

**INTERMUNICIPAL AGREEMENT FOR
EMERGENCY COMMUNICATIONS AND DISPATCH SERVICES**

THIS AGREEMENT entered into this 10 day of March, 2015 by and among the **CITY OF GARDNER**, a Massachusetts municipality acting by and through its City Charter, with a mailing address of 95 Pleasant, Gardner, Massachusetts 01440 ("Gardner"), and the **TOWN OF ATHOL**, a Massachusetts municipality acting by and through its Board of Selectmen, with a mailing address of 584 Main Street, Athol, Massachusetts 01331 ("Athol"). Gardner and Athol shall sometimes be referred to herein as the "City" or the "Town."

WITNESSETH:

WHEREAS, the City and Town are each empowered by law to staff, maintain and operate a public safety communications/dispatch center, which is a proper governmental function and service; and

WHEREAS, Gardner is in the process of establishing an emergency communications center located at the Gardner Police Department at Main and Willow Streets, Gardner (the "North Central Regional Emergency Communications Center"), which is capable, within reasonable limitations, of providing emergency communications and dispatch services for both Gardner and Athol; and

WHEREAS, Gardner and Athol desire to have the North Central Regional Communications Center to serve as a regional emergency communications center providing emergency communications and dispatch services for both communities (the "Regional Emergency Communications Center" or "RECC"); and

WHEREAS, the City and Town may, pursuant to Section 4A of Chapter 40 of the Massachusetts General Laws, enter into an inter-municipal agreement to perform jointly activities or undertakings which either the City or Town is authorized by law to perform; and

WHEREAS, the City and Town intend that this Agreement shall set forth the terms and conditions of performing jointly the provision of emergency communications and dispatch services for both communities, including the maximum financial liability of the City and Town, in accordance with Section 4A of Chapter 40 of the Massachusetts General Laws;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the City and Town agree as follows:

1. Approval by State Agencies:

Pursuant to Sections 18B and 18D of Chapter 6A of the Massachusetts General Laws, this Agreement is subject to review and approval by the State 911 Department, within the Massachusetts Executive Office of Public Safety. After executing this Agreement, the City and Town shall forthwith submit an application for a regional Public Safety Answering Point, as that term is defined by Section 18A of Chapter 6A of the Massachusetts General Laws ("PSAP"). As part of said application, Athol shall provide a letter indicating that Athol has

designated Gardner as Athol's PSAP as a result of this Agreement (contingent upon final approval and acceptance). If the required approvals, described in this Section 1, are not obtained on or before August 30, 2016, this Agreement shall terminate, and all obligations of the City and Town under this Agreement shall cease.

2. Service:

Gardner shall use the RECC to furnish emergency police, fire and emergency medical communication and dispatch services to Athol, said services being substantially the same as those rendered to Gardner. Those services shall include:

- (a) Receiving emergency and routine calls for police, fire and emergency medical services, in addition to calls for public works, municipal light, and animal control services;
- (b) Directing a response to said calls by either dispatching the appropriate police, fire or medical unit or forwarding of the call to the appropriate department or agency for response;
- (c) Providing on-going communication support to emergency personnel in the field;
- (d) Maintaining dispatch logs and 911 recordings as required by law;
- (e) Providing data and records from/to the Criminal Justice Information Services (CJIS), the Criminal History Systems Board (CHSB) and the National Crime Information Center (NCIC);
- (f) Updating, maintaining and managing the radio communications systems, computer systems, support files and resource materials necessary to accomplish the above, excluding radio equipment and infrastructure exclusively utilized by Athol; and
- (g) Any other service or duty required by law of a PSAP.

3. Discretion Regarding Manner of Providing Service:

- (a) The Director of the North Central Regional Communications Center shall have final decision-making authority with regard to all matters involving the day-to-day operation of the RECC.
- (b) The police and fire chiefs of Gardner and Athol, or their designees, shall develop written procedures for the operation of the RECC governing the deployment of emergency services in Athol (the "Athol Procedures") and Gardner (the "Gardner Procedures").
- (c) The Director shall ensure that the Athol and Gardner Procedures are followed by the RECC.

- (d) The Director shall create an Advisory Board of the police and fire chiefs of Athol and Gardner that shall meet monthly to discuss the performance of the RECC, review the annual operating budget request, identify needed improvements and discuss future initiatives.
- (e) Notwithstanding the foregoing, the City and Town agree that any incident involving a life-threatening situation shall receive the highest priority of communications and dispatch.
- (f) In the event of a failure of the RECC communications network or the PSAP, Gardner shall have the authority to implement emergency procedures to manage the event. The City and Town shall agree upon emergency procedures as part of the materials submitted to the State 911 Department. The emergency procedures may be reviewed and updated by the City and Town on an annual basis.

4. Liaison:

Athol shall provide a liaison to Gardner to participate in the following endeavors:

- (a) Develop uniform operational policy and procedures for the RECC.
- (b) Provide information to assist in managing and updating the E-911 database, including the disability database.
- (c) Assist Gardner in performance reviews of the services provided by Gardner, and making joint recommendations for improved RECC services.
- (d) Assist in reviewing any system upgrades to the PSAP.
- (e) Assist in working with Gardner on any radio frequency consolidation, where applicable, or interoperability issues.
- (f) Seek available funding, including grants, for the common good of the RECC.

5. Radio Systems:

- (a) Athol shall obtain and keep current all licenses relating to its frequencies granted by the Federal Communications Commission (FCC) under Part 90 of the FCC rules and regulations. Athol shall notify Gardner at least 90 days prior to filing any application with the FCC to modify any component of the Town's FCC license to operate the radio systems. The City and Town shall operate the radio system in accordance with Part 90 of the FCC rules and regulations.
- (b) The costs associated with any decision by Athol to change Athol's radio system, including the addition of base stations, receiver sites, or new telecommunications infrastructure, but excluding a plan for interoperability between the City and Town's respective radio systems, shall be paid for by Athol.

- (c) Equipment purchased by Gardner with funds from the State 911 Department or other grant sources that reside within the Town of Athol shall be owned and maintained by the Town of Athol.
- (d) Athol will be responsible for future upgrades and improvements to their radio systems. Gardner will work with Athol to seek State 911 grant funding for this purpose.

6. Adherence to Operational Protocols and Practices:

The Police and Fire Chiefs will coordinate the necessary feedback from their respective agencies in Gardner and Athol regarding the performance of emergency communication services and the RECC.

7. Media Inquiries:

Media Inquiries regarding the operation of the RECC, PSAP or Gardner personnel shall be referred to the Director. Media inquiries regarding Athol or Athol personnel shall be referred to the Athol Town Manager. Media inquiries concerning specific incidents under the jurisdiction of one of the City or Town’s respective police, fire or emergency medical services (EMS) provider shall be directed to the appropriate department.

8. Reporting:

Within five (5) business days of Gardner’s receipt of the quarterly report issued to PSAPs by the Statewide Emergency Telecommunications Board, a copy of said report shall be provided to Athol.

9. Emergency Communications/Dispatch Fee:

- (a) Athol shall pay to Gardner an Emergency Communications/Dispatch Fee (the “Fee”) for the services provided under this Agreement. The Fee shall be Athol’s portion of the RECC Annual Budget determined as follows:

A proportional calculation of population and 911 call volume per community.

Category	Gardner	Athol	Total
Population	20,228	11,584	31,812
911 Call Volume	5,003	1,918	6,921
50/50 Ratio	67.94	32.06	100%

- (b) By no later than December 1st of each year after the initial service year of this Agreement, Gardner shall provide Athol with notice of the Fee to be charged for the next fiscal year.
- (c) At the beginning the budget planning cycle for each fiscal year after the initial service year of this Agreement, the variables of Population will be updated according to the most recent records of the Town Clerks’ of each town, and the

variable of 'Call Volume' will be updated using the most recent statistic of the MA Executive Office of Public Safety. The Fee will then be re-calculated based on the updated variables but according to the above ratio.

(d) The Fee will be applied to the Annual Budget for the RECC that is developed by the City of Gardner and the RECC Director with input from the Advisory Board. This Budget will represent the calculations of the total operating costs for the RECC and will display the amount of reimbursement that the State 911 Department may provide.

(e) Payment of the Fee will be initiated after Athol becomes operational in the RECC.

10. Payments:

Athol shall make quarterly payments of the Fee to Gardner, payable on the same day that quarterly tax payments are due in Gardner. Quarterly invoices shall be mailed to Athol not later than two months before the due date. If payment is not received by the due date, a second notice shall be sent by certified mail. Gardner may seek any available legal remedy to obtain payment on amounts due.

11. Assignment:

No assignment or other transfer of any right or obligation under this Agreement shall be made by either the City or Town, and any attempt to so assign or transfer such right or obligation shall be a breach of this agreement and the assignment shall be of no effect.

12. Dispute Resolution:

- (a) No suit upon any claim or cause of action upon, or for damages upon, by reason of, or growing out of, this Agreement or its non-performance or faulty performance, shall be filed or maintainable by either the City or Town unless notice of such claim or cause of action be given to the other City or Town at its address, above given, not less than thirty (30) days prior to filing, and in every case a reasonable time under the circumstances from the date upon which limitation would commence to run against such claim or cause of action in behalf of such other City or Town.
- (b) In the event any dispute of any kind should arise between the City or Town concerning the construction of this Agreement or a purported breach thereof, such dispute may be submitted to the police or fire chiefs of Gardner and Athol. The Director shall meet with the appropriate chief within ten (10) business days to discuss a resolution of the dispute. If, after twenty (20) business days, the two chiefs have been unable to resolve the dispute to the mutual satisfaction of the City or Town, then the City or Town may submit the dispute to mutually acceptable arbitrator qualified the American Arbitration Association. The proceedings before said arbitrator shall be governed by the rules and regulations of said Association, and the award and determination of said arbitrator shall be binding and conclusive upon the City or Town, and the City and Town herewith agree to abide by the arbitrator's

determination. Any costs associated with arbitration shall be split evenly between the City and Town.

- (c) The City and Town may also mutually agree to use other forms of alternative dispute resolution, including mediation, to address disputes arising under this Agreement.
- (d) The City and Town each reserve the right, either in law or equity, by suit, and complaint in the nature of specific performance, or other proceeding, to enforce or compel performance of any or all provisions of this Agreement.

13. Liability:

Pursuant to Section 4A of Chapter 40 of the Massachusetts General Laws, each City and Town shall be liable for the acts and omissions of its own employees and not for the employees of any other agency in the performance of this Agreement to the extent provided by Chapter 258 of the Massachusetts General Laws (the Massachusetts Tort Claims Act). By entering into this Agreement, neither of the communities has waived any governmental immunity or limitation of damages which may be extended to them by operation of law. Notwithstanding the forgoing, Gardner shall not be liable for damages caused by any failure to provide services arising out of an Act of God, loss of power, or any other cause beyond its reasonable control.

14. Amendments:

This Agreement may only be amended by a written document duly executed by both of the City and Town.

15. Termination:

The City may terminate this Agreement upon providing written notice to the Town not less than thirty (30) months prior to the date of such termination. The Town may terminate this Agreement upon providing written notice to the City not less than eighteen (18) months prior to the date of such termination.

16. Term of Agreement:

This Agreement is intended as a long term obligation of each of the Parties consistent with the time limitation set forth in Section 4A of Chapter 40 of the Massachusetts General Laws. The initial term of this Agreement shall commence upon execution by both parties hereto and continue through June 30, 2020. Unless earlier terminated as set forth herein, this Agreement shall automatically renew for a term of five years on July 1, 2020 (“Initial Renewal Date”), and thereafter every five (5) years on the anniversary of the Initial Renewal Date additional terms of five (5) years each and shall expire on June 30, 2040.

17. Maximum Financial Liability:

The maximum extent of each City and Town’s financial liability in connection with any and all contracts, grants, agreements, and/or services, as entered into by the City and Town

pursuant to this Agreement, shall not exceed the amount validly appropriated by, or available to, each City and Town for said purpose.

18. Financial Safeguards:

Gardner shall provide to Athol an annual report by November 1st that: (i) contains accurate and comprehensive records of the services performed under this Agreement, including the costs incurred and any reimbursements and contributions received for such services, and (ii) includes the financial statements for the RECC. The RECC operations and budget shall be subject to the City's Annual Audit requirement.

19. Notices:

All notices required or permitted by this Agreement shall be in writing and shall be sent by certified mail, postage prepaid:

If intended for Gardner:

Chief of Police
200 Main Street
Gardner, MA 01440

with a copy to:

City Mayor
95 Pleasant Street
Gardner, MA 01440

If intended for Athol:

Chief of Police
280 Exchange Street
Athol, MA 01331

with a copy to:

Town Manager
584 Main Street
Athol, MA 01331

[SIGNATURES ON NEXT PAGE]

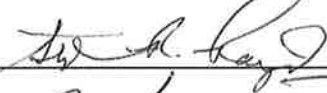
IN WITNESS WHEREOF, the Towns have hereto intending to be legally bound have caused their duly authorized representatives to set their hands and seals on the date first written above.


CITY OF GARDNER




Mayor Mark Hawke


TOWN OF ATHOL
BOARD OF SELECTMEN







Recommended by Gardner Police
Department



Neil Erickson, Chief of Police

Recommended:




Shaun A. Suhoski, Town Manager


Timothy P. Anderson, Chief of Police

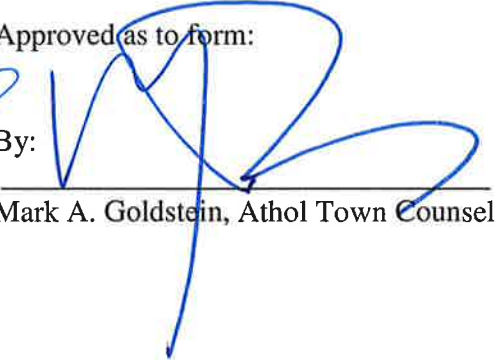

John L. Duguay, Fire Chief

Approved as to form:

By: 

Name: John M. Flick
Title: City Solicitor for Gardner

Approved as to form:

By: 

Mark A. Goldstein, Athol Town Counsel