INTERMUNICIPAL AGREEMENTS
July 2017

Under M.G.L. c. 40, §4A, an intermunicipal agreement (IMA) between two or more towns can be executed merely with the mutual approval of the boards of selectmen. An IMA is a formal contract, the subject of which can involve any activities or undertakings normally authorized by law for town departments to perform. The maximum length of any IMA is 25 years, and once lawfully executed, it is binding on the towns, notwithstanding any bylaw or charter provision to the contrary.

Additionally, the statute enumerates financial safeguards these contracts must provide for. Among them are payment details, recordkeeping, audits, responsible parties, and financial reporting. When warranted, an IMA should also address the range of services to be provided, basis for compensation, future capital needs, settlement of disputes, and termination.

As a practical matter, there are three types of IMAs:

- A contract, under which one town agrees to provide a service, typically performed by an individual, to another for an agreed-upon price
- A joint service agreement, wherein each town shares the cost to finance and deliver a range of departmental-type services
- A service exchange agreement, which involves a commitment by each participating community to provide a defined service, as needed or requested, with no payment for costs

Although IMAs can be executed by boards of selectmen without town meeting approvals, they create financial obligations and can have the force of bylaws. However, unlike the adoption of town bylaws and charters, there is no requirement for the State Attorney General to review and approve them. Therefore, each town should seek the advice of town counsel before formally executing any agreement.

It is also important to note that IMAs cannot void or circumvent provisions in collective bargaining agreements. A union could grieve an IMA's terms and thereby prevent its execution.