



## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

Dear Southern Berkshire Ambulance Service,

We are in receipt of your January 10<sup>th</sup> request for funding in the amount of \$51,669.36 from the Town of Monterey in order to support your organization and cover its FY24 operating expenses. Thank you for reaching out to us.

We appreciate your long-standing service to our town and its residents, and we value the high level of emergency care that you provide. Your 24/7 staffed paramedic service is immensely beneficial to our town resident's health and peace of mind. We hope that we can come to a financial agreement that benefits both our town and your ambulance service, and continue this successful community partnership in a sustainable way.

In your letter, you assessed the six towns that you primarily serve solely on the basis of the four-year average property tax valuation. While we understand the SBAS's desire to find a simple valuation method for assessment, we feel that this particular assessment method is not only inequitable, but puts unreasonable hardship on some of the smaller towns. We are suggesting that a meeting of the various town leaderships may be in order to allow all of the parties to have a thoughtful conversation regarding how to construct a more reasonable assessment.

Under your proposed assessment, Monterey would be paying \$759.84 per call, Alford \$845.75, but Great Barrington only \$112.59. Indeed, the rates for four of the six towns contrast rather starkly with the recently published 101 CMR 327.00 "Rates of Payments for Ambulance Services" which lists the highest trip fee as \$396.86 (see attached).

We would like to propose a slightly more complex, but we think far more equitable system of assessment, that allows for a base trip fee plus an average mileage charge. This system would allow assessments based on the number of calls and a base price per call, but also account for the increased time and distance required to reach some residents. We used an average trip distance based on mapped distance from Town Halls to Fairview Hospital as a rough estimate since most of the Town Halls fall close to the geographic center of the respective towns. Because we recognize that transit time is important, we included the mileage charge taken from the attached CMR, \$6.45/ mile, for **both** the unloaded **and** loaded portions of the trip. Preliminarily we have used a base call price of \$167. This calculation provides the following assessments:



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Town	Avg. Calls	Dist. TH to Fairview	Proposed Assessment	per call charge
Alford	32.25	4.1	\$7,091.45	\$219.89
Egremont	83.75	4	\$18,307.75	\$218.60
Great Barrington	1343.75	0.8	\$238,273.75	\$177.32
Monterey	68	9.5	\$19,689.40	\$289.55
Sheffield	251.25	6.3	\$62,377.84	\$248.27
Mount Washington	13.5	12	\$4,344.30	\$321.80
Total	1792.5		\$350,084.49	

Note that under this proposal, even the highest fee is still well under the maximum fee under CMR.

We look forward to continuing this conversation and negotiating an agreement that is beneficial to all involved parties. We hope that you can attend the joint meeting of the six towns' officials that we wish to organize so that we can continue this discussion.

Sincerely,

  
Justin Makuc, Chair  
The Monterey Select Board

  
Susan Cooper

  
Scott Jensen

Phone: 413.528.1443 x114 Fax: 413.528.9452

[admin@montereyma.gov](mailto:admin@montereyma.gov)

[www.montereyma.gov](http://www.montereyma.gov)



## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

Dear Select Board members of the towns of Alford, Egremont, Great Barrington, Sheffield, and Mount Washington

The Berkshires, along with many other regions, are going through a difficult transitional time as we recognize that services once provided by volunteers now need to transition to paid positions. Those of us working to run towns and emergency services understand that this situation poses many challenges for which our communities must find solutions. The Monterey Select Board strongly supports the SBAS' efforts to become more financially sound. At the same time, we feel it is important for all of the towns to come together to have a thoughtful and respectful conversation about how we see regional services being provided -- not just in FY 24, but in the five to ten years that follow. We *all* need a system that provides reliable, high quality care, is financially sustainable, and is *equitably* supported by the communities served.

The current proposal from the SBAS is based solely on the four-year average property tax valuations for each municipality. While we understand the desire to assess towns based on their valuation, we question how fair a mechanism this is to all the towns. Consider that under this rubric, Monterey would be paying \$759.84 per call, Alford \$845.75, but Great Barrington only \$112.59. Consider that Sheffield, with a population three times that of Monterey, and a budget nearly three times as large, would be covering only 4% more of the SBAS's budget than Monterey would, despite having nearly *four times* the calls per year, and with similar travel times. The pricing put forward by the state of Massachusetts for ambulance call billing as of January 2023 (see attached), has the highest ground transport allowable fee as \$396.86, about half of what the current proposal asks four of the six towns to pay. We all want to ensure quality paramedic services to all of our communities, but we need to find a way to share the costs in a more equitable fashion.

We would like to propose a slightly more complex, but we think far more equitable system of assessment, that allows for a base trip fee plus an average mileage charge. This system would allow assessments based on the number of calls and a base price per call, but also account for the increased time and distance required to reach some residents. We used an average trip distance based on mapped distance from Town Halls to Fairview Hospital as a rough estimate since most of the Town Halls fall close to the geographic center of the respective towns. Because we recognize that transit time is important, we included the mileage charge taken from the attached CFR, \$6.45, for **both** the unloaded **and** loaded portions of the trip. Preliminarily we have used a base call price of \$167. This calculation provides the following assessments:

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Total	1792.5		\$350,084.49	

It would be tragic if services were to suffer because of a dispute over the funding – that is not a desirable scenario. We hope that all the towns would be willing to come together soon to discuss how to move forward, not just for this year but for the future, to keep our EMS services on a solid footing. We are willing to undertake organizing a meeting to that end, and suggest that each town and SBAS send two representatives to the table in the next few weeks so that we can have a frank discussion about these issues.

Respectfully,

  
Justin Makuc, Chair

  
Susan Cooper

  
Scott Jensen

Monterey Select Board

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[admin@montereyma.gov](mailto:admin@montereyma.gov)  
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## Town Administrator

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**From:** Justin Makuc  
**Sent:** Friday, February 17, 2023 9:36 AM  
**To:** Town Administrator  
**Subject:** Fw: Town Administrator Performance Evaluation

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**From:** Alexandra Rubin <arubin@miyares-harrington.com>  
**Sent:** Wednesday, February 1, 2023 2:04 PM  
**To:** Justin Makuc <justin@montereyma.gov>  
**Cc:** Donna Brewer <dbrewer@miyares-harrington.com>  
**Subject:** Re: Town Administrator Performance Evaluation

Hi Justin,

I've responded to each part of your email separately:

We have agreed that each Board member will submit a completed performance evaluation form to the HR Director, who will also receive 360 review forms from direct reports of the Town Administrator and other appointed and elected officials. At that point, we are tasking the HR Director with compiling all of the submitted forms (Select Board and 360 review) into a comprehensive summary evaluation.

- Your proposed process is excellent and is exactly what we recommend to our Select Boards when they are evaluating town officials within their appointing authority.

Could members of the Select Board, at that point, review and make comments on the comprehensive summary evaluation or would that violate the OML?

- At that point, if members of the Select Board review or comment on the summary evaluation (which I generally refer to as the "composite evaluation") outside of a public meeting, it would violate the OML. Boelter v. Board of Selectmen of Wayland (2018). The Supreme Judicial Court held that any circulation of documents containing the opinions of members, even if there is no back-and-forth discussion amongst the members, constituted a "deliberation" such that the public must be permitted access. Boelter notes that the composite evaluation can only be distributed to the members by: 1) distribution at a properly noticed open meeting; or 2) through public posting to a municipal website in a manner that is also available to members of the public, as long as paper copies are also made available in the town clerk's office. In other words, when it is time to distribute this composite evaluation to the other members, it also needs to be made available to the public.

Would this comprehensive summary evaluation be a confidential document? And would members of the Select Board receiving and reviewing it affect its confidentiality?

- The composite evaluation is a public document. Further, deliberations conducted by a public body conducted for *the purpose of evaluating the professional competency* of an individual *cannot* occur in executive session- the discussion about the document needs to occur in an open meeting.

We welcome any other advice about this performance evaluation, and any ideas about how other Select Boards complete effective reviews of the Town's Administrator or Manager.

- Feel free to research how other municipal select boards undertake this process—many have published their evaluation procedures online. The town of Needham has a Town Manager Evaluation Policy which was used as an example model in a 2021 MMA presentation on this topic. However, I would caution you from following any procedures that are dated prior to 2018 when the Boelter decision was published. The Attorney General's Office also has a great FAQ page about the interplay between the OML and evaluations.

Best,  
Alex

Alexandra B. Rubin

MiyaresHarrington - Local options at work

Miyares and Harrington LLP  
40 Grove Street • Suite 190  
Wellesley, MA 02482  
Direct: 617.804.2428 | Main: 617.489.1600  
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**From:** Justin Makuc <justin@montereyma.gov>  
**Date:** Wednesday, February 1, 2023 at 11:36 AM  
**To:** Alexandra Rubin <arubin@miyares-harrington.com>  
**Cc:** Donna Brewer <dbrewer@miyares-harrington.com>  
**Subject:** Re: Town Administrator Performance Evaluation

Thank you, Alex. No worries at all about timing -- I was late to ask!

Justin

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**From:** Alexandra Rubin <arubin@miyares-harrington.com>  
**Sent:** Wednesday, February 1, 2023 11:34 AM  
**To:** Justin Makuc <justin@montereyma.gov>  
**Cc:** Donna Brewer <dbrewer@miyares-harrington.com>  
**Subject:** Re: Town Administrator Performance Evaluation

Hi Justin,

I'm assisting Donna with the response to your below email. It's on my radar for today, but I will not be able to get you a response by noon.

Best,  
Alex

Alexandra B. Rubin

**MiyaresHarrington** - Local options at work

Miyares and Harrington LLP  
40 Grove Street • Suite 190  
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**From:** Justin Makuc <[justin@montereyma.gov](mailto:justin@montereyma.gov)>  
**Date:** Tuesday, January 31, 2023 at 7:45 AM  
**To:** Donna Brewer <[dbrewer@miyares-harrington.com](mailto:dbrewer@miyares-harrington.com)>  
**Subject:** Town Administrator Performance Evaluation

Hi Donna,

Monterey is in the process of completing its first annual Town Administrator Performance Evaluation, and the Board would appreciate your input about how to proceed.

We have agreed that each Board member will submit a completed performance evaluation form to the HR Director, who will also receive 360 review forms from direct reports of the Town Administrator and other appointed and elected officials. At that point, we are tasking the HR Director with compiling all of the submitted forms (Select Board and 360 review) into a comprehensive summary evaluation.

Could members of the Select Board, at that point, review and make comments on the comprehensive summary evaluation or would that violate the OML? Would this comprehensive summary evaluation be a confidential document? And would members of the Select Board receiving and reviewing it affect its confidentiality?

We welcome any other advice about this performance evaluation, and any ideas about how other Select Boards complete effective reviews of the Town's Administrator or Manager.

Thank you,  
Justin

**FIRST AMENDMENT**

**Agreement By and Between**

**Berkshire Regional Planning Commission**

**and**

**the Town of Monterey**

**Re: Monterey MVP Action Grant for Main St. Culvert Replacement**

This Agreement (the "Amendment") is the First Amendment to the AGREEMENT made as of 21<sup>st</sup> of September, 2022 by and between the Berkshire Regional Planning Commission (the "COMMISSION"), and the Town of Monterey. The COMMISSION and the Town desire to amend the Agreement as hereinafter set forth.

Now, therefore, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged, the Parties hereby agree as set forth herein.

- 1. Paragraph 6. COMPENSATION is hereby amended as follows:
  - a. The TOWN will pay the COMMISSION a total fee in the amount not to exceed \$46,770.50 based on mutually agreed upon invoice procedure


Except as specifically amended hereby, the Agreement is hereby ratified and confirmed and shall remain in full force and effect. From and after the date hereof, all references to the Agreement shall be construed as references to the Agreement, as affected and amended by this Amendment.

IN WITNESS thereof, the COMMISSION and the Town of Monterey have executed this Amendment to the Agreement dated October 7, 2022.

BERKSHIRE REGIONAL PLANNING COMMISSION:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Thomas Matuszko  
 Executive Director

Town of Monterey:

By:  \_\_\_\_\_ Date: 2/8/23  
 Signatory Name: Justin Makuc  
 Signatory Title: Select Board Chair

For BRPC Use Only
Agreement Reviewed by Office Manager _____ Finance _____ Dpt# _____





## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

February 8, 2023

Malcolm Harper  
Massachusetts Department of Environmental Protection  
Bureau of Water Resources  
8 New Bond Street  
Worcester, MA 01606

RE: Hupi Road Drainage Improvements to Reduce Sediment Inflow to Lake Garfield (#22-07 319)

Dear Mr. Harper,

The Town of Monterey would like to request additional funds for the 22-07 319 Project entitled Hupi Road Drainage Improvements to Reduce Sediment Inflow to Lake Garfield. The Town would like to request an \$30,000 funds to add two additional deep-sump catch basins to the design to better capture stormwater based on the Highway Director's knowledge of runoff flow in the area. In addition, the Town would like to increase grant request of construction by the match amount \$70,732. Finally, the Town would like to request \$12,000 for Berkshire Regional Planning Commission to complete Reporting and Administration and perform Public Outreach to include the installation of vegetative buffers and/or rain gardens on private properties within the Lake Garfield watershed. The additional funds request totals \$95,500.

As match the Town would like to reduce the costs of Engineering, Final Design, Permitting and Procurement covered in the grant and commit \$35,000 of a state awarded Community Compact grant. In addition, the Town has spent \$137,121 of Diver Assisted Suction Harvesting (DASH) since October 2019 to remove invasives aquatic species in Lake Garfield and expects to spend nearly \$20,000 more this year. We would like to put this spending forth as matching funds and calculate phosphorus removal loads based on amount of invasives removed since October 2019.

Please see the proposed changes in the next page.



## TOWN OF MONTEREY

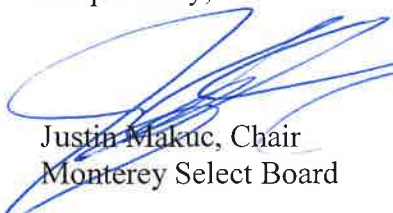

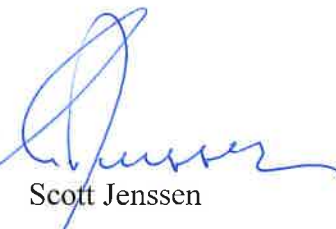
435 Main Rd. P.O. Box 308  
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Expense Items	Grant Amount (319)	Match	Total
<b>Salary - by title and salary range</b>			
DPW Director (\$50/hr)			
DPW Maintenance Crew (\$25/hr)			
<b>Subtotal</b>	<b>\$0</b>	<b>\$1,500</b>	<b>\$1,500</b>
<b>Subcontractual Services</b>			
Engineering, Final Design, Permitting, and Procurement		\$28,164	\$28,164
Construction oversight, construction, and technical support	\$222,500	\$0	\$222,500
Operation and Maintenance Plan		\$2,436	\$2,436
<b>Subtotal</b>	<b>\$222,500</b>	<b>\$30,600</b>	<b>\$253,100</b>
<b>Other Services</b>			
Public Outreach, Education Plan and Technology Transfer	\$5,000	\$4,400	\$9,400
Reporting and Project Administration	\$7,000	\$0	\$7,000
Invasive removal (DASH)		\$137,121	\$137,121
<b>Subtotal</b>	<b>\$12,000</b>	<b>\$141,521</b>	<b>\$153,521</b>
<b>Total</b>	<b>\$234,500</b>	<b>\$173,621</b>	<b>\$408,121</b>
<i>Percent</i>	<i>57%</i>	<i>43%</i>	
<i>Difference</i>	<i>\$95,500</i>	<i>\$76,621</i>	<i>\$172,121</i>

Moreover, the Town would like to request a no-cost one-year extension in which to complete this project. This would extend the project timeline to November 23, 2024. This allows us to more fully consider the engineering, procure necessary permitting and procure a contractor well ahead of the 2024 construction season. Our hope is that this reduces the cost of bids for construction contractors and give us a more realistic timeline for installation.

If you have any questions or would like to discuss the request, please get in touch with Monterey's Town Administrator, Melissa Noe ([admin@montereyma.gov](mailto:admin@montereyma.gov)) and the contractor working with us on this project, Courteny Morehouse at Berkshire Regional Planning Commission ([cmorehouse@berkshireplanning.org](mailto:cmorehouse@berkshireplanning.org)). Thank you for your consideration.

Respectfully,

Justin Makuc, Chair  
Monterey Select Board

Susan Cooper

Scott Jensen

Phone: 413.528.1443 x114 Fax: 413.528.9452

[admin@montereyma.gov](mailto:admin@montereyma.gov)

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JM



## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

### CONTRACT

On this 8th day of February, 2023 by and between the **TOWN OF MONTEREY** ("the Town") and **BRIAN FAHEY, CHIEF OF POLICE** ("the Chief" or "Chief of Police") enter into the following contract pursuant to Massachusetts General Laws Chapter 41, section 108O, as amended.

WHEREAS, the **TOWN OF MONTEREY** is desirous of securing the services of the Chief in the administration of the Monterey Police Department ("the Department"); and

WHEREAS, the Chief wishes to perform the duties of the position of the Chief of Police as provided herein and subject hereto;

NOW, THEREFORE, the Select Board, acting as the chief executive officer of the Town, and the Chief hereby agree that the following terms and conditions as stated herein and subject to the statutory references that shall be incorporated into this contract.

#### LENGTH OF CONTRACT

The term of this Contract shall be for a two (2) and a half year term commencing January 1, 2023 through June 30, 2025. Extension beyond June 30, 2025 will require a new contract.

#### COMPENSATION

The CHIEF OF POLICE, an FLSA and Massachusetts Wage Act exempt position, shall receive the sum of \$42,544.50 for the first six (months) and thereafter an annual salary of \$85,089.00, and shall receive at least the same number of sick days, vacation days, holiday pay, uniform, cleaning allowance, and all other benefits as do exempt full-time employees of the TOWN OF MONTEREY. In addition, the provisions of M.G.L. Ch. 147, Sec. 17F (attached hereto), shall apply. The CHIEF shall receive on call pay for coverage from 12:00AM-8:00AM@ the rate of \$100.00/week for each week of coverage.

At the beginning of each fiscal year, the Chief shall receive the salary as stated above plus any cost of living adjustment approved by the Town for Department Heads / Non-Collective Bargaining Unit Employees.

The CHIEF OF POLICE agrees that because this is his primary employment he will not become employed in any position which would impact in an adverse manner upon this responsibility or which would constitute a conflict of interest or violation of the ethics laws.

## DUTIES

JM

The CHIEF shall have all the powers given to him under this Contract or otherwise assigned to him from time-to-time by the Select Board.

His duties shall include but not be limited to the following:

1. The CHIEF shall supervise the daily operation of the Police Department.
2. The CHIEF shall supervise all departmental personnel.
3. The CHIEF shall prepare the Police Department annual budget and submit the proposed annual budget to the Select Board, the Finance Committee, and the Town Administrator.
4. The CHIEF shall give reports to the Town Administrator in writing when requested, or at a minimum quarterly (four times per year).
5. The CHIEF shall be responsible for all departmental expenditures, disbursements and collected funds in accordance with the laws and statutes of the Commonwealth of Massachusetts and the Bylaws of the TOWN OF MONTEREY.
6. The CHIEF shall supervise and be in charge of all equipment and property used by the Police Department, including vehicles belonging to the Police Department of the TOWN OF MONTEREY.
7. The CHIEF shall establish uniform specifications for the Police Department. Such uniform specifications shall specify the items that constitute the uniform, as well as the grade, quality and/or number of units of each uniform item so specified.
8. The CHIEF shall establish weapons and ammunition specifications for the Police Department. The officers of the Department shall carry only those weapons and ammunition as authorized by the CHIEF OF POLICE.
9. The CHIEF shall be in charge of all fulltime, part-time, reserve/intermittent, and special police officers in the TOWN OF MONTEREY. The CHIEF shall meet with them on a regular basis.
10. The CHIEF shall be responsible for encouraging and allowing for the professional growth, development, education and training of all other police officers on the Police Department.
11. The CHIEF shall be in charge of and responsible for the carrying out of all programs sponsored or hosted by the Police Department, including but not limited to training programs for departmental personnel, safety programs for elementary-school children, and "Neighborhood Watch" programs.
12. The CHIEF shall be responsible for and have the power to maintain the discipline of the departmental personnel, the assignment to shifts and duties of all departmental personnel, and shall have all the powers as to discipline conferred upon Chiefs of Police by statute in this Commonwealth.
13. The CHIEF shall be available for hearings before any Board of the Town at which the Police Department is required to appear. The CHIEF shall attend all Annual Town Meetings, and Special Town Meetings when necessary.
14. The CHIEF shall perform the duties of the Animal Control Officer.
15. The CHIEF shall perform the duties of the Harbor master.
16. The CHIEF shall be in charge of the Black Board Connect mass notification system.

## HOURS OF WORK

JM

1. The CHIEF agrees to devote that amount of time and energy which is reasonably necessary for the CHIEF to faithfully perform the duties of the CHIEF OF POLICE under this Contract.
2. The CHIEF agrees to work at least forty hours per week for the TOWN OF MONTEREY, including his responsibilities as the on-duty patrol officer.
3. Policing is a twenty-four hour, seven day a week operation and because of the serious nature and sensitivity of the work, it is recognized that the duties of the CHIEF OF POLICE will require that he schedule himself to work those hours necessary to accomplish the responsibilities of the position. These hours will require time outside of normal office hours, and as a result, the CHIEF OF POLICE may adjust his normal office hours accordingly as he deems appropriate such that the CHIEF reasonably determines it will least adversely impact Departmental operations.

## INSURANCE

The TOWN OF MONTEREY agrees to furnish at its expense professional liability insurance for the CHIEF OF POLICE with liability limits of \$1 million per occurrence/\$3 million annual aggregate.

## INDEMNIFICATION

Subject to the terms and provisions of M.G.L. c. 258, § 9 and all other applicable law, the TOWN shall defend, save harmless and indemnify the CHIEF OF POLICE 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 CHIEF OF POLICE, even if said claim has been made following his termination from employment, provided that the CHIEF OF POLICE acted within the scope of his duties. Subject to the provisions of said statute, the TOWN shall pay the amount of any settlement or judgment rendered thereon. 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 CHIEF OF POLICE. The TOWN shall reimburse the CHIEF OF POLICE for any reasonable attorneys' fees and costs incurred by him in connection with such claims or suits involving him in his professional capacity. This section shall survive the termination of this Contract.

## PROFESSIONAL DEVELOPMENT

1. The TOWN OF MONTEREY recognizes its obligations to the professional development of the CHIEF OF POLICE and agrees that the CHIEF OF POLICE shall be given adequate opportunities to develop his skills and abilities as a law-enforcement administrator; accordingly, the CHIEF OF POLICE will be allowed to attend the New England Association of Chiefs of Police Conference and the Massachusetts Chiefs of Police Association conference and will be reimbursed by the TOWN for reasonable expenses incurred while attending or traveling to the conference. The TOWN also agrees to budget and pay for travel and subsistence expenses of the CHIEF OF POLICE for short courses, institutes and seminars that, in his reasonable judgment and as approved by the Select Board, are necessary for his professional development.
2. The TOWN agrees to budget and pay for professional dues and subscriptions related to the professional growth, development, education and training of the CHIEF OF POLICE, as approved by the Select Board, including but not limited to the New England Association of Chiefs of Police, the

JM

Massachusetts Chiefs of Police Association, and the applicable regional Massachusetts Police Chiefs Association.

**AUTOMOBILE**

1. The TOWN shall provide a police vehicle for restricted but exclusive use by the CHIEF OF POLICE and all attendant operating and maintenance expenses and insurance. This vehicle is to be used only by the CHIEF OF POLICE and only in connection with the performance of his duties as CHIEF OF POLICE, including commuting to and from work. It shall be equipped with all emergency equipment necessary and appropriate for response by the CHIEF OF POLICE to emergency calls or calls for police assistance.
2. The CHIEF OF POLICE may upon mutual agreement of both parties use his own private automobile for his use as CHIEF OF POLICE. The TOWN shall pay all allowable and appropriate expenses for such vehicle use.

**DISCIPLINE AND DISCHARGE**

During the term of this Contract, the CHIEF OF POLICE may be disciplined for just cause upon proper notice and hearing. Just cause for the purposes of this Contract means willful breach or habitual neglect of his duties, or an act of moral turpitude, gross negligence, willful misconduct, willful misfeasance, or material breach of this Contract. The principle of progressive discipline is generally applicable, but the TOWN reserves the right to terminate the CHIEF OF POLICE's employment without the imposition of prior discipline if circumstances warrant.

The TOWN may terminate the contract with the CHIEF at any time prior to the expiration of the term of the Contract and only for just cause. The TOWN shall institute discipline or removal proceedings in the following manner:

1. Termination or discipline will be by notice and hearing as required by law. At least ten (10) business days prior to any hearing, as referred to below in subparagraph 2, the CHIEF OF POLICE shall be provided in writing with the charge(s) made against him, and the evidence which supports said charges, in such specificity so that the CHIEF OF POLICE may understand and prepare his defense.
2. After ten (10) business days following delivery and receipt of the charges and specifications, as described above in subparagraph 1, on a specific date and time and at a place specified in the written notice, the Select Board will conduct a hearing, and the CHIEF OF POLICE will be given an opportunity to respond to the charges. The hearing will be public or private at the discretion of the CHIEF OF POLICE. 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 in accordance with subparagraph 1 above. 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. 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. The CHIEF OF POLICE shall be provided with a written notice of the findings and decision of the Select Board and such notice shall include the relevant facts and reasons for their findings.

JM

3. The parties shall mediate any decision with which the Chief disagrees before a challenge may be filed with the Berkshire County Superior Court. The mediator shall be agreed to by both parties, with the cost shared equally by both parties.

Should the CHIEF OF POLICE resign his position at any time prior to the expiration of the term of this Contract, he shall notify the Select Board in writing. If the CHIEF OF POLICE is leaving office due to retirement, he shall provide the TOWN with one year (365 days), or a lesser amount of time as determined by the Select Board, to allow the Town to consider the appointment of a replacement. Termination by the CHIEF OF POLICE for any other reason will require a minimum of ninety (90) days' prior notice, or such lesser time as is agreed to by the Select Board.

### **VACATION**

1. The Chief is entitled to four (4) weeks of vacation time per fiscal year, a week as defined in the Employee Manual, prorated for the duration of this contract, and subject to previous vacation accrual during his employment with the Town.
2. Upon retirement of the CHIEF OF POLICE, in addition to all other benefits, the CHIEF OF POLICE shall be entitled to be paid for unused prorated vacation time in accordance with the established policy for Town employees.
3. Prior to taking any vacation leave by the CHIEF OF POLICE, the CHIEF OF POLICE shall advise the Town Administrator of the name of the Officer-in-Charge of the Police Department for the period of the vacation leave.

### **BEREAVEMENT LEAVE**

The Chief shall be permitted up to five (5) consecutive working days of paid leave to attend the funeral of any immediate family member. Immediate family is defined as spouse, child, mother, father, brother, sister, mother-in-law, father-in-law, grandparent, grandchild, stepparent, stepchild, or significant other, subject to request for leave procedures as outlined in the Employee Manual.

### **PAID DETAILS**

The Chief shall be allowed to work paid details under the following conditions:

1. The number of detail hours shall not exceed 480 hours for each year of this contract.
2. Details may be worked during normal time-off hours or during vacation time.
3. Departmental procedure for assigning details shall be followed.

### **MISCELLANEOUS**

1. The text in this Contract constitutes the entire Contract between the parties. There are no oral or external promises, representations, or understandings between the parties regarding employment of the CHIEF OF POLICE by the TOWN.
2. No change or modification of this Contract shall be valid unless it is in writing and signed by both of the parties.
3. Notices pursuant to this Contract shall be given either by USPS first-class mail, certified mail, or by email, addressed as follows:

TOWN: Chair of the Select Board  
435 Main Rd.  
P.O. Box 308  
Monterey, MA 01245

CHIEF OF POLICE: Brian Fahey

*July*


4. This Contract shall be construed and governed by the laws of the Commonwealth of Massachusetts.
5. 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.

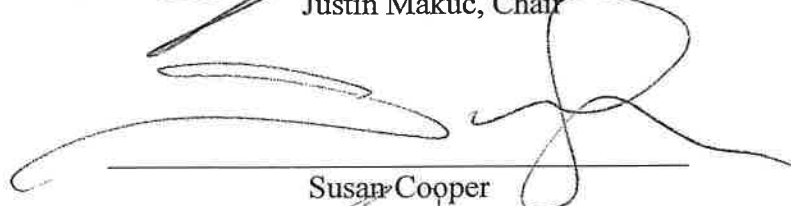
SIGNED at the Town of Monterey, Berkshire County, Massachusetts, on the day and year first above written.

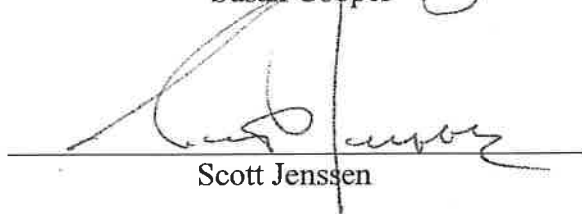
MONTEREY CHIEF OF POLICE:

MONTEREY SELECT BOARD:

  
\_\_\_\_\_  
Brian Fahey

  
\_\_\_\_\_  
Justin Makuc, Chair

  
\_\_\_\_\_  
Susan Cooper

  
\_\_\_\_\_  
Scott Jensen



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**Part I** ADMINISTRATION OF THE GOVERNMENT

**Title XX** PUBLIC SAFETY AND GOOD ORDER

**Chapter 147** STATE AND OTHER POLICE, AND CERTAIN POWERS AND DUTIES OF THE OFFICE OF PUBLIC SAFETY AND INSPECTIONS OF THE DIVISION OF PROFESSIONAL LICENSURE

**Section 17F** POLICE CHIEFS; WORKING ON HOLIDAYS; ADDITIONAL PAY

Section 17F. If the superintendent of police in the city of Lowell, the city marshal in the cities of Newburyport and Salem, or the chief of police in any other city or town, is on duty at any time on January the first, July the fourth or Christmas day, or the day following when any of said days occurs on Sunday, or the third Monday in February, the third Monday in April, the last Monday in May, the first Monday in September, the second or fourth Monday in October or Thanksgiving day, he shall be granted an additional day's pay.