

Employment Agreement

**TOWN OF SOUTHBOROUGH
BOARD OF SELECTMEN**

AND

**KAREN GALLIGAN
SUPERINTENDENT OF PUBLIC WORKS**

Effective July 1, 2016
Through
June 30, 2019

Agreement made by and between the TOWN OF SOUTHBOROUGH (hereinafter called the "TOWN") a municipal corporation in Worcester county, acting by and through its Board of Selectmen with no personal liability to themselves, and Karen Galligan, of Medway, Massachusetts (hereinafter called the "Superintendent") Pursuant to the authority of Section 3-11 of the Code of the Town of Southborough, amended by Article 55 of the April 2004 Annual Town Meeting.

WHEREAS, the TOWN desires to retain the professional services of the SUPERINTENDENT for the direction and administration of the Department of Public Works (hereinafter called the "DPW"); and

WHEREAS, the SUPERINTENDENT is willing to continue to serve as SUPERINTENDENT according to the terms and the conditions of this Agreement;

NOW, THEREFORE, the TOWN and the SUPERINTENDENT hereby agree upon the following terms and conditions.

1. ESSENTIAL DUTIES OF THE SUPERINTENDENT

The head of the DPW for the TOWN is the SUPERINTENDENT. The SUPERINTENDENT shall be responsible to and work under the direction of the Board of Selectmen, through the Town Administrator, under applicable Massachusetts General Laws, and the Town's By-laws and rules and regulations.

The SUPERINTENDENT's primary and essential duties shall include but not be limited to the following:

- A. Responsibility for the Direction and Administration of the daily operations of the DPW;
- B. Responsibility for indirectly or directly supervising all Department personnel;
- C. Responsibility for preparing and submitting the DPW budget;
- D. Responsibility for all Department expenditures;
- E. Responsibility for developing the DPW Capital Plan and presenting plan;
- F. Responsibility for all Department property in custody of the DPW including motor vehicles and equipment;
- G. Responsibility for submitting reports to the TOWN either orally or in writing when requested or required in order to ensure the proper communication between the TOWN and the DPW;
- H. Responsibility for maintaining books and records in such detail to furnish all information necessary for reporting to government agencies as necessary;
- I. Responsibility for all Department property in custody of the Department;
- J. Responsibility for performing such other duties as may be required in accordance with the Town's By-laws or law;
- K. Responsibility for such other duties as the Board of Selectmen, through the Town Administrator shall from time to time assign;

2. HOURS OF WORK

- A. The SUPERINTENDENT warrants and agrees to devote that amount of time, effort and service which is necessary for the SUPERINTENDENT to faithfully perform the duties of SUPERINTENDENT.
- B. The SUPERINTENDENT is an exempt employee for the purpose of the Fair Labor Standard Act.
- C. The SUPERINTENDENT shall notify and coordinate with the Town Administrator if he or she shall be absent from duty or on leave and who shall be in control of the DPW during such absence or leave.

3. INDEMNIFICATION

The Town shall defend, save harmless and indemnify the Superintendent against any claim, demand or other legal action arising out of an alleged act or omission occurring in the performance of her duties. The Town acknowledges that it has accepted Section 13 of M.G.L Ch. 258. Indemnification shall apply as to any claim made following the expiration of the term of this agreement or termination from employment of the Superintendent so long as the Town would have been otherwise obligated to provide indemnification had the term not expired or the employment not terminated and provided that the Superintendent acted in good faith. Indemnification shall not apply in the event the Superintendent is suspended or discharged pursuant to §9 of this Agreement.

The Town may compromise and settle any claim or suit and will pay the amount of any settlement or judgment rendered thereon, as specified above, without recourse to the Superintendent who, and as a condition of said indemnification, shall cooperate with the Town in all matters relating to said claim.

This provision does not allow indemnification for criminal acts nor willful violation of civil rights, or indemnification which exceeds the permissible bounds of the law.

This section shall survive the termination of this Agreement.

4. INSURANCE

A. *Health Insurance*

The SUPERINTENDENT shall be eligible for all health and life insurance benefits for which other Town non-collective bargaining unit employees are eligible. The Town shall contribute toward the cost of the premium for such insurance benefits at a rate not to exceed the rate it contributes for such Town employees.

B. *Workers' Compensation*

The SUPERINTENDENT shall be eligible for Workers' Compensation benefits as provided in Chapter 152 of the Massachusetts General Laws.

5. DUES AND SUBSCRIPTIONS

The TOWN agrees to budget and to pay, subject to appropriation, for the reasonable professional dues and subscriptions of the SUPERINTENDENT for her continuation and full participation in national, regional and state associations and organizations necessary and desirable for her continued professional growth and advancement, and for the benefit of the TOWN.

6. AUTOMOBILE

The TOWN shall provide a vehicle for use by the SUPERINTENDENT and pay for all attendant operating and maintenance expenses and insurance. Said vehicle is to be used by the SUPERINTENDENT in connection with the performance of her duties as SUPERINTENDENT and for her professional growth and development. It may be used by the SUPERINTENDENT for personal reasons since the SUPERINTENDENT is "on-call" in the event of emergency.

The SUPERINTENDENT shall be responsible for any, if applicable, tax liability resulting from the availability and use of such vehicle.

The provision of an automobile to the SUPERINTENDENT by the Town shall not be deemed to be compensation for the SUPERINTENDENT, but as an expense item covered for by the Town. If the Massachusetts statutes, however, mandate that the SUPERINTENDENT'S vehicle will be deemed to be an item of compensation under Chapter 32 of the Massachusetts General Laws, then the SUPERINTENDENT shall be responsible for any retirement contributions due under such statutory mandate.

7. PROFESSIONAL DEVELOPMENT

The TOWN recognizes its obligations to the professional development of the SUPERINTENDENT, and agrees that the SUPERINTENDENT shall be given reasonable opportunities to develop her skills and abilities as the SUPERINTENDENT. Accordingly, the SUPERINTENDENT will be allowed, subject to appropriation, to attend training conferences each year without loss of vacation or other leave, and will be reimbursed by the TOWN for all reasonable and necessary expenses (including travel expenses) incurred while attending or traveling to the aforementioned conferences.

The TOWN also agrees to budget and pay, subject to appropriation, for reasonable and necessary travel and subsistence expense of the SUPERINTENDENT for short courses, institutes, and seminars that, in the SUPERINTENDENT's reasonable judgment, are necessary for her professional development.

8. DEATH DURING EMPLOYMENT

If the SUPERINTENDENT dies during the term of her employment, the TOWN shall pay to the SUPERINTENDENT's estate all the compensation which would otherwise be payable to the SUPERINTENDENT up to the date of the SUPERINTENDENT's death, including accrued, but unused vacation leave. The Town shall continue to contribute its share of the health insurance premiums to the SUPERINTENDENT's surviving spouse and family, if they are otherwise eligible under Chapter 32B, and such benefits are available to other Town non-collective bargaining unit employees.

9. SUSPENSION OR DISCHARGE

The SUPERINTENDENT may be suspended or terminated by the Board of Selectmen acting on behalf of the Town for cause during the term of this agreement pursuant to Article II section 27-2 of the Southborough Code. The SUPERINTENDENT will be given a written statement of reasons for any consideration of suspension or termination and shall be afforded the opportunity to be heard consistent with the applicable provisions of Massachusetts General Laws Chapter 39 Section 23B as amended.

For purposes of this paragraph, the term "cause" shall mean any ground put forward by the Town in good faith which is not arbitrary, irrational, or irrelevant to the Town's tasks of building up and maintaining an efficient Town services, provided that the cause assigned is at least fairly debatable and is asserted honestly, and not as a subterfuge.

In the event the SUPERINTENDENT is terminated by the Town prior to the expiration of the term of this agreement, the Town agrees that it shall pay the SUPERINTENDENT a lump sum cash payment equal to five (5) months aggregate salary, which amount shall be paid to the SUPERINTENDENT on or before the effective date of termination of her employment; provided, however, that in the event the SUPERINTENDENT is terminated for gross misconduct in office, the Town shall have no obligation to pay the aggregate severance sum provided in this paragraph.

10. COMPENSATION

- 1 In the first year of the Agreement, the SUPERINTENDENT shall receive a total annual salary of \$105,060, subject to applicable withholdings and deductions.
- 2 In the second year of the Agreement, the SUPERINTENDENT shall receive an increase of 2%, effective July 1, 2017, for a total annual salary of \$107,161, subject to applicable withholdings and deductions.
- 3 In the third year of the Agreement, the SUPERINTENDENT shall receive an increase of 2%, effective July 1, 2018, for a total annual salary of \$109,304, subject to applicable withholdings and deductions.

The SUPERINTENDENT's annual salary shall be payable in installments at the same time as other employees of the Town are paid.

4 The Town will make an annual payment of 2.0% of base pay towards a deferred compensation plan offered by the Town and selected by the SUPERINTENDENT. The SUPERINTENDENT shall notify the Town Treasurer in writing of the deferred compensation plan in which the payment is to be made.

11. LEAVE

In addition, the SUPERINTENDENT shall accrue sick leave, personal leave, bereavement leave, holiday leave and vacation leave on the same terms as other Town non-collective bargaining unit employees.

12. NO REDUCTION OF BENEFITS

The TOWN agrees that it shall not, at any time during the term of this Agreement, reduce the salary, compensation or other benefits of the SUPERINTENDENT, except to the extent that such reduction is evenly applied across-the-board for management employees of the TOWN.

13. NO AFFECT UPON BYLAW AUTHORITY

Pursuant to the Southborough Code Article III Section 3-11 (D), nothing contained in this agreement shall affect the appointment or removal powers of the Board of Selectmen over the SUPERINTENDENT nor shall the terms hereof be construed to grant tenure to such department head which this agreement does not so grant. Further, nothing in this agreement shall be construed to abrogate or mitigate the Board of Selectmen's authority to promulgate rules and regulations, in the public interest, as to the administration of this appointment of SUPERINTENDENT.

14. LAW GOVERNING

This Agreement shall be construed and governed by the Laws of the Commonwealth of Massachusetts.

15. SEVERABILITY OF PROVISIONS

If any clause or provision of this agreement shall be determined to be illegal or unenforceable by a court or competent jurisdiction, the remainder of this agreement shall not be affected thereby.

16. LENGTH OF AGREEMENT

- A. The initial term of this Agreement shall be for a period commencing July 1, 2016 and ending June 30, 2019. However, this Agreement may be extended as provided by its terms.
- B. Unless either party provides written notice to the other of its intention to renegotiate and/or to not renew this agreement no less than five (5) months prior to the end of its initial term or any successive term, this Agreement shall automatically be extended on the then applicable terms and conditions for an additional one (1) year term.

- C. In the event the SUPERINTENDENT intends to resign voluntarily before the natural expiration of any term or employment, then the SUPERINTENDENT shall give the TOWN sixty (60) days written notice in advance, unless the parties otherwise agree in writing.

17. COMPLETENESS OF AGREEMENT

This agreement contains the terms and conditions agreed upon by the parties as to the employment of SUPERINTENDENT with the Town. No other agreement, written, oral, express or implied will be considered to exist to bind to parties hereto provided, however that both parties recognize and acknowledge the reserved inherent administrative authority of the Board of Selectmen to supervise and regulate the position of SUPERINTENDENT, in the public interest, and to add to such duties and responsibilities as necessary for the public welfare and to promulgate further rules and regulations consistent with the intent and purpose of Article III section 3-11 of the Code.

IN WITNESS WHEREOF, the parties hereunto have set their hands and seals to this instrument on the date and year set forth below.

TOWN OF SOUTHBOROUGH
BY ITS BOARD OF SELECTMEN

SUPERINTENDENT

John F. Rooney, Chairman

Karen Galligan

Paul M. Cimino, Vice-Chairman

DATE: _____

Daniel L. Kolenda

Bonnie J. Phaneuf

Brian E. Shea

DATE: _____