

**CONTRACT OF EMPLOYMENT**  
**BETWEEN**  
**TOWN OF PEPPERELL**  
**AND**  
**DPW DIRECTOR/TOWN ENGINEER**

THIS AGREEMENT made this 31<sup>st</sup> day of January, 2017, by and between the Town of Pepperell (“the Town”), acting by and through its Town Administrator and Kenneth Kalinowski (“Kalinowski” or “the DPW Director/Town Engineer”) witnesseth that:

WHEREAS, the Town desires to continue to employ the services of Kalinowski as DPW Director/Town Engineer of the Town of Pepperell;

WHEREAS, Kalinowski agrees to accept employment as DPW Director/Town Engineer of said Town.

WHEREAS, it is the desire of the Town to contract for the salary and benefits of said DPW Director/Town Engineer; and

WHEREAS, the Town Administrator, pursuant to the Section 5-5 of the Town Charter, may contract with the DPW Director/Town Engineer for such services.

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

**1. Employment:**

The Town hereby offers to continue to employ Kenneth Kalinowski as the Director of the Department of Public Works/Town Engineer of the Town of Pepperell, and Kalinowski accepts said offer.

During the term of this Agreement, the DPW Director/Town Engineer shall maintain his certification as a Massachusetts Registered Professional Engineer.

The DPW Director/Town Engineer shall work under the general direction of the Town Administrator and the policy direction of the Board of Public Works (“the Board”).

**2. Term:**

- A. This Agreement shall become effective January 31, 2017 and shall be in full force and effect until January 31<sup>st</sup>, 2020. The Agreement shall be for a term of three (3) years, subject to Section 13.
- B. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the Town to terminate the services and employment of the DPW Director/Town Engineer at any time, subject only to the provisions set forth in Section 13 of this Agreement.

- C. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the DPW Director to resign at any time from the subject position(s) with the Town, subject only to the provisions set forth in Section 13 of this Contract.

**3. Compensation:**

- A. In consideration of employment and services rendered under this Agreement, the Town agrees to pay the DPW Director/Town Engineer an annualized salary as determined by the Town Administrator under the Town Charter, who may receive input from the Board of Public Works.
- B. The DPW Director/Town Engineer's salary shall be paid at such intervals as is customary with the Town's employees, subject to applicable withholdings and deductions, and otherwise in conformity with the normal payroll practices of the Town.
- C. For the purposes of the Fair Labor Standards Act, the DPW Director/Town Engineer shall be an exempt employee.

**4. Duties:**

- A. The duties of the DPW Director are to coordinate the activities of the Sewer and Wastewater Division, the Water Division, the Highway Division, and the Parks and Cemetery Division of the Department of Public Works, and such other duties as the Town Administrator or the Board shall from time to time assign to the DPW Director; and to report to the Town Administrator and Board of Public Works on a regularly scheduled basis on the activities of these divisions.
- B. The duties of the Town Engineer are to provide engineering advice and services to the Divisions of the DPW and to other Town Departments and such other duties as the Town Administrator or the Board shall from time to time assign to the Town Engineer; and to report these activities to the Town Administrator and Board of Public Works on a regularly scheduled basis.
- C. The Town Administrator or Board, in consultation with the DPW Director/Town Engineer, may change the duties of the DPW Director/Town Engineer's position at any time, as circumstances demand, and as the position evolves.

**5. Hours of Work:**

The DPW Director/Town Engineer 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 Town Administrator or the Board.

The hours of employment for the DPW Director/Town Engineer will generally be the normal business hours of the Town. While expecting that the DPW Director/Town Engineer will devote his full time and attention to Town business during regular working hours, the Town specifically acknowledges that attendance at evening or after-hour meetings and weekend assignments will be required as needed, and such attendance is expected of the DPW Director/Town Engineer.

Accordingly, the Town explicitly grants reasonable flexibility within the normal workweek hours, allowing for time expended on Town business outside of the normal workweek hours. The DPW Director/Town Engineer shall not be required to submit a weekly time card, although he shall be responsible for timely reporting of vacation time, sick leave, or personal days taken.

#### **6. Leave Time:**

- A. The DPW Director/Town Engineer shall be entitled to twenty-five (25) days of vacation in each Fiscal Year of this Agreement, which will be accrued at the rate of 2.08 days per month and prorated for any partial fiscal year worked. Any unused accumulated vacation leave remaining on the books at the time of termination of employment will be paid directly to the DPW Director/Town Engineer. The DPW Director/Town Engineer shall coordinate use of vacation leave with the Board and/or Town Administrator.
- B. The DPW Director/Town Engineer shall be entitled to twelve (12) days of sick leave in each Fiscal Year of this Agreement, which will be accrued at the rate of 1 day per month and prorated for any partial fiscal year worked. Unused sick leave may be accumulated to a total of ninety (90) days.
- C. Any unused sick leave, subject to the maximum amount set above, remaining at the expiration of this Agreement shall carry over and be credited to the DPW Director/Town Engineer if this Agreement is extended.
- D. The DPW Director/Town Engineer shall be entitled to three (3) days personal leave in each Fiscal Year of this Agreement. Personal leave may not be accumulated, nor carried over into ensuing years.
- E. Funeral Leave: in the event of the death of the DPW Director/Town Engineer's spouse, child, stepchild, parent, brother, sister, mother-in-law, father-in-law, stepparent, grandparent, or grandchild, an excused absence with pay of not more than four (4) consecutive scheduled work days will be allowed.
- F. All other types of leave (military, jury duty, etc.) shall be granted under the terms and conditions established by the Pepperell Personnel By-law.

#### **7. Holidays:**

The DPW Director/Town Engineer shall be entitled to all holidays granted to Town employees pursuant to Article V of the Pepperell Personnel By-law.

#### **8. Insurance Benefits:**

The DPW Director/Town Engineer shall be entitled to all health and life insurance benefits, as may be amended from time to time, to which all other non-bargaining unit Town Employees are entitled. The premium cost paid by the DPW Director/Town Engineer shall be in accordance with Town policy. Any change in the amount of the premium cost paid by the Town during the term of this Agreement shall be applicable to the DPW Director/Town Engineer.

The DPW Director/Town Engineer shall be entitled to purchase, at his own expense, the additional life insurance coverage and the dental coverage made available by the Town to other Town employees at their own expense.

The DPW Director/Town Engineer shall be paid \$1,000 each year for opting to take only a single health care insurance policy when he is eligible for a family plan. A sum of \$2,000 will be paid each year if the DPW Director/Town Engineer opts not to take health care insurance from the Town of Pepperell. This payment is to be made in July of the fiscal year following the fiscal year in which the DPW Director/Town Engineer exercised one of these options, and will be pro-rated during this contract. The DPW Director/Town Engineer is eligible to join the Town of Pepperell health insurance plan at any annual registration date or at a qualifying event.

#### **9. Professional Development:**

- A. The DPW Director/Town Engineer shall be given opportunities to develop his skills and abilities as a municipal engineer and public administrator. Accordingly, the DPW Director/Town Engineer shall be allowed to attend, without loss of vacation or other leave, courses, seminars, and meetings relative to municipal engineering and public administration which are approved in advance by the Board and the Town Administrator. The Town may, at its discretion, pay for the cost of such programs. If the Town requires that the DPW Director/Town Engineer attend any course, seminar, or meeting, the Town shall pay the cost of such programs, and for travel and subsistence expenses incurred by the DPW Director/Town Engineer as a result of attending such programs. If the Town requires that the DPW Director/Town Engineer acquire any new or additional license or certification, the Town will pay the cost of any associated classes, training, books, and test or license fees - as well as reasonable associated travel and subsistence expenses, if any.
- B. The Town shall pay the annual dues of the American Public Works Association, American Society of Civil Engineers, New England Public Works Association, and any Massachusetts-based associations for municipal engineers, subject to appropriation. In addition, the Town will subscribe to periodicals dealing with municipal engineering and public works issues, as appropriate. The Town shall pay the annual Professional Engineer's registration fee for the DPW Director/Town Engineer.

#### **10. Vehicle and Travel Expenses:**

The Town may allow the DPW Director/Town Engineer use of a Town Vehicle, subject to availability, for the purpose of conducting Town business, including travel to out-of-town seminars, workshops, and meetings. The Town shall reimburse the DPW Director/Town Engineer, at the current mileage rate set by the Town, for use of a personal vehicle for all travel incurred on behalf of the Town when a Town vehicle is not available, or when the use of a personal vehicle may be deemed more appropriate.

#### **11. Indemnification:**

The Town will provide professional liability insurance for the DPW Director/Town Engineer in the amount of not less than Five Hundred Thousand Dollars (\$500,000) per occurrence; will provide legal counsel in defense of any action to which the DPW

Director/Town Engineer is a party by the alleged performance or non-performance of his duties (except as may relate to his suspension or termination of employment with the Town); and will indemnify the DPW Director/Town Engineer in all claims made against him in the performance of his duties, even if said claim has been made following his termination of Town employment, including claims for any acts or omissions of the DPW Director/Town Engineer which do not subject the Town itself to liability, provided that the DPW Director/Town Engineer acted within the scope of his duties. It is agreed that the DPW Director/Town Engineer will cooperate and assist the Town in defending any claim made against him and/or the Town concerning the performance or non-performance of his 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 DPW Director/Town Engineer.

## **12. Performance Evaluation**

- A. The Town Administrator shall annually review and evaluate the performance of the DPW Director/Town Engineer, in advance of the adoption of the annual operating budget. The Town Administrator may seek the input of the Board on the performance of the DPW Director/Town Engineer. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Town Administrator and the DPW Director/Town Engineer; criteria may be added or deleted, as the Town Administrator may from time to time determine, in consultation with the DPW Director/Town Engineer. Further, the DPW Director/Town Engineer shall be provided with a summary written statement of the Town Administrator's findings, and shall be provided an adequate opportunity to discuss his evaluation with the Town Administrator.
- B. Subsequent to the annual reviews, and dependent upon results of the evaluation and the financial resources of the Town, the Town Administrator may choose to award the DPW Director/Town Engineer a salary increase, to take effect the following fiscal year, subject to the approval of the budget by Town Meeting.

## **13. Termination:**

- A. This Agreement may be terminated as provided below:
  - (i) By mutual agreement, signed by the Town Administrator and the DPW Director/Town Engineer, upon such terms and conditions as may be acceptable to both parties at the time of the termination; or
  - (ii) By the Town Administrator for good cause in accordance with the procedures set forth in section 7-7 of the Town Charter; or
  - (iii) By the DPW Director/Town Engineer upon forty-five (45) days written notice to the Town Administrator and the Board. Until the effective date of termination under such circumstances, the DPW Director/Town Engineer shall continue to perform his duties and shall, if requested, cooperate with the Town in search for, and/or the orientation of a successor.

- (iv) In the event the Town wishes to terminate this Agreement without cause, the Town shall, not less than three (3) months prior to the specified date of termination, provide the DPW Director/Town Engineer with written notice of such intended termination; or shall pay to the DPW Director/Town Engineer a lump sum cash payment equal to twelve (12) weeks' aggregate salary, which amount shall be paid to the DPW Director/Town Engineer, on or before the effective date of termination.

**14. Renewal:**

In the event the Town intends to renew the DPW Director/Town Engineer's employment with the Town following the expiration of this Agreement, the Town shall provide the DPW Director/Town Engineer with written notice of such intent no later than October 31<sup>st</sup>, 2019.

If the Town fails to give such written notice by October 31<sup>st</sup>, 2019, this Agreement and the DPW Director/Town Engineer's employment with the Town shall end. A non-renewal of this Agreement shall not constitute a termination of the DPW Director/Town Engineer, but rather a conclusion of the contract term.

**15. Administrative Leave:**

The Town may place the DPW Director/Town Engineer on paid administrative leave, without hearing but with notice, at any time during the term of this Agreement.

**16. General Provisions:**

- A. This writing constitutes the complete agreement of the parties as of the date of execution, and any supplemental or additional agreement or amendment shall be effective only if in writing and signed by the Town and by the DPW Director/Town Engineer.
- B. If any provision, or any part thereof contained within this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement or any of the several portions thereof, shall be deemed not affected, and shall remain in full force and effect.
- C. This Agreement shall prevail over any conflicting personnel provisions of the Town By-Laws or Rules and Regulations.

IN WITNESS WHEREOF, the Town of Pepperell, Massachusetts, has caused this Agreement to be signed and executed in its behalf by its Board of Selectmen and Town Administrator, and the DPW Director/Town Engineer has signed and executed this Agreement, both in duplicate.

**Town of Pepperell**

**DPW Director/Town Engineer**

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Stephen C. Themelis, Chairman  
Board of Selectmen

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Kenneth Kalinowski

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Melissa M. Tzanoudakis, Clerk  
Board of Selectmen

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Roland P. Nutter, Member  
Board of Selectmen

\_\_\_\_\_  
Mark J. Andrews, Town Administrator

Date: \_\_\_\_\_

Date: \_\_\_\_\_