL - TERMINATION:

The Town may discipline the FIRE-EMS CHIEF by oral reprimand, written reprimand, suspension or removal. The FIRE-EMS CHIEF shall not be removed, reprimanded, suspended or otherwise disciplined in any way, except for good cause.

Per Section 7-8 of the Townsend Charter the good cause standard shall include, but not be limited to the following:

“Incapacity other than temporary illness, inefficiency, insubordination and conduct unbecoming the office.”

The parties hereby agree, to the extent that doing so would not conflict with the provisions of the Town Charter, that this good cause standard will also include the mandatory application of the seven steps detailed in Attachment A which shall be made a part of this Agreement by reference and that the principal of progressive discipline will apply.

- a) Reprimand or Suspension- The Town may serve an oral or written reprimand upon the FIRE-EMS CHIEF only for good cause.
- b) Removal- The Town may remove the FIRE-EMS CHIEF for just cause by a majority vote of the members of the Board after a hearing. The FIRE-EMS CHIEF shall have the option of choosing whether or not any such hearing shall be closed to the public or held as an open or public hearing. A vote of removal may be appealed by the FIRE-EMS CHIEF to the American Arbitration Association. If an arbitrator cannot be agreed upon, the parties will both submit the matter to the American Arbitration Association for selection in accordance with its procedures. The cost of any arbitration shall be split equally between the parties.

The parties hereby agree that the decision of the Arbitrator shall be deemed final and binding upon the parties and that the parties may only appeal the arbitrator's decision to Superior Court of the Commonwealth of Massachusetts on a point of law.

- c) In any disciplinary action brought against him, the FIRE-EMS CHIEF shall have the right to be represented by counsel at his own expense.
- d) In all phases of disciplinary action the FIRE-EMS CHIEF shall be given at least ten (10) business days prior written notice, which will include an explanation of the action being contemplated, the just cause therefore, the date(s) and time(s) of all alleged offenses or violations of the contract, and the date and time of the hearing. After any hearing, the TOWN must make a written report of the evidence presented

and its findings of fact. No evidence may be relied upon which was not produced, and allowed to be responded to, during the disciplinary process.

- f) Either party as provided below may terminate this Contract.
- i) Mutual written agreement- signed by the TOWN and the FIRE-EMS CHIEF, upon such terms and conditions as may be acceptable to both parties at the time of termination.
 - ii) Non-Renewal- Except in the case of a proposed non-renewal for good cause, unless the TOWN provides written notice to the FIRE-EMS CHIEF of a unanimous vote of its intention to not renew this contract no less than twelve (12) months prior to the end of its initial or any extended terms ("notice period"), this Contract shall automatically be extended on the then applicable terms and conditions for an additional term.
- The parties mutually agree that terms and conditions of this or any successor contract shall remain in full force and effect during any subsequent negotiations unless and until changes, if any, are agreed upon, are reduced to writing and executed by the parties. The parties may mutually agree to negotiate any terms and conditions of this Contract at any time.
- iii) In the event the FIRE-EMS CHIEF intends to resign voluntarily before the natural expiration of any term of employment, then the FIRE-EMS CHIEF shall give the TOWN thirty (30) days written notice in advance, unless the parties otherwise agree in writing. Provided such notice is given or the parties otherwise agree in writing, the FIRE-EMS CHIEF will be entitled to receive pay for any accrued but unused vacation leave.
 - iv) Upon resignation in good standing or retirement, the FIRE-EMS CHIEF shall receive severance pay equal to one week for each year of service up to a maximum of twelve (12) weeks to be paid as a lump sum cash payment within thirty (30) days of the date of resignation or retirement.

The TOWN recognizes its obligation to provide the FIRE-EMS CHIEF with periodic performance evaluations. Each year, on or before December 31, the BOARD shall review and evaluate the performance of the FIRE-EMS CHIEF utilizing an evaluation instrument to be developed and approved by the parties, all in conformance with the Public Records and Open Meeting Law. Performance shall be presumed satisfactory if no evaluation is conducted.

15. RESIDENCY: The FIRE-EMS CHIEF need not be a resident of Townsend to hold this position.

16. GENERAL PROVISIONS:

- a) Commencing on July 1, 2017, in each year of the contract the TOWN shall pay to the FIRE-EMS CHIEF a uniform/equipment/ clothing allowance in the amount of \$1,250.00. Said allowance shall be used for any uniform/equipment/clothing used in the performance of his regular assigned duties.

In each year of the contract the Town shall pay to the FIRE-EMS CHIEF a uniform/equipment/ cleaning allowance in the amount of \$1,250.00. Said allowance shall be used for the cleaning of any uniform/equipment/clothing used in the performance of his regular assigned duties.

- b) The Chief shall be entitled to all injured-on-duty benefits and retirement benefits to which other full-time fire officers of the Department are entitled.
- c) The TOWN shall provide a smart phone with data plan for use by the Chief and the TOWN shall be responsible for all expenses. Since the Chief is required to be "on-call" (24) hours a day and may be required to report to an incident or event, the phone may be used for personal reasons.
- d) The TOWN agrees that it shall not at any time during the term of this Contract reduce the salary, compensation or other benefits of the FIRE-EMS CHIEF, except to the extent that such reduction is evenly applied across-the-board for all employees of the TOWN.
- e) This writing constitutes the complete agreement of the parties as of the date of execution, and any supplemental or additional agreement or amendment to this Contract shall be effective only if in writing and signed by the TOWN and the FIRE-EMS CHIEF.
- f) If any provision of this contract or any portion thereof is held unconstitutional, invalid, or unenforceable, the remainder of this Contract shall not be affected and shall remain in full force and effect.
- g) For any clause of this contract which provides that a certain benefit to the FIRE-EMS CHIEF shall be subject to appropriation, the TOWN understands and acknowledges that it shall be responsible to budget and support any such appropriation at any and all town meetings.
- h) Appropriation. All provisions of this Agreement are subject to annual appropriation by Town Meeting.
- i) Governing Law. This Agreement shall be governed by and construed in accordance with the Charter of the Town of Townsend and the laws of the Commonwealth of Massachusetts.

FOR THE TOWN OF TOWNSEND

By: Its Board of Selectmen:



Carolyn Smart, Chair



Gordon Clark, Vice-Chair



Cindy King, Clerk

By: FIRE-EMS CHIEF

Mark Boynton, FIRE-EMS CHIEF

