

**CUMBERLAND COUNTY SHERIFF'S OFFICE AGREEMENT FOR LAW ENFORCEMENT SERVICES**

**HARPSWELL- MARINE PATROL**

**04/01/2023 TO 03/31/2024**

**AGREEMENT FOR LAW ENFORCEMENT & MARINE CONSERVATION SERVICES - MARINE PATROL & MARINE CONSERVATION - BY AND BETWEEN THE CUMBERLAND COUNTY SHERIFF'S OFFICE, BOARD OF COUNTY COMMISSIONERS AND THE TOWN OF HARPSWELL.**

This Contract, effective the first day of **April 2023**, is made by and between Harpswell, a municipality of the State of Maine wholly located within the boundaries of Cumberland County, Maine (hereinafter referred to as the "TOWN"), the County of Cumberland (hereinafter referred to as "COUNTY"), and Kevin J. Joyce, as Sheriff of Cumberland County, a Constitutional Officer of the State of Maine (hereinafter referred to as "SHERIFF") to provide enhanced law enforcement services within the town limits of Harpswell, Cumberland County, Maine.

**WITNESSETH:**

**WHEREAS**, the TOWN is desirous of maintaining a high level of professional law enforcement and certain conservation services in conjunction and harmony with its fiscal policies of sound, financial management; and

**WHEREAS**, the TOWN also desires that the law enforcement and conservation services be performed such that the citizens of the TOWN retain the sense of community they enjoy; and

**WHEREAS**, the SHERIFF has agreed to provide the TOWN a high level of professional law enforcement services and certain conservation services the TOWN is desirous of contracting for such services upon the terms and conditions hereinafter set forth; and

**WHEREAS**, the TOWN is desirous of obtaining its marine patrol and certain marine conservation services through a contractual relationship with the COUNTY.

**NOW, THEREFORE**, in consideration of the sums hereinafter set forth and for other good and valuable considerations, the receipt and legal sufficiency of which are hereby acknowledged, **IT IS HEREBY AGREED AS FOLLOWS:**

**ARTICLE 1 -DEFINITIONS**

1.1 For the purposes of this Contract, the following terms shall have the respective meanings hereinafter set forth:

A. Marine Conservation Services shall include but not be limited to the execution and oversight of such conservation-oriented services and activities as water testing, supervision of clam seeding, efforts to limit green crab predation and other endeavors designed to preserve and enhance the marine resource and the marine environment.

B. The workload shall be monitored and coordinated through the Patrol Captain who will work with the Town Administrator to assure the workload is appropriate to achieve the tasks asked of the Marine Wardens.

C. Marine Patrol Deputy shall mean an individual who is appointed by the SHERIFF in accordance with 30-A M.R.S.A §381, has executed any necessary oath which is required by law to serve in the position of a certified law enforcement deputy sheriff and perform the duties and responsibilities as set forth in Article 2 of this Contract, and who meets the State requirements for Shellfish Conservation Wardens and has completed any necessary boat handling courses.

*D. Service shall mean comprehensive law enforcement services provided with a focus on Municipal Shellfish Program Enforcement for a total of 80 (eighty) hours a week, beginning April 1st, 2023.*

## **ARTICLE 2- LEVELS OF SERVICE**

### **2.1 Marine Patrol Services.**

A. The SHERIFF shall provide to the TOWN, for the term hereinafter set forth, as the same may be extended in accordance with the provisions hereof, professional marine patrol services within and throughout the TOWN to the extent and in the manner herein described.

B. The SHERIFF shall assign personnel to provide the level of professional marine patrol services and certain marine conservation services consistent with the Contract set forth herein, or as such service has been supplemented and enhanced as a result of this Contract and any amendments and supplements thereto.

I. The SHERIFF shall provide to the TOWN the equivalent of two (2) full time Marine Patrol Deputies all of whom are law enforcement officers certified by the Maine Criminal Justice Academy and who meet the State requirements for Shellfish Conservation Wardens and have completed any necessary boat handling courses.

*2. The SHERIFF shall provide to the Town coverage for low and high tide enforcement of the Harpswell Municipal Shellfish Program 7 days a week, except when Deputies have activities that require both Deputies to complete the activity on a specific day. The Marine Patrol Deputies will work four (4) ten hour shifts each (40 hours per week). The two deputies' work schedules will change in accordance with the tides.*

3. Should both Marine Patrol Deputies be simultaneously out for one (1) full week or more, one of the vacant positions will be filled by the SHERIFF for that period of time. If the SHERIFF is unable to fill the vacancy, the TOWN shall be reimbursed for same. If the vacancy is as a result of the employee being on approved FMLA leave, reimbursement will commence after 12-weeks. Should both Marine Patrol Deputies be out for less than one week, the SHERIFF will not fill either position.

4. When the Marine Patrol Deputy is not working the clam-flats in a manner deemed productive by the Marine Patrol Deputy he/ she will patrol the intertidal water of the town enforcing conservation closures enacted by the town. He/she will also be available for general law enforcement duties when available.

*5. The Marine Patrol Deputies will be charged with providing water quality sampling and assisting in clam flat survey(s). To the extent that clam-flat surveys are being performed, in conjunction with the Harpswell Marine Resource Committee, the coverage of seven (7) tides may be affected.*

Additionally, when the deputy(ies) are conducting conservation duties as listed in section 1.1.A; clam-flat surveys, boat patrol and tide coverage could be affected.

6. The Marine Patrol Deputies shall record in Spillman, and provide to the town on a quarterly basis, a log indicating dates and times of boat usage as well as locations patrolled by the boat. Patrol by boat may include the Town of Harpswell Harbormaster as operator of the boat accompanied by one Marine Patrol Deputy.

7. A boat patrol shall be scheduled to meet the needs of the program, and shall be executed, weather permitting; At all other times of year, the boat may be used on a random basis, weather permitting; and pursuant to contract, the Marine Patrol Deputies shall record in Spillman, and provide to the Town on a quarterly basis, a log indicating dates and times of boat usage as well as locations patrolled by boat.

C. Law enforcement services shall encompass all those duties and functions of the type coming within the jurisdiction of, and customarily provided by, municipal police departments.

D. While contracted to provide marine patrol services, Marine Patrol Deputies will enforce all applicable Harpswell Town Ordinances, and Statutes of the State of Maine. Performance of all duties of deputy sheriffs shall be in accordance with Cumberland County Sheriff's Office General Orders.

F. All Marine Patrol Deputies assigned to the TOWN shall remain within the town during the regularly assigned patrol shift.

G. In the event of an emergency response call and/or an exigent circumstance arises, Marine Patrol Deputies assigned to the TOWN will perform services in a similar way to that of a police department assisting under a mutual aid agreement.

### **2.3 Administrative Responsibilities.**

A. The two (2) Marine Patrol Deputies will perform all duties and responsibilities consistent with the Cumberland County Sheriff's Office General Orders and this Contract, under the direction of the SHERIFF.

B. The SHERIFF shall consult with the TOWN a minimum of fourteen (14) days prior to permanent assignment of any deputy to Harpswell or permanent re-assignment of any Marine Patrol Deputy out of Harpswell. "Permanent" shall be considered any period of time exceeding sixty (60) calendar days.

C. The SHERIFF shall make all decisions regarding hiring and firing of the Marine Patrol Deputies, provided, however, that the SHERIFF shall replace the Marine Patrol Deputies assigned to the TOWN only with individuals meeting the qualifications specified in this Contract and provided further that the SHERIFF shall not terminate a deputy's employment before making provision for replacement of the

Marine Patrol Deputy.

D. When appropriate, the SHERIFF shall provide the TOWN with written responses to citizen inquiries and complaints, which are directed towards the Cumberland County Sheriff's Office. Such responses shall be under the Sheriff's signature and provided within sixty (60) days of filing.

#### **2.4 Processing of Evidence.**

A. Evidence shall be processed in accordance with Cumberland County Sheriff's Office General Orders.

### **ARTICLE 3 -OTHER RESPONSIBILITIES**

#### **3.1 Employment: Right of Control.**

A. The SHERIFF shall have and maintain the responsibility for and control of the delivery of services, the standards of performance, the discipline of personnel, and other matters incident to the performance of services, duties, and responsibilities as described and contemplated herein.

#### **3.2 Assignment of Law Enforcement.**

A. The TOWN does hereby vest in each Marine Patrol Deputy, to the extent allowed by law, enforcement powers of the TOWN which are necessary to implement and carry forth the services, duties, and responsibilities imposed upon the SHERIFF hereby, for the sole and limited purpose of giving official and lawful status and validity to the performance thereof by such Marine Patrol Deputy. Every sworn Marine Patrol Deputy of the COUNTY so empowered hereby and engaged in the performance of the services, duties, and responsibilities described and contemplated herein shall be deemed to be a sworn officer of TOWN while performing such services, duties, and responsibilities which constitute municipal functions and are within the scope of this Contract. The SHERIFF shall have and maintain the responsibility for and control of the delivery of services, the standards of performance, the discipline of personnel, and other matters incident to the performance of services, duties, and responsibilities as described and contemplated herein.

#### **3.3 Sheriff's General Orders.**

A. The SHERIFF shall provide to the TOWN a copy of the Cumberland County Sheriff's Office General Orders, including any updates and amendments added after publication.

### **ARTICLE 4- TOWN OF HARPSWELL RESPONSIBILITIES**

#### **4.1 Boat.**

A. The TOWN agrees to provide, maintain and keep in good repair a boat that will be used by the Marine Patrol Deputies.

#### **4.2 Town's Ordinances.**

A. The TOWN shall provide to the SHERIFF two (2) copies of Harpswell Town Code of Ordinances as adopted with revisions as enacted.

## **ARTICLE 5- COSTS**

5.1 The total amount due for all marine patrol services for subsequent years shall be based upon the proposal submitted by the Sheriff during the TOWN's budget process to be approved by the Selectmen. The total amount due for all services beginning April 1, 2023, through March 31, 2024, shall be

**Two hundred sixty-six thousand, five hundred seven dollars and twenty-four cents (\$266,507.24)** spread over a 12-month period for costs incurred by the COUNTY as described in Attachment A of this Contract.

5.2 The TOWN shall make payment in equal installments on a monthly basis. The first installment shall be due **April 1, 2023**; the remaining installments shall be due the first day of each succeeding month until the contract is paid in full.

5.3 The SHERIFF agrees that the Marine Patrol Deputies providing the services to the TOWN shall be employees of the COUNTY and not those of the TOWN, and that the COUNTY shall be responsible for the payment of any compensation or indemnity to any such employees because of injury or sickness arising out of his or her employment.

5.4 The consideration recited herein constitutes the entire consideration to be paid herein under and upon the payment thereof, in the manner and at the times prescribed herein.

## **ARTICLE 6- ADDITIONAL PERSONNEL**

6.1 If, in the judgment of the SHERIFF, additional temporary law enforcement personnel are available during the term of this Contract, the SHERIFF agrees to provide the TOWN with such additional personnel as the TOWN may request, provided that within a reasonable time in advance of employment, the TOWN furnishes the SHERIFF with a written statement of the required term of service for said additional personnel and agrees, in writing, to pay a cost computed at a rate consistent with that of Article 5 hereof.

## **ARTICLE 7 -REPRESENTATION OF CUMBERLAND COUNTY**

7.1 The COUNTY hereby represents and acknowledges that those services described in Article 2 of this Contract would not be provided through any appropriation of the annual budget of the COUNTY, in the event this Contract did not exist.

## **ARTICLE 8-AUDIT OF RECORDS**

8.1 The Town Administrator or designee may, upon reasonable notice to the SHERIFF, examine the existing SHERIFF records relating to the services provided pursuant to the terms of this Contract. Said records shall be maintained by the SHERIFF in accordance with all applicable laws and regulations.

## **ARTICLE 9 -STANDARD OF PERFORMANCE**

9.1 The TOWN and the SHERIFF shall attempt to mutually resolve all issues pertaining to the nature of the services and conduct of deputies performed under this Contract, provided, however, that the SHERIFF shall make the final determination on said issues. The SHERIFF agrees to receive and consider, in good faith, all inquiries and requests made by the TOWN. All decisions pertaining to employment discipline and discharge of personnel, performance of duties and other personnel matters shall remain exclusively with the SHERIFF.

## **ARTICLE 10-ARBITRATION**

10.1 In the event of a dispute between parties, either party may request arbitration to resolve such disputes and may refer the disputed matter to an arbitration panel. Such election for arbitration shall be conclusively evidenced by the filing of a written demand for the arbitration with the opposing party. This demand for arbitration shall be made within a reasonable time after the claim, dispute, or other matter in question has arisen, and in no event shall it be made when institution of legal or equitable proceedings based on such claims, dispute, or other matter in question would be barred by the applicable statute of limitations. A written demand for arbitration shall also set forth the name of the complaining party's representative to the arbitration panel, as defined below.

10.2 The arbitration panel shall consist of the following members: a representative of the TOWN appointed by the Selectmen, a representative of the COUNTY appointed by the County Commissioners, and a third member to be selected by the two members previously mentioned; except that, if the representative of the parties cannot agree on a third member within ten (10) days of the appointment of the last of them, either one may request the American Arbitration Association to appoint said third member and the selection of the American Arbitration Association shall be binding on both parties.

10.3 Once the party has sent the other party a written demand for arbitration, the other party must appoint its representative within ten (10) days of receipt of said demand for arbitration and must give notice of its decision to the other party within same period of time.

10.4 The two representatives so appointed to the arbitration panel shall select a third member of their panel as provided in paragraph 10.2 above.

10.5 The claim, dispute or other matter shall be submitted to the full arbitration panel after appointment of the third member and the panel shall render its decision within thirty (30) days from the close of the hearing.

10.6 All costs of the arbitration shall be borne equally by both parties.

10.7 The decision of the arbitrators shall be final and conclusive between both parties.

## **ARTICLE 11- INDEMNITY**

11.1 The COUNTY agrees to indemnify and hold harmless the TOWN from any and all liability, loss or damage that the TOWN may suffer as a result of claims, demands, costs or judgments against it arising out of the SHERIFF's performance or failure to perform any of the obligations set forth in this contract. The COUNTY further agrees to defend any claims brought or actions filed against the TOWN with respect to the SHERIFF's performance or non-performance of this Contract, whether such claims or actions are rightfully or wrongfully brought or filed.

11.2 The TOWN agrees to indemnify and hold harmless the COUNTY and SHERIFF from any and all liability, loss or damage that the COUNTY and SHERIFF may suffer as a result of claims, demands, costs or judgments against it arising out of the TOWN's performance or failure to perform any of the obligations set forth in this contract. The TOWN further agrees to defend any claims brought or actions filed against the COUNTY and SHERIFF with respect to the TOWN's performance or non-performance of this Contract, whether such claims or actions are rightfully or wrongfully brought or filed.

11.3 Neither the TOWN, COUNTY or SHERIFF waive any defenses the parties may have under the Maine Tort Claims Act.

#### **ARTICLE 12- TERM**

12.1 This Contract shall remain in full force and effect commencing **April 1, 2023, and ending March 31, 2024**, all dates inclusive, unless the Contract is otherwise extended or terminated in accordance with the terms thereof.

12.2 The terms and conditions of this Contract are contingent upon the approval of the elected Sheriff and the Chairman of the Cumberland County Commissioners.

12.3 In the absence of a notice of termination in accordance with Article 13, this Contract shall automatically renew annually subject to the budget proposal by the SHERIFF and subsequent appropriation of the funds required and approval by the TOWN.

#### **ARTICLE 13- TERMINATION**

13.1 The TOWN or the COUNTY may terminate this Contract with or without cause upon written notice to the other party of this Contract; provided, however, that notice of such termination shall not be effective until after receipt of a ninety (90) day written notice. This written notice must be hand delivered and/or sent by Certified Mail, Return Receipt Requested, to the SHERIFF or the Town Administrator. In the event, the Town Selectmen establishes a police department; the SHERIFF and the TOWN agree there will be no lapse in law enforcement services.

#### **ARTICLE 14- EXTENSION**

14.1 Unless terminated on notice, as agreed above, rights and privileges herein granted, together with all other provisions of this Contract, shall continue in full force and effect, subject to necessary negotiation of any added cost factors, for an additional period of thirty (30) days from the date of expiration heretofore mentioned, unless either party, at least ten (10) days prior to said date of expiration, shall notify the other party in writing that it does not desire the Contract to be extended for such an additional period.

## **ARTICLE 15-TRANSITION**

15.1 In the event of the termination or expiration of this Contract, the SHERIFF and the TOWN shall cooperate in good faith in order to effectuate a smooth and harmonious transition from the Sheriff's Office to another law enforcement agency, and to maintain during such period of transition the same high quality of law enforcement services otherwise afforded to the residents of the TOWN pursuant to the terms hereof.

15.2 In the event of termination or upon expiration of this Contract, the TOWN shall have the option to purchase from the COUNTY and SHERIFF any equipment, fixtures, and furnishings furnished by the COUNTY and SHERIFF to perform the services provided under this Contract. The purchase price shall be determined by mutual Contract of the parties as to the fair-market value of such equipment, fixtures, and furnishings.

## **ARTICLE 16-AUTHORITY TO EXECUTE AND ENFORCE**

16.1 The Chairperson of the Cumberland County Commissioners, by his/her execution hereof, does hereby represent to the TOWN that he/she has full power and authority to make and execute this Contract pursuant to the power so vested in him/her under the Constitution and Laws of the State of Maine.

16.2 The SHERIFF, by his/her execution hereof, does hereby represent to the TOWN that he/she only has administrative powers to enforce this Contract pursuant to the power so vested in him/her under the Constitution and Laws of the State of Maine.

16.3 The Chairperson of the Town Selectmen, by his/her execution hereof, does represent to the Sheriff and Chairman of the Cumberland County Commissioners that he/she has full power and authority to make and execute this Contract on behalf of the TOWN.

16.4 Nothing herein contained is any way contrary to or in contravention of the TOWN or the laws of the State of Maine.

## **ARTICLE 17- COMMUNICATIONS**

17.1 All communications supporting Law Enforcement and Detention operations will be provided by the CCRCC (Cumberland County Regional Communication Center).

## **ARTICLE 18- ENTIRE AGREEMENT**

18.1 The parties acknowledge, one to the other, that the terms hereof constitute the entire understanding and Contract of the parties with respect hereof. No modification hereof shall be effective unless in writing, executed with the same formalities as this Contract is executed.

## **ARTICLE 19-VEHICLE AND EQUIPMENT REPLACEMENT**

**19.1 Vehicle:** The contracting town agrees to replace all cruisers on a four year cycle or at one hundred twenty thousand accumulated miles. The mileage will be estimated at the expiration date of the contract (i.e. vehicle has 115,000 miles at the maturity date of the contract and it is expected that the cruiser will accumulate additional mileage well beyond the 120,000 miles based on previous use, the town agrees to replace the vehicle). Exceptions to the agreement would be as follows; if the vehicle has sustained an excessive unsafe amount of damage which would bring the vehicle's safety and the safety of the operator into question or if the need for vehicle replacement occurs within ninety (90) days of the end of the term of this Contract where either party has provided notice to terminate under Article 13. This would include, but is not limited to, mechanical, body or frame defects or damage to the vehicle that would cause the vehicle to be deemed unsafe to use as an emergency vehicle. This would be subject to a written formal opinion from a Certified Mechanic or Certified Auto Body Technician. If, in the opinion of one or both of these experts, the vehicle is deemed to be unsafe for use as an emergency vehicle, then the vehicle or equipment would be required to be replaced by the contracting town before the afore mentioned year and mileage parameters are met. The contracting town would agree to absorb the cost associated with the replacement of the vehicle and any additional damaged equipment at the time that the vehicle or equipment has been determined to be damaged or unsafe.

**Vehicle Equipment:** The contracting town agrees to purchase the entire required and necessary emergency and enforcement related equipment associated with the emergency vehicle. The town agrees to replace any equipment that is in need of upgrading due to the equipment being damaged or outdated.

### **List of required equipment:**

- All emergency lighting, siren and related equipment
- Interior protective cage/screens
- Laptop computer and stand
- Scanner
- Printer
- Emergency radios (Mobile and Portable)
- Push bumper/ guard
- Radar
- AR-15 Rifle
- 12 gauge Shotgun
- Rifle and shotgun securing mounts
- First aid kit
- Body Worn Camera
- Pursuit Spike Mat
- Self- inflating life vest

IN WITNESS WHEREOF, the TOWN OF HARPSWELL, by order duly adopted by its Town Selectmen has caused this Contract to be signed by the Town Selectmen and the County of Cumberland, by order of the County Commissioners, has caused this Contract to be subscribed by the Chairperson of said Board and the seal of said Board to be affixed thereto and attested by the Clerk of said board, all on the day and year first above written.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

COUNTY OF CUMBERLAND

BY: \_\_\_\_\_  
CHAIRPERSON  
COUNTY COMMISSIONERS

DATE: \_\_\_\_\_

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

COUNTY OF CUMBERLAND

BY:  \_\_\_\_\_  
SHERIFF  
KEVIN J. JOYCE

DATE: 04-19-2023

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

TOWN OF HARPSWELL

BY:  \_\_\_\_\_  
Kevin E. Johnson  
Chair  
Select Board

DATE: 3/30/23

ATTEST: \_\_\_\_\_  
COUNTY MANAGER/CLERK

DATE: \_\_\_\_\_

**Office of the Sheriff**  
 Cumberland County  
 36 County Way  
 Portland, ME 04102-2755  
 (207) 774-1444



**Kevin Joyce**  
 Sheriff

**Naldo Gagnon**  
 Chief Deputy  
 DRAFT 01/19/2023

**HARPSWELL CONTRACT- MARINE PATROL**  
**FROM 4/1/2023 TO 3/31/2024**

**PERSONNEL COSTS**

|                               |       |         |                     |
|-------------------------------|-------|---------|---------------------|
| <b>DEPUTY</b>                 | Welsh | \$32.80 | \$68,214.02         |
| <b>DEPUTY</b>                 | McGee | \$31.69 | \$65,921.65         |
| JULY 2023 estimated COLA 5.0% |       |         | \$5,030.09          |
| <b>TOTAL SALARY</b>           |       |         | <b>\$139,165.75</b> |

**COMPENSATION TIME (at overtime)**

|                         |    |          |     |         |                   |
|-------------------------|----|----------|-----|---------|-------------------|
| # Of Days               | 10 | VACATION | Avg | \$50.18 | \$4,014.40        |
|                         | 0  | HOLIDAYS |     |         | \$0.00            |
|                         | 0  | PERSONAL |     |         | \$0.00            |
|                         | 0  | SICK     |     |         | \$0.00            |
| <b>TOTAL COMP COSTS</b> |    |          |     |         | <b>\$4,014.40</b> |

**FRINGE BENEFIT COSTS:**

|                           |                  |                    |
|---------------------------|------------------|--------------------|
| 7.65%                     | SOCIAL SECURITY  | \$10,953.28        |
| 3.38%                     | WORKERS COMP     | \$4,839.49         |
| 11.40%                    | RETIREMENT       | \$16,322.54        |
|                           | HEALTH INSURANCE | 59,022.38          |
| <b>TOTAL FRINGE COSTS</b> |                  | <b>\$91,137.69</b> |

**OTHER FIXED COSTS**

|                                |                                   |                   |
|--------------------------------|-----------------------------------|-------------------|
| 3.0%                           | CONTRACT SUPERVISION              | \$4,295.40        |
| \$ 500.00                      | VEHICLE INSURANCE                 | \$1,000.00        |
| \$ 520.00                      | PROFESSIONAL LIABILITY FOR DEPUTY | \$1,040.00        |
| <b>TOTAL OTHER FIXED COSTS</b> |                                   | <b>\$6,335.40</b> |

**OPERATIONAL COSTS**

|                                 |  |                    |
|---------------------------------|--|--------------------|
|                                 | UNIFORMS                                 | \$2,200.00         |
|                                 | AIR CARDS FOR COMPUTER- (\$46 per month) | \$1,104.00         |
|                                 | TIRES FOR VEHICLE                        | \$1,510.00         |
| 4000 \$                         | 3.56 FUEL OIL, GASOLINE                  | \$14,240.00        |
|                                 | MAINTENANCE VEHICLE                      | \$3,000.00         |
|                                 | BODY WORN CAMERA GOV GRANT FUNDED        | \$0.00             |
| 2 \$                            | 600.00 TASER 7                           | \$1,200.00         |
|                                 | EQUIPMENT/TRAINING                       | \$2,600.00         |
| <b>TOTAL OPERATIONAL COSTS:</b> |  | <b>\$25,854.00</b> |

**TOTAL CONTRACT COST FOR THIS PERIOD: \$266,507.24**