

EMPLOYMENT CONTRACT BETWEEN

TOWN OF STOW, MASSACHUSETTS

AND

LIEUTENANT KELLIE ANN BARHIGHT

This Agreement pursuant to M.G.L. c. 41, §1080 is made and entered into by and between the Town of Stow, a municipal corporation of the Commonwealth of Massachusetts, with a usual place of business at Town Building, Stow, Massachusetts, acting by and through its appointing authority (hereinafter the "town"), who acts in their representative capacity only and without any personal liability, and Lieutenant Kellie Ann Barhight ("Lt."),

Whereas, the Town desires to employ the services of the Lt. in the administration of Police Department of the Town; and

Whereas, the Lt. wishes to perform the duties of the position of the Lieutenant as provided herein and

Whereas, both the Town and Lt. agree that it is appropriate to enter into this Agreement in order to provide for the salary, fringe benefits, and other conditions of employment, including but not limited to, reimbursement of expenses incurred in the performance of their duties or office, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave for its Lieutenant; and

Whereas, the Town desires to accept employment as Lt., and to undertake to execute the duties and responsibilities of that position;

Now, therefore, the Town does hereby appoint Kellie Barhight to the position of Police Lieutenant in accordance with all applicable general laws, by-laws of the Town, and special acts, and, in consideration of the mutual covenants herein contained, the parties agree as follows:

1. APPOINTMENT AND TERM

The Town hereby appoints Kellie Barhight to the position of Police Lieutenant, and the Lt. accepts such appointment in accordance with the terms and conditions of this Agreement. The term of this appointment is for 3 years, commencing September 8, 2023, and ending June 30, 2026, unless terminated sooner under the provisions of this Agreement.

2. DUTIES

The duties of the Lt. shall include all duties outlined in the attached job description and any duties so ordered by the Chief of Police. Such duties shall include, but not be limited to, being the second in command within the department and responsible for performing professional, administrative, technical, and management duties within Standard Operating Procedures of the department and in compliance with applicable Massachusetts General Laws and Town by-laws. Assumes the powers, duties, and responsibilities of the Chief in their absence. The Lt. shall devote their entire time to the performance of the official duties and shall not engage in outside employment without the prior approval of the Town Administrator.

3. COMPENSATION

Effective at the execution of this contract from September 8, 2023, Lt annual salary shall be \$108,534.20, which is Grade 8, Step 5, of the FY 24 Wage and Salary schedule, prorated to start date.

Beginning July 1, 2024, and on each succeeding year of this Contract, the Lieutenant shall receive the same annual COLA increase in salary approved by the Town Administrator for Department Heads / Non-Collective Bargaining Unit Employees. Additionally, the Lt. shall follow the step schedule in the Personnel Bylaw for positions in Grade 8.

The Town will provide an accreditation manager stipend of \$1,500.00 per year. Upon achieving accreditation status, the Lt. will receive a one-time payment of \$2,000.00.

For the first year of employment, the Town will provide a clothing allowance of \$2,200.00. The clothing allowance will be \$1,200.00 per year thereafter.

4. HOURS OF WORK

The normal work schedule will be Monday to Friday, two (2) day shifts and three (3) evening shifts with flexibility for department needs, or for evening meetings and programs at the approval of the Chief. This schedule may be changed upon mutual agreement of both parties.

5. ADDITIONAL BENEFITS

The following additional benefits shall accrue:

- a) **Vacation Leave:** shall receive twenty (20) days of paid vacation per fiscal year, accrued as earned. This leave shall be pro-rated for any portion of a fiscal year actually worked. Vacations must be taken in the next fiscal year after the one in which they accrue, unused vacation may be carried over up to twenty (20) days of earned vacation, into the following fiscal year if Lt. is unable to take such vacation time in the year in which it is earned. No more than forty (40) days can be on the books at any one time. Vacation leave shall be scheduled by the Lt. with the

approval of the Chief of Police so as not conflict with the needs of the Town. Unused vacation shall be paid in full to the Lt. upon termination.

- b) **Sick Leave:** Employee shall receive fifteen (15) days of sick leave per calendar year, to accumulate at the rate of one and one-quarter (1 ¼) days per month as of the last day of each month in the first year, to a maximum of 180 days.
- c) **Personal leave:** The Lt. shall be entitled to 4 personal days per fiscal year to be taken at the Lt.'s discretion with the permission of the Chief. Personal days may not be carried over and no payout will be issued for any unused personal days.
- d) **Holiday Pay:** The Lt. shall have all town-recognized holidays off. If the Lt. is on-duty at any time on a Town-recognized holiday, the Lt. shall receive compensation time off at the rate of hour for hour on another workday at the approval of the Chief.
- e) **Bereavement Leave:** In the event of a death in the Lt.'s family, they will be eligible for five (5) days of bereavement related to the death of a spouse, child, or grandchild, and up to three (3) days of bereavement related to the death of a parent, grandparent, sibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, niece, or nephew. Additional bereavement leave may be granted at the discretion of the Chief.
- f) **Longevity pay:** The Lt. will not be eligible for longevity pay.
- g) **Insurance:** The Lt. shall be eligible to obtain health, dental, and life insurance with the same coverage and cost as other town employees under Massachusetts General Laws c. 32B.
- h) **Injured on duty:** As a sworn police officer, the Lt. shall be eligible for injured on duty benefits as provided by G.L. c. 41, § 111F. At the Town's request, the Lt. will attend and cooperate fully with an evaluation by a physician designated by the Town to determine eligibility for benefits under G.L. c. 41, § 111F or to otherwise determine fitness for duty.
- i) **Overtime:** The Lt. will be offered shift overtime after local 206 has refused. The Lt. is limited to 8 hours of shift overtime each week; this does not include emergency response to incidents.
- j) **Compensatory Time:** It is recognized that the Lt. must devote a great deal of time outside of normal office hours to conduct the business of the Town. The Lt., therefore, shall be allowed to take compensatory time off and alter the Lt's schedule as approved by the Chief during said normal office hours, and at such times that will least adversely impact Department operations. Prior to any time accrued or used, permission must be granted by the chief. The maximum amount

of time accrued during a fiscal year is 80 hours. Unused time will be lost and no payout will be allowed.

- k) **Private Details:** The Lt. may work details provided that all such detail work shall occur outside the Lt.'s regularly scheduled hours of work. Detail pay shall be made to the Lt. by the Town in accordance with established procedure and shall not be made directly to the Lt. by the entity requesting the detail. The Lt. will be offered after Local 206 has refused.
- l) **Education Incentive:** The Lt. is not eligible for compensation toward an advanced degree in Law Enforcement or Public Administration field.
- m) **Retirement:** As a sworn police officer, the Lt. shall be entitled to retirement benefits under G.L. c. 32.
- n) **Discharge:** It is agreed that the Lt. can be discharged only for cause, upon proper notice and after a due process hearing before the Select Board at which the Lt. shall have the right to be represented by counsel and to present evidence and witnesses in their own behalf.

6. INDEMNIFICATION & INSURANCE

- a) **Indemnification.** The Town agrees to defend, save harmless and indemnify the Lt. against any complaint, claim, demand, suit, or judgment, whether groundless or otherwise, arising out of any alleged act or omission occurring in the performance of the Lt. duties as Police Lt. of the Town. This provision shall survive any termination of this agreement with respect to acts or omissions while serving as the Lt.
- b) **Professional liability insurance.** The Town agrees to furnish at its own expense, professional liability insurance for the Lt. with liability limits of not less than one million (\$1,000,000.00) dollars.

7. DEATH DURING TERM OF EMPLOYMENT

In the event of the Lt.'s death during the term of this Contract, or any extension thereof, the Town shall pay to the Lt.'s spouse all the compensation which would otherwise be payable to the Lt. up to the date of the Lt.'s death including, but not limited to accrued, but unused leave days. In the event that the Lt's spouse does not survive the Lt, or the Lt does not have a spouse at the time of their death, then the Town shall pay to the Lt.'s then living children to be divided equally, all the compensation which would otherwise be payable to the Lt. up to the date of the Lt.'s death including, but not limited to accrued, but unused leave days, in shares as may nearly be of equal value.

8. DUES, SUBSCRIPTIONS & PROFESSIONAL DEVELOPMENT

The Town agrees to pay for the reasonable registration, travel, and sustenance expenses of the Lt. for courses, institutes, and seminars that are necessary for professional development and for the good of the Town, subject to the availability of an appropriation, and with permission from the Chief.

The Board recognizes and encourages the Lt. to join professional organizations that are typically affiliated with municipal government and public safety. Should the Lt. attend seminars, conferences, or workshops sponsored by such professional organizations, time spent as such conferences shall not be deducted from vacation leave. For attendance at any professional development over one (1) day's duration, the Lt. will notify the Chief for permission prior to attending.

9. PERFORMANCE EVALUATIONS

a) Annually, the Chief of Police, Lt. and Town Administrator shall jointly develop specific goals and objectives that are necessary for the proper operation and welfare of the Police Department and shall further jointly establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

b) The Chief of Police shall review and evaluate the performance of the Lt. of on a formal basis at least once annually under the terms and conditions of this Contract. Said review and evaluation shall include, but not be limited to – (1) the Lt.'s progress and performance on the annual goals and objectives as described above in this section; (2) budgetary/financial administration; (3) personnel administration; (4) supervisor/leadership; (5) staff development; (6) public relations; (7) employee and labor relations; (8) policy execution; (9) interaction with the Chief of Police as well as other governmental officials, departments, boards and committees and (10) Community engagement.

c) Such review and evaluation of performance of the Lt. shall be done in conformity with the specific performance goals, objectives and criteria established by the above method. The Chief of Police shall provide the Lt. with a written evaluation report after each formal review and evaluation and shall provide the Lt. with an opportunity to discuss the Lt.'s review and evaluation. If the Lt. disputes any portion of the evaluation, then the Lt. shall be permitted to memorialize this dispute in writing, detailing the nature of the dispute, and such document shall be attached to and incorporated into the evaluation form, and become a part of the Lt.'s personnel file.

10. RESIGNATION

Voluntary Resignation: In the event the Lt. voluntarily resigns or retires before the expiration date of this Agreement, the Lt. shall give the Chief at least sixty (60) days written notice prior to the effective date of resignation, unless the parties agree otherwise in writing. Pay and

benefits shall cease on the effective date of the resignation, unless sooner terminated under the provisions of this Agreement, subject to any rights and obligations under state or federal law with respect to retirement benefits and the continuation of group health care benefits at Lt. expense as provided by law.

11. DISCIPLINE, DISCHARGE & NON-REAPPOINTMENT

It is agreed that the Lt. may be disciplined, discharged, or not reappointed only for just cause, upon proper notice and only after a hearing conducted by, and by majority vote (2/3) of, the Select Board and consistent with the terms included in this section and in accordance with the Open Meeting Law.

- a) The Lt. 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.
- b) The term "proper notice" as it appears in this section means that written notice of the hearing must be given to the Lt. 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 Lt. may understand and prepare their defense; and (iv) the range of discipline considered.
- c) The subject matter to be presented at the hearing shall be only those charges as were specifically detailed in the written notice to the Lt.
- d) During the hearing, the Lt. shall have the right to be represented by a representative of their choosing, to question, confront and cross-examine witnesses, to introduce evidence and to conduct oral arguments.
- e) In its decision, the Select Board 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.
- f) The principles of progressive discipline will apply, and the Town recognizes its obligation to provide the Lt. with performance evaluations.

With respect to any such proceedings instituted under this section, the following rights of appeal shall apply:

- a) The Lt. may appeal any discipline or discharge to a panel of arbitrators consisting of three (3) persons or a single arbitrator. If the Lt. chooses a panel of arbitrators, the three (3) persons shall be chosen as follows: one by the Town, one by the Lt., and one by the two so chosen. A majority of the three (3) member panel shall be sufficient to uphold or to reverse the decision.

Any arbitration shall be subject to the Labor Arbitration Rules of the American Arbitration Association with the costs to be shared equally by the parties.

- b) The Lt. may appeal any decision upheld by the arbitrator(s) to: (i) the district court wherein the Lt resides; or (ii) any superior court having jurisdiction. Each of the aforementioned courts shall have jurisdiction of any petition for writ of mandamus for reinstatement of the Lt. if he/she alleges that he/she has been improperly suspended or discharged.
- c) In the event of the suspension or discharge of the Lt., if the arbitrator (s), or the district court for the judicial district wherein the Lt resides, or the superior court shall reverse a suspension or discharge and order that the Lt be reinstated to duty, the Lt shall be entitled to back pay, benefits, and counsel fees.

12. POLITICAL ACTIVITIES

The Department upholds the values of Peele's 9 Principles of "Fair and Impartial Policing." To maintain those values and the department's impartiality, the Lt. agrees that their role in political activities shall be limited to private vote. During their tenure as the Lt., the Lt. agrees to NOT participate in public fundraisers for individuals campaigning for public office or the election/re-election process. This includes public appearances at "fundraising events", named endorsement, private financial support, or written nomination. This agreement does not prohibit the Lt. from a working professional relationship with elected officials in the performance of their daily duties that come with executing the mission of the Department.

13. NO REDUCTION OF BENEFITS

The Town agrees that the Town shall not at any time during this Contract reduce the salary, compensation, or other benefits of the Lt., except to the extent that such reduction is evenly applied across-the-board for all non-union employees in the Town.

14. MISCELLANEOUS PROVISIONS

- a) This Contract shall be construed and governed by the laws of the Commonwealth of Massachusetts.
- b) If any provision of this Contract is declared or found to be illegal, unenforceable, or void by a court of competent jurisdiction, then both Parties shall be relieved of all obligations under that provision. The remainder of the Contract shall be enforced to the fullest extent permitted by law.
- c) For any clause of this Contract which provides that a certain benefit to the Lt. shall be subject to appropriation, the Town understands and acknowledges that it shall be responsible to budget and support any such appropriation and the terms of this Contract at any and all town meetings.

- d) No amendment or modification of this Contract shall be valid unless it shall be in writing and signed by both Parties.
- e) The Parties executing this Contract agree that the recitals herein constitute the entire agreement between the parties. No other agreement, including any other written, oral, or other agreement, will be considered to exist or to bind the parties to this Agreement. No representative of any party to this Contract, had, or has any authority to make any representation or promise not contained in this Contract, and each of the parties to this Contract acknowledges that such party has not executed this Contract in reliance upon any such representation or promise.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of the 25th day of July, 2023.

On Behalf of the Select Board
Stow Town Administrator

Lieutenant


Denise M. Dembkoski


Kellie A. Barhight