

**TOWN OF HUBBARDSTON AND CITY OF GARDNER MUNICIPAL AGREEMENT
ANIMAL CONTROL SERVICES**

This Intermunicipal Agreement, made and entered into this 11th day of December 2019, pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 4A, by and between the Hubbardston of Hubbardston, a municipal corporation within the County of Worcester and the Commonwealth of Massachusetts, acting by and through its Board of Selectmen, hereinafter referred to as "Hubbardston" and the City of Gardner, a municipal corporation within the County of Worcester and the Commonwealth of Massachusetts, acting by and through its Mayor, hereinafter referred to as "Gardner" (collectively referred to as the "Municipalities").

WITNESSETH

WHEREAS, the Municipalities have determined that they share a need for animal control services; and

WHEREAS, the Municipalities have determined that the sharing of the benefits and costs of those services would be beneficial to each Municipality, and

WHEREAS, this Agreement shall provide for the terms, conditions and liabilities of the parties with respect to these services, including, but not limited to terms of cooperation and obligations of each Municipality relative to cost of shared human resources, facilities, and operating costs; and

WHEREAS, the voters at Hubbardston Meeting in Hubbardston authorized the Board of Selectmen and the Gardner City Council authorized the Mayor to enter into this agreement in accordance with the provisions of G.L. c. 40, Section 4A.

NOW, THEREFORE, in consideration of the promises and mutual benefits to be derived by the parties hereto, the parties agree as follows:

1. The Hubbardston Town Administrator and the Gardner Mayor will be the Municipalities respective representatives to oversee the cooperative arrangement. The approval of the Hubbardston's Board of Selectmen and the Gardner Mayor will be required to amend this Agreement.
2. All the privileges and immunities from liability and exemptions from laws, by-laws, ordinances and regulations that animal control officers employed by any of the parties hereto have in their own jurisdictions shall be effective in the jurisdiction in which they are giving assistance unless otherwise prohibited by law.

3. The shared Senior Animal Control Officer and Animal Control Officer (“Animal Control Personnel”) shall have all of the authority under the applicable provisions of the Massachusetts General Laws as well as the by-laws of the Hubbardston and/or City ordinances in which animal control services are being provided.
4. Each Municipality will be responsible for payment of legal services for court appearances by a cooperating animal control officer for enforcement actions taken in its own community. All immunities from liability enjoyed by the sending Municipality within its boundaries shall extend to its participation in rendering animal control services under this Agreement outside its boundaries.
5. Each party to this Agreement shall waive any and all claims against the other party hereto, which may arise out of their activities outside of their respective jurisdictions while rendering or receiving services under this Agreement.
6. In the event that any claims, demands, suits, causes of action, and costs and expenses arise with respect to animal control services provided pursuant to this Agreement, the receiving municipality shall be liable for and shall indemnify, defend, and hold the other community harmless from and against any and all such claims, demands, suits, causes of actions, costs and expenses, including reasonable attorney's fees, including those arising from the handling and care of any animals from the receiving Municipality.
7. Animal Control Officers injured or killed while performing duties for a receiving Municipality or returning to the sending Municipality following a request for services under this Agreement shall be deemed to be on active duty and within the scope of their employment for all purposes. Animal Control Personnel shall be covered by Gardner’s Worker's Compensation insurance while performing duties.
8. Term. The term of this Agreement is for three (3) years commencing on July 1, 2020 and ending on June 30, 2023 unless or until terminated by the parties hereto on written notice. Such notice shall be provided one hundred eighty (180) days prior to the end of the then current fiscal year and withdrawal from the agreement will be effective as of the last day of the succeeding fiscal year. In the event that the Hubbardston fails to pay any invoice to Gardner in a timely manner, or in the event a Hubbardston fails to approve an Animal Control Budget, as provided for herein and that is subject to appropriation by Hubbardston Town Meeting, then Gardner may immediately suspend its services under this Agreement for non-performance. Upon receipt of the past due payments, together with adequate assurances of payment for future services, Gardner may commence performing its services again.

9. Cost sharing.

A. During the term of this Agreement Hubbardston shall pay to Gardner a percentage of costs for each year of this Agreement in the following amounts:

Fiscal Year 2021: \$17,678

Fiscal Year 2022: \$18,120

Fiscal Year 2023: \$18,573

with said costs based upon an approved Animal Control Budget subject to appropriation by Town Meeting and appropriation by the Gardner City Council, which will provide for the cost of wages, maintenance of the Animal Shelter and Animal Control operations, to include but not be limited to utilities, general maintenance of the shelter, food for the animals, vehicle maintenance, uniforms and equipment for the Animal Control Officers, and a share of the health and other insurance premiums, including worker's compensation insurance, paid by Gardner for the Animal Control Personnel. Hubbardston shall pay their respective percentage of costs on an annual basis to Gardner for the purposes and in accordance with the terms as stated herein. Should the budget amount be increased by agreement of the parties hereto, any deficiencies in the annual payment shall be included in the next year's payment in accordance with the cost-sharing formula established herein.

B. A budget shall be developed by Gardner and shall be provided to Hubbardston annually on or before March 1, for review and approval by the Hubbardston Board of Selectmen. Hubbardston shall be responsible for payment of its share of costs as stated herein on a quarterly basis, said payments to be made on July 1, October 1, January 1, and April 1 of the then-current fiscal year.

C. Should the budget, as submitted by Gardner to Hubbardston provide for the purchase of a new vehicle, Hubbardston shall be responsible to pay for a percentage, based upon each Municipalities population as determined by the most recent census, for the cost of such vehicle, such percentage cost to be paid in equal installments together with Hubbardston quarterly payments as specified herein. In the event that Hubbardston withdraws from this Agreement in accordance with the provisions of Paragraph 13, Hubbardston shall be reimbursed the percentage said Municipality contributed as calculated in accordance with the cost-sharing formula established herein of the then current NADA Blue Book value for that vehicle as of the date of the notice of withdrawal, said reimbursement to be applied in equal installments as a reduction in the monthly payments owed by Hubbardston to Gardner. Hubbardston shall, however, remain responsible for payment of its share of the cost of purchase of the vehicle until termination of this Agreement.

D. Should Gardner submit purchase of capital items for consideration, Hubbardston, contingent on Hubbardston Meeting approval, shall be responsible for the cost of such capital item for the same percentage as attributed to the cost-sharing formula established herein, to be paid in equal installments together with Hubbardston's quarterly payments as specified herein. Furthermore, Gardner shall not fund any portion of their percentage from the line item budget.

10. Services.

Animal Control Services to be provided as part of the intermunicipal agreement are as outlined in applicable provisions of Massachusetts General Law, bylaws of Hubbardston, Gardner ordinances and the job descriptions of Animal Control Personnel for Gardner, incorporated herein by reference. Animals shall be detained at the Gardner Animal Control Facility.

11. Dispute Resolution.

In the event any disputes or questions arise between the parties as to the interpretation of the agreement or the satisfactory performance by any of the parties of the services and other responsibilities provided for in the contract, the parties first agree to try in good faith to settle the dispute through negotiation, then try resorting to other dispute resolution procedures, before proceeding to litigation.

12. Reports.

Gardner may, upon request provide Hubbardston reports on the services provided and annual reports of expenditures and revenues of all accounts necessary to provide a complete picture of the financial condition of the shared function.

13. Notice.

Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the Boards of Selectmen and the Gardner Mayor at the addresses set forth below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

Town Administrator
Town of Hubbardston
7 Main Street, Unit 3
Hubbardston, MA 01452

Mayor
City of Gardner
95 Pleasant Street
Gardner, MA 01440

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14. This Agreement contains the entire agreement of the parties and supersedes any prior agreements or understandings, whether oral or in writing, between them. This Agreement may not be changed or modified except by a written instrument in accordance with the provisions herein. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. The provisions of those laws shall not be deemed waived by any provision of this Agreement.

15. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, the provisions of which shall not be deemed waived by any provision hereof, and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

16. If any provision of this Agreement is declared to be illegal, unenforceable, or void, then the parties shall be relieved of all obligations under that provision provided, however, that the remainder of the Agreement shall be enforced to the fullest extent permitted by law.

In witness thereof the parties hereto have executed this Agreement as of the first date written above.

For the City of Gardner

DocuSigned by:

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Mark Hawke, Mayor

For the Hubbardston Board of Selectmen

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Ryan M. McLane, Town Administrator