

PRESIDENT
James M. Walsh, Esq.
COUNCILLORS AT LARGE
James S. Boone
Craig R. Cormier
Ronald F. Cormier
Scott Joseph Graves, Esq.
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CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL



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WARD 1 COUNCILLOR
James M. Walsh, Esq.

WARD 2 COUNCILLOR
Elizabeth J. Kazinskas

WARD 3 COUNCILLOR
Nathan R. Boudreau

WARD 4 COUNCILLOR
Karen G. Hardern

WARD 5 COUNCILLOR
Alek Dernalowicz, Esq.

March 30, 2020

FINANCE COMMITTEE MEETING NOTICE

Date: Wednesday, April 1, 2020
Time: 12:00 P.M.
Location: City Council Chamber, Room 219, City Hall

ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Chair, pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

SCHEDULE OF BUSINESS
(Agenda attached)

1. Acceptance/Corrections to Minutes of Prior Meeting(s).
2. Budget and Orders (Money orders, loan orders, revolving funds, other financial).
3. Appointments, vacancies and other personnel matters.
4. Ordinances and Acceptance of General Laws and Special Acts.
5. Authorizations Required by Statute (Contracts, Election Orders, Grants, etc.).
6. Land Acceptance, Disposal, Easements, etc.
7. Claims, Legal, Rules and Salaries.
8. Departmental Management and organizational matters.
9. Report from the Mayor on the State of the City.

NOTICE: The listing of Agenda items are those reasonably anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

CITY COUNCIL OF GARDNER

James M. Walsh, Esq.
JAMES M. WALSH, ESQ.
Chairman, Finance Committee

**CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE MEETING
Wednesday – April 1, 2020 – 12:00 PM
City Council Chamber - City Hall**

AGENDA

CALL TO ORDER

ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

- 1-1 Review and Approval of the March 11, 2020 Regular Meeting Minutes.

- 2-1 #10250, An Order Appropriating \$52,788.00 from Free Cash to FY2019 Firefighters Salary and Wages Account *(In City Council and Referred to Finance, 3/2/2020).*

- 2-2 #10251, An Order Appropriating \$54,818.67 from Free Cash to the Firefighters Salary and Wages Account *(In City Council and Referred to Finance, 3/2/2020).*

- 6-1 A Measure Authorizing an Eighth Amendment to the April 9, 1968 Lease Between the City and Henry Heywood Memorial Hospital *(Ref: Council Calendar No. 10119).*

- 6-2 A Measure Authorizing an Easement Relocation Agreement Between the City of Gardner and Massachusetts Electric Company *(Ref: Finance Committee Agenda Item No. 6-1).*

ADJOURNMENT

Items listed on the Agenda are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MARCH 11, 2020

The Finance Committee meeting was called to order by Council President James Walsh at 12:00 p.m. in the City Council Chamber, Room 219, City Hall. Finance Committee Members Councillors Ronald Cormier and Elizabeth Kazinskas were also present.

Others participating were Airport Commission Chairman Kenneth Bonk; Nikolas Ippolito, P.E., Gale Associates, Inc.; Purchasing Agent Joshua Cormier; City Auditor John Richard; and, City Clerk Alan Agnelli.

President Walsh asked if anyone present planned to record the meeting, in accordance with the requirements of the Open Meeting Law, as follows:

Any person may make a video or audio recording of the open session of this meeting so long as it does not interfere with the conduct of the meeting. All documents and exhibits used or referenced at this meeting shall be submitted in duplicate to the City Clerk, as they become part of the minutes of the meeting. Is there anyone present who will be recording this meeting?

No one responded.

1-1 Reading and Approval of Minutes of Prior Meeting.

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted to approve the Minutes of the January 29, 2020 Regular Meeting, as printed.

2-1 #10250, An Order Appropriating \$52,788.00 from Free Cash to FY2019 Firefighters Salary and Wages Account (In City Council and Referred to Finance, 3/2/2020).

Citing March 2, 2020 correspondence from City Solicitor John Flick, Council President and Acting Mayor James Walsh stated that the Solicitor questioned whether that, as Acting Mayor, he [Walsh] could execute the Collective Bargaining Agreement (“CBA”) negotiated by former Mayor Mark Hawke. President Walsh informed the Committee that he requested that the City Solicitor initiate legal proceedings to obtain judicial determination as to his ability to act on the Agreement.

Councillor Ronald Cormier questioned the amount of time that such a legal proceeding would take.

President Walsh stated that the Law Department would notify the Firefighters Union of the City’s pursuit of a judicial determination, noting that these are unusual circumstances and that any action as Acting Mayor is potentially subject to challenge. He added that the facts are not in dispute, but whether executing the CBA is considered “not admitting of delay.”

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted to request more time for study and report on the following Order:

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MARCH 11, 2020

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES FY2019 ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Fifty-Fifty-two Thousand Seven Hundred Eighty-eight and 33/100 (\$52,788.33) from Free Cash to the Fiscal 2019 Firefighters Salary and Wages Account.

2-2 #10251, An Order Appropriating \$54,818.67 from Free Cash to the Firefighters Salary and Wages Account (In City Council and Referred to Finance, 3/2/2020).

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted to request more time for study and report on the following Order:

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES ACCOUNT.

ORDER: That there be and is hereby appropriated the sum of Fifty-four Thousand Eight Hundred Eighteen and 67/100 (\$54,818.67) from Free Cash to the Firefighters Salary and Wages Account.

2-3 An Order Appropriating \$24,929.00 from Free Cash to Airport Professional Services.

Airport Commission Chairman Kenneth Bonk and Nikolas Ippolito, P.E., Gale Associates, Inc., the Airport's Project Consultant, outlined the Airport's T-Hangar project and noted that the City's share is \$51,778.75, \$26,250 of which was appropriated in FY2018 based on 2016 construction estimates.

President Walsh noted that the City's share represents 3.3% of the total project cost. He added that the State's share must be expended by June 30, 2020; therefore, he considers the Order a "matter not admitting of delay."

Ken Bonk noted that the 6 new hangars are expected to generate \$20,000 per year in income to the Airport, or \$300 per month for each unit, adding that there is a market for hangar space in the area.

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted to recommend to the City Council that the following Order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO AIRPORT PROFESSIONAL SERVICES.

ORDER: That there be and is hereby appropriated the sum of Twenty Four Thousand Nine Hundred Twenty-nine Dollars and No Cents (\$24,929.00) from Free Cash to Airport Professional Services.

CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE
MINUTES OF MEETING OF MARCH 11, 2020

6-1 A Measure Authorizing an Eighth Amendment to the April 9, 1968 Lease Between the City and Henry Heywood Memorial Hospital (Ref: Council Calendar No. 10119).

President Walsh stated that Atty. Phillips has communicated with the Hospital, but has not received a reply. The Committee postponed action until Attorney Phillips completes her research.

6-2 A Measure Authorizing an Easement Relocation Agreement Between the City of Gardner and Massachusetts Electric Company (Ref: Finance Committee Agenda No. 6-1).

President Walsh stated that Atty. Phillips has submitted proposed changes to National Grid, but that the process may take some time. The Committee postponed action until Attorney Phillips completes her research.

ADJOURNMENT

On a motion by Councillor Elizabeth Kazinskas and seconded by Councillor Ronald Cormier it was voted to adjourn at 12:15 p.m.

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS
SALARY AND WAGES FY2019 ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Fifty-two Thousand Seven Hundred Eighty-eight and 33/100 (\$52,788.33) from Free Cash to the Fiscal 2019 Firefighters Salary and Wages Account.

AN ORDER APPROPRIATING FROM FREE CASH TO FIREFIGHTERS SALARY AND WAGES ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Thirteen Thousand One Hundred Fifty-Nine and 74/100 (\$113,159.74) from Free Cash to the Firefighters Salary and Wages Account.

REVISED



CITY of GARDNER
Office of the City Auditor

John Richard, City Auditor
95 Pleasant Street, Room 114
Gardner, MA 01440
Phone: 978-632-1900 ext. 8020 • Fax: 978-630-3778
Email: jrichard@gardner-ma.gov

Date: 03/19/2020

To: Acting Mayor James M. Walsh

Re: Revise Free Cash requested amount for Fire Fighters FY20 Retro Payment.

My initial estimated FY20 retro payment calculation only accounted for a 2% rate increase for FY20 and should have been 4%. The new estimated amount needed is **\$113,159.74** which I have attached a detailed calculation. In the new estimate I used FY19 hours worked for each employee with current rates paid vs FY20 new contract rates. I apologize for the oversight.

Sincerely

John Richard
City Auditor

FIREFIGHTERS FY20 RETRO PAY FROM 7-1-19 THRU 6-30-20 ESTIMATE

Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
137	100	REG	4	3	\$ 22.7824	\$ 23.7029	\$ 0.92	2,184.0	\$ 2,010.28
137	200	REG OT 1.5	4	3	\$ 34.4483	\$ 35.8290	\$ 1.38	327.5	\$ 452.18
137	205	REG OT AMB	4	3	\$ 34.4483	\$ 35.8290	\$ 1.38	134.0	\$ 185.02
137	500	HOLIDAY	4	3	\$ 4,809.14	\$ 5,001.50	\$ 192.37	1.0	\$ 192.37
138	100	REG	4	3	\$ 22.7824	\$ 23.7029	\$ 0.92	2,184.0	\$ 2,010.32
138	200	REG OT 1.5	4	3	\$ 35.6846	\$ 37.0653	\$ 1.38	178.5	\$ 246.46
138	500	HOLIDAY	4	3	\$ 4,809.14	\$ 5,001.50	\$ 192.37	1.0	\$ 192.37
138	725	COLLATERAL	4	3	\$ 0.6256	\$ 0.6506	\$ 0.03	28.5	\$ 0.71
491	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	84.0	\$ 74.34
491	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	462.0	\$ 408.87
491	105	REG AMB	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	1,638.0	\$ 1,449.63
491	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	436.5	\$ 579.45
491	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	200.5	\$ 266.16
491	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	72.0	\$ 95.58
491	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	34.0	\$ 45.13
491	500	HOLIDAY	4	3	\$ 4,506.18	\$ 4,686.42	\$ 180.25	1.0	\$ 180.25
491	540	EDUC INCENTIVE	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	63.0	\$ 55.75
491	725	COLLATERAL	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	81.0	\$ 107.53
491	725	COLLATERAL	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	57.0	\$ 75.67
494	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	273.0	\$ 241.60
494	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	147.0	\$ 130.10
494	105	REG AMB	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	1,764.0	\$ 1,561.14
494	200	REG OT 1.5	4	3	\$ 32.9981	\$ 34.3256	\$ 1.33	316.0	\$ 419.49
494	200	REG OT 1.5	4	3	\$ 32.9981	\$ 34.3256	\$ 1.33	64.0	\$ 84.96
494	205	REG OT AMB	4	3	\$ 32.9981	\$ 34.3256	\$ 1.33	51.0	\$ 67.70
494	500	HOLIDAY	4	3	\$ 4,438.86	\$ 4,616.41	\$ 177.55	1.0	\$ 177.55
611	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	1,281.0	\$ 1,133.69
611	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	903.0	\$ 799.15
611	200	REG OT 1.5	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	61.0	\$ 80.98
611	200	REG OT 1.5	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	100.0	\$ 132.75
611	205	REG OT AMB	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	33.5	\$ 44.47
611	205	REG OT AMB	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	20.0	\$ 26.55
611	500	HOLIDAY	4	2	\$ 4,199.74	\$ 4,367.73	\$ 167.99	1.0	\$ 167.99
612	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	1,281.0	\$ 1,133.69
612	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	903.0	\$ 799.15
612	200	REG OT 1.5	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	120.5	\$ 159.96
612	200	REG OT 1.5	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	213.0	\$ 282.76
612	205	REG OT AMB	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	88.0	\$ 116.82
612	205	REG OT AMB	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	188.0	\$ 249.57
612	500	HOLIDAY	4	2	\$ 4,199.74	\$ 4,367.73	\$ 167.99	1.0	\$ 167.99
613	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	1,281.0	\$ 1,133.69
613	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	903.0	\$ 799.15
613	200	REG OT 1.5	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	235.0	\$ 311.96
613	200	REG OT 1.5	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	193.0	\$ 256.21
613	205	REG OT AMB	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	130.5	\$ 173.24
613	205	REG OT AMB	4	2	\$ 33.1354	\$ 34.4629	\$ 1.33	69.3	\$ 91.93
613	500	HOLIDAY	4	2	\$ 4,199.74	\$ 4,367.73	\$ 167.99	1.0	\$ 167.99
621	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	1,359.0	\$ 1,202.72
621	105	REG AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	819.0	\$ 724.81
621	150	INJ PAY AMB	4	2	\$ 21.9071	\$ 22.7921	\$ 0.88	6.0	\$ 5.31

Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
621	200	REG OT 1.5	4	2	\$ 32.9981	\$ 34.3256	\$ 1.33	54.0	\$ 71.69
621	200	REG OT 1.5	4	2	\$ 32.9981	\$ 34.3256	\$ 1.33	98.0	\$ 130.10
621	205	REG OT AMB	4	2	\$ 32.9981	\$ 34.3256	\$ 1.33	54.0	\$ 71.69
621	205	REG OT AMB	4	2	\$ 32.9981	\$ 34.3256	\$ 1.33	48.0	\$ 63.72
621	500	HOLIDAY	4	2	\$ 4,199.74	\$ 4,367.73	\$ 167.99	1.0	\$ 167.99
790	105	REG AMB	4	1	\$ 18.7226	\$ 19.4790	\$ 0.76	2,184.0	\$ 1,652.04
790	200	REG OT 1.5	4	1	\$ 28.0839	\$ 29.2186	\$ 1.13	200.0	\$ 226.93
790	205	REG OT AMB	4	1	\$ 28.0839	\$ 29.2186	\$ 1.13	200.0	\$ 226.93
790	500	HOLIDAY	4	1	\$ 4,080.00	\$ 4,243.20	\$ 163.20	1.0	\$ 163.20
885	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	399.0	\$ 353.11
885	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	2,184.0	\$ 1,932.84
885	150	INJ PAY AMB	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	-	\$ -
885	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	82.0	\$ 108.85
885	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	14.0	\$ 18.58
885	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	10.0	\$ 13.27
885	500	HOLIDAY	4	3	\$ 4,775.48	\$ 4,966.50	\$ 191.02	1.0	\$ 191.02
885	540	EDU INC	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	46.0	\$ 40.71
885	725	COLLATERAL	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	9.0	\$ 11.95
885	725	COLLATERAL	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	2.0	\$ 2.65
969	105	REG AMB	4	1	\$ 20.2202	\$ 21.0371	\$ 0.82	2,184.0	\$ 1,784.12
969	200	REG OT 1.5	4	1	\$ 30.3304	\$ 31.5557	\$ 1.23	380.0	\$ 465.64
969	500	HOLIDAY	4	1	\$ 4,080.00	\$ 4,243.20	\$ 163.20	1.0	\$ 163.20
1180	100	REG	5	5	\$ 33.2036	\$ 34.5448	\$ 1.34	1,953.0	\$ 2,619.35
1180	100	REG	5	5	\$ 33.2036	\$ 34.5448	\$ 1.34	231.0	\$ 309.82
1180	200	REG OT 1.5	5	5	\$ 51.4537	\$ 53.4655	\$ 2.01	246.0	\$ 494.90
1180	200	REG OT 1.5	5	5	\$ 51.4537	\$ 53.4655	\$ 2.01	41.0	\$ 82.48
1180	205	REG OT AMB	5	5	\$ 51.4537	\$ 53.4655	\$ 2.01	4.0	\$ 8.05
1180	500	HOLIDAY	5	5	\$ 7,034.08	\$ 7,315.45	\$ 281.36	1.0	\$ 281.36
1668	100	REG	5	3	\$ 30.7171	\$ 31.9581	\$ 1.24	2,184.0	\$ 2,710.24
1668	200	REG OT 1.5	5	3	\$ 47.4493	\$ 49.3108	\$ 1.86	229.8	\$ 427.66
1668	500	HOLIDAY	5	3	\$ 6,743.13	\$ 7,012.85	\$ 269.73	1.0	\$ 269.73
1668	540	EDUC INCENTIVE	5	3	\$ 30.7171	\$ 31.9581	\$ 1.24	21.0	\$ 26.06
1790	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	399.0	\$ 353.11
1790	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	1,785.0	\$ 1,579.73
1790	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	38.0	\$ 50.44
1790	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	183.5	\$ 243.60
1790	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	32.0	\$ 42.48
1790	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	126.0	\$ 167.26
1790	500	HOLIDAY	4	3	\$ 4,775.48	\$ 4,966.50	\$ 191.02	1.0	\$ 191.02
2147	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	693.0	\$ 613.30
2147	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	1,491.0	\$ 1,319.54
2147	200	REG OT 1.5	4	3	\$ 34.5091	\$ 35.8366	\$ 1.33	182.0	\$ 241.60
2147	200	REG OT 1.5	4	3	\$ 34.5091	\$ 35.8366	\$ 1.33	274.0	\$ 363.73
2147	205	REG OT AMB	4	3	\$ 34.5091	\$ 35.8366	\$ 1.33	82.5	\$ 109.52
2147	205	REG OT AMB	4	3	\$ 34.5091	\$ 35.8366	\$ 1.33	172.5	\$ 228.99
2147	500	HOLIDAY	4	3	\$ 4,741.82	\$ 4,931.49	\$ 189.67	1.0	\$ 189.67
2735	100	REG	4	5	\$ 23.6740	\$ 24.6307	\$ 0.96	2,184.0	\$ 2,089.36
2735	200	REG OT 1.5	4	5	\$ 35.6484	\$ 37.0834	\$ 1.44	158.0	\$ 226.73
2735	500	HOLIDAY	4	5	\$ 5,197.01	\$ 5,404.89	\$ 207.88	1.0	\$ 207.88
2735	530	OUT OF GRADE	4	5	\$ 12.0800	\$ 12.56	\$ 0.48	1.0	\$ 0.48
2805	100	REG	4	5	\$ 23.6740	\$ 24.6307	\$ 0.96	2,184.0	\$ 2,089.36
2805	200	REG OT 1.5	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	1,454.3	\$ 2,086.85
2805	205	REG OT AMB	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	55.0	\$ 78.93

Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
2805	500	HOLIDAY	4	5	\$ 5,197.01	\$ 5,404.89	\$ 207.88	1.0	\$ 207.88
2805	522	TRAINOR STIPH	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	3.0	\$ 4.31
2805	530	OUT OF GRADE	4	5	\$ 95.73	\$ 99.56	\$ 3.83	1.0	\$ 3.83
2805	540	EDUC INCENTIVE	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	4.0	\$ 5.74
2805	725	COLLATERAL	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	497.8	\$ 714.27
2807	100	REG	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	2,184.0	\$ 2,010.32
2807	200	REG OT 1.5	4	4	\$ 35.8219	\$ 37.2026	\$ 1.38	364.0	\$ 502.58
2807	205	REG OT AMB	4	4	\$ 35.8219	\$ 37.2026	\$ 1.38	106.0	\$ 146.36
2807	500	HOLIDAY	4	4	\$ 5,001.27	\$ 5,201.33	\$ 200.05	1.0	\$ 200.05
2807	530	OUT OF GRADE	4	4	\$ 446.89	\$ 464.77	\$ 17.88	1.0	\$ 17.88
2807	725	COLLATERAL	4	4	\$ 35.8219	\$ 37.2026	\$ 1.38	44.0	\$ 60.75
2815	100	REG	4	5	\$ 23.6740	\$ 24.6307	\$ 0.96	2,184.0	\$ 2,089.36
2815	200	REG OT 1.5	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	447.0	\$ 641.45
2815	205	REG OT AMB	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	3.0	\$ 4.31
2815	500	HOLIDAY	4	5	\$ 5,197.01	\$ 5,404.89	\$ 207.88	1.0	\$ 207.88
2815	530	OUT OF GRADE	4	5	\$ 1,193.58	\$ 1,253.26	\$ 59.68	1.0	\$ 59.68
2815	725	COLLATERAL	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	34.0	\$ 48.79
2834	100	REG	4	4	\$ 23.6740	\$ 24.6307	\$ 0.96	2,184.0	\$ 2,089.36
2834	200	REG OT 1.5	4	4	\$ 35.7858	\$ 37.2208	\$ 1.44	240.0	\$ 344.40
2834	205	REG OT AMB	4	4	\$ 35.7858	\$ 37.2208	\$ 1.44	27.0	\$ 38.75
2834	500	HOLIDAY	4	4	\$ 5,001.27	\$ 5,201.33	\$ 200.05	1.0	\$ 200.05
2834	530	OUT OF GRADE	4	4	\$ 65.75	\$ 68.38	\$ 2.63	1.0	\$ 2.63
2875	100	REG	4	5	\$ 23.6740	\$ 24.6307	\$ 0.96	2,184.0	\$ 2,089.36
2875	200	REG OT 1.5	4	5	\$ 35.7858	\$ 37.2208	\$ 1.44	223.8	\$ 321.08
2875	500	HOLIDAY	4	5	\$ 5,197.01	\$ 5,404.89	\$ 207.88	1.0	\$ 207.88
2875	530	OUT OF GRADE	4	5	\$ 95.73	\$ 99.56	\$ 3.83	1.0	\$ 3.83
2911	100	REG	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	2,184.0	\$ 2,010.32
2911	200	REG OT 1.5	4	4	\$ 35.8219	\$ 37.2026	\$ 1.38	52.0	\$ 71.80
2911	500	HOLIDAY	4	4	\$ 5,001.27	\$ 5,201.33	\$ 200.05	1.0	\$ 200.05
2911	530	OUT OF GRADE	4	4	\$ 65.75	\$ 68.38	\$ 2.63	1.0	\$ 2.63
2911	540	EDUC INCENTIVE	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	161.5	\$ 148.66
2911	725	COLLATERAL	4	4	\$ 35.8219	\$ 37.2026	\$ 1.38	153.0	\$ 211.25
2922	100	REG	5	2	\$ 29.5545	\$ 30.7486	\$ 1.19	2,184.0	\$ 2,607.80
2922	200	REG OT 1.5	5	2	\$ 45.9801	\$ 47.7712	\$ 1.79	174.5	\$ 312.54
2922	205	REG OT AMB	5	2	\$ 45.9801	\$ 47.7712	\$ 1.79	28.0	\$ 50.15
2922	500	HOLIDAY	5	2	\$ 6,487.89	\$ 6,747.41	\$ 259.52	1.0	\$ 259.52
2922	540	EDUC INCENTIVE	5	2	\$ 29.5545	\$ 30.7486	\$ 1.19	12.5	\$ 14.93
2922	725	COLLATERAL	5	2	\$ 45.9801	\$ 47.7712	\$ 1.79	393.0	\$ 703.89
2923	100	REG	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	1,008.0	\$ 927.84
2923	100	REG	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	1,176.0	\$ 1,082.48
2923	200	REG OT 1.5	4	4	\$ 37.1955	\$ 38.5763	\$ 1.38	150.0	\$ 207.11
2923	200	REG OT 1.5	4	4	\$ 37.1955	\$ 38.5763	\$ 1.38	226.5	\$ 312.73
2923	205	REG OT AMB	4	4	\$ 37.1955	\$ 38.5763	\$ 1.38	41.0	\$ 56.61
2923	205	REG OT AMB	4	4	\$ 37.1955	\$ 38.5763	\$ 1.38	42.0	\$ 57.99
2923	500	HOLIDAY	4	4	\$ 4,896.47	\$ 5,092.33	\$ 195.86	1.0	\$ 195.86
2924	100	REG	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	1,008.0	\$ 927.84
2924	100	REG	4	4	\$ 22.7824	\$ 23.7029	\$ 0.92	1,166.0	\$ 1,073.28
2924	200	REG OT 1.5	4	4	\$ 34.4483	\$ 35.8290	\$ 1.38	208.5	\$ 287.88
2924	200	REG OT 1.5	4	4	\$ 34.4483	\$ 35.8290	\$ 1.38	59.0	\$ 81.46
2924	205	REG OT AMB	4	4	\$ 34.4483	\$ 35.8290	\$ 1.38	39.0	\$ 53.85
2924	205	REG OT AMB	4	4	\$ 34.4483	\$ 35.8290	\$ 1.38	58.0	\$ 80.08
2924	500	HOLIDAY	4	4	\$ 4,896.47	\$ 5,092.33	\$ 195.86	1.0	\$ 195.86
3125	100	REG	4	5	\$ 23.6740	\$ 24.6307	\$ 0.96	2,184.0	\$ 2,089.36

Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
3125	200	REG OT 1.5	4	5	\$ 37.1594	38.5944	\$ 1.44	184.0	\$ 264.04
3125	205	REG OT AMB	4	5	\$ 37.1594	38.5944	\$ 1.44	106.0	\$ 152.11
3125	500	HOLIDAY	4	5	\$ 5,197.01	\$ 5,404.89	\$ 207.88	1.0	\$ 207.88
3125	509	OUT OF GRADE	4	5	\$ 211.98	\$ 220.46	\$ 8.48	1.0	\$ 8.48
3170	100	REG	6	5	\$ 35.9293	\$ 37.3807	\$ 1.45	2,184.0	\$ 3,169.92
3170	200	REG OT 1.5	6	5	\$ 56.6412	\$ 58.8183	\$ 2.18	79.5	\$ 173.08
3170	500	HOLIDAY	6	5	\$ 7,886.82	\$ 8,202.30	\$ 315.47	1.0	\$ 315.47
3170	530	OUT OF GRADE	6	5	\$ 1,121.24	\$ 1,166.09	\$ 44.85	1.0	\$ 44.85
3170	600	SICK INCENTIVE	6	5	\$ 1,342.99	\$ 1,396.71	\$ 53.72	1.0	\$ 53.72
3360	100	REG	5	4	\$ 33.2036	\$ 34.5448	\$ 1.34	2,184.0	\$ 2,929.16
3360	200	REG OT 1.5	5	4	\$ 49.8054	\$ 51.8171	\$ 2.01	390.5	\$ 785.60
3360	205	REG OT AMB	5	4	\$ 49.8054	\$ 51.8171	\$ 2.01	5.5	\$ 11.06
3360	500	HOLIDAY	5	4	\$ 7,008.59	\$ 7,288.94	\$ 280.34	1.0	\$ 280.34
3360	540	EDUC INCENTIVE	5	4	\$ 33.2036	\$ 34.5448	\$ 1.34	60.5	\$ 81.14
3360	725	COLLATERAL	5	4	\$ 49.8054	\$ 51.8171	\$ 2.01	75.0	\$ 150.88
3444	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	2,184.0	\$ 1,932.84
3444	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	213.8	\$ 283.75
3444	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	19.0	\$ 25.22
3444	500	HOLIDAY	4	3	\$ 4,809.14	\$ 5,001.50	\$ 192.37	1.0	\$ 192.37
3444	725	COLLATERAL	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	266.5	\$ 353.78
3446	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	2,101.0	\$ 1,859.39
3446	150	INJ PAY	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	20.0	\$ 17.70
3446	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	160.0	\$ 212.40
3446	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	18.0	\$ 23.89
3446	500	HOLIDAY	4	3	\$ 4,809.14	\$ 5,001.50	\$ 192.37	1.0	\$ 192.37
3449	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	2,184.0	\$ 1,932.84
3449	200	REG OT 1.5	4	3	\$ 32.9981	\$ 34.3256	\$ 1.33	387.0	\$ 513.74
3449	205	REG OT AMB	4	3	\$ 32.9981	\$ 34.3256	\$ 1.33	84.0	\$ 111.51
3449	500	HOLIDAY	4	3	\$ 4,809.14	\$ 5,001.50	\$ 192.37	1.0	\$ 192.37
3449	522	TRAINOR STIPH	4	3	\$ 32.9981	\$ 34.3256	\$ 1.33	10.0	\$ 13.28
3640	100	REG	5	4	\$ 31.9264	\$ 33.2162	\$ 1.29	2,184.0	\$ 2,816.84
3640	200	REG OT 1.5	5	4	\$ 49.5380	\$ 51.4726	\$ 1.93	66.0	\$ 127.69
3640	500	HOLIDAY	5	4	\$ 6,743.13	\$ 7,012.85	\$ 269.73	1.0	\$ 269.73
3640	725	COLLATERAL	5	4	\$ 49.5380	\$ 51.4726	\$ 1.93	669.0	\$ 1,294.28
3645	100	REG	5	4	\$ 31.9264	\$ 33.2162	\$ 1.29	2,184.0	\$ 2,816.84
3645	200	REG OT 1.5	5	4	\$ 49.5380	\$ 51.4726	\$ 1.93	365.0	\$ 706.14
3645	205	REG OT AMB	5	4	\$ 49.5380	\$ 51.4726	\$ 1.93	31.0	\$ 59.97
3645	500	HOLIDAY	5	4	\$ 6,743.13	\$ 7,012.85	\$ 269.73	1.0	\$ 269.73
4786	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	399.0	\$ 353.11
4786	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	1,785.0	\$ 1,579.73
4786	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	10.0	\$ 13.27
4786	200	REG OT 1.5	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	44.0	\$ 58.41
4786	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	14.0	\$ 18.58
4786	205	REG OT AMB	4	3	\$ 33.1354	\$ 34.4629	\$ 1.33	14.0	\$ 18.58
4786	500	HOLIDAY	4	3	\$ 4,775.48	\$ 4,966.50	\$ 191.02	1.0	\$ 191.02
5992	105	REG AMB	4	1	\$ 18.72	\$ 19.48	\$ 0.76	1,680.0	\$ 1,270.80
5992	205	REG OT AMB	4	1	\$ 28.08	\$ 29.22	\$ 1.13	180.0	\$ 204.24
5992	500	HOLIDAY	4	1	\$ 3,509.20	\$ 3,649.57	\$ 140.37	1.0	\$ 140.37
6774	105	REG AMB	4	1	\$ 18.72	\$ 19.48	\$ 0.76	1,680.0	\$ 1,270.80
6774	205	REG OT AMB	4	1	\$ 28.08	\$ 29.22	\$ 1.13	100.0	\$ 113.46
6774	500	HOLIDAY	4	1	\$ 3,509.20	\$ 3,649.57	\$ 140.37	1.0	\$ 140.37
7600	100	REG	4	6	\$ 24.6019	\$ 25.5957	\$ 0.99	2,184.0	\$ 2,170.48
7600	200	REG OT 1.5	4	6	\$ 37.1776	\$ 38.6683	\$ 1.49	400.5	\$ 597.03

Emp #	Pay	Desc	Grade	Step	Old Rate	New Rate	Diff	Hrs	Amount
7600	205	REG OT AMB	4	6	\$ 37.1776	\$ 38.6683	\$ 1.49	14.0	\$ 20.87
7600	500	HOLIDAY	4	6	\$ 5,400.68	\$ 5,616.70	\$ 216.03	1.0	\$ 216.03
7600	530	OUT OF GRADE	4	6	\$ 993.48	\$ 1,033.22	\$ 39.74	1.0	\$ 39.74
8096	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	399.0	\$ 353.11
8096	100	REG	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	1,785.0	\$ 1,579.73
8096	200	REG OT 1.5	4	3	\$ 32.0407	\$ 32.9981	\$ 0.96	104.5	\$ 100.04
8096	205	REG OT AMB	4	3	\$ 32.0407	\$ 32.9981	\$ 0.96	25.5	\$ 24.41
8096	500	HOLIDAY	4	3	\$ 4,775.48	\$ 4,966.50	\$ 191.02	1.0	\$ 191.02
8096	540	EDUC INCENTIVE	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	5.0	\$ 4.42
8096	540	EDUC INCENTIVE	4	3	\$ 21.9071	\$ 22.7921	\$ 0.88	33.5	\$ 29.65
8096	725	COLLATERAL	4	3	\$ 32.0407	\$ 32.9981	\$ 0.96	74.0	\$ 70.84
8306	105	REG AMB	4	2	\$ 20.2202	\$ 21.0371	\$ 0.82	2,184.0	\$ 1,784.12
8306	200	REG OT 1.5	4	2	\$ 30.4677	\$ 31.6931	\$ 1.23	100.0	\$ 122.54
8306	500	HOLIDAY	4	2	\$ 3,509.20	\$ 3,649.57	\$ 140.37	1.0	\$ 140.37
8306	540	EDUC INCENTIVE	4	2	\$ 20.2202	\$ 21.0371	\$ 0.82	16.0	\$ 13.07

ESTIMATE FY20 FIREFIGHTS RETO PAY	
TOTAL	\$ 113,159.74

10250-10251

City of Gardner, *Executive Department*

James M. Walsh, Acting Mayor

RECEIVED



2020 FEB 26 PM 2:57

CITY CLERK'S OFFICE
GARDNER, MA

February 26, 2020

City Council
Gardner City Hall
95 Pleasant Street
Gardner, MA 01440

RE: *Firefighters Contract Funding*

Dear Council Members,

With this correspondence, I am submitting a money order in the amount of \$107,607.00 from Free Cash to fund the recently negotiated contract between the City and the Firefighter's Union through June 30, 2020. Also included is correspondence from the City Auditor identifying the specific amount necessary to fund the contract.

This contract was negotiated and entered into in mid-December. I have asked the City's negotiating team, which included the City Solicitor and the Human Resources Director, to provide me with additional information about the negotiations that led to the contract as well as legal and factual justification which would authorize me, as Acting Mayor, to finalize the deal. I have also enclosed a copy of my correspondence to the team requesting that information.

Until such time I receive that additional information and am satisfied of my authority to act further, I recommend that the money order be referred to the Finance Committee.

Please feel free to contact me, if you have further questions about this topic.

Very truly yours,

James M. Walsh
Acting Mayor

City of Gardner, *Executive Department*



James M. Walsh, Acting Mayor

February 24, 2020

Attorney John Flick, City Solicitor &
Debra Pond, Director of Personnel
144 Central Street
Gardner, MA 01440

Good Morning,

I have been asked, as Acting Mayor, to sign off on the recently negotiated contract with the Firefighters Union. Since I have not been involved with negotiating that contract and am limited in my authority, I ask that you provide me with the following:

1. As I understand it, the proposed contract covers the period from July 1, 2018 through June 30, 2021. Please provide me with a history of contract negotiations. Please also include a summary of any material changes from the existing contract, and of any state agency involvement and the binding effect, if any, of that involvement. I'd also appreciate a listing of all participants in each negotiating team.
2. As you know, as Acting Mayor, my authority is limited to matters "not admitting of delay". Please provide any factual basis which would justify my execution of this contract rather than deferring it to evaluation and consideration by the newly elected Mayor in mid-May 2020.

Depending on the content of your reply, I may have additional questions.

Thank you for your prompt consideration of this request.

Very truly yours,

James M. Walsh
Acting Mayor

JMW/rjs

cc: John Richard

2-1-2-2

CITY OF GARDNER LAW DEPARTMENT

John M. Flick
City Solicitor

Priya Gandbhir
Assistant City Solicitor

March 2, 2020



Writer's Email:

144 Central Street, Suite 201
Gardner, MA 01440

Telephone (978) 632-7948
Fax (978) 630-3703

VIA HAND DELIVERY

James M. Walsh, Esq.
Acting Mayor
City of Gardner
95 Pleasant Street
Gardner, MA 01440



Re: Fire Department Negotiations Timeline:

Dear Acting Mayor Walsh:

As requested, I am responding to your request for detailed information regarding the City's negotiations with the Gardner Fire Fighters, Local 2215 (the "Union"). In response to your request Debra Pond, the City's Human Resources Director prepared the following history of the negotiations for the June 2018 to June 2021 collective bargaining agreement (the "CBA").

In 2016 Mayor Mark Hawke negotiated an impact bargaining agreement with the Union without the assistance of Ms. Pond or legal counsel. This negotiation resulted in an agreement with the Union containing specific ambulance related language and the following wage terms.

- Ambulance Agreement (negotiations with Mayor, Steve Roy, Robert Jacques and Anthony Alario) – signed on 05/12/2016.
 - Included the following wage increases for EMT's:
 - ✓ 01/01/2017 – 1%
 - ✓ 07/01/2018 – 2%
 - ✓ 07/01/2019 – 3%
 - ✓ \$1.00 ambulance stipend

Upon information and belief, the Mayor had initially proposed the above wage increases only for those employees of the Fire Department who physically worked on the ambulance. The Union countered arguing that the delivery of ambulance services increased the work of all Firefighters, therefore the wage increase should apply to all. Since all Firefighters are required to be EMT's these wage increases were applied to all Firefighters. It was the Mayor's position that these were pre-negotiated pay increases for the FY19 and FY20.

Thereafter, the Union presented proposals for 07/01/2017 – 06/30/2020 Contract negotiations. The Mayor reviewed and assigned Debra Pond as the City's representative to negotiate the terms of this CBA. In its proposal, the Union requested a 7% increase for each year of the contract, FY18, FY19 and FY20. Several meetings were held and included Steve Roy, Matt Bettez, Greg Doyle and Debra Pond. Since the end of FY18 was fast approaching The City and Union agreed to a one-year contract with a 2% increase for FY18, a CBA duration of 07/01/2017 to 06/30/2018, and certain benefit pro-rations. A Memorandum of Agreement was signed on 06/26/2018.

The next round of negotiations commenced in September 2018 to negotiate the July 1, 2018 through June 30, 2021 CBA. The series of meetings proceeded as follows:

- 09/16/2018 – Negotiation meeting with Steve Roy, Mark Bettez, Greg Doyle and Debra Pond. Discussions involved previous original proposals that were not resolved or included in the one year CBA.
- 11/28/2018 - Provided Union with formal proposal and counter-proposal document. City held to pre-negotiated raises for FY19 and FY20.
- Union had a transition in members on negotiation/executive board.
- 01/08/2019 – The City re-sent proposal document to Union and requested meeting dates.
- 02/04/2019 – Union met (with the body) to discuss City proposals.
- 02/08/2019 – City requested negotiation dates.
- 02/13/2019 – Union confirmed meeting and informed City that they were collecting dates to meet for further negotiations.
- 02/19/2019 – Union sent counter-proposals and meeting dates. In addition to language changes and requests for more time off, Union requested in addition to the increased negotiated in the ambulance agreement FY19 – 2% + 15 year step added at 5%; FY20 – 1%; FY21 – 2%; and an increase in ambulance stipend from \$1.00 to \$3.00.
- 03/13/2019 – City sent response/counter-proposals to Union prior to negotiation meeting.
- 03/15/2019 – Negotiation meeting – Jeremy Salo, Greg Doyle, Mark Bettez, Mayor Hawke & Debra Pond
- 03/28/2019 – Negotiation meeting – Jeremy Salo, Greg Doyle, Mark Bettez, Mayor Hawke & Debra Pond. Agreed upon all items with the exception of wages and ambulance stipend. City offered two different wage proposals. One included no other increase for FY19 or FY20 (other than pre-negotiated increases), with an increase in the ambulance stipend and for FY21 the addition of a 15 year step at 4% and a 2% increase; the second included no increase in ambulance stipend and an additional .5% the first two years of the contract. FY21 the addition of a 15 year step at 4% and a 2% increase.
- 04/16/2019 – Union notified City that proposals were presented to Union body and requested another negotiation meeting.
- 04/26/2019 – Negotiation meeting – Jeremy Salo, Mark Bettez, Mayor Hawke & Debra Pond. Union informed City that City's wage proposals for FY19 and FY20 were both rejected. Last negotiation meeting attended by Mayor.
- 04/26/2019 – Received additional wage proposal from Jeremy Salo via email with the following for FY19 – an additional 1%; FY20 – an additional 1%, plus additional \$1.00 for ambulance stipend; FY21 the addition of a 15 year step at 4% and a 2% increase.

- 05/03/2019 – Debra Pond informed Jeremy Salo via email that new wage proposal was rejected and that the proposals made by the Mayor in the 04/26/2019 negotiation meeting were the City’s best and final.
- 06/03/2019 – Debra Pond sent reminder to the Union that the fiscal year end was fast approaching (for contract completion purposes).
- 06/04/2019 – Union requested another meeting via email.
- 06/10/2019 – Debra Pond emailed Union (included Mayor on email) and sent another counter-proposal for wages adding an additional .5% but also requesting some “give backs.”
- 06/20/2019 – Union declined City proposals and provided a counter-proposal.
- 06/20/2019 – Debra Pond responded informing Union that counter-proposals put City and Union even further apart.
- 07/18/2019 – Union filed petition with the JLMC.
- 08/02/2019 – Union sent City request for documents.
- 08/12/2019 – Investigative Committee Level Mediation at City Hall with Robert Dickson, Daniel Morgado, Priya Gandbhir, Mayor Hawke and Debra Pond. No progress.
- 09/17/2019 – Second meeting Investigative Committee Level Mediation with Robert Dickson, Daniel Morgado, John Flick, Priya Gandbhir, Mayor Hawke and Debra Pond. No progress.
- 11/07/2019 – Third and final meeting Investigative Committee Level Mediation with Robert Dickson, Daniel Morgado, John Flick, and Debra Pond. City made two offers (an additional .5% in the first two years of the contract; second proposal was an additional 1% for the first two years of the contract and Union declined. Move to formal mediation.
- 11/26/2019 – Mayor Hawke’s last actual physical day in City Hall. Also HR Administrative Coordinator’s last day with the City HR Department (position vacant for 2 months).
- 12/16/2019 – Mediation – 3(a) Hearing in Boston. Debra Pond and John Flick. Memorandum of Agreement (“MOA”) reached and executed.

The final City Council meeting of 2019 was held on December 16, 2019. Whereas 2019 was an election year for the City’s government, this final Council meeting of 2019 was the final meeting of this Council as there were three new councilors elected to the City Council. It was also expected that Mayor Hawke would be resigning from office although his planned date of resignation was not known. Nevertheless, the City continued to work with the Union to complete the process of establishing the CBA as negotiated. The progress was as follows:

- 12/19/2019 (@9:14 PM) – Union (Jeremy Salo) sent email to Debra Pond informing City that Union voted to ratify the MOA. *(12/19/2019 email was received long after closing hours for City Hall. Email was viewed on Friday.)*
- 12/20/2019 (@1:49 PM) – Union (Jeremy Salo) sent email to Debra Pond informing City that Union voted to ratify the MOA. *(Time frame after receipt of email included half day and full days of closing due to holidays.)*

Following the ratification the MOA by the Union, the progression of the CBA to final approval is as follows:

- 01/03/2020 – Debra Pond completed contract document changes and sent them to John Flick and Mayor Hawke for review.

Mayor Hawke and the members of the new City Council were sworn into a new term of office on January 6, 2020. It was expected that Mayor Hawke would resign imminently as he had accepted a position as Town Administrator in Westminister, MA. January 6, 2020 was also the inaugural meeting of the new City Council. The only order of business before the City Council was the election of a Council President.

- 01/13/2020 – Received communication from Dan Morgado inquiring on status.
- 01/13/2020 – Debra Pond emailed John Flick and Mayor Hawke regarding status of the contract review.
- 01/13/2020 – John Flick responded via email that contract document looked good.
- 01/17/2020 – After no response from Mayor Hawke on the status of contract review, Debra Pond spoke with John Flick and they decided to forward the documents to the Union for final review.
- 01/17/2020 – Contract with changes marked was sent to Union (Jeremy Salo) with wage schedule via email.

The next regular meeting of the City Council was Tuesday January 21, 2020. Mayor Hawke resigned that same day effective at 4:30 PM. The City Council convened at their normally scheduled time of 7:30 PM. At the time of the Council meeting Gardner had no Mayor. City Council President James Walsh, thereafter, assumed the duties of Acting Mayor.

Following the resignation of Mayor Hawke, discussions with the Union continued in order to reach a final agreement, as follows.

- 01/24/2020 (@ 3:11 PM – after City Hall closed) – Received email from Union with issues requiring review, which included minor language changes. Also notified City that there was a change in one Union officer: Matthew Bettez replaced Greg Doyle.
- 01/24/2020 (@ 3:25 PM from mobile device) – Debra Pond requested a meeting with the Union to review in person.
- Last week of January (not sure of exact date) Jeremy Salo and Matt Bettez stopped by Debra Pond's office. Questions were discussed, including wage schedule. Debra Pond informed Union she would make some language modifications and discuss the wage schedule with John Flick. The wage schedule was originally drafted with the ambulance agreement for each fiscal year plus the additional percentage agreed to in the MOA – FY19 – 4%, FY20 – 5% AND FY21 – 2%. The Union wanted the percentages calculated out as follows: FY19 2% (ambulance), FY19 2% (MOA); FY20 3% (ambulance), FY20 2%, FY21 2% - for EMT wage schedule. This change resulted in a slight increase in the appropriation needed.

- 02/07/2020 – Jeremy Salo emailed Debra Pond inquiring about status of wage schedule. Debra Pond informed Jeremy Salo that it was all set and that all changes would be completed and sent over the following week.
- 02/11/2020 Debra Pond emailed language changes to Jeremy Salo. Language changes were approved by Union.
- 02/11/2020 The Union requested a format change to the wage schedule. Debra Pond revised and emailed a new wage schedules to the Union for review per the Union's request.
- 02/12/2020 Jeremy Salo identified a few issues with wage schedule via email to Debra Pond.
- 02/12/2020 Wage schedules were further adjusted (spreadsheet formulas) and two full contract documents were prepared for execution.
- 02/12/2020 Union executed the Contract documents. Documents were presented to Acting Mayor Walsh for execution, who requested a signature block for John Flick (as to approval of form) and John Richard, City Auditor (as to availability of funds). Both signature blocks were added.
- 02/19/2020 - City Auditor, John Richard prepared retroactive pay calculations.
- 02/24/2020 – Acting Mayor Walsh requests history of CBA negotiations and mediation from the City's Law Department.
- 02/25/2020 – Leah Barrault, the attorney for the Union filed a Charge of Prohibited Practice against the City.
- 02/26/2020 – John M. Flick, Esq. sends e-mail to Acting Mayor Walsh at 1:17 PM advising that a money order should be submitted to the City Council seeking an appropriation to fund the CBA.
- 02/26/2020 – Acting Mayor Walsh submits a money order to the City Clerk's office for submission to the City Council at 2:57 PM, CBA remains unsigned by Acting Mayor Walsh while awaiting analysis from Law Department regarding the CBA negotiation history and the Acting Mayor's authority to sign the CBA.

This timeline is provided in order to facilitate the legal analysis of your authority as Acting Mayor to sign this CBA. The signing of the CBA by all parties prior to the approval of the appropriation is contemplated by M.G.L. c. 150E, §7. Technically once the CBA is signed, a request is then sent to the City Council to approve the appropriation necessary to fund the CBA. Should the Council not approve the appropriation, the CBA is sent back to the City and Union for further negotiations. *M.G.L. c. 150E, § 7(b)*.

As you know Section 32 of the City's Charter only permits the acting mayor to act in matters "not admitting of delay." An acting mayor is further limited by the Charter in that an acting mayor cannot make long term appointments. Therefore, in accordance with the Charter, the acting mayor does not possess full executive authority as does a duly elected mayor. As we have discussed, there are two court cases which address the meaning of the clause "matters not admitting of delay": *Ryan v. City of Boston*, 204 Mass. 456 (1910), and *Dimick v. Barry*, 211

Mass. 165 (1912). Despite the age of these cases, they present the controlling law on the meaning of the clause “matters not admitting of delay.”

In *Ryan v. City of Boston*, the Court considered the validity of a contract to construct a public sewer signed by the then acting mayor Whelton. The Court posed the question:

“But the powers of an acting mayor are expressly limited . . . to matters requiring immediate action. If this limitation is applicable to the defendant city, the contract is invalid, as it does not appear there was any urgent public necessity for the construction of the sewer.” *Ryan*, at 459.

Dimick v. Barry provides a more robust analysis of the meaning of the clause “matters not admitting of delay.” In presenting its initial analysis the *Dimick* Court states:

“While this language should not be given narrow or refined interpretation *and should be construed in view of the practical necessities of municipal administration* . . . The words are both plain and emphatic. They express a definite conception of a necessity so importunate that it cannot be resisted with reason.” *Dimick* at 166-67.

The *Dimick* Court provides concrete examples to illustrate the meaning of “matters not admitting of delay.” These examples include the following:

“Cases might arise where it would be apparent as matter of law upon the face of the papers that the approval of the order was ‘a matter not admitting of delay.’ Such an inference might be drawn respecting a warrant for an election or an appropriation of money to be used for a Fourth of July celebration or a corporate anniversary, or like orders where time appears to be of the essence of the subject.” *Id.* at 167.

“Appropriations necessary for immediate payment of fixed charges of various municipal departments would come within this rule.” *Id.*

Ultimately, the *Dimick* Court concluded: “The mayor is the one designated by law to be the executive of the city. It is not a mere passing incident which enables another to supplant him, but a *pressing urgency of an unusual kind.*” *Id.* at 168.

There is no case law which addresses the interpretation of this limiting language in the context of negotiating and executing a collective bargaining agreement in accordance with M.G.L. c. 150E. When considering if a matter is “not admitting of delay” other factors to consider are whether or not the matter was before, and agreed upon, by the duly elected mayor, and the amount of time a matter had been pending before the municipality. *See Id.*

In the current matter regarding the CBA with the firefighters, M.G.L. c. 150E, §7 requires that upon execution of the CBA *by both parties*, the City is obligated, within 30 days of full execution, to seek appropriations to fund the contract from the appropriate legislative body. The threshold question is whether or not you, as Acting Mayor, have the legal authority to sign the

CBA. On the one hand, and as can be seen from the above timeline, this has been a lengthy bargaining process. The length of time that passed between the initiation of negotiations and the mediation of the MOA, the fact that multiple issues were raised by the Union regarding the interpretation of the MOA and their application to the CBA's wage schedule (after Mayor Hawke had resigned), support a conclusion that the execution of the CBA by the City is not a matter "not admitting of delay" and that the execution of, and adoption of the terms of, the CBA are properly left to the new Mayor.

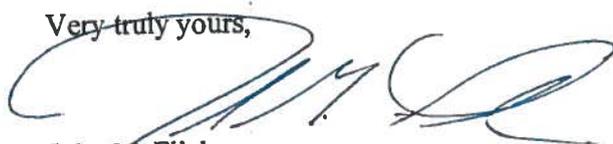
When considering the fact that the final terms of the CBA were negotiated during a protracted mediation process with the Joint Labor Management Commission, involved Mayor Hawke, and ultimately resulted in a signed MOA during Mayor Hawke's term of office, supports a conclusion that Mayor Hawke would have executed the CBA were he still in office. However, the fact that the Union continued to negotiate the interpretation of the MOA as it applied to the wage schedule raises a significant question regarding the former Mayor's willingness to sign the CBA and request an appropriation from the City Council to fund the CBA. One could conclude that Mayor Hawke would not have signed the CBA in that circumstance. Nevertheless, this is an argument based on speculation and as Acting Mayor, speculation as to what the previous Mayor would have done is not a basis upon which you can assert any authority as Acting Mayor.

As you know, the limitations of your authority as Acting Mayor to execute contracts and bind the City leaves any contracts you do execute open to challenge. In looking at the facts and the timeline set forth herein (in particular the Union's continued negotiations after Mayor Hawke resigned) presents a significant legal question regarding your authority to execute the CBA and, should you do so, whether the enforceability of the CBA could be successfully challenged either by a Mayor to be elected in May 2020, another collective bargaining unit, or third parties challenging your authority as Acting Mayor.

The case law clearly states that you, as Acting Mayor, have the ability to use your sound judgment in deciding in this matter, as all others, to act and execute the CBA. Nevertheless, in order to ensure that the CBA is binding on the City, should you sign it, it may be prudent to obtain a judicial determination as to your authority to act in this particular instance.

Please let the Law Department know if you require any additional information at this time.

Very truly yours,



John M. Flick

Cc: Debra Pond, Human Resources

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NICKLESS, PHILLIPS AND O'CONNOR

ATTORNEYS AT LAW
625 MAIN STREET

FITCHBURG, MASSACHUSETTS 01420

2020 JAN 28 PM 12: 00

CITY CLERK'S OFFICE
GARDNER, MA

DAVID M. NICKLESS
C. DEBORAH PHILLIPS
JAMES L. O'CONNOR, JR.

Telephone: (978) 342-4590
Facsimile: (978) 343-6383

January 28, 2020

Finance Committee
Gardner City Council
City of Gardner
95 Pleasant Street
Gardner, MA 01440

Re: City of Gardner and Heywood Memorial Hospital

Dear Committee Members:

I am writing to summarize the conclusions set forth in a detailed letter to the Mayor in September of 2019 regarding the lengthy history of a lease arrangement between the City and Heywood Memorial Hospital (the hospital). At that time, the Mayor wanted to know; 1) if the hospital is occupying City-owned land not covered by the current iteration of the lease and if so, 2) how it may be remedied.

After an extensive review of the many documents recited in that letter, I advised the Mayor that, in my opinion, the hospital is currently occupying land that is not included in the current version of the Lease.

Under the original 1968 lease, the hospital leased two parcels of City owned land; one consisting of (8.02 acres) located on the north side of the hospital and another consisting of 1.40 acres located on the south side of the hospital. A series of amendments to the original lease were negotiated and agreed to by and between the parties over the years.

In 1998, the City sold three (3) parcels of land to the hospital. The land sold included all of the 1.40 acre parcel referenced in the original 1968 Lease and other City owned land. The hospital's recent suggestion that the description of the leased land in the 1998 Amendment reducing its leasehold to 2.16 acres was in error and is not supported by the documents or the record of the 1998 transactions. In fact, the hospital's own Resolution, set forth in its Clerk's Certificate of the vote for the hospital's acquisition of the City owned parcels specifies that, "[i]n consideration of a grant by the City...of title to certain land... the Hospital ... shall release to the City the Hospital's leasehold interest in approximately 5.86 acres of land..." (emphasis supplied). The leasehold interest released to the City was a portion of the 8.02 acre parcel. The 1998 Amendment specifies that the reduced size of the original 8.02 acre parcel would continue to be leased by the hospital and "will thereafter contain 2.16 acres." (emphasis added). The hospital's own records support the conclusion that the acreage released to the City and the acreage that would continue to be leased (5.86 + 2.16) equaled the entirety of the original 8.02 acre parcel. I have been

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CITY CLERK'S OFFICE
GARDNER, MA

NICKLESS, PHILLIPS AND O'CONNOR
ATTORNEYS AT LAW
625 MAIN STREET
FITCHBURG, MASSACHUSETTS 01420

DAVID M. NICKLESS
C. DEBORAH PHILLIPS
JAMES L. O'CONNOR, JR.

Telephone: (978) 342-4590
Facsimile: (978) 343-6383

February 7, 2020

Winfield S. Brown, President and CEO
Heywood Healthcare
242 Green Street
Gardner, MA 01440

Re: Green Street Parking Lot Land Lease

Dear Mr. Brown:

I was retained by the City of Gardner to review certain issues raised in your May 20, 2019, letter to the City Council regarding the "Green Street Parking Lot Land Lease." Your letter concerned, among other things, the number of acres being leased to the hospital by the City, and the related matter of the hospital's encroachment on a utility easement the City granted to Massachusetts Electric Company (MEC) in 1973 on the same property.

I reviewed relevant documents, including all amendments to the hospital's original 1968 Lease with the City, as well as the information provided in your letter concerning whether the land described in a 1998 Amendment leasing 2.12 acres of land to the hospital was an error. I have concluded that it was not a mistake, and I am happy to set forth my reasons in detail. I am also happy to address concerns regarding the easement granted to MEC. Currently, a package of materials provided to the City by MEC to affect a relocation of this easement is under review in my office.

There are several matters that need to be resolved between the City and the hospital before the lease can be amended and MEC's relocation plan endorsed by City officials. Would you please direct me to the person with whom I should be speaking to resolve these issues?

~~Please do not hesitate to contact me with any questions.~~

Very truly yours,

C. Deborah Phillips / ST

C. Deborah Phillips

CDP/st

cc: Acting Mayor

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By _____

unable to reconcile the hospital's current view that the City intended to allow it to retain a leasehold in 3.13 acres, or that the hospital did not realize it was retaining only 2.16 acres with these documents.

Regardless, the occupation of City-owned land not governed by the lease may be remedied on terms agreed to by and between the parties. A proposed amendment to remedy the matter between the City and the hospital (the Eight Amendment) is enclosed.

The situation is complicated by the rights of a third party, Massachusetts Electric Company (MEC). This public utility holds an easement over a portion of the land currently being occupied by the hospital and not subject to the lease. The hospital was informed of this easement in 1973 and assented to it (see Book 5396, Page 228 in the Worcester County Registry of Deeds; Plan Book 389, Page 38). The hospital was reportedly reminded by MEC of the easement's location during the planning phase for construction of its new parking facility. Nevertheless, the construction and resulting facility encroaches on MEC's easement.

To avoid more costly remedies, MEC has agreed to relocate its easement, and developed and provided to the City a complete package of documents to reflect this relocation.

The proposed Easement Relocation Agreement with MEC requires the City to pay all of MEC's relocation costs, and it includes an estimate of less than \$2,000.00 for these costs. The proposed Agreement also requires the City to guarantee payment for any and all costs, known or unknown, associated with the relocation. I am in the process of seeking some modifications to this proposed Agreement.

To advance this matter, with your approval, I would like to contact the hospital and identify an individual with whom I may correspond regarding the situation, with an eye towards negotiating a payment or reimbursement agreement with the hospital for any financial obligations the City may have under the final Easement Relocation Agreement with MEC.

If you have any further questions or concerns regarding this matter, please do not hesitate to contact me.

Very truly yours,


C. Deborah Phillips

CDP/st
Enclosure

EIGHTH AMENDMENT TO LEASE

THIS EIGHTH AMENDMENT TO LEASE made this ____ day of _____, 2020, by and between the CITY OF GARDNER, a municipal corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, acting by and through its Acting Mayor, as Mayor and as successor to the rights, privileges, duties and liabilities of the CITY OF GARDNER'S former Public Works Board and its Director of Public Works (the "City" or "Lessor") and HENRY HEYWOOD MEMORIAL HOSPITAL, a charitable corporation organized under the laws of the Commonwealth of Massachusetts and having a principal office at 242 Green Street, Gardner, Massachusetts 01440 (the "Hospital" or "Lessee").

Recitals

WHEREAS the City is the Lessor and the Hospital is the Lessee of a certain parcel of land situated on the westerly side of Green Street in Gardner, as further described in a Lease Agreement dated April 9, 1968, and recorded in Worcester District Registry of Deeds, Book 4869, Page 185, (the "Lease"), as amended by: 1) an agreement dated October 21, 1980, recorded in said Registry in Book 7135, Page 310 (First Amendment to Lease), 2) an amendment dated December 2, 1980, recorded in said Registry in Book 7135, Page 314 (Second Amendment to Lease), 3) by an agreement dated January, 1986, also called an amendment and certified by the city clerk as being signed January 21, 1986 (Third Amendment to Lease, unrecorded), 4) by an amendment entitled "Amendment to Lease Agreement," endorsed by the Mayor on January 26, 1998 (Fourth Amendment to Lease, unrecorded; see Deed also signed by the Mayor on January 26, 1998, recorded in said Registry in Book 19750, Page 159), 5) by amendment entitled "Second Amendment," dated May 11, 2000, recorded in said Registry in Book 22705 Page 320 (Fifth Amendment to Lease), 6) by amendment entitled "Third Amendment to Lease," dated July 25, 2016, recorded in said Registry in Book 55817 Page 392 (Sixth Amendment to Lease), and by 7) amendment entitled "Fourth Amendment to Lease," dated September 14, 2017, and recorded in said Registry in Book 57862 Page 98 (Seventh Amendment to Lease);

WHEREAS, in 1997, the City and the Hospital negotiated the sale of certain land by the City to the Hospital, including Parcel Two leased to the Hospital under the Lease, and the release of a portion of the Hospital's leasehold in Parcel One;

WHEREAS, on October 14, 1997, the Hospital's Board of Trustees resolved to pay the City Twenty-Four Thousand Five Hundred (\$24,500) Dollars for the purchase of said property and to release the Hospital's leasehold in approximately 5.86 acres of said Parcel One;

WHEREAS, the Amendment to Lease Agreement endorsed on January 26, 1998 (Fourth Amendment to Lease), specifically reduced the area being leased by the Hospital to a parcel containing 2.16 acres, more or less;

WHEREAS, the City did convey said property to the Hospital by a Deed signed by the Mayor on January 26, 1998 (the same day the Fourth Amendment was endorsed), and recorded in said Registry in Book 19750, Page 159;

WHEREAS, in 2007, the City's Planning Board granted the Hospital a Special Permit dated October 9, 2007, to expand the Hospital's parking facilities, said permit being recorded in said Registry in Book 42418, Page 1;

WHEREAS, the Hospital did thereafter expand its parking facilities to an area that exceeds the 2.16 acres leased by the City to the Hospital as part of the 1997 negotiations, as commemorated in the Deed and the Fourth Amendment; and

WHEREAS the Parties now desire to resolve this pretermission;

NOW THEREFORE, in exchange for the mutual promises contained herein, and other good and valuable consideration, the sufficiency of which the Parties affirm, the City and Hospital agree as follows:

Article 1 of the Lease Agreement dated April 9, 1968 be amended to read as follows:

1. The Lessor leases to the Lessee the premises in the City of Gardner, County of Worcester, Commonwealth of Massachusetts, described as follows:

A certain parcel of land situated in the City of Gardner, County of Worcester, Commonwealth of Massachusetts bounded and described as follows:

BEGINNING at a point on the westerly sideline of Green Street at the northeasterly corner of land now or formerly of Henry Heywood Memorial Hospital;

THENCE S69°06'14"W by land of said Henry Heywood Memorial Hospital one hundred eighty and 09/100 (180.09') feet to a point;

THENCE Northerly over land of the City of Gardner along a curve concave to the east having a radius of eight hundred twelve and 50/100 (812.50') feet, an arc length of three hundred sixteen and 37/100 (316.37') feet to a point;

THENCE N03°01'05"E over land of the City of Gardner two hundred twenty six and 86/100 (226.86') feet to a point;

THENCE northerly over land of the City of Gardner along a curve concave to the west having a radius of one thousand seven hundred eighty-seven and 50/100 (1,787.50') feet, an arc length of two hundred thirty-eight and 84/100 (238.84') feet to a point;

THENCE N85°21'45"E over land of the City of Gardner one hundred eighty and 00/100 (180.00') feet to a Worcester County highway bound on the westerly sideline of Green Street;

THENCE Southerly by the westerly sideline of Green Street along a curve concave to the west having a radius of one thousand nine hundred sixty-seven and 50/100 (1,967.50')

feet, an arc length of two hundred sixty-two and 89/100 (262.89') feet to a Worcester County highway bound;

THENCE S03°01'05"W by the westerly sideline of Green Street two hundred twenty six and 86/100 (226.86') feet to a point;

THENCE southeasterly by the westerly sideline of Green Street along a curve concave to the east having a radius of six hundred thirty-two and 50/100 (632.50') feet, an arc length of two hundred forty-one and 24/100 (241.24') feet to the point of beginning.

CONTAINING 3.13 Acres.

The remaining land in PARCEL ONE, as previously described in Article 1 of the April 9, 1968 Agreement, is released by the Lessee to the full ownership and control of the City of Gardner (Lessor).

This description of the leased area set forth herein shall be binding on the parties notwithstanding any prior revisions, agreements, or amendments to the Lease.

All other terms of the original Lease agreement, as amended from time to time, shall remain in full force and effect until the end of the original lease term, which remains April 8, 2067.

See Vote of the City Council attached hereto as Exhibit A.

EXECUTED in Gardner, Massachusetts as a sealed instrument the date first above written.

CITY OF GARDNER

By: James M. Walsh, Esq., Acting Mayor

HENRY HEYWOOD MEMORIAL
HOSPITAL

By: Winfield S. Brown, CEO/President

Robert Crosby, CFO
As auth. (See Book 58824, Page 305)

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss _____, 2019

Then personally appeared the above named, James M. Walsh, Esq., Acting Mayor, duly authorized and declared that he executed the foregoing instrument as the free act and deed of the City of Gardner, before me,

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss _____, 2019

Then personally appeared the above named, Winfield S. Brown, President of Henry Haywood Memorial Hospital, duly authorized and declared that he executed the foregoing instrument as the free act and deed of the City of Gardner, before me,

Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss _____, 2019

Then personally appeared the above named, Robert Crosby, CFO, duly authorized and declared that he executed the foregoing instrument as the free act and deed of the City of Gardner, before me,

Notary Public
My Commission Expires: