

POLICE CHIEF AGREEMENT
Between
CITY OF SOMERVILLE
And
DAVID FALLON

Agreement made this 22nd day of August, 2014 by and between the City of Somerville (hereinafter "the City") and David Fallon of Medford, Massachusetts (hereinafter "the Chief" or "Chief of Police").

WHEREAS, the City is desirous of engaging the services of the Chief in the administration of the Somerville Police Department (hereinafter "the Police Department"); and

WHEREAS, the Chief wishes to perform the duties of the position of Chief of Police according to the terms and conditions of this Agreement;

NOW, THEREFORE, the City and the Chief hereby agree that the following terms and conditions shall govern the salary and fringe benefits payable under this Agreement to which said Chief shall be entitled as Chief of Police.

1. CONDITIONS:

PRE-CONDITIONS:

It is understood by the Chief that, prior to being duly sworn in as Chief of the Police Department, the Chief must satisfy the following conditions precedent:

- A. Confirmation by the Board of Aldermen, pursuant to § 21, Div. 1 of the Charter of the City of Somerville and approval by the Board of Aldermen pursuant to Section 2-369, "Contracts for services, supplies and construction" of the Somerville Code of Ordinances;
- B. Satisfactory completion of a physical examination, drug screening and a psychological evaluation by medical providers chosen by the City; and,
- C. Subject to Massachusetts General Laws, Chapter 31, the granting of a leave of absence from his civil service rank of captain by the personnel administrator of the human resources division within the executive office for administration and finance (the "administrator") pursuant to General Laws Chapter 31, Section 37. The parties may choose to waive this provision should the administrator refuse to grant the Chief a leave of absence provided that any such waiver is mutually agreed-upon and signed by both the Chief and the Mayor.



2. DUTIES:

The administrative control of the Police Department for the City shall be the responsibility of the Chief of Police.

The Chief's duties shall include those set forth in the City's Code of Ordinances and shall include, but not be limited to, the following:

- A. Supervision of the daily operation of the Police Department.
- B. Supervision of all departmental personnel.
- C. Preparation, submission and responsibility of the Police Department budget.
- D. Submission of reports to the City either orally or in writing when requested or required in order to ensure the proper communication between the City and the Police Department, including but not limited to the Mayor and the Board of Aldermen and as otherwise set forth by City Charter.
- E. Being responsible for all departmental expenditures, as well as the receipt of funds and property in the custody of the Department.
- F. Supervision and control of all Department equipment and motor vehicles belonging to or used by the Police Department.
- G. Establishing weapons, ammunition, uniforms, equipment, and vehicle specifications for the Police Department.
- H. Being in charge of all special, auxiliary, intermittent and/or reserve police officers, if any.
- I. Supervision and control of all training programs for department personnel and the assignment of personnel to such programs.
- J. Maintaining the discipline of department personnel; the issuing of orders, rules, regulations, policies and procedures; and the assignment to shifts and duties of all departmental personnel.
- K. Being available for hearings before any board or commission of the City at which the Police Department is required to appear and before any Board of Aldermen meeting or any committee meeting of the Board of Aldermen when necessary.
- L. Being responsible for planning, organizing, directing, staffing and coordinating police operations.
- M. Being responsible for communications with the public, including the media, on matters related to crime, police operations and department policy.
- N. All other requirements as set forth by City ordinance, Charter, and state and federal law.

3. HOURS OF WORK:

A. The Chief agrees to devote that amount of time and effort that is reasonably necessary for the Chief to faithfully perform the duties of Chief of Police under this Agreement, the City Charter and ordinances of the City of Somerville and the laws of the Commonwealth of Massachusetts.

B. The Chief agrees that he shall not engage in any outside employment without the prior written authorization of the Mayor.

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C. It is recognized that the Chief of Police must devote a great deal of time outside the normal office hours to the business of the City and will be able to adjust his schedule as he sees fit.

4. INDEMNIFICATION:

The City agrees that it shall defend, save harmless and indemnify the Chief of Police, pursuant to G.L. c. 258, § 13, from personal loss and expense up to one million dollars, arising out of any claim, demand, suit or judgment by reason of any act or omission, except an intentional violation of civil rights of any person, if the [Chief] at the time of such act or omission was acting within the scope of his official duties or employment. The Law Department of the City shall provide legal counsel to the Chief for all matters; however, the City shall reimburse the Chief for outside legal expenses if, at the City's discretion, outside counsel is deemed appropriate and the City has approved of the qualifications of the outside counsel and has approved of the hourly rate for said counsel.

5. INSURANCE:

A. Life Insurance and Health Insurance:

The Chief of Police shall be eligible for all life and health insurance benefits for which other non-bargaining unit, general government employees are eligible. The Chief of Police shall make the same percentage contributions to such life and health insurance benefits as other non-bargaining unit, general government employees.

B. Injured on Duty Benefits:

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

C. Pension Benefits

In accordance with M.G.L. Chapter 32, the Chief of Police shall participate in the municipal contributory retirement system. The Chief shall be entitled to join any deferred compensation plan offered to other non-bargaining unit, general government employees.

6. DUES AND SUBSCRIPTIONS:

In recognition of the importance of ongoing professional development and the building and maintaining of strategic alliances, the City agrees to budget and to pay for the professional dues and subscriptions of the Chief of Police 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 City, including, for example, but not limited to the International Association of Chiefs of Police, the Police Executive Research Forum, the Massachusetts Major Chiefs Association, the Massachusetts Chiefs of Police Association, and the applicable regional police chiefs association.

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7. AUTOMOBILE:

The City shall provide an unmarked police vehicle for use by the Chief of Police in a manner consistent with City policy and pay for all attendant operating and maintenance expenses. The City shall determine the make and model of the vehicle and retain ownership of the vehicle. Said vehicle is to be used by the Chief of Police in connection with the performance of his duties as Chief of Police and for his professional growth and development. The Chief may utilize the vehicle for personal reasons, since the Chief is "on-call" in the event of emergency; however, if the Chief is utilizing the vehicle during vacations, he shall be responsible for the attendant cost of gasoline. In the event that the Chief shall desire to utilize the vehicle out of state, he must obtain prior approval of the Mayor. The Chief shall be responsible for any retirement contributions resulting from the availability and use of such vehicle.

8. PROFESSIONAL DEVELOPMENT:

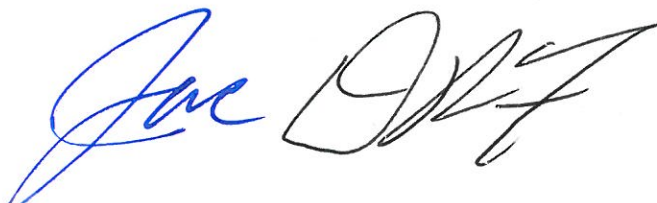
The City recognizes its obligations to the professional development of the Chief of Police, and agrees that the Chief of Police shall be given adequate opportunities to develop his skills and abilities as a law enforcement administrator; accordingly, the Chief of Police will be allowed to attend, subject to the prior approval of the Mayor, the Massachusetts Chiefs Association, Massachusetts Major Chiefs Association, and International Association Police training conferences each year without loss of vacation or other leave, and, subject to the prior approval of the Mayor, will be reimbursed by the City for all expenses (including travel expenses) incurred while attending or traveling to the aforementioned conferences. The City may, subject to the prior approval of the Mayor, reimburse the Police Chief for reasonable expenses incurred in connection with his attendance at professional management development courses and/or seminars. The Chief may attend additional out-of-state professional development opportunities, with the prior approval of the Mayor.

9. DEATH DURING TERM OF EMPLOYMENT: In addition to other benefits, if any, that may be applicable for a line-of-duty death under federal or state law, if the Chief of Police dies during the term of his employment, the City shall pay to the Chief's estate compensation for services rendered and benefits accrued up to the date of the Chief's death, including but not limited to, accrued and unused vacation days. In no event shall the City be liable to the Chief's estate for payment of compensation or other benefits under this Agreement for time not actually worked.

10. DISCIPLINE OR DISCHARGE:

A. The Mayor may suspend or terminate the Chief of Police in accordance with any policy adopted by the Mayor and subject to a right to appeal to the Board of Aldermen pursuant to § 23 of the City Charter or any subsequent Charter amendment reasonably related thereto. During any period of suspension, the Chief's health insurance benefit shall not be affected. Vacation leave and sick leave shall not accrue during any suspension but may be restored by act of the Mayor.

B. In the event the Mayor terminates the employment of the Chief during the term of this Agreement for reasons that constitute "just cause," as that term is defined further herein, the

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Chief shall not be entitled to receive severance compensation. If within the time set forth in §23 to request a hearing before the Board of Aldermen, the Chief notifies the Mayor in writing of his intent not to exercise his right to appeal to the Board of Aldermen pursuant to §23, the Chief shall be entitled to receive the equivalent of three (3) months of his salary as severance compensation. This compensation shall be payable in either a lump sum or periodic payments over no more than three (3) months, as the Mayor shall determine. If the Chief is removed as Chief of Police but retains employment with the City in another capacity (e.g., Deputy Chief, Captain, etc.) he shall not be eligible for the severance payment(s) provided herein.

C. "Just cause" shall be defined as malfeasance, misfeasance, nonfeasance in office, failure or inability to perform the requirements of his position due to illness, injury or disability in excess of any statutorily mandated paid leave or for more than ninety (90) consecutive days, or for more than one hundred twenty (120) days (not necessarily consecutive) in a twelve-month period; or having been found to be permanently disabled by a physician appointed by the Somerville Retirement Board and such disability prevents the Chief from performing the duties of his position with reasonable accommodation.

D. The Chief agrees not to resign from his position as Chief during the terms of this Agreement. The Chief may request that the Mayor waive this subparagraph D. and permit him to resign with six months of prior notice as required by the Mayor, in which case the Chief shall pay the City an amount equal to that as set forth herein as reasonable compensation for the City's incurring the costs related to the police chief hiring process, including but not limited to the search consultant and search committee fees, costs and expenses.

a. Repayment of City Hiring Expenses in the Event of Chief's Resignation:

1. Any resignation by the Chief within one (1) year from the date of this Agreement: thirty-five thousand (\$35,000.00) dollars;
2. Any resignation by the Chief more than one (1) year from the date of this Agreement but less than two (2) years: twenty-eight thousand (\$28,000.00) dollars;
3. Any resignation by the Chief more than two (2) years from the date of this Agreement but less than three (3) years: twenty-eight thousand (\$21,000.00) dollars;
4. Any resignation by the Chief more than three (3) years from the date of this Agreement but less than four (4) years: twenty-eight thousand (\$14,000.00) dollars;
5. Any resignation by the Chief more than four (4) years from the date of this Agreement but less than five (5) years: twenty-eight thousand (\$7,000.00) dollars;

Said repayment may be deducted from any severance or other related payments then due the Chief upon termination of employment, as allowed by law. The Mayor may elect to waive said payment upon submission of proof, satisfactory to the Mayor, of ongoing hardship suffered by the Chief or an immediate family member or in the event that the Mayor deems it in the best interests of the City.

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11. COMPENSATION:

A. Monetary Compensation:

Subject to appropriation by the Mayor and the Board of Aldermen, the Chief of Police shall receive a base salary of \$185,000. The Mayor shall consider increasing the salary of the Chief following an annual performance evaluation the Mayor may conduct or cause to be conducted. The benchmarks to be measured in such a performance evaluation include, but shall not be limited to:

- a. The extent to which the Chief builds and maintains a positive track record of relationships with community groups and other law enforcement agencies;
- b. The extent to which the Chief implements the recommendations of the Police Advisory Group including full community policing;
- c. The extent to which the Chief implements the Department force deployment reorganization plan;
- d. The extent to which the Chief advances the progress of obtaining accreditation of the Department by a recognized law enforcement accreditation agency or program;
- e. The extent to which the Chief initiates and analyzes law enforcement data collection and utilizes their results for greater law enforcement success in the City; and
- f. Any other criteria for performance as agreed to jointly by the Mayor and the Chief.

Pursuant to Massachusetts Law and City Ordinance, any salary increase must receive prior approval of the Mayor and the Board of Aldermen in order to be effective.

B. Vacation and Personal Leave:

The Chief shall receive six (6) weeks of vacation. The Chief may carry forward from one contract year to the next no more than ten vacation days. The Chief shall notify and obtain approval from the Mayor prior to utilizing vacation days. Consistent with other non-union City employees, the Chief shall also be entitled to three (3) personal days that may not be carried forward into the next contract year as well as all paid holidays taken in accordance with practices utilized for other executive/managerial personnel.

C. Sick Leave:

Upon appointment, the Chief will be entitled to carry over such sick leave as he may have accumulated to date as a member of the Police Department. Thereafter, sick leave shall accumulate monthly and shall be cumulative from year to year in the same manner as other non-bargaining unit managerial employees outlined in the City's "Employee Guidebook". Sick leave is a benefit limited to absences caused by illness, injury, exposure to contagious disease, serious illness of a member of the Chief's immediate family (consisting of father, mother, sister, spouse/partner, child, spouse/partner's father or mother, spouse/partner's son or daughter, grandparent, grandchild or other members of the Chief's household) or illness or disability arising out of or caused by childbirth. The City reserves the right to request a written certificate from a City-selected physician, at the expense of the City. There is no payout for accrued but unused sick leave upon separation from service.



D. Bereavement Leave:

The Chief shall be granted a leave of absence with pay in the event of a death in the immediate family. "Immediate family" shall consist of father, mother, brother, sister, spouse/partner, child, spouse's/partner's father or mother, spouse's/partner's son or daughter, grandparent and grandchild and other member of the employee's household. Such leave of absence may extend from the time the employee receives notification of the death to the first workday following the day of the funeral or memorial service, not exceeding a period of five (5) days. In the event the funeral or memorial service of an aunt, uncle, niece, nephew, spouse's/partner's brother or sister or spouse's/partner's grandparent or grandchild occurs on a work day, the employee shall be granted leave with pay to attend the funeral or memorial service. In extenuating circumstances, the Mayor may grant up to three days of leave.

12. NO REDUCTION OF BENEFITS:

The City agrees that it shall not at any time during the term of this Agreement reduce the salary, compensation or other benefits of the Chief of Police, except to the extent that such reduction is evenly applied across the board for all management level, non-union employees of the City.

13. MODIFICATION:

No change or modification of this Agreement shall be valid unless it shall be in writing and signed by both of the parties.

14. LAW GOVERNING:

This Agreement shall be construed and governed by the Laws of the Commonwealth of Massachusetts any and all actions related hereto shall be filed in Middlesex County.

15. SEVERABILITY OF PROVISIONS:

If any clause or provision of this Agreement shall be determined to be illegal by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby.

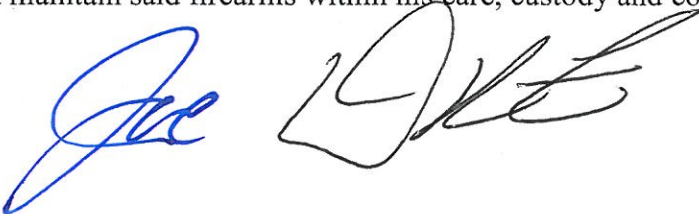
16. UNIFORM AND CLOTHING:

The City agrees to appropriate reasonable funds for the Chief to purchase uniforms and clothing to be worn while in the performance of his duties as Chief.

17. FIREARMS:

The Chief shall maintain a License to Carry Firearms without restrictions.

The City shall provide standard police firearms for use by the Chief consistent with his predecessor and shall pay for all reasonable firearms training related thereto which the Chief agrees to schedule and attend on a reasonable basis. The Chief shall be responsible for and clean and maintain said firearms within his care, custody and control.

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18. LENGTH OF AGREEMENT:

A. The term of this Agreement shall be for a period of five years, commencing on August 22, 2014 and ending on August 22, 2019.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals to this instrument the date and year first above written.

City of Somerville

By: 

Joseph A. Curtatone, Mayor
City of Somerville


Date: 8/22/14


David Fallon

By: 

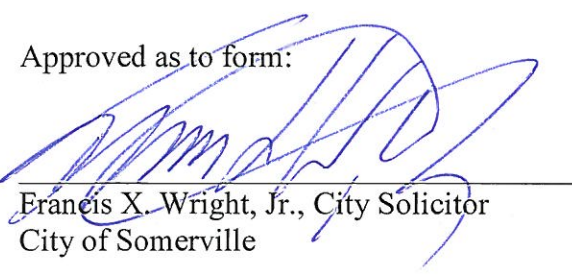
David Fallon

Date: Aug 21 2014


Edward Bean, City Auditor
City of Somerville


Angela Allen, Chief Procurement Officer
City of Somerville

Approved as to form:


Francis X. Wright, Jr., City Solicitor
City of Somerville