

Agreement between  
the Town of \_\_\_\_\_  
and the County of Dukes County for  
**the Integrated Pest Management Program**

THIS AGREEMENT is entered into by and between the Town of \_\_\_\_\_ ("Town" or "Municipality"), as one of the municipalities participating in the **Integrated Pest Management Program** and the County of Dukes County ("the County").

WHEREAS, Pursuant to M.G.L. Ch. 40 Sec. 4A the municipalities have entered into an Agreement for the sharing of public services creating a common service, known as the "Integrated Pest Management Program" (IPMP). The IPMP will provide the municipality, schools, businesses, residents and other regional organizations with an access to a licensed and experienced professional to help with their pest related concerns at no additional charge to the municipality (see Scope of Services attached);

WHEREAS, the municipalities participating in the IPMP are seeking to engage the County as a Host Agency to provide comprehensive fiscal, staffing, and programmatic services on behalf of the IPMP;

WHEREAS, the Municipality pursuant to M.G. L. C. 40, s.4A has obtained authorization to enter into this Agreement by vote of its Board of Selectmen,

NOW, THEREFORE, the Town and the County, in mutual consideration of the covenants contained herein, intending to be legally bound thereby, agree under seal as follows:

1. Term.

The term of this Agreement shall be three (3) years, pending annual appropriation, commencing upon execution by the Town and the County. It shall renew automatically after the first year for 2 additional years unless amended as set forth herein in section 8, or earlier terminated as set forth herein in Section 11.

2. Governance Structure

A. Advisory Board on County Expenditures (known as the "County Advisory Board", "CAB")

- Composition: one selectman from each member Municipality.
- Voting: The vote will be weighted per the assessment formula.
- Roles and Responsibilities:
  - a) Establish the assessment formula and user fees for the next fiscal year;
  - b) Approve the annual operating budget;

- c) Review financial status including municipal funding, grant funding and donations.
- The CAB shall be convened by the County Manager and the CAB Chair.

#### B. Oversight Board

- Composition: one appointee and one alternate (appointed by the Board of Selectmen) from each member Municipality.
- Voting: One Town, one vote. Every member shall have an equal voice in determining shared priorities, but only those who use a service may vote on matters specific to that service. In general policy and service matters, each Municipality has the same weight to their vote.
- Roles and Responsibilities:
  - a) Meet at least semi-annually to adopt annual and long-term goals for the IPMP and set priorities;
  - b) Adopt any IPMP-wide policies and regulations;
  - c) Review financial status including municipal funding, user fees, grant funding and donations and make recommendations to the CAB.
- The Oversight Board to be convened by the County Manager and the Oversight Board Chair.

#### 3. Obligations of the Host Agency

The County shall provide the following services to the Town:

1. Hire and supervise staff to provide the municipalities with services as outlined in this agreement
2. Administer grants to support IPMP goals
3. Ensure compliance with all reporting requirements to all grantors
4. Prepare reports on financial status to Oversight Board and the CAB
5. Ensure compliance with all state laws and regulations, including procurement, purchasing, Open Meeting Law, and Conflict of Interest
6. Hire, supervise, and discipline staff. Hiring processes and annual goal setting will be done in collaboration with members of the Oversight Board
7. Financial management for all funds and invoices related to IPMP operations
8. Creation and maintenance of a public records tracking system for IPMP work
9. Ensure that financial management and expenditure meets grantor, state, and federal standards, and the County financial policies and practices, including providing an annual audit, payroll, benefits administration, health insurance and bill processing
10. Invoice member communities for IPMP membership assessments
11. Procure any needed services, in compliance with relevant laws
12. Contract with legal counsel
13. Provide personnel policies and benefits administration
14. Provide liability insurance for IPMP staff
15. Provide office space for IPMP staff, as needed.
16. Attend Oversight Board meetings

#### 4. Obligations of the Town

The Board of Selectmen shall ensure that there is one person appointed as representative to the Oversight Board, and may name an alternate if desired. The appointee shall actively participate in the governance of the IPMP by attending and participating in meetings, reviewing reports, evaluating programs and identifying unmet needs in their communities. The Town agrees to provide the following services to ensure that the County provides quality, efficient delivery of service:

- Appoint a member to the Oversight Board. Resignation and/or change in town's representative is to be submitted in writing to the Dukes County Manager at the earliest possible convenience.
- Refer relevant complaints of any kind to the County Manager and the IPMP Director as soon as possible
- Assist the County Manager and the IPMP Director in establishing work tasks and priorities.
- Communicate any concerns about the program to the County Manager in writing.
- Provide prompt review of staff reports and other materials.
- Ensure prompt payment of invoices

#### 5. Municipal Membership Assessments

All services rendered by the County shall be provided pursuant to a budget and budget assessment formula approved jointly by the CAB and the County through the annual budget process. The County shall submit invoices for payment semi-annually to the Towns. Re-evaluation of the assessment shall be conducted annually prior to November 20th and notification of municipal assessments for the next fiscal year will be provided to the Boards of Selectmen no later than December 1st.

The Town's maximum financial liability under this contract shall not exceed \$\_\_\_\_\_ in FY 2014. Maximum liabilities for future years will be communicated no later than December 1<sup>st</sup> of the previous fiscal year. Any financial commitments of the Town as a party to this Agreement is subject to appropriation at the town meeting and shall not exceed the amounts so validly appropriated. If IPMP received revenues in excess of the amount budgeted for the current fiscal year the excess funds will be used to offset the cost of the program in the next fiscal year and overall lower the town assessment by that amount. If the IPMP received less revenues than projected the IPMP Director and the County Manager will work on lowering actual expenditures to close the gap. If the County accrues expense due to the shortage of the revenues, the shortfall will be added to the town assessment for the next fiscal year.

#### 6. Indemnification and Insurance.

The County shall indemnify the Town from any and all debts, demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, damages and any and all claims, demands and liabilities whatsoever of every name and nature both in law and in equity on account of injury to

person or property or loss of life resulting from the County's performance under this agreement but only to the extent and in an amount for which the County would otherwise be liable pursuant to the Massachusetts Tort Claims Act, M.G.L. C. 258.

By entering into this Agreement the parties have not waived any governmental immunity or limitation of damages which may be extended to them by operation of law.

The County and the Town 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 any and 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.

7. Waivers.

All covenants, conditions, duties and obligations contained herein can be waived only by written agreement by and between the Town and the County. Such waivers shall not be effective unless they are in conformity with all other requirements of law. Forbearance or indulgence in any form or manner by any party shall not be construed as a waiver, nor in any way limit the legal or equitable remedies available to either party. No waiver of any default or breach shall constitute a waiver of any subsequent default or breach.

8. Amendments

No amendment to this Agreement shall be effective unless it is in writing, signed by the duly authorized representatives of all parties, and complies with the provisions of this Agreement, and all other regulations and requirements of law.

9. Force Majeure.

Neither the Town nor the County shall be liable to the other, nor be deemed to be in breach of this Agreement for failure or delay in rendering performance arising out of causes factually beyond its control and without its fault and negligence. Such causes may include, but are not limited to: acts of God or the enemy, wars, fires, floods, epidemics, quarantine restrictions, strikes, unforeseen freight embargoes, or unusually severe weather. Dates and times of performance shall be extended to the extent of the delays excused by this covenant, provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.

10. Assignability

The County shall not assign any interest in this Agreement, and shall not transfer any interest in the same, without prior written consent of the Town.

11. Termination

In the first year of operation (FY2014), the Towns will have the right to terminate the contract by giving six months written notice by December 31, 2013, sent by hand delivery or by certified mail, return receipt requested. Such notice shall be signed by authorized officials of the Town, including

Board of Selectmen.

From January 1, 2014 on, this agreement may be terminated by the Town for any reason upon at least one year's written notice from the date received by the County, sent by hand delivery or certified mail, return receipt requested. Such notice shall be signed by authorized officials of the Town, including the Board of Selectmen. No such termination shall affect any obligations that may have arisen hereunder prior to such termination. The Oversight Board and the County shall equitably adjust any payments made or due relating to the unexpired portion of the Term following such termination. Upon such termination, the withdrawing Town shall not expect any of its residents or municipal properties to receive IPMP service. Upon such termination, the County shall prepare full statements of outstanding unpaid financial obligations under this Agreement and present the same to the Town for payment within thirty (30) days thereafter.

12. Severability

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect, so long as the agreement continues to reflect the intention of the parties.

13. Governing Law.

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

14. Notices.

Any notice permitted or required hereunder to be given or served on the Town and/or the County 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 via the United States Postal Service as set forth below:

- Board of Selectmen, Town of \_\_\_\_\_ MA
- Martina Thornton, County Manager, County of Dukes County, P.O. Box 190, Edgartown, MA 02539

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

\_\_\_\_\_  
Town of \_\_\_\_\_  
Board of Selectmen Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Martina Thornton, County Manager

\_\_\_\_\_  
Date