

Inter-Municipal Agreement Regarding Use and Expenditure of Certain Opioid Abatement Funds

THIS AGREEMENT dated as of this [DATE] (“the Agreement”) is entered into by and between the municipalities of the County of Dukes County, namely Aquinnah, Chilmark, Edgartown, Gosnold, Oak Bluffs, Tisbury, West Tisbury, Massachusetts, (collectively, “the Municipalities”) and County of Dukes County in its capacity as “Host Agent” of “the Collaborative” as those terms are defined herein;

WHEREAS, M.G.L. c. 40, s. 4A, as amended, authorizes the chief executive officer of a city or town to enter into agreements with one or more municipalities and other governmental units to jointly perform services and share costs which any one of them is authorized to perform;

WHEREAS, each of the Municipalities is participating in certain statewide opioid settlements (“Statewide Opioid Settlements”) reached between the Massachusetts Attorney General and opioid industry participants (“Defendants”), pursuant to which they are directly receiving Global Settlement Abatement Funds (“Abatement Funds”).

WHEREAS, under the terms of the Statewide Opioid Settlements, related agreements signed by participating subdivisions and judgments entered by the Suffolk Superior Court against the Defendants, those Abatement Funds must be expended on [abatement strategies](#) developed with input from public health experts, municipal leaders, and families affected by the opioid crisis;

WHEREAS, the Municipalities believe that undertaking these abatement strategies collaboratively will optimize the impact of the Abatement Funds across their geographic region and, accordingly, appropriately serve the public health needs of their residents;

WHEREAS, each Municipality has obtained authority to enter into this Agreement pursuant to M.G.L. c.40, s. 4A. The Municipalities have duly obtained authorization for this Agreement by vote of their Select Board as reflected by copies thereof contained in Appendix A.

WHEREAS, each Municipality will, for the duration of its participation in this Agreement, annually seek to appropriate its allocated share of the costs and fees of the Program described herein.

NOW THEREFORE, in mutual consideration of the covenants contained herein, intending to be legally bound thereby, the Municipalities agree as follows:

1. **Collaborative**. There is hereby established a collaborative of the Municipalities (“the Collaborative”). The Collaborative, acting by and through an advisory board (“Advisory Board”), will coordinate, manage, and direct the activities of the parties with respect to this Agreement. The purpose of the Collaborative is to:

(a) design program by which to expend Abatement Funds received by the Municipalities (“Program”), subject to the requirements set forth in [State-Subdivision Agreement](#) and in a manner intended to optimize their impact and serve the public health needs of the Municipalities; (b) prepare Program budget which, without limitation, allocates to each Municipality an annual share of the costs and fees of the Program; and (c) execute the Program subsequent to the duly authorized appropriation by each of the Municipalities’ legislative bodies. A supermajority vote of two-thirds (2/3) of the voting members of the Advisory Board shall be required to approve the annual Program budget.

2. **Host Agent**. During the term of this Agreement, County of Dukes County (“Host Agent”) shall manage the administrative obligations of the Program through its County Manager, or designee. The Host Agent, in collaboration and consultation with the Board, shall work to implement the Program. The Host Agent shall, each year, collect contributions from the Municipalities for the Program. The Host Agent shall appropriate cost of the Program and maintain accurate and comprehensive records of Program services performed, costs incurred, and contributions received; perform regular audits of such records; issue financial statements to the Municipalities at least annually; and submit required reporting to EOHHS. The Host Agent may also act for the Collaborative with respect to all grant applications submitted and gifts and grants received collectively by the Municipalities and maintain any gifts or grant funds in accordance with applicable law. The Advisory Board must approve any and all grants or grant applications submitted by the Collaborative. The Host Agent shall act as the Municipalities’ purchasing agent pursuant to G.L. c. 7, §22B, for all contracts duly authorized by the Advisory Board, established pursuant to Section 5 of this Agreement, to be entered into collectively by the Municipalities. Final approval of any such contract is subject to approval of the Advisory Board, to the extent required. Subject to approval of the Advisory Board, the Host Agent may include in the annual Program budget a reasonable administrative fee for its work as Host Agent.

3. **Advisory Board**. There shall be an Advisory Board convened at least semi-annually by the Host Agent and comprised of two members appointed by each Municipality’s Board of Health: one full voting member and an associate member who may vote only when the full member is not in attendance. The Advisory Board may act by a simple majority of members present and voting, except as otherwise provided herein. All meetings shall be posted in compliance with the Massachusetts Open Meeting Law M.G.L. c. 30A, §§ 18-25. The Advisory Board shall:

- a. Review reports and recommendations from the Municipalities and available assessments;
- b. Develop, approve and amend the annual Program budget, as necessary;
- c. Review and approve all proposals, contracts and grant applications sought by the Collaborative;
- d. Review and approve all hiring proposals by the Host Agent, including any

- proposals to hire a Program Manager;
- e. Develop a sustainability plan;
- f. Adopt policies and regulations, as needed;
- g. Review the Programs' financial status;
- h. Ensure compliance with the State-Subdivision Agreement, including applicable annual reporting requirements.

4. **Commitment to Collaboration.** Each Municipality shall direct its agents and employees to work in good faith to support the objectives of this Agreement, to appoint members to the Advisory Board in accordance with paragraph 3 herein, and to participate in the Advisory Board meetings.

5. **Payment and Funding.** Municipalities agree to use best efforts to appropriate funds for the Program each fiscal year as a member of the Collaborative. Further, the Municipalities agree to promptly pay any invoices from the Host Agent for the Program costs. If a Municipality fails to appropriate funds for the Program prior to the start of the applicable fiscal year, the Advisory Board shall modify the Program budget accordingly and suspend the Municipality from participating in the Program for that fiscal year.

6. **Term and Termination.** This Agreement shall commence on the Effective Date and shall expire when the Abatement Funds are no longer available, or when terminated by a vote of a majority of the Municipalities' representatives of the Advisory Board, at a meeting of the Advisory Board called for that purpose; provided that the representative's vote has been authorized by the Municipality's appointing authority. Any termination vote shall not be effective until the passage of at least sixty (60) days and until the Municipalities have agreed to an equitable allocation of all remaining costs, expenses and assets.

7. **Removal.** A Municipality may be removed from the Collaborative or forced to withdraw pursuant to the terms of paragraph 11 by a vote of a two-thirds majority of the Municipalities' representatives of the Advisory Board, at a meeting of the Advisory Board called for that purpose. The Advisory Board, by majority vote of the remaining members may equitably allocate back to a removed/withdrawing Municipality any unspent appropriated funds received from a removed/withdrawing Municipality subject to an allocation of costs and expenses.

8. **Employees.** Employees and personnel of each Municipality providing services pursuant to this Agreement shall be deemed employees of their respective Municipalities, and not regional employees or employees of any other Municipality. An employee who performs services, pursuant to this Agreement on behalf of another member Municipality, shall be deemed to be acting within the scope of his current Municipal job duties at all times and remain an employee of the employee's Municipality for insurance coverage purposes. Said Municipal employee shall retain all accrued benefits and shall be subject to standard hiring and personnel practices of

such municipality.

9. **Indemnification & Insurance**. To the extent permitted by law, each Municipality shall defend, indemnify, and hold the other Municipalities and the Host Agency harmless from and against any and all claims, demands, liabilities, actions, causes of action, costs and expenses, including attorney's fees, arising out of the indemnifying Municipality's or Host Agency's acts or omissions, breach of this Agreement, or the negligence or misconduct of the indemnifying Municipality or Host Agency or its agents or employees. In entering into this Agreement, no Municipality (including Host Agency) waives any governmental immunity or statutory limitation of damages. Should the Collaborative or a Municipality or the Host Agency incur any liabilities in connection with this Agreement each of the member municipalities will proportionally share in the liability for such expenses. The Host Agent shall obtain and keep in full force and effect public liability insurance in the amount of One Million (\$1,000,000) Dollars combined single limit for bodily injury, death and property damage arising out of any one occurrence, protecting the other party against all claims for bodily injury, \$3,000,000 aggregate, death, or property damage arising directly or indirectly out of the Indemnification Provisions of this Agreement.

10. **Additional Members**. The Municipalities can add additional municipalities to this Agreement, following a duly authorized request, upon a two-thirds vote of the Advisory Board.

11. **Withdrawal**. Any Municipality other than the Host Agent, by a vote of its respective authorizing Select Board or Chief Executive Officer and Board of Health, may withdraw from this Agreement with the provision of at least three (3) months prior written notice to the Advisory Board. Upon such withdrawal, the Host Agent shall prepare full statements of outstanding unpaid financial obligations under this Agreement and present the same to the terminating Municipality for payment within thirty (30) days thereafter. By a vote of its County Commissioners, the Host Agent may withdraw from this Agreement upon the provision of at least three (3) months prior written notice to the participating Municipalities, and a new Host Agent shall thereafter be designated by the Advisory Board, by a vote of the representatives of the remaining parties. Prior to the effective date of its withdrawal, the Host Agent shall transfer all funds held pursuant to this Agreement to the new Lead Municipality as designated by the Advisory Board. Any Municipality may withdraw at the end of any fiscal year in which the Municipality's legislative body has not appropriated funds sufficient to support that Municipality's continued participation in the subsequent fiscal year. In such an event, the Municipality shall give as much notice to the other Municipalities to this Agreement as the circumstances allow. The Advisory Board, by vote of the remaining members may equitably allocate back to a withdrawing Municipality any unspent appropriated funds received from a withdrawing Municipality subject to an allocation of costs and expenses. Advisory Board, by vote

of the remaining members, has the authority to reallocate funding that would have been allocated to the Municipality that has left the Agreement.

12. **Conflict Resolution**. The Advisory Board may hold additional meetings to discuss and resolve any conflicts that may arise in connection with this Agreement.

13. **Assignment**. None of the Municipalities shall assign or transfer any of its rights or interests in or to this Agreement, or delegate any of its obligations hereunder, without the prior written consent of all of the other Municipalities.

14. **Amendment**. This Agreement may be amended only in writing pursuant to an affirmative vote of each then-participating Municipality by its Select Board.

15. **Severability**. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, or affect the application of such provision to any other circumstances, and the remaining provisions hereof shall not be affected and shall remain in full force and effect.

16. **Governing Law**. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts.

17. **Headings**. The paragraph headings herein are for convenience only, are no part of this Agreement, and shall not affect the interpretation of this Agreement.

18. **Non-Discrimination**. Neither the Collaborative nor any of the municipalities shall discriminate against any person because of race, color, religious creed, national origin, gender, ancestry, sexual orientation, age, handicap, gender identity, genetic information, military service, or any other protected class under the law with respect to admission to, access to, or operation of its programs, services, or activities.

19. **Notices**. Any notice permitted or required hereunder to be given or served on any Party shall be in writing signed in the name of or on behalf of the Party giving or serving the same. Notice shall be deemed to have been received at the time of actual receipt of any hand delivery or three (3) business days after the date of any properly addressed notice sent by mail as set forth below:

County of Dukes County:

Martina Thornton, County Manager_____	(contact name)
Manager@dukescounty.org_____	(email)
508-696-3840_____	(phone)
PO Box 190, Edgartown, MA 02539_____	(address)

Town of Aquinnah:

(contact name)
(email)
(phone)
(address)

Town of Chilmark:

(contact name)
(email)
(phone)
(address)

Town of Edgartown:

(contact name)
(email)
(phone)
(address)

Town of Gosnold:

(contact name)
(email)
(phone)
(address)

Town of Oak Bluffs:

(contact name)
(email)
(phone)
(address)

Town of Tisbury:

(contact name)
(email)
(phone)
(address)

Town of West Tisbury:

(contact name)
(email)
(phone)
(address)

20. **Complete Agreement**. This Agreement constitutes the entire Agreement between the Municipalities concerning the subject matter hereof, superseding all prior agreements and understandings. There are no other agreements or understandings between the Municipalities and the Host Agency concerning the subject matter hereof. Each Municipality and the Host Agency acknowledges that it has not relied on any representations by any other Municipality or Host Agency or by anyone acting or purporting to act for another Municipality or Host Agency or for whose actions any other Municipality is responsible, other than the express, written representations set forth herein.

WITNESS OUR HANDS AND SEALS as of the first date written above.

Town of Aquinnah Select Board

Date

Town of Aquinnah Board of Health

Date

Town of Gosnold Select Board

Date

Town of Gosnold Board of Health

Date

Town of Chilmark Select Board

Date

Town of Chilmark Board of Health

Date

Town of Edgartown Select Board

Date

Town of Edgartown Board of Health

Date

Town of Oak Bluffs Select Board

Date

Town of Oak Bluffs Board of Health

Date

Town of Tisbury Select Board

Date

Town of Tisbury Board of Health

Date

Town of West Tisbury Select Board

Date

Town of West Tisbury Board of Health

Date

County of Dukes County

County Manager

Date