

APRIL 3, 2017 DRAFT INTERMUNICIPAL AGREEMENT BETWEEN THE TOWNS OF LEE AND LENOX

THIS AGREEMENT is made and entered into on this ____ day of _____, 2017, in accordance with the provisions of Massachusetts General Laws Chapter 40, section 4A, by and among the Town of Lenox, acting by and through its Select Board, as authorized by vote (hereinafter referred to as “Lenox”), and the Town of Lee, acting by and through its Select Board, as authorized by vote (hereinafter referred to as “Lee”) (collectively to be referred to as “the Parties”).

WITNESSETH:

WHEREAS, Lenox currently has full-time municipal manager under contract, and Lee will have a vacancy in its municipal manager position on July 1, 2017;

WHEREAS, the Parties seek to share the services of a single municipal manager, to be referred to as the “Chief Administrative Officer;”

AND, WHEREAS, more efficient and effective municipal government administration would be realized through the Parties’ sharing of a “Chief Administrative Officer;”

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the Parties agree as follows:

ARTICLE I. CHIEF ADMINISTRATIVE OFFICER

SECTION I-1. DUTIES OF THE CHIEF ADMINISTRATIVE OFFICER

(a) The Chief Administrative Officer shall perform the duties related to municipal government administration for Lenox and Lee, under the policy guidance of the Select Boards in each community, as detailed below.

(b) When providing services for the Town of Lenox:

(i) The Chief Administrative Officer shall perform the duties as defined by this Agreement, the bylaws, and policies of Lenox, as well as other duties as the Lenox Board of Selectmen shall from time to time assign, and shall perform said duties in a competent and professional manner.

(ii) The Chief Administrative Officer shall report directly to the Board of Selectmen of Lenox.

(c) When providing services for the Town of Lee:

(i) The Chief Administrative Officer shall perform the duties as defined by this Agreement, the bylaws, and policies of Lee, as well as other duties as the Lee Board of Selectmen shall from time to time assign, and shall perform said duties in a competent and professional manner.

- (ii) The Chief Administrative Officer shall report directly to the Board of Selectmen of Lee.

ARTICLE II.

SECTION II-1. APPOINTMENT, TERM OF OFFICE; QUALIFICATIONS

Parties shall appoint the Chief Administrative Officer to serve for such term as specified in an employment agreement.

The Chief Administrative Officer shall devote his or her full time to the office and shall not hold any other public office, elected or appointed, nor shall the Chief Administrative Officer engage in any other business, occupation or profession unless such action is approved, in advance, by the Parties. The Parties may, by amendment of this Intermunicipal Agreement, establish other qualifications for the office of Chief Administrative Officer.

SECTION II-2. POWERS AND DUTIES

The Chief Administrative Officer shall be responsible to the Parties for the proper administration of all municipal affairs placed under his or her charge. The powers and duties of the Chief Administrative Officer shall include, but are not intended to be limited to, the following:

- a) Supervise, direct and be responsible for the efficient administration of all municipal activities placed under his or her control by this Agreement, the bylaws, and policies of Lenox and Lee, including all officers appointed by the Chief Administrative Officer and their respective agencies.
- b) Be responsible for the coordination of the activities of all agencies under his or her control with the activities of all other municipal agencies, including those elected by the voters of Lenox and Lee and those appointed by other elected officials.
- c) Appoint, and may remove, subject to the civil service law and any collective bargaining agreements as may be applicable, all department heads, all officers, subordinates and employees for whom no other method of selection is provided by this Agreement, or by the bylaws, and policies of Lenox and Lee, or otherwise. Appointments made by the Chief Administrative Officer of all employees employed by Lenox and Lee shall be subject to confirmation process of the Boards of Selectmen in Lenox and Lee, as currently in effect. Appointments made by the Chief Administrative Officer in furtherance of his or her duties relative to this Intermunicipal Agreement shall be subject to confirmation by the Select Boards in the appropriate town.
- d) Administer personnel related matters, including bargaining with municipal employees, and shall fix the compensation of all municipal employees appointed by the Chief Administrative Officer within the limits established by appropriation and by the bylaws, policies, and/or past practices of Lenox and Lee, or by collective bargaining agreement.

- e)** Assure that all of the provisions of the Massachusetts General Laws, the Intermunicipal Agreement and the bylaws and policies of Lenox and Lee that require enforcement by him or her, or by officers or employees subject to his or her supervision, are faithfully carried out and enforced.
- f)** Prepare and submit an annual operating budget and a capital outlay program for Lenox and Lee.
- g)** Assure that a full and complete record of the financial and administrative activities of Lenox and Lee is kept, and he or she shall render a complete written report to the Select Board of each of the two towns at the end of each fiscal year and at such times as the Select Board of each of the two towns may reasonably require.
- h)** Execute contracts, subject to the bylaws and policies of Lenox and Lee.
- i)** Have full jurisdiction over the rental and use of all town facilities, except school and library buildings and grounds. The Chief Administrative Officer shall be responsible for the maintenance and repair of all town-owned property, including, if authorized by a bylaw establishing a central town maintenance department, school and library buildings and grounds.
- j)** Inquire at any time into the conduct of office of any officer, employee, or department under his or her supervision.
- k)** Assure that a full and complete inventory of all property owned by Lenox and Lee, both real and personal, is kept.
- l)** Make such recommendations, from time to time, to the Boards of Selectmen of Lenox and Lee, which, in the Chief Administrative Officer's judgment, are deemed necessary or desirable.
- m)** Authorize any subordinate officer or employee to exercise any power or perform any function which the Chief Administrative Officer is authorized to exercise or perform; provided, however, all acts performed under any such delegation shall be deemed to be the acts of the Chief Administrative Officer.
- n)** Determine the existence of a public emergency or danger and shall assume responsibility for the maintenance of public safety, public order and enforcement of laws in Lenox and Lee. The Chief Administrative Officer shall notify the Chair of the Board of Selectmen of Lenox and Lee as soon as practical, but within 24 hours, of such a public emergency or danger and of the actions taken. Should the public emergency continue more than 24 hours, the Board of Selectmen of Lenox and Lee may meet to review, ratify, or terminate said public emergency.
- o)** Execute all deeds conveying town real property in Lenox and Lee, but that any such conveyance shall have been previously authorized by the vote of Town Meeting of the respective town, pursuant to the applicable provisions of the General Laws.

p) Publish an annual report comprising the complete statistical record of the operations of every town department, commission and committee for the preceding year, and it shall be published annually and made available for distribution to the public not later than four months after the end of the period on which the report is based.

q) Perform such other functions as may from time to time be assigned to the office of Chief Administrative Officer by the Board of Selectmen of Lenox and Lee.

SECTION II-3. COMPENSATION

The Chief Administrative Officer shall receive such compensation as may from time to time be established for the office of Chief Administrative Officer, by agreement of the Parties.

SECTION II-4. ACTING CHIEF ADMINISTRATIVE OFFICER

(a) Temporary Absence - In the absence of the Chief Administrative Officer, the Assistant Chief Administrative Officer shall be designated to exercise the powers and perform the duties of the office during temporary absence. During the first ten working days of a temporary absence of the Chief Administrative Officer, the Parties may revoke such designation by a two-thirds vote of each Select Board and, after the expiration of ten working days, may appoint another qualified officer or employee of the Towns of Lenox or Lee to serve as Acting Chief Administrative Officer until the Chief Administrative Officer shall return and resume his or her duties.

(b) Vacancy - Any vacancy in the office of Chief Administrative Officer shall be filled as soon as possible by the Parties, but pending such appointment the Parties shall designate a qualified officer or employee of the Towns of Lenox or Lee to exercise the powers and perform the duties of the Chief Administrative Officer on an acting basis. The appointment of an acting Chief Administrative Officer shall be for a term not to exceed four months; provided, however, one renewal, not to exceed a second four months, may be permitted.

(c) Powers and Duties - The powers of a temporary or acting Chief Administrative Officer shall be limited to matters not admitting of delay; provided, however, no temporary or acting Chief Administrative Officer under (a) above shall have authority to make any permanent appointment to, or removal from, any office or position under the town.

SECTION II-6. EVALUATION OF CHIEF ADMINISTRATIVE OFFICER

(a) There shall be an annual review of the Chief Administrative Officer's job performance conducted by the Parties.

SECTION II-7. SCHEDULE OF THE CHIEF ADMINISTRATIVE OFFICER

(a) It is expected that the Chief Administrative Officer will devote approximately one half of his or her time to each town each week, adjusted as appropriate to successfully perform the duties

for each of the two towns. The Parties acknowledge that the duties of each town may be performed from either town. The Chief Administrative Officer shall be allowed vacation, sick days, and personal days pursuant to his or her contract with the Town of Lenox, which will act as host community for employment purposes and which is responsible for the payment of those benefits. The costs associated with both compensation and benefits shall be shared (50%/50%) between Lee and Lenox for the duration of this agreement.

(b) Representatives of the Select Boards from both Towns will meet regularly, as needed, to discuss issues that may arise in the day-to-day performance of the Chief Administrative Officer.

ARTICLE III. TERM

SECTION III-1. This Agreement shall become effective upon signing and shall terminate on April 17, 2018 and may, subject to approval of the Select Boards in both Towns, be extended for up to two terms ending on April 17, 2019 and June 30, 2020, respectively. At the conclusion of this agreement, the Chief Administrative Officer position shall be terminated. This agreement does not provide for any extension beyond June 30, 2020.

ARTICLE IV. NOTICES

SECTION IV-1. Notices pursuant to this Agreement shall be given by first-class mail, postage prepaid, to the Select Board Chairs of Lenox and Lee and to their respective town clerks. Alternatively, notices required pursuant to this Agreement may be personally served on the respective Chairs of the Select Board. Notice shall be deemed as given as of the date of personal service or as the postage mark of such written notice as sent by first-class mail.

ARTICLE V.

SECTION V-1. GENERAL PROVISIONS:

(a) Unless otherwise provided in the Agreement, each Party shall act by majority vote of its Select Board.

(b) No change or modification of this Agreement shall be valid unless it shall be in writing and signed by the Parties.

(c) The text herein shall constitute the entire Agreement between Parties.

(d) If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

ARTICLE VI. DUAL INDEMNIFICATION

SECTION VI-1. [Town Counsel to provide dual indemnification language to protect each Town from Chief Administrative Officer's impropriety while working in their partner community.]

TOWN OF LEE,
Acting by and through its
Select Board:

Chair, Select Board

Date

Attest as to Signature:

Town Clerk

Date:

TOWN OF LENOX
Acting by and through its
Select Board

Chair, Select Board

Date:

Attest as to Signature

Town Clerk

Date: