

**EMPLOYMENT AGREEMENT
BETWEEN
TOWN OF KINGSTON
AND
ASSISTANT TOWN ADMINISTRATOR**

THIS AGREEMENT, pursuant to Chapter 41, Section 108N of the Massachusetts General Laws, made and entered into this 22 day of June 2021, by and between the (Town) of Kingston, Commonwealth of Massachusetts, a municipal corporation, hereinafter called the "Town," acting by and through its (Board of Selectmen) hereinafter called ("Board") and Gloria Mitchell hereinafter called ("Assistant Town Administrator"), as follows:

WITNESSETH:

WHEREAS, the Town desires to employ the services of Gloria Mitchell as Assistant Town Administrator of the Town of Kingston;

WHEREAS, the Board, under Chapter 41, Section 108N of the General Laws may through contract with the Assistant Town Administrator to provide certain benefits, establish the conditions of employment, and set the salary for such services;

WHEREAS, it is the desire of the Board to obtain the services of the Assistant Town Administrator, and to provide inducement for him or her to remain in such employment; and

WHEREAS, Gloria Mitchell, agrees to accept employment as Assistant Town Administrator of said Town.

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

Section I, Functions and Duties of the Assistant Town Administrator.

The Town hereby offers to employ Gloria Mitchell as Assistant Town Administrator of said Town pursuant to G.L. c. 41, § 23A, and the Assistant Town Administrator accepts said offer of employment. The Assistant Town Administrator shall assist the Town Administrator of the Town. The Assistant Town Administrator shall perform the functions and duties of said position as specified in the Town By-Laws, votes of Town Meeting, general or special laws and the job description and/or position profile as agreed upon and signed by both the Town and the Assistant Town Administrator, and such other duties as the Board shall from time to time legally assign to him or her.

The Assistant Town Administrator is a key member of the town's administrative team, managing the Council on Aging, Recreation, Information Technology, and the Veteran Services. Oversees activities of all Town employees under direction of or in absence of Town Administrator; liaison with Kingston Public Library and provides information and assistance to town committees. Assists in procurement and contracting, including supplies, services, design, and construction; prepares RFP documents and advises

department heads and staff on procurement procedures and requirements; assists departments with the preparation of required contracts.

Assists in the preparation for the Board of Selectmen meetings, researching issues, providing background and recommendations for action when requested. Responds to citizen inquiries, complaints, and suggestions; provides research assistance and addresses requests of other Town departments, general public, citizen groups, and media. Completes special projects, such as drafting regulations and policies for the Board of Selectmen, conducting research, and project development and management. Acts as the Town Administrator in his or her absence. Performs similar or related work as assigned by the Town Administrator.

Section II, Term.

The term of this Agreement shall be from July 1, 2021, through June 30, 2024, unless sooner terminated in accordance with the provisions hereof. The Assistant Town Administrator agrees to remain in the exclusive employ of the Town during the term of this Agreement, and neither to accept other employment nor to become employed by any other employer during said term unless authorized by the terms of this agreement, or by a vote of a majority of the Board of Selectmen. Effective July 1, 2022, it is anticipated that the Assistant Town Administrator will be placed in the classification and compensation plan as a Wage and Personnel employee; thereafter, salary will be subject to appropriation.

Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Board of Selectmen to terminate the services of the Assistant Town Administrator anytime, subject only to the provisions as set forth in this Agreement, and the Kingston Town By-laws. This Agreement shall become effective July 1, 2021 and shall be in full force and effect until June 30, 2024.

Section III, Termination and Severance Pay.

A. The Board may place the Assistant Town Administrator on paid administrative leave to investigate charges against the Assistant Town Administrator or otherwise evaluate contemplated disciplinary action by notifying the Assistant Town Administrator in writing of its decision at any time during the term of the Agreement. Said decision to place the Assistant Town Administrator on paid administrative leave shall not be construed as discipline or be subject to the hearing requirements specified herein.

B. The Board may suspend, discharge, or otherwise discipline the Assistant Town Administrator for just cause during the term of this Agreement. For the purposes of this Agreement, just cause shall include, but not be limited to the following: incapacity, namely the inability to perform services for a period of six (6) months or longer; inefficiency, namely the inability to complete assignments in a timely manner on a routine basis in accordance with principals of reasonable care; neglect, namely failure to

perform the duties of the position in a reasonably competent manner; insubordination, conduct unbecoming, misconduct, or for other good cause shown.

C. The Board will provide that at least forty-eight (48) hours' written notice prior to the meeting at which the vote to discipline is to be considered by the Board, providing the Assistant Town Administrator written notice of the intended vote and a written statement of reasons and causes for calling for such a vote. If Assistant Town Administrator so requests, she shall be given a hearing before the Board at such meeting, which shall be public or private at the discretion of the Assistant Town Administrator, and at which the Assistant Town Administrator may be fully represented by counsel, present evidence, and call witnesses to testify on her behalf, and examine them.

D. In the event the Assistant Town Administrator is terminated by the Town, except for just cause, or is requested to resign by the Board, prior to the expiration of the term of this Agreement, the Town agrees that it shall pay to the Assistant Town Administrator a lump sum cash payment equal to two (2) months aggregate salary, which amount shall be paid to the Assistant Town Administrator on or before the effective date of termination of his or her employment ("Severance Benefits"). The Assistant Town Administrator's acceptance of these Severance Benefits shall constitute a full and complete release of any other rights, claims, or causes of action whether in law, equity or otherwise, that the Assistant Town Administrator may have against the Town, including all of its employees, elected or appointed officials, officers, agents, representatives and attorneys of such entities. This paragraph shall survive the termination of this agreement.

E. In the event the Assistant Town Administrator voluntarily terminates his or her position with the Town before the expiration of the term of this Agreement, the Assistant Town Administrator shall give the Town one (1) month's written notice in advance, unless the parties agree otherwise. A copy of the resignation shall be filed with the Town Clerk. The Assistant Town Administrator is not entitled to Severance Benefits upon his or her voluntary termination of this Agreement pursuant to this paragraph.

Section IV, Salary.

A. The Town agrees to pay the Assistant Town Administrator for services rendered under this Agreement, an annual base salary as set forth in the salary schedule below, subject to applicable withholdings and deductions, payable in installments at the same time as other employees of the Town are paid. The Assistant Town Administrator agrees to receive this compensation via direct deposit.

Period	Annual Base Salary
07/01/2021 – 06/30/2022	\$98,000

B. If the Assistant Town Administrator continues in office after the expiration of this Agreement, and there is no successor agreement, she shall continue to receive the latest salary under this Section and the same benefits under this Agreement until such time as his or her salary and benefits shall be otherwise provided for by the Town. This Subsection shall survive the termination of this Agreement.

Section V, Assistant Town Administrator Evaluation.

A. The Assistant Town Administrator's performance shall be reviewed and evaluated on an annual basis in June of each year, by the Town Administrator. All reviews and evaluations shall be in accordance with specific measurable criteria developed jointly by the Town Administrator and the Assistant Town Administrator, and mutually agreed to in writing by May 31st of the preceding year.

B. Annual goals and objectives for the Assistant Town Administrator shall be mutually agreed upon by the Town Administrator and the Assistant Town Administrator and shall serve as the basis for evaluating performance for the 12-month period following their formal adoption and documentation. Assistant Town Administrator performance goals and objectives should be measurable and aligned with the attainment of the Town Administrator's policy objectives for the coming year. The Assistant Town Administrator will not be penalized if factors beyond her control, such as lack of necessary appropriations, render a specified goal or objective unattainable.

Section VI, Hours of Work.

A. The Assistant Town Administrator 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.

B. It is recognized that the Assistant Town Administrator must devote a great deal of time outside the normal office hours to the business of the Town, and to that end the Assistant Town Administrator will be allowed to take reasonable compensatory time off as he or she shall deem appropriate during said normal office hours.

Section VII, Health Insurance, Vacation, Holidays, Sick Leave, Funeral Leave, Jury Duty and Disability Insurance.

A. The Assistant Town Administrator shall be granted the opportunity to enroll in the Town sponsored health insurance plan, at an employer/employee contribution rate commensurate with that of all other Town employees.

B. The Assistant Town Administrator shall accrue and be entitled to the same sick, personal, bereavement, jury and holiday leave afforded to non-union department heads in accordance with the Town's bylaws. The Assistant Town Administrator will retain their current accrued sick leave of record at the commencement of the contract and further retain to next position classification at the end of this contract. The Assistant Town Administrator is not entitled to sick leave buyback. Unused personal leave shall not be carried over beyond the end of a given fiscal year. The Assistant Town Administrator will continue to accrue vacation at a rate consistent what is being accrued prior to the signing of this contract. The Assistant Town Administrator shall be paid for any unused vacation time at the time of his separation from Town service for any reason.

Section VIII, Professional Development.

A. Subject to appropriation, the Town agrees to pay for the registration, travel, and subsistence expenses of the Assistant Town Administrator for short courses, institutes and seminars that are necessary for her professional development.

B. The Assistant Town Administrator shall be reimbursed for expenses related to tuition and books after successfully completing pre-approved and job-related courses at an accredited institution of higher learning. The reimbursement shall be limited to a maximum of two courses for each fiscal year for a total of \$2,000.00, and only upon receipt of a grade of "B" or better. The Assistant Town Administrator must receive pre-approval, prior to course registration, from the Town Administrator. The Assistant Town Administrator will be responsible for submitting evidence of tuition payment and successful course grade to the Town Administrator for reimbursement.

Section IX, Expenses.

A. Subject to compliance with G.L. c. 268A, the Assistant Town Administrator 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.

B. The Assistant Town Administrator shall be reimbursed for the use of a personal vehicle in the performance of her official duties, based on the Internal Revenue Service's published standard mileage rate. The Assistant Town Administrator is responsible for tracking and submitting a monthly mileage report in a format that complies with IRS guidelines for an accountable reimbursement plan. The Assistant Town Administrator's daily commute to and from Kingston Town House does not qualify for mileage reimbursement.

C. If the Assistant Town Administrator leaves the employment of the Town and serves as a witness in depositions, trials, or administrative proceedings, he or she shall be paid for each day of preparation and attendance at the trial on a per diem basis based on her salary at the time of his or her separation from employment from the Town.

This Section shall survive the termination of this Agreement.

Section X, Indemnification.

A. To the extent allowed under G.L. c. 258, the Town shall defend, save harmless and indemnify the Assistant Town Administrator 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 Assistant Town Administrator, even if said claim has been made following his or her termination from employment, provided that the Assistant Town Administrator acted within the scope of his or her duties. 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 Assistant Town Administrator.

B. The Town shall reimburse the Assistant Town Administrator for any attorneys' fees and costs incurred by the Assistant Town Administrator in connection with such claims or suits involving the Assistant Town Administrator in her professional capacity.

C. This indemnification shall also apply to the Assistant Town Administrator after she leaves the employment of the Town.

D. This section does not apply to any disciplinary action or proceeding being brought by the Town against the Assistant Town Administrator.

E. This section shall survive the termination of this Agreement.

Section XI, Non-Renewal of Agreement.

The parties agree and understand that this Agreement shall not renew, and that the Assistant Town Administrator position will become a position within the compensation and classification plan in fiscal year 2023.

It is expressly understood that a decision not to renew this Agreement shall not be construed as a dismissal or require a hearing.

Section XII, Other Terms and Conditions of Employment.

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

B. All other general provisions of the Town's By-Laws relating to fringe benefits shall also apply to the Assistant Town Administrator as they apply to other employees of the Town, in addition to the benefits enumerated specifically for the benefit of the Assistant Town Administrator, except as otherwise provided in this Agreement.

C. This Agreement shall prevail over any conflicting personnel provisions of the Town By-Laws or Rules and Regulations.

Section XIII, No Reduction in Benefits.

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

Section XIV, Notices.

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

1. TOWN: Chairman of Board of Selectmen
Town of Kingston
26 Evergreen Street
Kingston, MA 02364

2. ASSISTANT: Ms. Gloria Mitchell
TOWN ADMINISTRATOR 289 Charge Pond Road
Wareham, MA 02571

Alternatively, notices required pursuant to this Agreement may be personally served. Notice shall be deemed as given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section XV, General Provisions.

- A. The text herein shall constitute the entire Agreement between the parties.

- B. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Assistant Town Administrator.

- C. 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.

- D. For the purposes of the Fair Labor Standards Act, the Assistant Town Administrator shall be an "exempt employee".

- E. The failure of a party to insist on strict compliance with a term or provision of this agreement shall not constitute a waiver of any term or provision of this agreement.

- F. 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.

IN WITNESS WHEREOF, the Town of Kingston, 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 Assistant Town Administrator has signed and executed this Agreement, both in duplicate.

**TOWN OF KINGSTON
ADMINISTRATOR**
Board of Selectmen

ASSISTANT TOWN

Kimberley A. Emberg

Gloria Z. Mitchell
Gloria Mitchell

[Signature]
Donald J. Alcombright

DATE: 6/22/21

[Signature]
Sheila Vaughn

Richard J. Arruda

[Signature]
Jessica M. Kramer

DATE: 6/22/21

Approved as to Legal Form

Town Counsel

DATE: _____

I certify there is an appropriation in Account 0122-5114 to fund this contract.

[Signature]
Town Accountant

DATE: 6/23/2021

IN WITNESS WHEREOF, the Town of Kingston, 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 Assistant Town Administrator has signed and executed this Agreement, both in duplicate.

**TOWN OF KINGSTON
ADMINISTRATOR**
Board of Selectmen

ASSISTANT TOWN

Kimberly A. Lueberg

Gloria Z Mitchell
Gloria Mitchell

Donald J. Mcombright

DATE: 6/22/21

Sheila Vaughn
Sheila Vaughn

Richard J. Arruda

Jessica M. Kramer
Jessica M. Kramer

DATE: 6/22/21

Approved as to Legal Form

[Signature]
Town Counsel

DATE: 6/25/21

I certify there is an appropriation in Account 0122-51114 to fund this contract.

Town Accountant

DATE: 6/23/21

**AMENDMENT TO THE
EMPLOYMENT AGREEMENT
BETWEEN THE
TOWN OF KINGSTON
AND
GLORIA MITCHELL**

This **AMENDMENT** to the employment agreement between the Town of Kinston, Massachusetts (“Town”), a municipal corporation acting through its Board of Selectmen, and Gloria Mitchell (“Ms. Mitchell”) (together, the “Parties”, and each, a “Party”) is made and entered into by and between the Parties in accordance with Chapter 41, Section 108N of the Massachusetts General Laws on this [DATE] day of March 2022.

WHEREAS, the Parties entered into an employment agreement (“Agreement”) dated June 22, 2021 for Ms. Mitchell to perform the services of Assistant Town Administrator; and

WHEREAS, the Parties desire to amend their Agreement to induce Ms. Mitchell to remain in said employment.

NOW, THEREFORE, the Parties, in consideration of the mutual promises herein, hereby agree to amend said Agreement as follows:

1. The following shall be added after “Information Technology,” and before “, and the Veteran Services” in the second paragraph of Section I:

Facilities, Board of Health Office

2. The last sentence of the first paragraph of Section II shall be omitted.
3. The following shall be added to the end of Section IV, Subsection A:

07/01/2022 – 06/30/2023 \$104,272

07/01/2023 – 06/30/2024 \$106,357

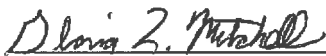
If the Town conducts a compensation, benefits, and classification study and said study reveals that the average annual base salary for similarly situated assistant town administrators in the Commonwealth is higher than the annual base salary set forth above, then the Agreement shall be reopened as to annual base salary only.

4. The following shall be added to the end of the first sentence of Section VII, Subsection B:

, except that Ms. Mitchell shall receive an additional 17.5 hours of vacation leave on July 1, 2022. On January 2, 2023, shall be entitled to 140 hours (4 weeks) of vacation leave per year.

IN WITNESS WHEREOF, the Parties have hereunto signed and sealed this AGREEMENT and a duplicate thereof this [DATE] day of March 2022.

GLORIA MITCHELL



Gloria Mitchell,
Assistant Town Administrator

TOWN OF KINGSTON

