

**TOWN OF WAYLAND
WAYLAND, MASSACHUSETTS**

TOWN ADMINISTRATOR EMPLOYMENT CONTRACT

AGREEMENT made this 6th day of August, 2018, by and between the Town of Wayland ("the Town"), a Massachusetts municipal corporation, acting through its Board of Selectmen ("the Board") and Louise L. E. Miller ("Miller").

WHEREAS, the Board had voted to appoint Miller as the Town Administrator (TA) of the Town pursuant to the provisions of Massachusetts General Laws ("M.G.L.") Chapter 41, Section 23A, Chapter 320 of the Acts of 2004 and Chapter 60 of the Code of the Town;

WHEREAS, Miller had agreed to accept the appointment and to take the oath of office as Town Administrator of the Town; and

WHEREAS, the Board and Miller desire to enter into an employment contract pursuant to the provisions of M.G.L. Chapter 41, Section 108N.

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises, terms, conditions and agreements as set forth herein, the parties agree as follows:

I. Appointment.

The Town, acting through the Board, acknowledges the appointment of Miller as TA of Wayland. By executing this agreement, Miller acknowledges her appointment as TA.

II. Term.

- A. The Town will employ Miller as its TA for a term of three (3) years beginning on September 10, 2018 and expiring on September 9, 2021, unless extended, renewed, or earlier terminated under the provisions of the Agreement.
- B. In the event of the death of Miller while the Agreement is in effect, the Agreement shall terminate effective on the date of death.
- C. In the event that Miller is unable to perform the essential functions of the TA position, with or without reasonable accommodation, for a period of six (6) months or more, the Town shall provide written notice to Miller that this Agreement shall immediately terminate. In the event of a dispute concerning Miller's ability to perform the essential functions of the position, the Board and Miller shall mutually agree on a medical expert to perform an examination and evaluation. Any expense for such examination and evaluation that is not covered by Miller's group health insurance shall be paid by the Town.

III. Compensation.

Miller shall be paid an annual base salary, prorated for any portion of a year worked, effective September 10, 2018. The annual base salary shall be one hundred seventy-five thousand dollars (\$175,000). The Board may increase the annual base salary, effective September 10, 2019, and September 10, 2020, provided that Miller has received satisfactory performance evaluations from the Board, as set forth in Section XI below.

IV. Terms and Conditions.

With the exception of compensation as set forth in Section III above, all other provisions of Chapter 43 – Personnel of the Code of the Town shall apply to Miller in the same manner and to the same extent as all other non-union Town employees, except as specifically provided in this Agreement.

V. Benefits.

Miller shall enjoy the same benefits that are available to other non-union Department Heads. Non-union benefits may change in the Town's discretion from time-to-time as amended under the By-laws or Personnel Policies. Benefits shall include, but not be limited to:

- A. Health Insurance - Miller shall be eligible for any of the health insurance benefits available to other non-union Town Department Heads. She shall also be subject to the rules and obligations of whatever health insurance plan she chooses in the same manner as other non-union Town Department Heads. The Town may modify Miller's health insurance contribution rate in the same manner that other non-union Town Department Heads' rates are modified. The cost of dental coverage offered by the Town shall be paid by Miller, consistent with all other non-union Department Heads.
- B. Paid-Time-Off - Miller shall receive the same Paid-Time-Off package (vacation, sick leave, paid holidays, bereavement leave, etc.) as other non-union Department Heads as set forth in the Town's By-Laws and Personnel Policies. In addition to the personal days received by every non-union Department Head, Miller may take two additional personal days before January 1, 2020 in compensation for two days working with the outgoing TA prior to Miller's start date, September 10, 2018.
- C. Retirement - Miller shall become a member of the Middlesex County Retirement System, or a successor system, in accordance with M.G.L. c. 32 and shall be subject to all the benefits, rights and obligations associated therewith.
- D. Sick Leave - Upon retirement, provided that Miller meets the criteria for retirement from the Middlesex County Retirement System, or a successor system, Miller shall be entitled to compensation for her unused sick leave

in accordance with the prevailing Town practice and policy then in effect for non-union Town Department Heads.

- E. Life Insurance - Miller shall be entitled to the same life insurance benefits as other non-union Town Department Heads.
- F. Deferred Compensation - Miller may participate in any Town-approved deferred compensation programs for which payroll deductions are authorized.
- G. Transportation Stipend - Miller's duties as TA require that she shall have access to the use of an automobile at all times during her employment with the Town. Miller agrees that she shall provide her own transportation. The Town agrees that it shall pay Miller a transportation stipend at the rate of \$192.31 per pay period. (NOTE: $\$192.31 \times 26 = \$5,000.06$). Miller agrees to maintain automobile insurance, as required by law, during the course of her employment with the Town.
- H. Other - The Town shall provide Miller with a laptop and/or tablet computer, applicable software, and a cellular/mobile communication device required for Miller to perform the job. Miller shall return the equipment in good condition upon separation from employment.

VI. Professional Development.

- A. The Town recognizes that Miller should acquire knowledge of the latest developments in the field of municipal management and that she should seek to advance the interests of the Town by her enrollment in related courses, seminars and programs, by her membership in professional organizations, and by her attendance at meetings and conferences convened for municipal professionals and executives, provided that such participation does not unreasonably interfere with the performance of her duties as TA, is approved in advance by the Board, whose approval will not be unreasonably denied, and is within the approved budget for such expenditures. The Town shall, with the approval of the Board, pay the reasonable costs of expenses related to Miller's attendance at conferences, meetings, seminars and programs which are related to her employment as TA provided that Miller has obtained prior approval of the Board, whose approval will not be unreasonably denied, and that the expenses in question are within the approved budget. Reimbursement by the Town for such expenses shall only be made upon presentation of receipts for reasonable and necessary expenses.
- B. The Town shall pay reasonable costs of Miller's annual membership dues in such professional organizations as approved by the Board, whose approval and payment for said costs will not be unreasonably delayed.

VII. Termination for Just Cause and Termination Without Cause and Severance Pay.

A. For Just Cause

1. The Board may terminate the Agreement and remove Miller from office, for just cause, and in accordance with the provisions of the Agreement, specifically, but not limited to, criminal acts and/or acts of misfeasance, malfeasance, nonfeasance, gross misconduct, criminal conviction under state or federal law, acts of dishonesty, gross dereliction of duty, violation of the state's ethics or conflict of interest laws, and/or repeated inefficiency or incompetency in the performance of her duties as TA, provided that the Board has given written notice to the TA of such inefficiency or incompetency.
2. If termination is contemplated, Miller shall receive written notice from the Board stating the reason(s) for her contemplated removal from office at least ten (10) calendar days prior to a hearing on the merits of the charges that could substantiate a termination. Said reason(s) shall be presented with sufficient specificity so that Miller may understand and prepare her response, if any, to such notice.
3. No later than twenty-one (21) days following the receipt of the written notice with the reason(s) for the contemplated termination, unless otherwise agreed by Miller and the Board, the Board shall conduct a hearing, in accordance with M.G.L. Chapter 30A, §21. At the hearing, Miller shall be given the opportunity to respond to the reason(s) for the proposed termination. During the hearing, Miller shall have the right to be represented by counsel, to introduce evidence, to call, question, confront and cross-examine witnesses and to present oral arguments. Evidence may be admitted and given probative effect if it is the kind of evidence upon which reasonable people are accustomed to rely in the conduct of serious affairs. The Board may hear and consider such evidence as is offered by the parties which it deems to be relevant, reliable and probative to the charges for the proposed termination.
4. If the decision of the Board is to terminate Miller, the reason(s) for the termination shall be stated in such decision so that Miller is reasonably informed of the basis for the termination. All pay, compensation, expenses and benefits shall be terminated immediately. The subsection shall not interfere with any rights or obligations that Miller may have under state or federal law with respect to retirement benefits and/or the continuation of group health insurance benefits at Miller's expense.

B. Without Cause

1. During the term of this Agreement, the Board may terminate Miller at any time without cause only after giving Miller written notice of such termination thirty (30) days in advance. In the first year of employment, Miller shall receive a severance of three (3) months' base salary, except in the event that she is given notice of termination within the first six (6) months of employment, in which case she shall receive no severance. After the first year

of employment, Miller shall receive a severance of six (6) months' base salary. Severance is contingent upon the satisfactory release of any and all claims against the Town to the extent permitted by law. Following the effective date and receipt of said release of claims, severance shall be paid bi-weekly under the normal payroll cycle until the full severance is paid. All other benefits shall cease on the effective day of the termination. This subsection shall not interfere with any rights or obligations that Miller may have under state or federal law with respect to retirement benefits and/or the continuation of group health insurance benefits at Miller's expense.

2. Severance will not be paid in the case of non-reappointment under Section IX of the contract. In the case of non-reappointment, Miller will be eligible for only the remaining amount of compensation corresponding to the remaining term of the contract, subject to Section IX below. All other benefits shall cease on the effective day of the termination. This subsection shall not interfere with any rights or obligations that Miller may have under state or federal law with respect to retirement benefits and/or the continuation of group health insurance benefits at Miller's expense.

VIII. Resignation

- A. Miller may voluntarily terminate the contract and resign from the position of Town Administrator before the expiration date of the Agreement at any time. Miller agrees to give the Board ninety (90) days' written notice prior to the effective date of her resignation, unless otherwise agreed by the parties in writing.
- B. Except in the event that Miller elects to resign in accordance with the provisions of Subsection IX(C), Miller's pay, compensation, benefits and expenses shall cease on the effective date of her resignation, unless sooner terminated under the provisions of the Agreement, subject to any rights and obligations under state and federal law with respect to retirement benefits and the continuation of group health insurance benefits at Miller's expense.

IX. Reappointment/Contract Renewal

- A. The Board shall notify Miller in writing of the decision to reappoint or not to reappoint her as TA, and Miller shall notify the Board in writing of her decision to seek or not to seek reappointment, no later than March 8, 2021. If both the decision by the Board is to reappoint Miller, and the decision by Miller is to seek reappointment, the appointment shall be made at that time. In the event that the Board decides not to reappoint Miller, there is no obligation on the Board's part to specify or indicate in any way the basis for the decision not to reappoint.
- B. If the Board's decision is to reappoint Miller, and Miller's decision is to seek reappointment, the parties will commence negotiations for a successor employment Agreement and will endeavor to reach agreement on a successor Agreement on or before August 31, 2021.

- C. If the Board notifies Miller that the Agreement will not be renewed, or if Miller notifies the Board that she will not seek reappointment, or if either party fails to meet the notification deadline provided for in Section IX, paragraph A, Miller shall be entitled to her then current pay and benefits for the balance of the term of this contract, provided that Miller performs the duties and responsibilities that shall be designated by the Board, including requests for transition assistance for the balance of the term of this Agreement. All other benefits shall cease on the effective day of the termination. This subsection shall not interfere with any rights or obligations that Miller may have under state or federal law with respect to retirement benefits and/or the continuation of group health insurance benefits at Miller's expense.

X. Duties.

Miller shall faithfully and to the best of her abilities discharge and perform the duties and responsibilities of TA as set forth in the Chapter 320 of the Acts of 2004, Chapter 60 of the Code of the Town of Wayland, and as delegated to her by the Board of Selectman. She shall fulfill all obligations under the Agreement. She shall serve and perform such duties and responsibilities at such times and places and in such manner as the Board may from time to time direct.

XI. Performance Evaluation.

- A. Miller's performance shall be evaluated by the Board of Selectman as referenced in Section III, at least once in each contract year in accordance with the prevailing Town policy and practice for evaluations of non-union Department Heads on or about her anniversary date. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Board and the TA and the goals and objectives identified in accordance with Paragraph B of this Section. Said criteria, goals and objectives may be added to or deleted from as the Board may from time-to-time determine, in consultation with the TA. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results.
- B. At the start of the contract year, the Board and Miller shall define such goals and objectives which they determine necessary for the proper operation of the Town and the attainment of the Board's policy objectives and shall further 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 the appropriations provided.

XII. Outside Activities.

Miller may accept speaking, writing, lecturing, teaching or other paid engagements of a professional nature, provided they do not interfere with the performance and discharge of her duties and responsibilities as TA. Any such engagements, activities, or work must be approved in advance by the Board, and shall not be in violation of the Massachusetts Conflict of Interest Law, M.G.L. c. 268A.

XIII. Indemnification.

Miller shall be indemnified by the Town, pursuant to and as limited by M.G.L. Chapter 258 and other relevant provisions of law and the By-Laws of the Town, for claims made against her arising out of the performance of her duties and responsibilities as TA. The Town shall indemnify Miller to the fullest extent allowable by law in accordance with the provisions of M.G.L. Chapter 258.

XIV. Entire Agreement.

This contract constitutes the entire Agreement of the parties hereto and may not be altered, amended, or modified except by an agreement in writing, signed by all parties and specifically referring to the contract.

XV. Notices.

Any notice required or permitted to be given under the Agreement to either party shall be in writing and shall be sent by certified mail, postage prepaid, or delivery by hand to:

A. The Board : Board of Selectmen
 Town Building
 41 Cochituate Road
 Wayland, Massachusetts 01778;

B. Miller: Louise L. E. Miller

or, in the event of her death, to her estate at her legal residence as listed in the records of the Town.

XVI. Governing Law.

The Agreement shall be governed by and interpreted and construed in accordance with the laws of the Commonwealth of Massachusetts.


XVII. Binding Effect.

The contract shall be binding on the Town and Miller.

XVIII. Severability.

If any provision, or any portion thereof, contained in the Agreement is determined by a court of competent jurisdiction to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected thereby, and shall remain in full force and effect. In the event of a conflict between the Agreement and the Town's By-Laws, the provisions of the Town's By-Laws shall control.

Town of Wayland



Louise L. E. Miller
Wayland Town Administrator

By:

Lea T. Anderson
Chair, Board of Selectmen

Date: August 6, 2018

Cherry C. Karlson
Vice Chair, Board of Selectmen

Approved as to form:

Carolyn Murray
Town Counsel

Louis M. Jurist,
Member, Board of Selectmen

Mary M. Antes
Member, Board of Selectmen

Douglas A. Levine
Member, Board of Selectmen