
Regional Animal Control Facility

Funding provided by the
District Local Technical Assistance program

Prepared for

Town of Lexington
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Prepared by

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Acknowledgements

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MAPC staff members involved in this project include Peter Dunn, Municipal Services Specialist; Stephen J. Daly, Director of Municipal Governance; and Jennifer Garcia, General Counsel.

PROJECT WORKING GROUP

Lexington	Town Manager	Carl Valente
Bedford	Town Manager	Richard Reed
Lexington	Chief of Police	Mark Corr
Bedford	Chief of Police	Robert Bongiorno
Lexington	Police Captain	Manuel Ferro
Lexington	Facilities Engineer	Sergio DeMango

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Executive Summary

Municipal animal control is frequently presented as a comparatively easy area for cities and towns to collaborate across municipal boundaries. This project expands access to a town's animal control facility to surrounding communities. Building on the opportunity presented by the Town of Lexington's newly renovated animal control facility and the momentum generated by a forum on regionalization, MAPC worked with the towns of Lexington and Bedford to draft a license agreement for the shared use of the Lexington facility. The project also identified opportunities for further animal control collaboration among these and other nearby towns.

Chapter One: Background

In January, 2013, MAPC facilitated a forum to discuss regionalization opportunities among six towns northwest of Boston. In attendance were all of the town managers and administrators and several selectmen from Arlington, Belmont, Bedford, Burlington, Lexington, and Winchester. MAPC planned the meeting at the request of the Town of Arlington, who hosted the meeting at the Arlington Town Hall. Over the course of the event, the group discussed current regionalization activities, produced a broad list of potential new regionalization opportunities, and then prioritized the list to identify those service areas in which the towns were most interested in pursuing collaboration over the next year. Animal control emerged as a top priority, both because of the potential benefits in reduced costs and improved services and due to the perceived ease of implementation.

Coming out of the forum, Carl Valente, town manager of Lexington, agreed to serve as the lead contact for pursuing regional animal control activities. MAPC worked with Lexington to develop a DLTA proposal, and MAPC's executive director Marc Draisen then allocated funding for the project.

Chapter Two: Project Summary

After the January regionalization forum and subsequent conversations with Carl Valente, the basic goals of the project had taken shape. Lexington was in the process of renovating its animal control facility, and saw an opportunity to make it available to surrounding towns. Bedford's town manager immediately expressed an interest, given the town's proximity to the facility, and Arlington asked to be included in the conversation as well.

On June 28, Peter Dunn of MAPC met with town managers from Lexington, Bedford, and Arlington, the Lexington and Bedford chiefs of police, and Lexington's facilities engineer. The group discussed the three towns' current animal control operations, which are each run by the police. Participants were interested in exploring opportunities for shared staffing arrangements. The personnel coverage within each town varies slightly, but no town is currently covered the full seven days per week. Sick and vacation time can cause additional coverage gaps. By putting the animal control officer from one town on call for incidents in another town, then coordinating schedules across multiple communities, the towns saw an opportunity to minimize these gaps in coverage without incurring additional costs.

The primary focus of the meeting, however, was to discuss the shared use of Lexington's animal control facility. This facility, which was nearing the completion of its renovation at the time of this meeting, is located near Lexington's border with Bedford. Sergio DeMango, Lexington's facilities engineer, described how shared access to the facility would work in practice. Captain Manuel Ferro of Lexington's police department had already conducted a good deal of preliminary work drafting a license agreement for shared access. Bedford's representatives agreed that the facility would be very convenient for their animal control officer to use. Arlington, however, saw less of an advantage, given the greater travel distance to Lexington's facility. After consulting with the town's police department, town manager Adam Chapdelaine later decided that Arlington would decline to participate in the project, though they have left open the possibility of joining at a later date.

With the information provided by the towns at the June meeting and immediately after, MAPC began drafting a license agreement that outlines the terms under which Lexington will allow other municipalities to use its animal control facility. MAPC also contacted the Franklin Regional Council of Governments for information on the regional animal control project it developed under the Sheriff. Their experience helped inform the development of the Lexington agreement. Over several weeks in the fall, the document was modified after reviews by MAPC's legal counsel and the towns of Lexington and Bedford. The draft license agreement is attached as Appendix A.

Chapter Three: Outcomes

As of the end of 2013, Bedford is completing its final review of the license agreement before signing. Lexington's town manager has already approved the latest version. Once executed, the agreement will allow for the more efficient use of Lexington's investment in its animal control facility, and will save Bedford the expense of using a private shelter. This agreement also opens the door for Lexington to invite additional municipalities to use the facility, which has capacity to support more communities. Moreover, as Lexington and Bedford settle in to the routine of using the same facility, it is expected that they will begin to explore opportunities to coordinate coverage across the two towns.

Appendix A: License Agreement

REVOCABLE LICENSE AGREEMENT

By and Between
The Town of Lexington
and
The **Town of X**
For the Use of
The Lexington Animal Shelter

This Revocable License Agreement (“Agreement”) is entered into by and between the Town of Lexington, Massachusetts, (“Licensor”), a municipal corporation, and the **Town of X**, Massachusetts, (“Licensee”), a municipal corporation.

WHEREAS the Licensor operates public buildings and makes such buildings available for use by individuals and organizations to benefit the citizens of the Town of Lexington; and

WHEREAS the Licensor operates the Lexington Animal Shelter (“Shelter”) located at 15 Westview Street, in Lexington, Massachusetts; and

WHEREAS the Shelter has excess capacity; and

WHEREAS the Licensee desires to license space in the Shelter from Licensor, subject to terms described below;

NOW THEREFORE, the Licensor and Licensee hereby agree as follows:

1. Licensed Premises
 - a. The Licensed Premises are located within the Shelter and includes dog runs, office space, bathroom, storage area, and parking.
 - b. The Licensee shall also have access, in common with others, to the corridors, lobbies, and entrances to the Shelter for access to Licensed Premises.
 - c. Licensee accepts Licensed Premises in its present condition, “as is”, without any representations or warranties of any kind.
2. Permitted Use
 - a. During the Term, as defined in Section 5 below, the Licensee shall have use of the Licensed Premises for the temporary sheltering of dogs, and associated feeding, watering, exercising, kennel cleaning, and provision of veterinary care. For the purposes of this section, “temporary sheltering” is defined as not more than ten (10) consecutive nights per animal, unless Licensor allows additional days.
 - b. Licensor shall permit Licensee to store animal feed and other supplies required for the provision of animal care at the Licensed Premises in a manner consistent with Licensor’s operational procedures.
 - c. Private boarding and routine quarantining are not permitted.
 - d. Non-routine quarantining, i.e., in an emergency situation, may be permitted with the advance approval of Licensor.

3. Access
 - a. The Licensee shall be permitted to enter the Licensed Premises at any time.
 - b. Access to the Licensed Premises by Licensee shall be limited to those officials, employees, and agents of the Licensee authorized by Licensor.
 - c. Access to the Licensed Premises shall be controlled by a security system administered by Licensor, at the sole discretion of Licensor.
 - d. Licensor shall have priority as to placement of animals in the Shelter at all times.
 - e. Licensee agrees to exercise its rights under this paragraph in such manner as to prevent, or minimize to the extent practicable, any unreasonable interference with the Licensor's use of the Licensed Premises.
4. Fees
 - a. Licensee shall pay to the Licensor \$10.00 per animal per 24 hour period or any portion thereof to offset the utility and maintenance costs of the facility.
 - b. Licensor shall bill Licensee by written invoice on a monthly basis. Payment of such fees are due within 30 days of the date of the invoice.
 - c. Licensee shall retain the right to charge impound and/or daily care fees, at its sole discretion, to the owner of an animal placed in the Shelter and cared for by Licensee's staff, contractors, or other representatives. In such a case, Licensor shall not charge any such fees to the owner.
5. Terms and Termination
 - a. The term of this license ("Term") shall commence on [date], ("Commencement Date") and, unless sooner terminated as described herein, shall continue through [date].
 - b. Notwithstanding anything contained herein to the contrary, Licensor may terminate this License immediately in the event any circumstances which cause the Licensed Premises to become uninhabitable as an animal shelter, including but not limited to fire, flood, or other casualty, as determined by the Licensor in its sole discretion.
 - c. Either party may terminate this License for any reason upon 15 days prior written notice to the other party.
6. Insurance
 - a. The Licensee agrees to carry insurance with a licensed insurance company, acceptable to the Licensor. Such insurance shall name Licensor as an additional insured.
 - b. The policies shall include, at minimum, the coverage and limits as indicated below:
 - i. Commercial general liability insurance, written on an occurrence basis, and including contractual liability coverage to cover any liabilities assumed under this Agreement, for bodily or personal injury or death of persons or damage to property on or about the Licensed Premises. The limit to such liability insurance shall not be less than \$1 million per occurrence and \$3 million in the aggregate.
 - ii. Worker's compensation insurance as required by the laws of the Commonwealth of Massachusetts covering person employed by the Licensee.
 - iii. Automobile liability insurance, covering owned, hired and non-owned vehicles, combined single limit of \$2 million.
 - c. Prior to commencement of the term of the Agreement, the Licensee will provide to the Licensor certificates of insurance evidencing such coverage. Such insurance shall not be cancelled or modified without 30 days written notice to the Licensor.

7. Indemnification

To the extent provided by law, the Licensee agrees to indemnify and hold harmless the Licensor, respective servants, agents, employees, and representatives against any and all injury and expenses arising out of any act or omission of the Licensee or its servants, agents, employees, and representatives on or about the Licensed Premises.

8. Force Majeure

In no event shall the Licensor be liable to the Licensee for any indirect or consequential damages to the Licensee if the Licensee is delayed in or prevented from using the Licensed Premises as permitted under this Agreement by reason of any cause beyond the Licensor's reasonable control, including, without limitation, acts of God, strikes, lockouts, labor troubles, failure of power or other utility services, riots, insurrection, war, or the requirements of any regulations (herein "Force Majeure Events"). The failure of either party hereto to perform its obligations, covenants and agreements hereunder shall be excused during such period as the party failing to perform is unable to so perform by reason of Force Majeure Events.

9. Non-Assignment

The Licensee shall not assign or otherwise transfer this Agreement or any interest therein or permit any other person to use or occupy the Licensed Premises or any portion thereof except with the prior written consent of the Licensor, which consent the Licensor expressly reserves the right to withhold in its sole discretion. This Agreement shall be binding upon the parties' respective successors, assigns, and legal representatives.

10. Notices

Any notice required or permitted hereunder shall be in writing and shall be hand delivered or sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

If to the Licensor, to:

The Town of Lexington
Police Department
Attention: X
1575 Massachusetts Ave
Lexington, MA 02420

If to the Licensee, to:

The Town of _____
Department
Attention:
Street
Town, MA, ZIP

11. Other Conditions

- a. Licensee agrees to not harm the Licensed Premises, or commit or permit waste, or create any nuisance or disturbance, or make any use of the Licensed Premises other than the Permitted Use.
- b. During the Term of this Agreement, the Licensee shall comply in all material respects, at its own cost and expense, with all applicable laws, by-laws, ordinances, codes, rules,

regulations, orders and other lawful requirements of the governmental bodies having jurisdiction (“Regulations”), which are applicable to the Licensees’ particular use of the Licensed Premises or to the fixtures and equipment therein (including but not limited to the zoning code and other ordinances of Lexington, Massachusetts; Regulations governing hazardous substances or waste; and Regulations governing animal control) and the requirements of all policies of a public liability, fire and all other types of insurance at any time in force with respect to the Licensed Premises, or the Shelter and the fixtures and equipment therein.

- c. Licensors shall be responsible for all maintenance and repairs of the Licensed Premises and the surrounding grounds.
- d. The Licensee shall be solely responsible for the humane treatment of any animals placed in the Shelter by Licensees’ staff, contractors, or other representatives, approved by Licensors. Humane treatment includes feeding, watering, exercising, kennel cleaning, and veterinary care, if necessary. Licensee will also be required to provide for care, owner contact and discharge for all days during which an animal is placed by the Licensee in the Shelter, including weekends and holidays.
- e. Licensors and Licensee may agree to provide mutual aid in the form of weekend/holiday animal care and maintenance, animal pick-up and sheltering, emergency duty, or other services. Such aid will be provided based on determinations made by the individual Animal Control Officers for each party or their respective departments, and no such aid is presumed in this Revocable License Agreement.

12. Miscellaneous

- a. The failure of either the Licensee or Licensors to insist upon the strict performance of any provision of this Agreement shall not constitute a waiver of compliance with the remaining provisions of this Agreement.
- b. In the event any provision of this Agreement is found by a court of appropriate jurisdiction to be unlawful or invalid, the remainder of the Agreement shall remain and continue in full force and effect.
- c. This Agreement shall constitute the only agreement between the Licensee and the Licensors relative to the use of the Licensed Premises, and no oral statements and no prior written matter not specifically incorporated herein shall be of any force and effect. In entering into this Agreement, the Licensee relies solely upon the representations and agreements contained herein.
- d. By this Agreement, the Licensors grants the Licensee a license only. To the extent permitted by law, this Agreement does not create the relationship of landlord and tenant and is not subject to the laws of the Commonwealth of Massachusetts relating to leasing or the landlord-tenant relationship.
- e. This Agreement may be amended only by written agreement of both the Licensee and the Licensors.
- f. This Agreement is executed in three copies, each of which shall have the force and effect of any original.