

EMPLOYMENT AGREEMENT

BETWEEN THE TOWN OF UPTON AND VINCENT J. ROY

WHEREAS, it is the desire of the Town Manager (the “Manager”) of the Town of Upton (the “Town”), acting on behalf of the Town, to employ the services of Vincent J. Roy.

WHEREAS, it is the desire of the Manager to negotiate for the benefits, establish certain conditions of employment and provide a just means for terminating the Director of Public Works services at such time as he may be unable fully to discharge his duties or when the Manager may otherwise desire to terminate his employ; and

NOW, THEREFORE, be it agreed by Vincent J. Roy and the Manager, that the employment relationship between the Director of Public Works and the Town shall be governed in accordance with the terms and conditions of this agreement (“Agreement”):

Section 1 – Duties

- A. The Town hereby agrees to employ said Vincent J. Roy as the Director of Public Works of the Town of Upton to perform, and Vincent J. Roy accepts such employment and agrees to perform, the functions and duties of Director of Public Works, and to perform other legally permissible and proper duties and functions as the Manager shall from time to time assign.

Section 2 – Term

- A. This Agreement shall become effective July 1, 2016, and shall be in full force and effect until June 30, 2017 (the “Expiration date”). The Agreement shall be subject to Section 2D, and shall be binding on the Town and the Director of Public Works in each year of duration.
- B. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Manager to terminate the services of the Director of Public Works for just cause and with due process that is subject only to the provisions set forth in Section 4, Paragraphs A and B of this Agreement.
- C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Director of Public Works to resign at any time from his position with the Town, or to elect not to renew this Agreement pursuant to the provisions of Section 2.D below, subject only to the provisions set forth in Section 4, Paragraph C of this Agreement.
- D. If the Manager decides not to renew this Agreement beyond the Expiration Date, the Manager shall give the Director of Public Works written notice at least six (6) months in advance of the Expiration date of its intent not to renew this Agreement.

Section 3 – Suspension

- A. The suspension of the Director of Public Works shall be governed by the Town's Personnel By-Law.

Section 4 – Termination and Severance Pay

- A. The removal of the Director of Public Works shall be governed by the Personnel By-Law. If the Director of Public Works is removed for cause, the Director of Public Works shall not be entitled to any severance pay nor any compensation beyond the date of removal. If removed without cause, the Town shall provide a severance payment equal to three (3) months salary based on the then current annual rate of pay divided by twelve. The Director of Public Works shall continue on the Town's health insurance for a period of three (3) months from the date of separation, each party continuing to contribute their respective percentage contribution. Unless otherwise agreed by the parties, this shall be paid in one lump sum, less usual and customary withholdings. The Director of Public Works shall also be compensated for accrued but unused vacation time.
- B. In the event the Director of Public Works voluntarily resigns his position with the Town before expiration of the aforesaid term of his employment, then the Director of Public Works shall give the Town six (6) weeks' notice in advance unless the parties otherwise agree. During this six (6) weeks' notice period, the Director of Public Works may not take vacation leave. In the event the Director of Public Works voluntarily resigns, without having been requested to do so by the Manager, he shall not be eligible for severance benefits set forth in Section 4, Paragraph A, except for the lump sum payment in lieu of accumulated vacation leave.
- C. Subsections A and B of this Section shall survive any termination of this Agreement.

Section 5 – Salary

- A. Effective July 1, 2016, the Town agrees to pay the Director of Public Works for his services pursuant to this Agreement a prorated salary based on an annual base of \$104,050.00; Two Thousand Dollars and ninety-six cents (\$2,000.96), payable in weekly installments, subject to this Section 5.
- A.4. The Manager agrees to annually review the base salary of the Director of Public Works and make any adjustments that the Manager deems appropriate, based on market conditions, the financial condition of the Town, and the Director of Public Works' performance relative to established goals.
- B. The Director of Public Works will pay the same percentage contribution towards health care premiums as is required of other non-union employees of the Town (presently 25%), as the same may be adjusted from time to time.

- C. It is recognized that the Director of Public Works must devote a great deal of time outside the normal office hours on business for the Town and needs to be available twenty four (24) hours a day; and to that end the Director of Public Works shall be allowed to establish an appropriate work schedule.

Section 6 - Automobile

- A. The Town shall reimburse the Director of Public Works for use of his personal motor vehicle at the rate established by the Internal Revenue Service for all Town related business, should it be necessary to utilize his vehicle. The Director of Public Works shall obtain the prior approval of the Manager for any out of town business travel.
- B. The Director of Public Works may have use of a Town automobile, subject to approval by the Manager; once approved the vehicle shall not be withheld without good cause. The Town shall be responsible for paying insurance for liability, property damage, comprehensive damage, and costs associated with operation, maintenance, repair, fuel, and regular replacement for all work related travel. During the period that the Director lives beyond the Town of Upton or a contiguous community, the Director will pay for fuel for his commuting miles driven.

Section 7 – Authorized Leave

- A. The Director of Public Works shall accrue and have credited to his account sick leave at the same rate as other non-union employees of the Town. Sick leave buy-back provisions shall apply to the same extent that they apply to other non-union employees of the Town. The Town will also provide a short-term disability policy for the Director at the Town’s expense in accordance with the Personnel By-Law.
- B. The Director of Public Works shall accrue on a weekly basis, and have credited to his account, vacation leave at an annual rate of four (4) weeks per year. Up to ten (10) days unused vacation leave may be carried over from year to year on the Director’s anniversary date of hire during the term of this Agreement as approved by the Manager.

Section 8 – Expenses

- A. Subject to Town Meeting appropriation, the Town agrees to budget and pay for professional dues and subscriptions of the Director of Public Works necessary for his participation in national, state, regional and local associations and organizations, as is necessary and desirable for his continued professional development and for the good of the Town. Subject to Town Meeting appropriation, the Town also agrees to budget and pay for reasonable travel, tuition and subsistence expenses for the Director of Public Works for professional and official travel, meetings and occasions required by the duties of his office or for the professional development and education of the Director of Public Works,

said expenditures to be subject to the approval of the Manager. The Town will reimburse the Director for the monthly cost to carry a cell phone for work purposes up to one hundred dollars (\$100.00) per month.

Section 9 – Performance Evaluation

- A. The Manager shall review and evaluate the Director of Public Works at least once annually during the term of this Agreement. This evaluation shall be based on goals and objectives developed jointly by the Manager and Director of Public Works. Further, the Manager may provide the Director of Public Works with a summary written statement of the findings of the Manager and provide an adequate opportunity for the Director of Public Works to discuss his evaluation with the Manager.
- B. Annually, the Manager, in conjunction with the Director of Public Works, shall define such goals and objectives which they determine necessary for the proper operation of the Town and in the attainment of the Manager'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

- A. The Town shall defend, save harmless and indemnify the Director of Public Works against any tort, professional liability, civil claim or demand, or other legal action, whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of his duties as Director of Public Works, even if said claim has been made following his termination from employment, provided that the Director of Public Works acted within the scope 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 Director of Public Works.
- B. The Town shall reimburse the Director of Public Works for any attorneys' fees and costs incurred by the Director of Public Works in connection with such claims or suits brought by third parties involving the Director of Public Works in his professional capacity.
- C. This section shall survive the termination of this Agreement.

Section 11 – Residence

- A. By December 31, 2016, the Director of Public Works shall establish a domicile in Upton or a town contiguous to Upton. This section is subject to amendment by the mutual agreement of the parties. The Town will reimburse the Director of Public Works on a one-time basis up to \$2,000 for relocation costs. Reimbursement shall be supported and evidenced by invoices in support of the request.

Section 12 – Retirement

- A. In addition to participating in the Worcester County Retirement System, to the extent permitted by law, the Town shall provide a voluntary §457 retirement plan. The Town shall have no obligation to contribute to this plan on behalf of the Director of Public Works.

Section 13 – General Provisions

- A. 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 Agreement may be amended or modified only by a written instrument executed by the parties hereto or by their successors and assigns.
- B. All provisions of the Town’s General By-Laws, and the regulations, policies and practices of the Town relating to vacation and sick leave, retirements and pensions, contributions, holidays and other benefits and working conditions as they now exist or hereafter may be amended, also shall apply to the Director of Public Works as they would to other employees of the Town in addition to the benefits enumerated in this Agreement specifically for the benefit of the Director of Public Works. In the event of any conflicts, the provisions of this Agreement shall prevail.
- C. For the purposes of the United States Fair Labor Standards Act, the Director of Public Works shall be considered an exempt employee.
- D. This Agreement shall be deemed effective as of ____, ____, 2016.
- E. The terms of this Agreement are subject to annual Town Meeting appropriation.
- F. 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.
- G. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of the Director of Public Works.
- H. This Agreement is entered into in the Commonwealth of Massachusetts and shall be construed and interpreted in accordance with its laws.

Section 14 – Notices

Notices pursuant to this Agreement shall be made as follows:

Town: Blythe C. Robinson
Town Manager
Town of Upton
1 Main Street, Box 1
Upton, MA 01568

Director of Public Works: Vincent J. Roy
3 Warwick Road
Franklin, MA 02038

The Town Manager of the Town of Upton and Vincent J. Roy have caused this Agreement to be signed and executed this _____ day of _____, 2016.

The Town of Upton,
By its Town Manager

Vincent J. Roy

Blythe C. Robinson