

INTERMUNICIPAL AGREEMENT
FOR LOBBYING SERVICES
BETWEEN THE COALITION COMMUNITIES 2.0

This agreement is entered into by the City of Portsmouth and the Towns/Cities of -----
--- (hereinafter referred collectively as “Coalition Communities 2.0”) and each understands
and agrees to the commitments, terms, and conditions contained in this Intermunicipal
Agreement (the “Agreement”).

WHEREAS, For approximately ten years prior to 2006, the state funded education
through a formula that created what was commonly known of as “donor” and “receiver”
towns. Under this formula, a community was characterized as a donor community if it raised
more in Statewide Education Property Tax (“SWEPT”) than the state’s calculation of that
community’s total cost of an adequate education for its students. This “excess” SWEPT was
then distributed by the state to in which the community’s total cost of education exceeded the
amount raised in SWEPT (known as “receiver” communities.)

WHEREAS, The former donor towns worked together to challenge the donor/receiver
education funding formula through the formation of a group known as the “Coalition
Communities”. In part, due to the advocacy and lobbying efforts of the Coalition
Communities, the legislature abolished the donor/receiver education funding formula and
from 2006 through the present, communities now retain the “excess” SWEPT they raise.

WHEREAS, A Commission to Study School Funding (“Commission”) was created by
the NH Legislature in 2019 to “review the education funding formula and make
recommendations to ensure a uniform and equitable design for financing the cost of an
adequate education for all public-school students.” RSA 193-E:2-e;

WHEREAS, The Commission’s Report, issued on December 1, 2020, recommends,
in part, the return of a donor/receiver education funding model by recommending that
communities that generate excess SWEPT remit the “excess” SWEPT to the state for
redistribution to towns whose cost of an adequate education is more than the SWEPT the
town generates;

WHEREAS, Legislation will be introduced in 2021 that adopts in similar fashion the
Commission’s recommendation of a donor/receiver education funding formula, which will
have a substantially negative effect on the taxpayers from newly created donor communities
(“Coalition Communities 2.0”);

WHEREAS, All Coalition Communities 2.0 are members of the New Hampshire
Municipal Association (“NHMA”). NHMA provides advocacy and lobbying services to its
members but it may not lobby on behalf of specific legislation supported or opposed by a
municipality unless it is of interest to its members generally and supported by clear member-
adopted policy positions as legislative principles. NHMA’s current legislative policy on
education does not specifically oppose a donor/receiver education funding model. Without
majority membership support, NHMA’s ability to lobby on behalf of the Coalition Communities
2.0 is severely limited and leaves its Coalition Community 2.0 members at a disadvantage in
their ability to effectively advocate in opposition to legislation that would recreate a

donor/receiver education funding formula;

WHEREAS, RSA 31:9 provides that “[t]owns may at any legal meeting authorize the employment by the selectmen of counsel in legislative matters in which the town is directly or indirectly interested, or may ratify the previous employment by the selectmen of such counsel and may grant and vote money therefor.”;

WHEREAS, Education funding is a complex issue and it would be unduly burdensome and costly for each town to separately track, advocate and lobby in opposition to education funding legislation that supports a donor/receiver model, particularly during COVID-19;

WHEREAS, The Coalition Communities 2.0 seek to share the cost of hiring an advocate for lobbying services;

WHEREAS, RSA 53-A:1 permits “...municipalities and counties to make the most efficient use of their powers by enabling them to cooperate with other municipalities and counties on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities;

THEREFORE, pursuant to RSA 53-A:3, the Coalition Communities 2.0 enter into this Agreement to hire an advocate for lobbying services and to educate others regarding the public policies related to the use of property taxes to fund education, as follows:

I. **DEFINITIONS**

A. “Advocate” shall mean the individual hired to provide professional lobbying services, as further described in the Request for Proposal attached as Exhibit A.

B. “Agreement” shall mean this document, the Intermunicipal Agreement for Professional Lobbying Services Between the Coalition Communities 2.0.

C. “Biennium” shall mean the current two-year term of the legislature beginning January, 2021 and ending December, 2022.

D. “Coalition Communities” shall mean donor towns under prior education funding formulas.

E. “Coalition Communities 2.0” shall mean any potential donor towns under an education funding formula that adopts the Commission’s recommendation or any portion thereof that returns to a donor/receiver education funding formula. See also Member.

F. “Commission” shall mean the Commission to Study School Funding created by RSA 193-E:2-e.

G. “Donor communities” shall mean a community that when SWEPT is assessed

on the municipality's total equalized assessed property value, SWEPT raises more funds than the state's calculated cost of an adequate education assessed for all students. This excess SWEPT is remitted to and distributed by the state to receiver communities.

G. "Excess SWEPT" shall mean when the SWEPT is applied to the equalized property value of a town, it raises more in SWEPT than the state's calculated cost of an adequate education for all students in its community.

H. "Joint Board" shall mean the Coalition Communities 2.0's Joint Board, the oversight board required by RSA 53-A:3, III (a). This Joint Board shall not be confused with the Board of Selectmen for the individual towns that are members of the Coalition Communities 2.0.

I. "Lobbying Services" are the professional lobbying services, as further described in the Request for Proposal attached as Exhibit A.

J. "Member" shall mean a town or city that is a potential new donor town and party to this Agreement.

K. "Receiver Communities" shall mean a community that when SWEPT is assessed on the municipality's total equalized assessed property value, SWEPT raises less than the state's calculated cost of an adequate education for all its students. The state distributes excess SWEPT raised by donor communities to receiver communities to meet its obligation to fund an adequate education.

L. "Report" shall mean the report of the Commission entitled *Our Schools, Our Kids; Achieving Greater Equity for New Hampshire Students and Taxpayers, A Report From The Commission to Study School Funding, Submitted to the New Hampshire General Court, December 1, 2020 Relative to RSA 193-E:2-e*.

M. "SWEPT" shall mean the Statewide Education Property Tax or any other form of property tax assessed by the State of New Hampshire.

II. **PURPOSE OF THIS AGREEMENT**

The purpose of this Agreement is to allow the Coalition Communities 2.0 to jointly hire an advocate for professional lobbying services and to share the costs associated with these services as more fully set forth in the Request for Proposal attached as Exhibit A.

III. **DURATION OF AGREEMENT**

The term of this Agreement runs concurrent with the current biennium of the legislature from January __, 2021 through December 31, 2022. This Agreement may be renewed for an additional two-year term by vote of the majority of the Members after receipt of authorization from its board of selectmen or city council at its annual meeting held in July.

IV. **MEMBERSHIP**

The undersigned hereby organize and constitute themselves as Members of the Coalition Communities 2.0. The Members are listed in Exhibit B, which is attached and incorporated hereto. Each Member is authorized to participate by vote of its Board of Selectmen or City Council and copies of these votes are attached and incorporated as Exhibit C. Each signatory is an authorized representative of its town or city.

Members shall be limited to fifty (50). There will be an organizational meeting of the Members within 15 days of the execution of this Agreement. At the organizational meeting the Members will elect the Joint Board members as more fully described in Section V. Each Member is afforded one vote in all matters upon which require action. A majority vote of those Members present and voting shall be needed to act upon any business associated with this Agreement. One third of the total Membership shall constitute a quorum.

V. **JOINT BOARD**

1. Purpose of Joint Board

A. The Joint Board has the authority to enter into contracts on behalf of the Members, including but not limited to hiring, supervising, advising and directing the activities of an Advocate for professional lobbying services, to negotiate with respect to all matters relating to this Agreement, to request, hold, accept and expend funds, to approve bills and circulate documents necessary in order to keep Members informed of activities pursuant to this Agreement and conduct such other activities as the Joint Board deems necessary and proper to carry out the purposes of this Agreement.

B. The Joint Board shall have the sole authority to approve an annual operating budget, which it shall transmit to the Members.

C. Officers: Beginning with its first meeting and then annually thereafter, the Joint Board shall elect a Chair, Vice Chair and a Clerk from the members of the Joint Board. The Chair shall serve as the official spokesperson for the Members.

2. Membership of Joint Board

A minimum of five regular members of the Joint Board shall be comprised of three town/city managers and two elected officials from its Members. All Joint Board members shall be nominated at the Members' organizational meeting and serve through the expiration of the term of this Agreement. If this Agreement is renewed by the Members for an additional term, the Members will elect Joint Board members at its first meeting during the first 30 days of the second term. There are no term limits for Joint Board members. Joint Board members may be supported by appropriate staff from its community.

Joint Board members and its officers shall not be personally liable for any debt, liability or obligation of the Coalition Communities 2.0. All persons having any claim against the Coalition Communities 2.0 may look only to its funds for payment of any such contract or claim, or for the payment of any debt, damages, judgment or decrees, or of any money that may otherwise become due and payable to them from the Coalition Communities 2.0.

3. Meetings:

A. Annual meetings. The Joint Board shall schedule one annual meeting of the Members during the term of this Agreement after the close of the legislative session in July.

B. Regular meetings. The Joint Board shall meet regularly at quarterly meetings or more frequently at the call of the Chair at such times and places that are mutually convenient to discuss issues of mutual concern to the Members. The Joint Board shall meet once a month with the Members while the legislature is in session. These meetings shall be held on the first Monday of every month at 11:00am. Additional meetings with Members may be scheduled either by the call of the Chair or by written request of five or more Members. The Clerk shall post proper notice of all meetings and shall record minutes pursuant to RSA 91-A:2.

4. Voting and Alternates.

A. Number of Joint Board members. The membership of the Joint Board is comprised of five regular members and two alternate members.

B. Quorum. Three of the five Joint Board members in attendance at a meeting are necessary to form a quorum.

C. Majority vote. All votes will pass by simple majority.

D. Role of Alternates.

Alternate member(s) shall sit with all other Joint Board members during the meetings and may participate but may only vote if regular member can't participate on said item. If an alternate has already been appointed to sit in for a regular member, then the second alternate shall be appointed by the Chair.

If a Joint Board member has unexcused absences for 2 consecutive or 3 total meetings during the term of this Agreement, they will be deemed to have vacated their position and the Joint Board will be free to appoint an alternate as a regular member to the vacant position upon majority vote of the Joint Board. If a Joint Board member resigns or is unable to continue to serve, the Joint Board will appoint an alternate as a regular member by majority vote of the Joint Board.

If alternates become regular members of the Joint Board, new alternates will be appointed by the Joint Board from all applicants that have been nominated by five or more Members.

VI. FINANCIAL AGREEMENT

A. Apportionment of Cost: Pursuant to RSA 53-A:3, II (d), the Coalition Communities 2.0 agree that they will apportion costs as follows:

Apportionments shall be assessed annually to each Member by the 30th of January of each year of the Agreement. The Apportionment shall be based on the Member's percentage of the most recent and available at the time of assessment total equalized property value as certified by the NH Department of Revenue Administration of the total Membership. For example, the total Members' equalized assessed property value is _____. The City of Portsmouth's equalized assessed property value is -----, which is ___% of the total. Portsmouth should contribute %__ of the total costs associated with the Request for Proposal attached as Exhibit A.

No funds will inure to the benefit of any member of the Joint Board, private individuals, or employee of municipalities subject to this Agreement except that reasonable compensation may be paid for services rendered to the Members, including but not limited to contracted services and administrative support.

B Fiscal Agent: The Members agree that the City of Portsmouth ("City") will be the fiscal agent for the funds described in paragraph A above. The funds will be collected by the Joint Board and held by the City for purposes set forth in this Agreement and the Request for Proposals set forth in Exhibit A. However, the Members have delegated all decisions relative to the acceptance and expenditure of funds to the authority to the Joint Board, as described more fully in section IV above

C. Accounting for Funds. The Joint Board with assistance from the Fiscal Agent shall provide to the Members from time to time, but at least quarterly, a formal accounting of monies received, spent, and obligated, and a final accounting upon the termination of the Agreement.

D. All Members are towns except for the City. All towns currently operate under a fiscal year running from January 1-December 31. If any Member changes its fiscal year, the Joint Board shall make a determination as to whether and how to change the apportionment formula.

E. Funds upon Termination

Upon termination of this Agreement, no individual employee or member of the Joint Board shall be entitled to a share in the distribution of any funds upon dissolution. Upon termination, the funds shall be distributed to each Member at the time of distribution in proportion to the percentage of its contribution relative to the total contribution of the all Members made in the year of distribution.

VII. Termination

A. Mutual Agreement. This Agreement may be terminated at the end of the two-year term upon mutual agreement of the Members' Boards of Selectmen and City Council. The Boards of Selectmen and City Council shall make the decision to terminate in July of the second year of the term of this Agreement.

B. Terminate Without Penalty.

If this Agreement is renewed for a second term, a Member wishing to withdraw from the Agreement shall give notice three months before the expiration of the initial two-year term and shall be responsible for its share of the Apportionment until the expiration of the term. Notice shall be in writing from the Board of Selectmen of the withdrawing Member to the Joint Board. The Joint Board will notify the other Members of any Member's withdrawal through their authorized agents who have executed this Agreement. This Agreement shall terminate upon completion of its two-year term if not renewed.

C. Termination With Penalty

A Member wishing to withdraw from the Agreement before the end of the two-year term shall be responsible for its share of the Apportionment until the completion of the term. Notice shall be in writing from the Board of Selectmen of the withdrawing Member to the Joint Board. The Joint Board will notify the other Members of any Member's withdrawal through their authorized agents who have executed this Agreement.

VIII. Other

A. Amendment: This Agreement may be amended only by written Agreement signed by the majority of Members.

B. City Council and Board of Selectman Approval: All Members undersigned have received approval of this Agreement by its City Council or Board of Selectman and have been authorized to participate by votes taken on dates attached and incorporated as Exhibit C.

C. Notices: Notices for each party shall be in writing and mailed to the individuals listed in Exhibit B which is attached and incorporated hereto.

D. Severability: If any provision of this Agreement is deemed invalid or unenforceable, the remaining provisions shall remain in full force and effect.

E. Governing Law: This Agreement shall be governed by and interpreted in accordance with the provisions of the laws of the State of New Hampshire.

F. Separate Document: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

G. Compliance with RSA 53-A:

Pursuant to RSA 53-A:3,IV, this Agreement does not relieve any of the members of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance thereof by a Joint Board. Said performance may be offered in satisfaction of the obligation or responsibility.

Pursuant to RSA 53-A:3 V, this Agreement shall be submitted to the NH Attorney General who shall determine whether the agreement is in property form and compatible with the laws of this state.

Pursuant to RSA 53-A:4, this Agreement shall be filed with the clerk of each municipality and with the NH Secretary of State.

Pursuant to 53-A:5, this Agreement shall be submitted to the NH Department of Revenue Administration as a condition precedent to its entry into force.

This Submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the NH Attorney General.

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