

Approved: 8-23-17

**TOWN OF WINCHENDON
INTERMUNICIPAL AGREEMENT SUBCOMMITTEE MINUTES
MONDAY, JULY 13, 2017
Town Hall, 2nd Floor Auditorium
109 Front Street, Winchendon, Mass.**

Present:

Keith R. Hickey, Town Manager, Town of Winchendon
Audrey LaBrie, Chairwoman, Winchendon Board of Selectmen
Cameron Fortes, Vice Chair, Templeton Board of Selectmen
Michael Barbaro, Winchendon Board of Selectmen
Diane Haley Brooks, Templeton Board of Selectmen
Lindsay Kuchta, Recording Secretary

List of Documents Presented at Meeting

- Inter-municipal Agreement Draft
-

Meeting Called to order at 6:10pm

Pledge of Allegiance to the Flag of the United States

Announce Audio/Video Recording Disclosure; None recording.

1. NEW BUSINESS:

Joint Meeting held with Templeton Board of Selectmen Sub-committee:

Shared Town Manager Services Inter-Municipal Agreement Review

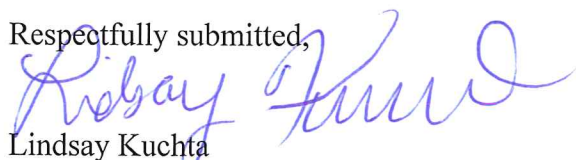
Mrs. LaBrie read over the agreement, as well as reviewed changes that were made to the agreement at the previous meeting. Mr. Hickey kept track of all changes made to the agreement, and he and Ms. Brooks will meet to work on the changes that need to be made to the document.

(See attachment for copy of agreement with changes)

2. ADJOURNMENT:

With no executive Session this evening, a motion to adjourn was made by Mr. Barbaro and seconded by Mr. Fortes. With a vote of all ayes, the meeting adjourned at 8:34pm

Respectfully submitted,



Lindsay Kuchta
Administrative Assistant

July 13, 2017

DRAFT INTERMUNICIPAL AGREEMENT BETWEEN THE TOWNS OF WINCHENDON AND TEMPLETON

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 Winchendon, acting by and through its Board of Selectmen-Board, as authorized by vote (hereinafter referred to as "Winchendon"), and the Town of Templeton, acting by and through its Select Board of Selectmen, as authorized by vote (hereinafter referred to as "Templeton") (collectively ~~to be~~ referred to as "the Parties").

WITNESSETH:

WHEREAS, Winchendon currently has full-time ~~municipal~~ Town Manager ("Winchendon"), whose compensation and terms of employment are addressed by a contract between Winchendon and the Town under contract, and Templeton will have a vacancy in its municipal manager position on August 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 ~~Winchendon and Templeton~~ the Parties, under the policy guidance of the ~~Select~~ Boards of Selectmen in each community, as detailed below.
- b) When providing services for ~~the Town of~~ Winchendon:
 - i. The Chief Administrative Officer shall perform the duties as defined by this Agreement, the Charter, bylaws, and policies of Winchendon, as well as such other duties as the Winchendon 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 Winchendon.
- c) When providing services for ~~the Town of~~ Templeton:
 - i. The Chief Administrative Officer shall perform the duties as defined by this Agreement, the bylaws, and policies of Templeton, as well as such other duties as the Templeton 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 Templeton.

ARTICLE II.

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

~~Parties. The Chief Administrative Officer shall be an employee of the Town of Winchendon (the "hostlead community") appoint the Chief Administrative Officer~~ to serve for such term as specified in ~~an the Winchendon/Manager~~ employment agreement.

The Chief Administrative Officer shall devote ~~his or her~~ the officer's 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 Inter-municipal 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~~ the officer's charge. The powers and duties of the Chief Administrative Officer shall include, when acting on behalf of Winchendon, those provided for this agreement, the Winchendon Charter, Bylaws, and policies, and such additional powers, and duties by the Winchendon Board of Selectmen, and, when acting on behalf of the Town of Templeton, those provided for by this agreement, the Templeton Bylaws and policies, and such additional powers and duties voted by the Templeton Board of Selectmen, including but not ~~but are not intended to be~~ limited to, the following provided, however, that any inconsistency between such enabling legislation and this Agreement, the enabling legislation shall control:

- a) Supervise, direct and be responsible for the efficient administration of all municipal activities placed under ~~his or her~~ the officer's control ~~by this Agreement, the bylaws, and policies of Winchendon and Templeton, including all officers appointed by the Chief Administrative Officer and their respective agencies;~~
- b) ~~Be responsible for the Endeavor to~~ coordinate ~~of~~ the activities of all agencies under ~~his or her~~ the officer's control with the activities of all other municipal agencies, ~~including those elected by the voters of Winchendon and Templeton~~ 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 Winchendon and Templeton, or otherwise. Appointments made by the Chief Administrative Officer of all employees employed by Winchendon and Templeton shall be subject to approval of the respective Board of Selectmen~~ confirmation process of the Boards of Selectmen in Winchendon and Templeton, as currently in effect applicable in each town. ~~Appointments made by the Chief~~

Commented [A1]: In my opinion, there is a risk of including the below-listed powers and duties, as the Winchendon Charter gives the Town Manager far greater control over employment, relations between departments, responsibility for real estate, responsibility for building and grounds maintenance, procurement, etc. In other words, in each of the listed areas, it is highly likely that the Templeton Board of Selectmen will be required to take action with respect to these matters, whether on a case by case basis, or blanket delegation. In my further opinion, therefore, the bulk of this information may be deleted, or revised in a manner substantially to that proposed in this document.

Commented [A2]: Without a charter, this may be problematic in Templeton (if there is no special act) if other elected officials object.

~~Administrative Officer in furtherance of his or her duties relative to this Inter-municipal 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~~ ing the compensation of all municipal employees appointed by the Chief Administrative Officer within the limits established by appropriation, and, as applicable, bylaw, compensation plans, or ~~and by the bylaws, policies, and/or past practices of Winchendon and Templeton, or by~~ collective bargaining agreement.
- e) ~~Endeavor to~~ Assure that all of the provisions of the Massachusetts General Laws, the Inter-municipal Agreement and the bylaws and policies of Winchendon and Templeton that require enforcement by the officer or him or her, or by officers or employees subject to the officer's ~~his or her~~ supervision, are faithfully carried out and enforced.
- f) Prepare and submit an annual operating budget and a capital outlay ~~program plan for Winchendon and Templeton in accordance with the charter, by-laws and adopted policies of each respective party.~~
- g) Assure that a full and complete record of the financial and administrative activities of ~~Winchendon and Templeton~~ each of the Parties is kept, and ~~he or she~~ the officer shall render a complete written report to each of the Select Board of Winchendon and Templeton Parties at the end of each fiscal year and at such times as the each of the Select Board of each of the two towns Parties may reasonably require.
- ~~h) Execute contracts in accordance with applicable local law and as may be delegated to the Chief Administrative Officer from time to time granted to the Parties by applicable provisions of their respective enabling legislation, subject to the bylaws and policies of Winchendon and Templeton.~~
- h) Have full jurisdiction over the rental, use, maintenance and repair ~~and use of all town facilities, other than the schools, in Winchendon, and over such town facilities in Templeton as are under the control of the Board of Selectmen, or, at the request of other boards or committees, with the approval of the Board of Selectmen~~ in accordance with the charter, by-laws and adopted policies of each respective party.
- 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.
- ~~k) i) Inquire at any time into the conduct of office of any officer, employee, or department under his or her~~ the officer's supervision.
- ~~j) k) Assure that a full and complete inventory of all property owned by the Parties, Winchendon and Templeton, both real and personal, is kept.~~
- ~~m) l) Make such recommendations, from time to time, to the Parties Boards of Selectmen of Winchendon and Templeton, which, in the Chief Administrative Officer's judgment, are deemed necessary or desirable.~~
- ~~n) 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.~~

Commented [A3]: What appointments are being referenced? It appears that this should be deleted in its entirety.

Commented [DHB4]: Templeton has a Capital Planning Committee ~ does Winchendon? How would this wording be corrected?

Commented [KH5]: Winchendon does as well. I draft a capital plan for the Committee's review and approval prior to presenting to the Selectmen.

Commented [A6]: It does not appear that the Winchendon Charter allows the Town Manager to sign contracts other than under G.L. c.30B, and it appears that the Templeton Bylaws authorize various individuals/boards/

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Commented [DHB7]: Why are these included in this agreement?

Commented [KH8]: School and library are managed by School Committee and Library Trustees.

Commented [DHB9]: Should this be reworded to suit each Town? Templeton has a B&G dept.

Commented [KH10]: I would suggest eliminating the remainder of the sentence after all town owned property.

- e)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 ~~the towns Winchendon and Templeton~~. The Chief Administrative Officer shall notify the Chair of the Board of Selectmen of ~~the respective town Winchendon and Templeton~~ 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 ~~respective Board of Selectmen of Winchendon and Templeton~~ may meet to review ~~the circumstances and address any additional response needed with respect to~~, ratify, or terminate said public emergency.
- p) ~~Prepare~~ Execute all deeds conveying town real property in Winchendon and Templeton; 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.
- q)o) 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 in accordance with the charter, by laws and adopted policies of each respective party for the preceding ~~preceding~~ fiscal year, later than ~~four months after the end of the period on which the report is based~~.
- r)p) Perform such other functions as may from time to time be assigned ~~to the office of Chief Administrative Officer~~ by the ~~Parties~~ Board of Selectmen of Winchendon and Templeton.

Commented [DHB11]: Templeton by-law states this differently. This needs to be accurate for each town in the wording here.

Commented [KH12]: Is there a timeframe that meets both communities needs?

SECTION II-3. COMPENSATION

- a) The Chief Administrative Officer shall receive such compensation ~~as set forth herein for FY18, and as negotiated by the parties no later than February 15, all subject to appropriation as may from time to time be established for the office of Chief Administrative Officer, by agreement of the Parties.~~
- b) ~~The Town of Winchendon~~ ~~wi~~shall be responsible for 60% and Templeton for 40% of all costs associated with the Chief Administrative Officer, as listed below. Payment ~~wi~~shall be made by Templeton to Winchendon as the lead community on a monthly basis, one month in advance in twelve equal payments.
- c) Increases in ~~c~~Costs for Templeton as listed below shall not exceed 15% -in years two and 18% in year three of the agreement ~~will not exceed more than 15% and 18% respectively.~~

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	FY18 Costs	
	Winchendon	Templeton
	60%	40%
Salary	\$ 93,750.00	\$62,500.00
Car Allowance	\$ 2,160.00	\$ 1,440.00
Retirement		
Health Insurance	\$ 3,148.58	\$ 2,099.06
Medicare	\$ 1,118.82	\$ 745.88
Life Insurance	\$ 50.76	\$ 33.84
Dues	\$ 780.00	\$ 520.00
Conference/Training	\$ 1,920.00	\$ 1,280.00
	\$102,928.16	\$68,618.78

SECTION II-4. ACTING CHIEF ADMINISTRATIVE OFFICER

- a) **Temporary Absence** - ~~The Chief Administrative Officer shall designate a person to serve as Acting Chief Administrative Officer to exercise the powers and perform the duties of the office during the officer's temporary absence by providing advance, when able, notice to the parties. Should the temporary absence exceed 10 business days, the Parties 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, by majority vote of the full board of selectmen of each town, appoint another qualified officer or employee of either town the Towns of Winchendon or Templeton to serve as Acting Chief Administrative Officer until the Chief Administrative Officer shall return and resume such officer's his or her duties. 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 Winchendon or Templeton 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 by majority vote of the full board of selectmen of each town, appoint another qualified officer or employee of either town ~~designate a qualified officer or employee of the Towns of Winchendon or Templeton~~ 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 ~~three~~ months; provided,

Commented [A13]: This is consistent with the requirements of the Winchendon Charter.

Commented [DHB14]: Neither Templeton/Winchendon have or may not plan to have this position. Needs some rework to state the correct way this would be handled.

Commented [KH15]: I would suggest deleting Assistant Chief Administrator and rewording to state the Chief Administrative Officer will designate an individual from each community to exercise the powers.....

however, that the Parties may renew such temporary appointment as needed, or appoint some other qualified person to serve, in three month increments. ~~one renewal, not to exceed a second four months, may be permitted.~~

- c) Powers and Duties - The powers of ~~a the Temporary or temporary or acting 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 ~~in either under the~~ town.

Commented [A16]: This is consistent with the Winchendon Charter. The Board may agree to a more restrictive limitation on its ability to renew a temporary appointment (i.e., the one renewal in the original proposal).

Commented [DHB17]: We need to look at the job description in each town for the Admin Asst to the TM and TA. We also need to look at our by-laws to ensure there is no conflict

Commented [DHB18]: Per DHB, no matter how many times I read this phrase it makes no sense to me. Can we have some language that is in layman terms please?

SECTION II-5. APPOINTMENT AND REMOVAL

a. Appointment.

a) ~~Upon a vacancy in the office of Chief Administrative Officer, the Parties shall meet to discuss the appointment process, and the Templeton Board of Selectmen shall be entitled to participate in that process, including but not limited to jointly interviewing final candidates. As the lead community, and after consultation with Templeton Board of Selectmen at a joint meeting, the Winchendon Board of Selectmen shall appoint the Chief Administrative Officer, consistent with its Charter.~~

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(b) Removal

- (i) The Winchendon Board of Selectmen may by majority vote of the full board, terminate and remove or suspend the Town Manager from office in accordance with the following procedure: Before the Town Manager may be removed, if so demanded, shall be given a written statement of the reasons alleged for removal and shall have a right to be heard publicly thereon at a meeting of the Board of Selectmen prior to a final vote on removal, but pending and during such hearing the Board of Selectmen may suspend the Manager from office. The action of the Board of Selectmen in suspending or removing the Town Manager from office shall be final, it being the intention of this provision to vest all authority and to fix all responsibility for such suspension or removal solely in the Board of Selectmen. The Town Manager shall continue to receive the salary until the effective date of a final vote of removal.
- (ii) ~~The Town of Templeton wish~~ shall remain be responsible for ~~their~~ its share of payments for any severance or paid administrative leave.
- (iii) If the Chief Administrative Officer is eligible to collect unemployment compensation the Parties Winchendon and Templeton wish ~~shall share equally in those unemployment costs 50/50.~~

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SECTION II-6, HIRING OF CHIEF ADMINISTRATIVE OFFICER

If there is a vacancy in the Chief Administrative Officer position, the Boards of Selectmen of Winchendon and Templeton will meet to determine the most appropriate manner to fill

~~the position. The parties shall jointly interview final candidates. A candidate must receive a majority vote of at least six Board of Selectmen prior to being offered the CAO position.~~

SECTION II-6. EVALUATION OF CHIEF ADMINISTRATIVE OFFICER

~~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 shall be physically located will devote and will physically be in Winchendon approximately three days per week in Winchendon and in Templeton two days per week in Templeton, except as circumstances otherwise require, adjusted as appropriate to successfully perform the duties for each of the two towns. The Parties acknowledge that the duties of the Chief Administrative Officer each town may be performed from either town if the need arises as necessary. The Chief Administrative Officer shall be allowed vacation, sick days, and personal days pursuant to his or her contract with the Town of Winchendon, 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 (60%/40%) between Winchendon and Templeton for the duration of this agreement.~~

~~b) Representatives of the Select Boards from Winchendon and Templeton The Parties, their designees, wish shall meet no less than quarterly in the month following the first of the three fiscal year quarters (i.e. Q1, Q2, and Q3) to review implementation of this Agreement. discuss issues that may arise in the day-to-day operations of the parties or the implementation of this IMA.~~

~~c) There shall be an annual review of the Chief Administrative Officer's job performance conducted by the parties in November of each year.~~

~~d) The full body of the Select Board The Parties shall meet November. to determine if the IMA will be renewed for the following year. If the agreement is renewed, cost estimates for the CAO will be discussed and agreed upon.~~

~~Representatives of the Select Boards from Winchendon and Templeton will meet regularly, as needed, to discuss issues that may arise in the day-to-day performance of the Chief Administrative Officer.~~

~~a)-~~

ARTICLE III. TERM

SECTION III-1. This Agreement shall become effective upon signing and shall terminate on June 30, 2020, ~~and may, subject to majority approval of the Select Boards in both Towns, be extended for up to two terms ending on June 30, 2019 and June 30, 2020, respectively.~~ If at any time either Winchendon or Templeton Board of Selectman ~~one of the Parties~~ would like to terminate this agreement, ~~written notice thereof shall be provided at least a 180 days prior to the end of that fiscal year. written notice shall be sent~~ to the respective ~~b~~Board as outlined in Article IV; provided, further, however, that the terminating party shall be responsible for its share of all

Commented [DHB19]: What will each employment contract state?

Commented [KH20]: I would suggest an annual evaluation by both Boards.

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Commented [DHB21]: This needs some language like "as needed basis to ensure consistency and as a group wanted it to be more specific"

Commented [KH22]: Parties acknowledge that the CAO will address issues from either community while in either community. Parties acknowledge the CAO has the authority to leave one community for the other in the case of an emergency.

Commented [DHB23]: Corrected

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Commented [DHB24]: We discussed putting a minimum here; 1/4ly or monthly or some other language to not be so broad, but ensure meetings where happening to keep the process smooth

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Commented [DHB25]: Corrected to be a 3 year contract with the opt out clause and added annual evaluation by both boards.

Commented [KH26]: I would suggest each Board complete their own annual evaluation.

Commented [DHB27]: Would like Winchendon and Templeton to complete a joint annual evaluation ~ need language to effect that.

Commented [DHB28]: Added the word written and also expanded language to see Article IV.

costs under Section II-3 for the remainder of that fiscal year. If notice is provided thereafter, then the terminating party shall also be responsible for all costs under Section II-3 for the ensuing fiscal year.

ARTICLE IV. NOTICES

SECTION IV-1. Notices pursuant to this Agreement shall be given by first-class mail, postage prepaid with return receipt, to the attention of the ~~Board-Chairman of the Board of Selectmen at their respective Town Hall at the Select Board Office of Winchendon and Templeton, and also to their respective Town Clerks.~~ Alternatively, notices required pursuant to this Agreement may be n the respective Chairs of the Select Board. Notice shall be given by hand delivery or certified mail. 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, return receipt requested, and the notice date shall be the date of receipt thereof.

Commented [DHB29]: Added return receipt

Commented [DHB30]: Would also mailing or personally delivering to the town clerks have any effect on confidentiality?

Commented [DHB31]: This will be stricken from the IMA or it could read that is my be personally served upon the office of the Board of Selectman and Town Clerk and must be time stamped and signed who accepted the notice?

ARTICLE V.

SECTION V-1. GENERAL PROVISIONS:

- a) Unless otherwise provided in the Agreement, ~~Winchendon and Templeton~~the Parties shall act by majority vote of ~~its~~the full Board of Selectman.
- b) No change or modification of this Agreement shall be valid unless ~~it shall be~~ in writing and signed by the Parties.
- c) This Agreement ~~The text herein~~ shall constitute the entire Agreement between Parties.
- d) If any provision, ~~or any portion thereof of this Agreement, contained in this Agreement~~ is held unconstitutional, invalid or otherwise 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.

Commented [A32]: Please confirm – a majority of a quorum, which could be two, or a majority of the full board, which is three.

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.]~~
Each party shall hold harmless and indemnify the other party from any claims, suits or actions arising from the actions or omissions of the Chief Administrative Officer while providing services to the indemnifying party. This provision shall survive the term of this Agreement.

Commented [DHB33]: When will this language be available for the subcommittee to review?

Commented [KH34]: I would hope within a week. Agreement could go to full Board for final review with indemnification language to be added prior to review and vote by full Boards.

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

TOWN OF WINCHENDON
Acting by and through its
~~Select Board~~ of Selectmen:

Chair, ~~Select Board~~ of Selectmen

Date:

Chair, ~~Select Board~~ of Selectmen

Attest as to Signature:

Date:

Town Clerk

Attest as to Signature:

Date:

Town Clerk

Date: