

EMPLOYMENT AGREEMENT BETWEEN THE TOWN OF DOUGLAS AND KELLY MANNING

This Agreement is made effective as of the 30th day of November, 2023 between the Town of Douglas, through its Town Administrator as authorized representative, (hereafter “the Town”) and Kelly Manning (hereafter “Manning”) (hereafter collectively referenced as “the Parties”).

WHEREAS, Manning was promoted to Assistant Chief of the Douglas Fire Department in 2020 and has served in that command-level role in the administration and operation of the fire and ambulances services provided by the Douglas Fire Department since that time;

WHEREAS, the Parties are desirous of continuing Manning’s role going forward in the title of Deputy Chief of the Douglas Fire Department and wish to do so pursuant to the terms of this Agreement;

WHEREAS, Massachusetts law authorizes municipalities like the Town to enter into employment agreements with fire officials such as deputy fire chiefs;

WHEREAS, pursuant to Section 1-2 (b) of legislation entitled “An Act Establishing A Town Administrator And A Municipal Finance Department In The Town Of Douglas[,]” the Town Administrator for the Town has been vested with appointment authority for a position such as Deputy Chief of the Douglas Fire Department, subject to potential Board of Selectmen review;

NOW, THEREFORE, the Town and Manning hereby agree that the following terms and conditions shall govern the employment of Manning as Deputy Fire Chief.

I. EMPLOYMENT

The Parties recognize and agree that Manning will be employed in the rank of Deputy Chief for the Douglas Fire Department, that Manning’s radio call sign shall be “Car Two” and that Manning otherwise will be recognized as the second-in-command for the Douglas Fire Department and shall be recognized as Fire Chief on those occasions and during those periods of time that the Fire Chief is away or unavailable to perform his duties.

II. DUTIES

The Parties acknowledge that the duties and responsibilities set out in a job description for the position of Deputy Fire Chief that is appended hereto and designated as “Attachment A[.]” Consistent with that description, and as directed by the Fire Chief, Manning shall possess and exercise her administrative, supervisory and operational responsibilities in accordance with the Massachusetts General Laws and other controlling legal authorities regulating Massachusetts fire departments and their operations.

III. HOURS OF WORK

- A.** Manning agrees to devote that amount of time and energy which reasonably is necessary in order to perform, faithfully and diligently, the duties of Deputy Fire Chief pursuant to this Agreement. The hours of work for Manning normally will follow an administrative work schedule of Monday through Friday between the hours of 8:00 a.m. and 4 p.m.
- B.** It is acknowledged that Manning's responsibilities encompass matters that may arise at any point, twenty-four (24) hours a day, seven (7) days a week and 365 days a year and it also is acknowledged that Manning may be called upon to report to emergency situations at any time of the day and on any day.
- C.** Given that Manning must devote a great deal of time outside of normal hours in order to discharge her duties and responsibilities, Manning shall be allowed to alter her normal work schedule as she deems appropriate, subject to the approval of the Fire Chief, which approval shall not be withheld unreasonably, and at such times that will impact departmental operations the least. The Parties acknowledge and agree that Manning is to work an average of forty hours per week over the course of a year.
- D.** Manning shall be eligible for shift coverage overtime payable at 1.5 times her hourly rate of pay as calculated by dividing her yearly salary by fifty-two and then dividing that weekly salary by forty. Manning only will be permitted work shift coverage overtime when, according to the determination of the Fire Chief, permitting Manning to work such overtime will allow the Douglas Fire Department to avoid forced overtime of a lieutenant or a rank-and-file firefighter/EMS member and only after the list of lieutenants and full-time firefighters/EMS members that could provide coverage for the shift has been exhausted.
- E.** Manning shall be entitled to Town-recognized holidays off as provided in the Town's personnel bylaws. In the event that Manning is required to work on a holiday, she will receive additional pay for the hours worked on the holiday at a rate 1.5 times her hourly rate of pay as calculated by dividing her yearly salary by fifty-two and then dividing that weekly salary by forty.
- F.** Manning will be eligible to work outside details in the same manner as a regular full-time firefighter for the Town is eligible and will be compensated for such outside detail work at the same hourly rate as a regular full-time firefighter for the Town.
- G.** With the permission of the Chief, permission that shall not be withheld unreasonably, Manning may work up to sixteen (16) hours per calendar month as an emergency room nurse, so long as the hours worked do not conflict with her duties as Deputy Fire Chief.
- H.** The Parties acknowledge and agree that Manning will maintain her assignment to the Massachusetts Department of Fire Services Hazardous Materials Response Unit for

District Three and that, in connection with that service, the Town may be reimbursed through the agency for Manning's time or the cost to backfill Manning's position in the event that she responds to an incident, training event or other assignment for that team.

- I. The Parties acknowledge and agree that, in the absence of the Fire Chief, Manning's work schedule may be altered to meet the needs of the Douglas Fire Department.**

IV. PERFORMANCE EVALUATIONS

No less than sixty days before each anniversary date of this Agreement, the Fire Chief shall review and evaluate Manning's performance. It is agreed that the evaluation shall be predicated upon the job description for the position of Deputy Chief and shall include a written explanation on all material points. It is further agreed that the evaluation shall be based, to the utmost extent possible, on objective metrics and considerations. Manning shall be provided with an opportunity to discuss her evaluation with the Fire Chief and shall be provided with the ability to respond in writing to the performance evaluation.

V. COMPENSATION

- A. Subject to appropriation, Manning's base salary in the first year of this Agreement shall be \$117,181.00.**
- B. In the second year of this Agreement, and subject to the remainder of this section, Manning will receive the base salary previously stated in addition to any increase, at the same percentage rate, received by any non-union, management-level personnel of the Town, typically referred to as a "cost of living adjustment" or "COLA[.]" Once a COLA increase has been added to Manning's base salary, that amount will become her base salary going forward pursuant to this Agreement and then-future COLA increases will be calculated based upon the then-existing base salary. The Parties agree that the COLA increase for Manning will be subject to Town appropriation and that the Town shall seek such appropriation as necessary.**
- C. Based upon the recommendation of the Fire Chief as part of an agreed upon written performance evaluation process, Manning may earn an additional step increase in each contract year up to 2.25% of her prior year's base salary, subject to appropriation. It is agreed, however, that any step increase pursuant to this paragraph will not bring Manning's salary to an amount that exceeds 90% of the Fire Chief's base salary for that year.**
- D. Subject to appropriation, Manning shall receive an annual stipend of \$1,700.00 to obtain and to maintain the standard uniform as detailed in the firefighters' union contract and/or the standard operating procedures of the Douglas Fire Department. The stipend shall be paid in two equal installments each fiscal year, with one payment in the first pay period in July and the other in the first pay period in January.**

VI. OTHER BENEFITS

- A. Vacation:** Manning shall be entitled to three weeks of vacation time for each year of this Agreement. Manning is permitted to carry-over up to five unused vacation days to the following contract year with the prior written approval of the Town Administrator and provided that carried-over days will be used by September 30th of the subsequent contract year.
- B. Sick, Personal, Bereavement And Other Leave:** Manning shall be entitled to the same sick leave accrual and benefits, personal leave, bereavement and other leave as provided under the Personnel By-law and Policies and Procedures of the Town of Douglas or as allowable by federal or state law, such as the family and medical leave, jury leave and leave pursuant to the Massachusetts Small Necessities Leave Act.
- C. Vehicle:** The Town shall provide a vehicle for use by Manning and the Town shall be responsible for all attendant operating costs, maintenance and repair expenses as well as insurance. The vehicle will be used by Manning in connection with the performance of her duties as Deputy Fire Chief and for her professional growth and development. The vehicle may be used for personal reasons, reasonably and locally within 25 miles of the Town of Douglas, given that Manning is expected to respond to emergency situations occurring outside of her normal work schedule.
- D. Professional Development:** The Town recognizes the benefits associated with the professional development of Manning and agrees that Manning will be given adequate opportunities to develop her skills and abilities as a fire service official, public safety administrator, firefighter and paramedic. Accordingly, Manning will be permitted to attend training courses, seminars or opportunities without loss of her leave time. The Town, subject to appropriation, will pay for the tuition, travel and subsistence expenses of Manning for such courses, seminars or training opportunities. Attendance at any course, seminar or training opportunity will be subject to the prior approval of the Fire Chief.
- E. Dues And Subscriptions:** The Town agrees to budget for and, subject to appropriation, to pay for the professional dues and subscriptions for Manning's full participation in national, regional, state, and local associations and organizations necessary and desirable for Manning's continued professional growth and advancement and for the good of the Town. All payments for dues and subscriptions will be subject to prior approval by the Fire Chief.
- F. Health And Life Insurance:** Manning shall be eligible for all health and life insurance plans in which full-time Town employees are eligible to participate. The Town agrees to contribute to the cost of any such plan in an amount or percentage

that shall be no less than that amount or percentage contributed by the Town on behalf of any other non-union Town employee.

G. Wellness Incentive: The Town agrees to reimburse Manning up to \$475.00 per fiscal year for expenses that she incurs for membership fees or dues to any health club, gym or fitness program, or for the purchase of home gym equipment.

Home gym equipment shall not be considered to include footwear, apparel, extended warranties, service plans or installation costs. All equipment purchases shall be approved in advance by the Fire Chief in order to be eligible for reimbursement. The Town's reimbursement will occur after purchase and submission of an invoice.

VII. INDEMNIFICATION

Pursuant to the provisions of G.L. c. 258, the Town agrees that, to the extent permitted by law, it shall defend, save harmless and indemnify Manning against any claim, action, award, compromise, settlement, judgment, complaint, lawsuit or demand of any type arising out of any alleged act or omission occurring in the performance of Manning's official duties, whether such action is commenced in a judicial or an administrative forum, and whether such claim, demand or action is groundless or otherwise. Except as provided within Section VIII., this provision shall not apply to disputes between the Town and Manning concerning any disciplinary proceedings contemplated or taken.

To the extent that the Town purchases professional liability or other employment insurance for officials or employees of the Town, the Town shall ensure that such coverage extends to Manning.

This provision shall survive termination of this Agreement.

VIII. DISCIPLINE

Upon receipt of any complaint or allegation of any form of misconduct concerning Manning, Manning will be provided within 48 regular business hours with written notice of the complaint or allegation, including a copy of any written complaint or allegation. In the interest of fairness for all involved, including the Town and Manning, any contemplated disciplinary action concerning Manning will be preceded by a full and thorough investigation during which Manning will be afforded the opportunity to provide a statement or evidence. Any investigation will be completed within thirty (30) calendar days absent good cause for an extended investigatory period.

It is agreed that Manning only may be disciplined, including discharge, for just cause and only after receipt of written notice detailing the specific reason or reasons for contemplated discipline, the nature of the charges advanced and the contemplated level of discipline, as well as

only after a full hearing at which Manning shall have the right to be represented by counsel, to make a statement, to submit evidence and to call witnesses. Manning shall have the option of choosing whether any such hearing shall be closed or open to the public. The principle of progressive discipline shall apply to the consideration and imposition of discipline upon Manning.

Manning may challenge any discipline imposed through an action initiated in any court of competent jurisdiction, which shall determine, according to its rules of procedure and the applicable law, whether this contract, Manning's rights or the law have been violated. In any disciplinary hearing or appeal of discipline, the Town and Manning will be responsible for their own fees and costs provided, however, that in the event that the discipline of Manning is vacated, reversed or modified by the arbitrator or a court, Manning will be entitled to receive back pay, lost benefits, attorneys' fees and expenses and interest on back pay and lost benefits at the statutory rate provided in G.L. c. 231, § 6C. In the event that a dispute arises concerning such amounts, the Parties may adjudicate the dispute before a court of competent jurisdiction.

In the event that Manning is terminated by the Town and such termination subsequently is vacated, reversed or modified, at Manning's option the Town either: (1) will pay Manning a lump sum severance equal to the balance of salary, benefits, costs and fees to be paid according to this Agreement for the then-remaining term of this Agreement, but in no event less than twelve months salary and benefits; or, (2) reinstate Manning to duty with backpay, benefits and counsel fees. Manning shall choose between these remedies within thirty days of either a final determination of a court of highest competent jurisdiction or the expiration of a temporal window to file an appeal

IX. INJURED ON DUTY

As a sworn fire official, Manning shall be entitled to injured on duty leave and benefits as provided by G.L. c. 41, §§ 100 and 111F.

Subject to the determination of the Fire Chief, and with written approval of a physician designated by the Town, Manning shall be eligible to perform light or limited duty work, on either a full-time or part-time basis, when the Fire Chief believes that there is such light or limited duty work available and when it would be in the best interest of the Department to have Manning perform the work.

Manning's eligibility for light or limited duty work will extend to circumstances in which the injury or disability is work-related or is not work-related.

Manning will be assigned to her normally scheduled shift in such a circumstance unless there is no appropriate work to be performed on that shift. If there is no appropriate work to be performed on Manning's normally scheduled shift, Manning may be assigned by the Chief to a shift or function necessary to implement this section efficiently.

A light or limited duty assignment shall include the performance of any duties to which Manning otherwise might be assigned consistent with whatever limitations might exist at that time.

Manning shall not be eligible for overtime during the term of the light duty assignment.

X. DISEASE PRESUMPTIONS

A. Cancer Presumption: Notwithstanding any general or special law to the contrary, the Town recognizes that Manning may be exposed to extreme heat, radiation or known/suspected carcinogens during the performance of her duties. As a result of those exposures, Manning faces potential risks or conditions of cancer that include: skin cancer; cancer of the central nervous, lymphatic, hematological, urinary, skeletal, oral or prostate systems; and, cancer of the lung or respiratory tract.

The Town recognizes that Manning passed a physical examination upon entry into service or subsequently and that the examination did not reveal any evidence of such conditions.

Where the examination did not reveal any evidence of such conditions, it shall be presumed, should Manning develop any such condition, that such was suffered during the performance of her duties, including owing to the statistically significant correlation between such conditions and the fire service, unless it is shown by a preponderance of the evidence that non-service related risk factors or non-service related accidents or hazards were the cause of the condition.

The Town maintains its right to have Manning examined by a physician designated by the Fire Chief or the Town Administrator without expense to Manning and the Town maintains its right to a complete report from such physician. Manning, as a condition of continued eligibility for the presumption, must agree to be examined by the Town's chosen physician when requested to do so and to allow the release of all medical records pertaining to the condition to the Town. The Town agrees to pay reasonable travel expenses if Manning is required to visit a physician outside the greater Worcester area.

B. Infectious Or Contagious Disease Presumption: Manning shall be presumed to have contracted an infectious or contagious disease in the line of duty, provided that the following requirements are met: (1) Manning had a prior baseline test upon hiring or subsequent to hiring that was negative; (2) Manning agrees to submit to follow-up testing and any reasonable medical prophylactic treatment recommended by medical professionals for the disease in question; (3) Manning reports all known exposures to the Fire Chief in accordance with Douglas Fire Department rules, regulations, policies or procedures within twenty-four hours of the exposure or within twenty-four hours of notification from a medical provider confirming the exposure or diagnosis, unless the circumstances existing render the

notification unreasonable; and, (4) Manning submits such documentation concerning the diagnosis as may be required by the Fire Chief.

If Manning is exposed to an infectious or contagious disease in the line of duty, the Fire Chief or the designated Infection Control Officer (“ICO”) shall contact Manning as soon as possible to ascertain Manning’s status and to refer her to appropriate treatment or counseling.

If Manning is exposed to an infectious or contagious disease, she may choose not to submit to follow-up testing, treatment or documentation, but Manning understands that she then will bear the burden of proof that the cause was work-related and she shall not be eligible for the presumption afforded by this section.

If Manning is exposed to or diagnosed with an infectious or contagious disease for which no medically reliable baseline test is available, she nevertheless shall be presumed to have contracted the disease in the line of duty provided that she follows the previously stated requirements.

The Fire Chief, the Town physician or the ICO shall keep all employee medical records related to infectious or contagious diseases as required by law. If Manning invokes the presumption, the Fire Chief or the ICO shall be the designated contact person for the Town. The Fire Chief will establish a procedure for the safeguarding of all confidential medical records as they pertain to infectious/contagious disease as required by law.

For purposes of this section, an infectious or contagious disease shall be defined as a disease included within the list of life-threatening infectious diseases developed by the United States Secretary of Health and Human Services pursuant to the Public Health Service Act, Section 300ff-131 of Chapter 6A of Title 42 of the United States Code. Those infectious or contagious diseases include: hepatitis; clostridium; rubella; tuberculosis; human immunodeficiency virus (HIV); acquired immune deficiency syndrome (AIDS) or AIDS-related complex; smallpox; anthrax; or any other disease so classified by the Secretary of Health and Human Services during the term of this Agreement.

The Parties recognize that some infectious or /contagious diseases do not manifest for a period of time after exposure. The delay in the onset of a disease shall not be grounds for denial of the presumption in this section provided that all other requirements of this section have been met.

This section, except as to the presumption and the applicability of the presumption, is without prejudice to Manning’s rights including pursuant to G.L. c. 32 and c. 41, §§ 100 and 11F.

XI. DEATH DURING TERM OF EMPLOYMENT

If Manning dies during her term of employment with the Town, the Town shall pay to Manning's estate or lawful representative all compensation that otherwise would be payable to Manning up to the date of her death, including, but not limited to, salary, overtime compensation, stipends, unused vacation time sick days, holidays or other compensable time.

XII. NO REDUCTION OF BENEFITS

The Town agrees that the Town shall not, at any time during this Agreement, reduce the salary, other compensation or benefits of Manning, except to the extent that such reduction is applied evenly and across the board for all Town employees.

XIII. DURATION

- A.** This Agreement shall be effective from November 30, 2023 through November 29, 2026, unless extended as set forth below or otherwise by written agreement of the Parties. All retroactive compensation necessary to bring the Town into compliance with this Agreement shall be paid to Manning in the first full pay period following the ratification of this Agreement by the Board of Selectmen.
- B.** Unless either the Town or Manning provides written notice to the other of an intention to renegotiate or not to renew this Agreement no less than six (6) months prior to the end of this Agreement's initial term or any extension thereof, this Agreement shall extend automatically for a one (1) year term.
The Parties are free to negotiate at any such other time and under circumstances that they deem reasonable.
- C.** In the event that Manning intends to resign her employment voluntarily before the expiration of this Agreement, Manning agrees to provide the Town with written notice at least sixty days in advance of her separation, unless the Parties agree in writing otherwise.

XIV. AMENDMENTS

No amendment or modification of this Agreement shall be valid unless contained in a writing signed by Manning and an authorized representative of the Town.

XV. LAW GOVERNING

This Agreement shall be construed and governed by the laws of the Commonwealth of Massachusetts. The Agreement shall be construed without regard to the identity of a drafter and as if the Agreement was prepared jointly and constitutes joint work product. Any uncertainty or ambiguity shall not be interpreted against or in favor of the Town or Manning and any rule of construction that a document is to be construed against the drafter shall not be applicable.

XIV. SEVERABILITY OF PROVISIONS

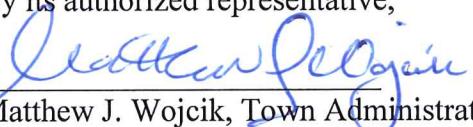
If any provision of this Agreement is declared or found to be illegal, unenforceable or void by a court of competent jurisdiction, the Parties shall be relieved of all obligations under that provision. The remainder of the Agreement shall not be impacted and remain enforceable so long as the stricken portion does not alter materially the consideration or benefits accruing to Manning as provided otherwise in this Agreement.

XVI. ENTIRE AGREEMENT

The Parties executing this Agreement acknowledge and state that the recitals herein constitute the entirety of their agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement effective as of the date first above written.

The Town of Douglas,
By its authorized representative,


Matthew J. Wojcik, Town Administrator

2/20/2024
Date

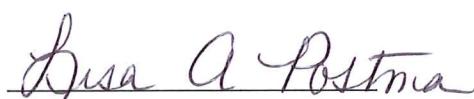
Kelly Manning,


Kelly Manning

2/20/2024
Date

Ratified in open session by a vote of the Douglas Board of Selectmen on March 12, 2024.

Certified:



Town Clerk Christine E. G. Furno



Attachment A

FIRE DEPARTMENT – ASSISTANT FIRE CHIEF (CAREER)

Reports directly to the Fire Chief and to the Deputy Chief, in the absence of the Fire Chief.

NATURE OF WORK:

The Assistant Fire Chief serves as third in command to the Fire Chief, in association with the Deputy Fire Chief. Assists in planning, directing, managing, and overseeing the activities and operations of the fire department. This includes fire suppression, emergency medical services, hazardous material response, technical rescue, disaster preparedness, fire prevention/code enforcement, and related programs, services, and operations; coordinates assigned activities with outside agencies; serves as a command duty officer and responds to incidents; may represent the fire department in the absence of the fire chief; and provides highly responsible and complex administrative and management support to the fire chief. Supervises Career Lieutenants and Call Lieutenants/Call Captains, the training officer/division, and EMS Coordinator.

SPECIFIC DUTIES AND RESPONSIBILITIES:

The Assistant Chief shall consistently perform the following duties and have the listed responsibilities:

1. Recommend and/or perform the full range of management duties (with appropriate executive review) including performance evaluations, transferring, and disciplining.
2. Monitor internal operations and procedures to ensure compliance with the collective bargaining agreement, rules, regulations, policies, and procedures.
3. Assist in the preparation and supervision of program budgets that may include operations, EMS, and training.
4. Assist/Engage in planning activity to maintain the department's strategic plan, standard of coverage, and other plans.
5. Shares with the Chief the responsibility of ensuring the success of both full time member and call member recruitment and retention.
6. Ensure safe and effective command of incident operations.

Periodic Duties - On occasion the Assistant Chief may:

1. Represent the department on a local, regional, state, and national level as directed or approved by the Fire Chief
2. Operate as a company officer in the absence of appropriate level of span of control at an incident scene, when there is appropriate personnel in an incident command and/or operations role.
3. Operate as a primary paramedic on the fire department ambulance

REQUIREMENTS AND ADDITIONAL QUALIFICATIONS:

1. Associates degree in Fire Science or related field from an accredited university or college with additional specialized training in fire department operations and administration.
2. Proboard/IFSAC or equivalent certifications: Firefighter I/II, Hazardous Materials Operational Level, Fire Officer I, Fire Instructor I.
3. Eight (8) years of progressively responsible experience as a firefighter or officer with at least five years of divisional responsibility.
4. Five years of full time experience as an EMT-Paramedic.
5. The Douglas Fire Department / Town of Douglas reserves the right to evaluate and consider, at its discretion, any combination of education and experience that tends to indicate the applicant possesses the skills, knowledge, and abilities listed herein.

DESIRABLE QUALIFICATIONS:

1. A bachelor's degree in fire science or related field from an accredited university or college with additional specialized training in fire department operations and administration.
2. A master's degree in public administration or related field from an accredited university or college.
3. Certification - Fire Officer II or III, Fire Instructor II or III
4. Graduation from Executive Fire Officer Program or Chief Fire Officer Program (MFA or NFA).
5. Experience as an EMS manager (i.e. EMS Coordinator).

KNOWLEDGE AND ABILITIES:

The Assistant Chief shall demonstrate the following knowledge, skills, and abilities:

1. Knowledge of:
 - a. Modern administration principals, practices, and terminology related to public administration and fire department operations.
 - b. The Incident Command System in all disciplines
 - c. Principles, practices, and emerging trends of modern firefighting and emergency operations, including: fire suppression/attack, EMS programs, hazardous materials, technical rescue, and all hazards risk reduction.
 - d. Related ordinances, laws, rules, and regulations, national codes and standards.
 - e. Effective labor relations, contract negotiations, and conflict resolution techniques.
 - f. Program development and administration techniques.
 - g. Modern fire service technology, computer operating systems, and software applications

2. Ability to:
 - a. Work effectively with others.
 - b. Establish and maintain effective working relationships with other employees, supervisors, town officials, and the general public.
 - c. Remain clear-headed and diplomatic in stressful situations.
 - d. Provide effective written and verbal communications to subordinates.
 - e. Maintain high morale and discipline throughout the department.
3. Skills:
 - a. Necessary to maintain minimum qualifications and required certifications.
 - b. Decisive in work setting, a skillful problem solver, a demonstrated team player.

SALARY, BENEFITS, AND SCHEDULE:

1. The Assistant Chief will be scheduled a minimum of four per week, 10 hour days.
2. Additional hours as required to fulfill position duties.
3. The board of selectman will publish base salary and other benefits in Assistant Chief's contract's, as past practice with the Fire Chief.