EMPLOYMENT AGREEMENT

between
Town of Needham
and
Town Manager

THIS AGREEMENT, pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, made and entered into this 22nd day of March, 2016, by and between the Town of Needham, Commonwealth of Massachusetts, a municipal corporation, hereinafter called the "Town," acting by and through its Board of Selectmen, hereinafter called the "Board", and Kate Fitzpatrick, hereinafter called the "Town Manager", as follows:

WITNESSETH:

Whereas, the Town appointed Kate Fitzpatrick as Town Manager of the Town of Needham on February 22, 2005 to be effective May 6, 2005; and,

Whereas, the Town Manager is the Chief Executive Officer and Chief Financial Officer of the Town; and,

Whereas, the Board, under Chapter 41, Section 108N of the Massachusetts General Laws, may contract with the Town Manager regarding her salary, benefits, and severance pay; and,

Whereas, it is the desire of the Board to have a written contract which will establish the benefits, terms, conditions, and obligations of employment for the Town Manager; and,

Whereas, it is the desire of the Board to retain the services of the Town Manager and to provide inducement for her to remain in such Office; and,

Whereas, Kate Fitzpatrick agrees to accept the Office of Town Manager of said Town.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. Duties

1.1 The Town hereby agrees to reappoint Kate Fitzpatrick as Town Manager of said Town to perform the functions and duties specified in the Town Charter, and to perform other legally permissible and proper duties and functions as the Board shall from time to time assign.

1.2 The Town Manager shall supervise, direct and be responsible for the efficient administration of all functions under her control as authorized by Town Charter.

Section 2. Term

2.1 The Town Manager's term of office shall be in accordance with the Town Charter, Section 20A (a) (1).

2.2 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Board to terminate the services of the Town Manager in accordance with the Town Charter, subject only to the provisions set forth in Section 4 of this Agreement.

2.3 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Town Manager to resign at any time from her position with the Town, subject only to the provisions set forth in Section 4.5 of this Agreement.

2.4 This Agreement shall become effective May 6, 2016, and shall be in full force and effect until May 5, 2019, subject to the provisions of Section 4 of this Agreement.

2.5 In the event that written notice is not given by either party to the other one hundred and eighty (180) days prior to the termination date as herein above provided, this Agreement shall be extended on the same terms and conditions as herein provided, for an additional period of one year. Said Agreement shall continue thereafter for one year periods unless either party hereto gives one hundred eighty (180) days written notice to the other party that the party does not wish to extend this Agreement for an additional one year term.

Section 3. Suspension

3.1 The Town may suspend the Town Manager for just cause, without pay and benefits, at any time during the term of this Agreement by the affirmative vote of a majority of the Board, but only after a public hearing, and provided further, that the Town Manager shall have been given written notice at least ten (10) days prior to such hearing, setting forth in detail the particulars of any just cause alleged to exist against her and the name of the party alleging the charges, if any. Just cause as used in this paragraph shall mean failure to carry out, through malfeasance, misfeasance, or nonfeasance, the responsibilities of the Office of Town Manager, the commission of a felony, and/or or the violation of any Federal or State felony law or statute.

3.2 The Town may place the Town Manager on Administrative Leave without just cause, but with pay and benefits, at any time during the term of this Agreement by the affirmative vote of a majority of the Board, but only provided that the Board is at that time investigating the Town Manager for some alleged act, conduct or omission amounting to malfeasance, misfeasance, or nonfeasance relating to the responsibilities of the office of Town Manager, and/or the commission of a felony, and/or or the violation of any Federal or State felony law or statute, and provided further, that this "paid" Administrative Leave cannot be longer than sixty (60) days.

3.3 Nothing contained in these Sections with respect to suspension or administrative leave shall be construed to violate any provision of the United States Fair Labor Standards Act or invalidate

the exempt status of the Office of Town Manager, and if necessary, this language shall be reformed such that no such violation or invalidation will occur or result.

Section 4. Termination and Severance Pay

4.1 The Town may terminate the services of the Town Manager before the expiration of the aforesaid term of employment, with or without just cause, by an affirmative vote of a majority of the Board in accordance with Section 20A (c) of the Town Charter, provided that the Board initiates the termination by adopting a resolution to this effect by the affirmative vote of a majority of the Board. A copy of the resolution shall be delivered to the Town Manager who shall have five (5) workdays after receipt in which to request a public hearing. If a hearing is requested, it shall be scheduled within two (2) weeks by the Board and be held in a public place. The Chairman of the Board of Selectmen shall conduct the hearing. The Town Manager and Board may call witnesses and subpoena Town records. The Board shall, at the conclusion of that hearing or at its next meeting, vote on said termination.

4.2 In the event that the Town Manager is terminated by the Board, except for just cause as hereinafter provided, before expiration of the aforesaid term of employment and during such time that the Town Manager is willing and able to perform her duties under this Agreement, then in that event, the Town agrees to provide two (2) months termination notice and to pay the Town Manager a lump sum cash severance payment of six (6) months salary upon her termination. Additionally, the Town Manager shall be paid a lump sum cash payment in lieu of all accumulated vacation leave, and will be entitled to sick leave buy-back in accordance with the Town's Personnel Administration Plan. Any "hearing" that the Town Manager requests under Section 4.1 will not stay or lengthen the two (2) month termination notice described above.

4.3 If the Board seeks to avoid its obligations with respect to the payment of the severance sum and sick leave buy-back in Section 4.2, the termination must be found to have been for just cause (failure to carry out, through malfeasance, misfeasance, or nonfeasance, the responsibilities of the office of Town Manager, the commission of a felony, and/or or the violation of any Federal or State felony law or statute). In this circumstance, the Board, in its resolution under Section 4.1 must itself call for a hearing and thereafter schedule and conduct same in accordance with Section 4.1. In the event that the Town Manager is terminated for just cause as voted by a majority of the Board, then the Town shall have no obligation to pay the aggregate severance sum or sick leave buy-back designated in section 4.2.

4.4 In the event that the Town, at any time during the term of this Agreement, reduces the salary or other financial benefits of the Town Manager (except as provided in section 12), or eliminates the position of Town Manager, or in the event that the Town refuses, following written notice, to comply with any other provisions benefiting the Town Manager herein, or if the Town Manager resigns following a request by the Board that she resign, then, in those events, the Town Manager may, at her option to be exercised within six (6) weeks of the occurrence of the event, be deemed to have been terminated

on the date she gives notice of such reduction, refusal to comply, or resignation, and the severance pay and sick leave buy-back provisions as stated in Section 4.2 shall be applicable.

4.5 In the event that the Town Manager voluntarily resigns her position with the Town before expiration of the aforesaid term of her employment, then the Town Manager shall give the Town three (3) months notice in advance unless the parties otherwise agree. A copy of the resignation shall be filed with the Town Clerk. During this three (3) month notice period, the Town Manager may not take vacation leave unless approved by the Chairman of the Board of Selectmen. In the event that the Town Manager voluntarily resigns, without having been requested to do so by the Board, she shall not be eligible for severance benefits as set forth in Section 4.2, or sick leave buy-back, unless otherwise eligible under the Town's Personnel Administration Plan, but will be eligible for lump sum payment of accumulated vacation leave as set forth in Section 7.1.

4.6 This Section shall survive the termination of this Agreement.

Section 5. Compensation

5.1 The Town agrees to pay the Town Manager for services rendered under this Agreement a base salary, subject to applicable withholdings and deductions and payable in weekly installments, as follows:

Effective Date	Increase	Salary
Effective May 6, 2016	3%	$181,584
Effective July 1, 2017	3%	$187,032
Effective July 1, 2018	3%	$192,643

5.2 The Town Manager is not eligible for reimbursement for the use of a personal automobile for Town business. The Town Manager is eligible for reimbursement for out-of- pocket expenses such as parking and tolls. The Town Manager agrees to maintain automobile insurance coverage including the following minimum amounts:

- Damage to Someone Else's Property $100,000
- Optional Bodily Injury to Others $250,000/$500,000

as well as a Personal Liability Umbrella Policy in the minimum amount of $1,000,000.

5.3 The Town will make an annual payment of 7% of base pay to the 401A deferred compensation plan offered by the Town and selected by the Town Manager. The Town Manager shall notify the Town Accountant in writing of the deferred compensation plan in which the payment is to be made.

5.4 The Town shall reimburse the Town Manager up to $4,000 toward the cost of disability, life, and/or liability insurance policies, as selected by the Town Manager. In filing for this

reimbursement, the Town Manager shall provide a copy of the relevant insurance policy, Coverage Selections Page and/or Declaration Page, and evidence of her payment for the disability, life, and/or liability insurance premiums.

Section 6. Hours of Work

6.1 The Town Manager will devote full time and attention to the business of the Town and will not engage in any other business during office hours, except with the approval of the Board and in accordance with the Town Charter. It is recognized that the Town Manager must devote a great deal of time outside the normal office hours to the business of the Town, and to that end the Town Manager will be allowed to take reasonable compensatory time off as she shall deem appropriate during said normal office hours.

6.2 The Town Manager shall be a salaried officer of the Town.

Section 7. Authorized Leave

7.1 The Town Manager shall accrue 2.08 days of vacation leave each month (25 days per year). Any earned but unused vacation as of June 30 of each contract year shall be carried forward to the next contract year. No more than twenty (20) weeks of vacation leave, however, may be accumulated in total. Upon termination for whatever cause, the Town Manager shall be paid for all unused earned vacation leave. The Town Manager, at her option, may elect to have the Town "buy back" up to ten (10) vacation days (two weeks pay) per year. This buy-back will be subject to all legally required withholdings.

7.2 Bereavement Leave, civic duty leave, and legal holiday provisions of the Town's Personnel Administration Plan shall be applicable to the Town Manager.

7.3 The Town Manager shall receive three (3) personal days per fiscal year during the term of this Agreement. These may not be accumulated from one year to the next.

7.4 The Town Manager shall be allowed one and one-quarter ($1^{1/4}$) day's sick leave for each month of service. Any portion of such leave not used in any year may be accumulated without limit. Sick leave buy-back provisions of the Town's Personnel Administration Plan shall be applicable to the Town Manager.

Section 8. Expenses

8.1 The Board hereby agrees to request in its budget sufficient funds for expenses of the Town Manager that can be used, at the discretion of the Town Manager, for out-of-state travel, professional development, educational expenses, professional and civic association dues, official meetings and customary office expenses. All out-of-state expenses shall require prior authorization of the Chairman of the Board of Selectmen or his/her designee.

8.2 The Board supports the Town Manager's attendance at the ICMA/Senior Executive Institute for local government managers at the University of Virginia once during the duration of this Agreement at Town's expense.

8.3 The Town Manager shall be reimbursed for any expenses incurred in the performance of her duties, or as an official representative of the Town including attendance by her at civic or social events.

8.4 Any expenses that the Town Manager submits for such reimbursement must be accompanied by some written document, invoice, memo and/or evidence of payment supporting the reimbursement request.

Section 9. Performance Evaluations

9.1 The Board shall review and evaluate the Town Manager at least annually during this Agreement. This evaluation shall be based on goals and objectives developed jointly by the Board and Town Manager. Further, the Board may provide the Town Manager with a summary written statement of the findings of the Board and shall provide an adequate opportunity for the Town Manager to discuss her evaluation with the Board.

9.2 Annually, the Board, in conjunction with the Town Manager, shall define such goals and performance objectives which they deem necessary for the proper operation of the Selectmen's department and in 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.

Section 10. Indemnification

10.1 The Town shall defend, save harmless and indemnify the Town Manager 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 her duties as Town Manager, even if said claim is brought/filed following her termination from employment, provided that at the time of the alleged act or omission the Town Manager was then acting within the scope of her approved duties. Under these circumstances only, the Town (and/or its insurer) shall pay the amount of any settlement or judgment rendered thereon, and further, the Town (and/or its insurer) may compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon without recourse to the Town Manager.

10.2 In connection with those claims or suits involving the Town Manager in her professional capacity and covered under Section 10.1 above, the Town, at its sole option, shall either retain and pay for an attorney to represent the Town Manager (including all fees and costs) or reimburse the Town Manager for any attorneys' fees and costs incurred by the Town Manager in connection with same, providing the Town Manager submits proper invoices and evidence of payment of same.

10.3 This Section shall survive the termination of this Agreement.

Section 11. General Provisions

11.1 The text herein shall constitute the entire agreement between the parties with regard to the matters set forth herein. There are no other understandings or agreements, verbal or otherwise, in relation thereto, between the parties except as expressly set forth herein. This Employment Agreement may be amended or modified only by a written instrument executed by the parties hereto or by their successors and assigns.

11.2 All provisions of the laws of the Commonwealth of Massachusetts relating to retirement, health, insurance, and other fringe benefits shall apply to the Town Manager as they generally apply to other employees of the Town, in addition to said benefits enumerated herein specifically for the benefit of the Town Manager, except as otherwise provided in this Agreement.

11.3 The provisions of the Town's Personnel Administration Plan and policies shall apply in those instances not otherwise addressed by this Employment Agreement. This Agreement shall prevail over any conflicting personnel provisions of the Town By-laws or personnel policies.

11.4 This Agreement shall become effective at 12:00 a.m. on May 6, 2016.

11.5 If any provision, or any portion thereof, contained in this Agreement, is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

11.6 This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Town Manager.

11.7 For the purposes of the United States Fair Labor Standards Act, the Town Manager shall be considered an exempt employee.

11.8. This Employment Agreement is entered into in the Commonwealth of Massachusetts and shall be construed and interpreted in accordance with its laws.

11.9 This Employment Agreement is the result of negotiation and compromise by and among the parties and no party shall be prejudiced as having been the drafter of the Employment Agreement.

12. No Reduction in Benefits

12.1 The Town shall not at any time during the term of the Agreement reduce the salary, compensation, or other benefits of the Town Manager, except to the degree that such a reduction is across the board for all other general government employees of the Town.

13. Notices

13.1 Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

TOWN:

Chairman of the Board of Selectmen
Town Hall
1471 Highland Avenue
Needham, MA 02492

TOWN MANAGER:

Ms. Kate Fitzpatrick
38 Church Street
Holliston, MA 01746

IN WITNESS WHEROF, the Town of Needham, Massachusetts has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen, and duly attested by its Town Clerk, and the Town Manager has signed and executed this Agreement, both in duplicate, on the day and year first above written.

TOWN MANAGER

Kate Fitzpatrick

Kate Fitzpatrick

3-23-2016

Date

Attested:

Town Clerk: Theodora K. Eaton

Date: March 23, 2016

Approved as to Legal Form:

Town Counsel: [illegible]

Date: 3/25/16

BOARD OF SELECTMEN