TERMINATION AND
TRANSITION AGREEMENT
BETWEEN
BARNSTABLE COUNTY AND THE CAPE LIGHT COMPACT

SECTION I. PREAMBLE

This Transition Agreement ("Agreement") is entered into between Barnstable County ("the County") and the Cape Light Compact ("Compact") and effective as of December __, 2016 (the "Effective Date"). The County and the Compact are parties to that certain Administrative Services Agreement dated April 10, 2000 (the "ASA"), which governs the terms and conditions by which the County provides certain financial and administrative services to the Compact. The purpose of this Agreement is to terminate the ASA and allow for the Compact's orderly transition to a new fiscal agent, under the terms specified below.

Within this document, the term "party" refers to the County or the Compact and the term "parties" refers to the County and the Compact.

SECTION II. INTERPRETATION

This Agreement is not intended to expand upon or alter any authority that the Compact has under the Sixth Amended and Restated Inter-Governmental Agreement of the Cape Light Compact" dated November 18, 2015 ("Inter-Governmental Agreement"), as amended from time to time, or any successor Inter-Governmental Agreement, nor expand upon or alter any authority that the County has under the Barnstable County Charter ("Charter"), St. 1988, ch. 163 or any successor Charter.

This Agreement is entered into pursuant to G.L. c. 40, §4A, the Inter-Governmental Agreement and Sections 1-5 and 1-6(g) of the Barnstable County Charter.

SECTION III. TERMINATION OF THE ASA

In accordance with Section VII (C) of the ASA, the parties hereby mutually agree to terminate the ASA upon the Effective Date of this Agreement. Notwithstanding the termination of the ASA, any provision of the ASA which, by its terms, survives the termination of the ASA, is not intended to be altered or impaired by means of this Agreement.

SECTION IV. TERM OF AGREEMENT, TERMINATION AND MODIFICATION

A. This Agreement shall be effective as of the Effective Date, and shall continue in effect until June 30, 2017, unless earlier terminated in accordance with its terms (the "Term"). The Compact and County may elect to extend this Agreement until December 31, 2017, provided that the Compact furnish written notice, with a written Separation Plan, approved by the Compact, to the County no later than April 1, 2017 of its desire to extend the Term and the parties shall use good faith efforts to execute a mutual written agreement for extension no later than May 1, 2017. Any extension to this Agreement to a term beyond June 30, 2017 that includes

the utilization of property owned by Barnstable County must be approved by the Assembly of Delegates and the County Commissioners through the Ordinance provisions of the Barnstable County Charter.

B. In the event the Compact intends to transition to a new fiscal agent earlier than the expiration of the Term of this Agreement, the Compact may terminate this Agreement upon at least sixty (60) days prior written notice to the County.

C. This Agreement may only be amended or modified by a written instrument signed by both parties.

SECTION V. COUNTY AS FISCAL ADMINISTRATOR DURING TRANSITION

A. The parties agree that the County will continue to act as fiscal administrator for the Compact for the Term of this Agreement. The County will set up one or more accounts ("Accounts") as directed by the County Director of Finance to hold any funds which may be due or owing to the Compact or its members (whether in the nature of payment, grants, financial contributions, or otherwise), provided, however, that the County shall segregate those funds from all other funds that it controls or maintains and shall hold those funds solely for the benefit of the Compact. For these purposes, the County shall act only as fiscal administrator for the Compact, and shall not gain any right or title to such funds. Interest earned thereon shall accrue to the benefit of the Compact. The Compact agrees that, whenever necessary to carry out the intent of this Agreement, it shall instruct third parties to direct their payments due and owing to the Compact to the Accounts. The banking costs or fees for the maintenance of said Accounts, if any, shall be deducted from funds in the Accounts.

B. At the direction of the Compact, the County will draw upon or otherwise expend any of the funds in any of the Accounts to make payments on bills, debts and obligations of the Compact, provided that sufficient funds are available in the Accounts as determined by the County Director of Finance. The County will not draw upon such funds without the consent of or direction from the Compact (other than to deduct costs or fees associated with the Accounts). In no event will the County be required to provide funding to cover any shortfall of funds in the Accounts, unless such shortfall is due to mistake or negligence of the County in the maintenance of the Accounts.

C. The County shall provide the Compact with an accounting of the funds in the Accounts on a periodic basis, and as reasonably determined by the County Director of Finance. All books and records of the County relating to the fiscal administration services provided to the Compact under this Agreement shall be available to the Compact for inspection. The County shall include a review of the Compact's Accounts in its annual audit, as determined by the County's auditor. The Compact shall also undertake its own independent annual audit.

D. Nothing in this Agreement shall be interpreted to limit the fiduciary responsibility and authority of the County Treasurer under Massachusetts General Laws, or local laws and ordinances.

E. The Compact and the County will use commercially reasonable efforts to ensure the proper transition of funds from the Accounts to any new fiscal administrator for the Compact.

SECTION VI. ADDITIONAL SERVICES

A. Upon reasonable request by the Compact, the County may provide administrative services necessary for procuring goods and services on behalf of the Compact. The County, in its sole discretion, may designate one or more of its employees to serve as staff for the Compact and to provide the services set forth in this Agreement. The parties agree that such purchase of goods and services for the Compact shall comply with the County's procurement process and applicable procurement laws. The Compact shall have the right to review and approve all requests for proposals, invitations for bids or other solicitations issued by the County on behalf of the Compact.

B. Nothing in this section shall be interpreted to limit the ability of the Compact to conduct its own procurements.

C. The County will continue to provide the Compact with office space, information technology support and other services for fiscal year 2017 (July 1, 2016 through June 30, 2017) for the mutually agreed upon price set forth in Exhibit A.

D. During the Term of this Agreement, the County shall provide payroll management and health, retirement and related benefits management for the Compact's employees. The Compact will be responsible for the reasonable and documented costs and expenses associated with County staff costs for payroll maintenance (initial hiring and ongoing employee payroll related changes) and accounts payable services for payment of the Compact's bills (including County staff time for Compact vendor maintenance, warrant process and purchase order maintenance) as set forth in Exhibit A. The Compact will also be responsible for the following documented costs associated with the Compact's employees: (i) Barnstable County Retirement Assessment for the current year as determined from the County's September 30, 2016 salary report and the future liability for retired employees as determined by an actuary's review and calculation; (ii) other post-employment benefits (the cost of the present and future liability for health insurance of the retired employees of the Compact as determined by an actuary's review and calculation; (iii) gross payroll costs, Medicare, unemployment health insurance, reporting and staff time (including fringes); and (iv) all unemployment claims of Compact employees. In furtherance of the foregoing, the County and the Compact may enter into separate agreements to document the services provided by the County and the timing and terms of the reimbursement provided by the Compact, including, but not limited to, an agreement to document the services and unfunded and future liabilities related to retirement and related benefits management for the Compact's employees. The Compact hereby agrees to indemnify the County for any and all liabilities related to Compact employees and retirees and Compact operations, including but not limited to, unemployment expenses, workman's compensation, annual Barnstable County retirement assessments for current Compact employees and retirees, and unfunded liability for retirement costs along with any other present and future liability for other post-employment benefits (OPEB) in accordance with Massachusetts General Law Chapter 40, Section 4A.

SECTION VII. NOTICES

All notices and other communications required by this Agreement or which are necessary in carrying out the terms of this Agreement shall be made:

To the County:

County Administrator
Superior Courthouse
Barnstable, MA 02630

To the Compact:

Cape Light Compact
Attention: Compact Administrator
3195 Main Street
Open Cape Building
Barnstable, MA 02630

Either party may specify a different address by sending notice as provided in this section.

SECTION VIII. INDEMNIFICATION

In addition to the specific indemnification provisions of this Agreement, the Compact will indemnify, hold harmless and defend the County, and its officers and employees ("Indemnitees") from and against any and all claims, demands, liabilities, damages, costs or expenses, including, without limitation, attorneys' fees, incurred by or made against Indemnitees as a result of the County's serving as the Compact's fiscal agent The Compact shall not be obligated to indemnify the Indemnitees to the extent such claims, demands, liabilities, damages, costs or expenses result from the actions or omissions or negligence of an Indemnitee. Notwithstanding the foregoing, the Compact waives any and all claims against the County with respect to the County's obligations under this Agreement, including, but not limited to, its role and responsibilities as Fiscal Agent for the Compact and any duties related thereto.

SECTION IX. MISCELLANEOUS

A. This Agreement shall be deemed the collective work-product of the parties hereto, and shall not be construed against either party by reason thereof.

B. This Agreement is entered into under the authority set forth in G.L. c. 40, §4A. The County shall keep accurate and comprehensive records of the services performed for the Compact under this Agreement, its costs incurred, and reimbursements and contributions received and shall comply with all other applicable provisions of G.L. c. 40, §4A and applicable guidance from the Massachusetts Department of Revenue.

C. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. The parties agree that a scanned or electronically reproduced copy or image of this Agreement bearing the signatures of the parties hereto shall be deemed an original and may be introduced or submitted in any action or proceeding as competent evidence of the execution, terms and existence of this Agreement notwithstanding the failure or inability to produce or tender an original, executed counterpart of this Agreement and without the requirement that the unavailability of such original, executed counterpart of this Agreement.

Signed this 14th day of December, 2016 by the Barnstable County Commissioners:

Name:		
Chair	Vice Chair	Commissioner

Signed this ___ day of _____, 2016 by the Cape Light Compact:

_____
Joyce Flynn

_____
Chair

EXHIBIT A

Fiscal Year 2017 Cost Invoiced to Compact for Barnstable County for Services

IT County Support	**$35,000.00**
Finance County Support	**$16,000.00**
Rent County	**$62,470.00**
Custodial/Maintenance County	**$36,904.00**
Utilities County	**$18,000.00**
Public Officials Insurance County	**$10,000.00**
TOTAL Cost to be Invoiced:	**$178,374.00**

The Compact shall also be responsible for all other administrative expenses associated with the Compact's use of County services (including phone, internet, office supplies, and other related services).