

May 27, 2014 clean draft
WITHDRAWAL AGREEMENT
By and Between

SAD 44 and the Town of Andover Withdrawal Committee

This Withdrawal Agreement, dated as of June 19, 2014 (“Agreement”), is entered into by and between School Administrative District No. 44, a Maine regional school unit currently comprising the municipalities of Andover, Bethel, Greenwood, Newry, and Woodstock (“SAD 44”) and the Town of Andover Withdrawal Committee, a duly appointed municipal withdrawal committee representing the Town of Andover (“Andover” or the “Town”) organized in accordance with 20-A M.R.S. § 1466(4)(A), and provides for withdrawal of Andover from SAD 44.

The parties agree as follows.

1. **Purposes.** The purposes of this Agreement are:
 - A. To provide for the timely and orderly withdrawal of Andover from SAD 44 as required by 20-A M.R.S. § 1466;
 - B. To provide educational continuity for all students residing in Andover;
 - C. To fairly allocate responsibility for SAD 44’s financial and contractual obligations, and to fairly allocate SAD 44’s assets; and
 - D. To minimize the disruption to SAD 44’s educational programming and services, and to minimize any cost increases to taxpayers in Andover and in SAD 44’s remaining towns that Andover’s withdrawal may cause.

2. **Effective Date of Withdrawal.** Andover shall withdraw from SAD 44 in accordance with the terms of this Agreement as of July 1, 2015 (the “Effective Date”). As of the Effective Date, Andover shall no longer be a member of the SAD 44 school administrative unit. As of the Effective Date, Andover shall be a separate municipal school administrative unit comprised solely of Andover. Thereafter, if Andover joins, merges or otherwise combines with one or

more other school administrative units into a new school administrative unit, Andover's obligations under this Agreement shall be binding on that successor school administrative unit. For the purposes of this Agreement the term "New Andover SAU" shall mean the municipal school administrative unit comprised solely of Andover, or any school administrative unit that Andover may join, merge with or otherwise be included in as a member.

3. Continuity of Educational Services. The New Andover SAU will provide continuity of educational services to its students, as follows:

A. Andover Students Attending New Andover SAU Schools (or otherwise outside SAD 44):

The New Andover SAU will be responsible to provide education to Andover students attending schools in the New Andover SAU or otherwise attending schools outside SAD 44. The New Andover SAU will provide educational services for its grade K-5 students in the same manner that educational services were provided when Andover was a member of SAD 44. Andover has a K-5 school, the Andover Elementary School, and education for grade K-5 students will continue to be provided within the Andover Elementary School, including special education services, gifted/talented, resource room, and activities in the individual grade classrooms.

B. Statutory Right of Andover Students to Continued Enrollment in SAD 44 Schools in First Year Following Withdrawal:

In accordance with Section 1466(4)(A)(1) of Title 20-A, any student residing in Andover who attends an SAD 44 school and is enrolled in that school at the close of the school year prior to the Effective Date, or any student residing in Andover who would have attended an SAD 44 school during the school year following withdrawal if Andover had not withdrawn from SAD 44, may attend that SAD 44 school during the first year after withdrawal, and Andover shall pay tuition and costs as described below.

A student's right to continue to be educated at an SAD 44 school for the first school year after the Effective Date shall terminate if the student discontinues his or her enrollment at that school for a continuous period of 90 calendar days between September 1 and June 15 of the school year following the Effective Date, whether by enrolling in another school administrative unit or private school, dropping out, or being expelled and not readmitted within 90 days.

Notwithstanding the foregoing, a student's failure to attend the SAD 44 school for a continuous period of 90 days due to health reasons, out-of-district special education placement, approved travel or study abroad, or change in residency shall not terminate a student's right to continue to attend SAD 44 schools under this Agreement. In addition, in other appropriate circumstances, the Superintendents of SAD 44 and the New Andover SAU may agree that a student's failure to attend SAD 44 schools for a continuous period of 90 days shall not terminate the student's right to continue his or her education at SAD 44 schools under this Agreement.

The tuition rate payable by Andover to SAD 44 for Andover students attending SAD 44 schools in the year following the Effective Date pursuant to the terms of this Agreement shall be as follows. The tuition rate for elementary students, exclusive of students receiving special education services, shall be the rate calculated for SAD 44 under Section 5804(1) of Title 20-A; the tuition rate for secondary students, exclusive of students receiving special education services, shall be the rate calculated pursuant to Section 1466(4)(A)(1) of Title 20-A. These rates shall not include a debt service factor. Pursuant to Section 1466(4)(A)(1) of Title 20-A, as applicable, these rates are not subject to any per pupil average limitation. To the extent required by law, the tuition payable by Andover to SAD 44 for an Andover secondary student placed with SAD 44 who is attending a career and technical region or center program outside SAD 44 shall be prorated.

SAD 44 will invoice the New Andover SAU for tuition on a semi-annual basis payable by the New Andover SAU on or before December 15 and May 15, with a reconciliation after the Department of Education sets final tuition rates and during the fiscal year in which the tuition costs are incurred.

C. Andover Students Attending SAD 44 Schools – 10 year Non-Exclusive Tuition and Enrollment Agreement:

For a term of ten (10) years commencing on the Effective Date, SAD 44 shall accept enrollment of any Andover resident students for whom the New Andover SAU does not maintain grades.

The tuition rate payable by the New Andover SAU to SAD 44 for Andover resident students attending SAD 44 schools in the nine (9) year period following the year after the Effective Date

pursuant to the terms of this Agreement shall be as follows. The tuition rate for elementary students, exclusive of students receiving special education services, shall be the maximum allowable tuition payment under Section 5804(1) of Title 20-A (for purposes of illustration only, this rate was calculated by DOE as \$7,811.82 per student for FY 2014); the tuition rate for secondary students, exclusive of students receiving special education services, shall be the maximum allowable tuition rate computed as provided under Section 5805(2) of Title 20-A (for purposes of illustration only, that rate was calculated by DOE as \$9,209.92 per student for fiscal year 2014). In addition to these elementary and secondary tuition rates, pursuant to sections 5804(1), 5804(3), 5805(2), and 5805(4) of Title 20-A, the parties agree that SAD 44 shall charge a debt service factor ("Debt Service Factor") during the ten year term of the tuition agreement under this section (subject, however, to the 5 year waiver period described below) for any (i) newly incurred capital outlay and debt service for Telstar Middle/High School to the extent permitted by law; and (ii) newly incurred renovation project capital outlay and debt service costs for Telstar Middle/High School to the extent permitted by law. The parties recognize that SAD 44 plans a 2014 renovation project lease purchase financing with an estimated principal amount of \$1,025,000, to be expended primarily at Telstar Middle/High School. The parties agree that none of the debt service for this project shall be recognized as outstanding debt for purposes of section 7.B and accompanying Table of this Agreement. Rather, to the extent these project funds are expended at Telstar Middle/High School, the parties agree that the debt service is deemed "newly incurred" for purposes of item (ii) of the preceding sentence and shall be included in costs for which SAD 44 may charge a Debt Service Factor, subject however to the waiver period for Debt Service Factor charges described below. The parties agree that the Debt Service Factor shall not exceed 10% of the legal tuition rate per student in any one year and must be limited to a period of time not to exceed SAD 44's repayment period for the capital outlay and debt service. The parties agree that the amount of the Debt Service Factor in any year is that dollar amount which is proportional to the cost of the project(s) and the number of tuition students, that is, a percentage of the amount for capital outlay and debt service equal to the percentage of Telstar Middle/High School students that are resident Andover students. Notwithstanding the foregoing, SAD 44 waives payment by the New Andover SAU of the Debt Service Factor, if any, otherwise payable during each year of the five (5) year period that commences on the effective date of withdrawal of the New Andover SAU.

SAD 44 will invoice the New Andover SAU for tuition on a semi-annual basis payable by the New Andover SAU on or before December 15 and May 15, with a reconciliation after the Department of Education sets final tuition rates and during the fiscal year in which the tuition costs are incurred.

During the ten-year period of the tuition agreement of this section 3(C), Andover students for whom the New Andover SAU does not maintain grades shall be afforded an unrestricted opportunity to attend SAD 44 schools. The New Andover SAU shall assist in fostering a "sister school" relationship with SAD 44 schools, including permitting SAD 44 to invite and hold an orientation/visitation day for Andover matriculating students at Telstar, permitting SAD 44 to invite and hold an open house for Andover parents at Andover Elementary and/or Telstar about the transition, and coordinating the transfer of Andover students and student records to SAD 44 schools unless a parent has initiated a request to attend a different school of the parent's choice.

The New Andover SAU shall not enter into an exclusive contract for school privileges for Andover resident students in grades that it does not maintain. Nothing in this Agreement shall prevent the New Andover SAU from at any time maintaining grades that it does not maintain on the Effective Date of this Agreement.

D. Andover Special Education Students Attending New Andover SAU Schools; Out of District Placements.

The New Andover SAU at its sole expense will provide for continuity of programming for all special education students residing within the Town of Andover attending New Andover SAU schools and attending out of district schools (including high cost special education students). The New Andover SAU assumes all responsibilities for decisions, and all costs, related to special education for these students.

E. Andover Special Education Students Attending SAD 44 Schools.

For students residing in Andover attending SAD 44 schools pursuant to this Agreement, SAD 44 shall provide all special education and related special education services required by the IEP prepared by each student's IEP Team to the extent that SAD 44 has an appropriate program to

meet the terms of the IEP and applicable requirements of Maine law and regulations. Decisions about whether SAD 44 can implement the terms of the IEP, and whether SAD 44 has an appropriate program or placement for a student pursuant to the requirements of the IEP, shall be made by SAD 44 after a careful review of the IEP for the student. In no event shall SAD 44 refuse to provide needed special education services as provided in the IEP for students residing in Andover who are permitted to attend SAD 44 schools under this Agreement, except for student removals of not more than 10 cumulative school days in the school year when the student has been properly expelled from SAD 44 or when SAD 44 has determined that SAD 44 cannot provide an appropriate program or placement for that student. The New Andover SAU's Director and/or Assistant Director of Special Education Services shall represent the New Andover SAU for special education programming, supervision of the IEP Team process, and supervision of the student evaluation process for Andover students attending SAD 44 schools. In the event that the IEP Team is unable to reach consensus on issues that are the responsibility of the Team, the Andover SAU's representative at that Team meeting shall make the decisions on those issues, subject to the parent's due process rights in relation thereto. SAD 44 personnel will work cooperatively with the Andover SAU's representative, and, upon request will provide the Andover SAU's representative with all information regarding classroom observations, student performance, academic achievement testing, and functional behavior assessment components of the student evaluation process. The Andover SAU's representative shall provide input to SAD 44's Special Education Director (or other administrative designee) on the proper implementation of the IEPs of Andover special education students attending SAD 44 schools or perceived deficiencies in IEP implementation. SAD 44 shall consider that input in good faith and SAD 44 shall respond in an appropriate manner consistent with the terms of this Agreement.

A special education or non-special education 504/ADA student residing in Andover and attending an SAD 44 school pursuant to this Agreement shall be permitted to continue his or her education at that SAD 44 school after the first year following the Effective Date to the extent that the student's IEP or 504 team determines that such continued attendance is required for the student to receive an appropriate education.

The New Andover SAU shall be responsible for all the costs of special education, whether or not those costs qualify for state subsidy, for special education students residing in Andover attending SAD 44 schools following the Effective Date pursuant to the terms of this Agreement. The New Andover SAU shall pay SAD 44 for the special education costs of any such student as follows:

The tuition rate calculations under sections 5804 and 5805 of Title 20-A expressly exclude expenditures for special education. Therefore, in accordance with Chapter 101 of the Rules of the Maine Department of Education, Maine Unified Special Education Regulation, Section IV(4) (A) and (B), the New Andover SAU, in addition to the maximum allowable tuition for those students as calculated under sections 5804 or, as applicable, 5805, of Title 20-A, and the Debt Service Factor calculated as described above for regular education students (but subject to the five year waiver period), shall be responsible for the actual costs of special education for those students, including special education transportation costs and costs for facilities modifications required to accommodate the students. For purposes of this subsection, special education shall include non-special education 504/ADA plans and services and special education costs shall include costs of non-special education 504/ADA plans and services and reasonable attorneys' fees incurred by SAD 44 in connection with disputes with third parties over delivery of special education services and/or section 504/ADA plan services for individual Andover students. SAD 44 shall provide an itemized invoice to the New Andover SAU for such special education costs during the fiscal year in which the special education costs are incurred.

F. The New Andover SAU to Become a Member of Region 9 School of Applied Technology.

Upon withdrawal, the New Andover SAU shall, in concert with the Department of Education and the Region 9 Cooperative Board, take necessary steps to become a member of Region 9 through legislative amendment of 20-A M.R.S. § 8451(2)(H).

Pursuant to section 5805(1), the costs of career and technical education are not included in the statutory tuition rate. Accordingly, until such time that the New Andover SAU becomes a member of Region 9, (1) SAD 44 and the New Andover SAU shall pay costs for Region 9 secondary school programs in accordance with the Cost Sharing formula described in Article 12(1)(A) of the Region 9 Cooperative Agreement as if the New Andover SAU were a Region 9 member; and (2) SAD 44 will pay the Region 9 adult education program fee pursuant to the Cooperative Agreement.

4. **Need for School Construction.** The Parties agree that the withdrawal will not cause a need within 5 years from the Effective Date for school construction projects that would be

eligible for state funds. This does not include a need for a school construction project that existed prior to the Effective Date or a need that would have arisen even if Andover had not withdrawn. Any school construction or renovation by the New Andover SAU shall be at its sole expense.

5. **Transportation.** As of the Effective Date, the New Andover SAU shall be responsible to provide transportation services at its own expense for all Andover students attending SAD 44 schools. For Andover students enrolled in SAD 44 schools and attending the Region 9 School of Applied Technology program (or other program, if applicable), SAD 44 at its sole cost shall provide transportation between SAD 44 schools and the vocational program(s) during the 10-year term of the tuition agreement provision in Section 3(C).

Currently, SAD 44 owns 28 registered school buses, 9 of which are still financed by lease purchase agreements. The parties have identified three (3) buses, bus #19, bus # 22, and bus #24, that are not still financed by lease purchase agreements and that will be transferred by SAD 44 to the New Andover SAU on the effective date of withdrawal. See **Exhibit A**. The New Andover SAU shall pay SAD 44 the fair market value of bus #19 on the date of transfer, as determined by Cressey's appraisal. SAD 44 shall transfer bus #22 and bus # 24 at no cost. To the extent Andover requires additional or replacement buses for those it acquires under this Agreement, such purchases shall be at the sole expense of the New Andover SAU. SAD 44 may remove and retain the cameras and radios on the three (3) buses transferred to the New Andover SAU.

During the 10-year term of the tuition agreement provision in Section 3(C), the New Andover SAU shall transport Andover resident students attending SAD 44 schools on a 72 passenger bus. To the extent of the remaining space in the bus, the New Andover SAU shall also transport SAD 44 students on the same bus route to and from SAD 44 schools at no charge. Transportation of SAD 44 students on that route in excess of the remaining capacity of the 72 passenger bus shall be the responsibility of SAD 44.

6. **Allocation and Distribution of Financial Commitments and Services under Long term Contracts.**

By way of clarification, this section includes the allocation of certain long term financial commitments, including long term employment commitments to individual employees. Collective bargaining agreements and rights of continuing contract employees are addressed elsewhere in this Agreement.

A. SAD 44 Employment Commitments. SAD 44 employs administrative and central office individuals on a long-term basis for the following positions: superintendent, transportation supervisor, business office position for accounts, human resources position, and SAD 44 building administrators. The special education administrator is a contracted position with no long term contract. The costs for these employees attributable to educating SAD 44-enrolled Andover students may be recovered through tuition charges with the exception of special education and transportation; however, in consideration of the enrollment of Andover students in grades 6 through 12 pursuant to this agreement, the parties agree that as of the Effective Date, SAD 44 shall be fully responsible for the costs of these employees. The parties do not propose to share any long term contract positions under the terms of this Agreement. The New Andover SAU shall be responsible at its own expense to contract for any long term individual employment contracts it may require, including, if applicable, a principal, a superintendent of schools, and other administrative and central office positions referenced above.

B. Other SAD 44 Financial Commitments: Vendor contracts. .

The New Andover SAU agrees to assume and be solely liable for and at its own expense to pay any amounts that come due on or after the Effective Date under any contracts and agreements, including without limitation service, maintenance, consulting or other contracts and agreements, to the extent related to maintenance, care and servicing of Andover Elementary School ("Andover Elementary") or equipment and other tangible personal property located at or servicing Andover Elementary. These contracts are listed in Exhibit B. SAD 44 may amend the contracts listed in Exhibit B, or their successor contracts, to exclude Andover Elementary as of the Effective Date, and the New Andover SAU shall be solely responsible for the pricing and terms of replacement contracts for these services at Andover Elementary on and after the Effective Date. To the extent the vendor is not agreeable to replacement contracts, the New Andover SAU shall comply with the terms and conditions of the existing contract, shall not exercise any right of non-appropriation without the consent of SAD 44, and shall promptly pay invoices of SAD 44 for an equitable pro rata share of each payment obligation. Licensing and software agreements are covered elsewhere in this Agreement.

7. Financial Commitments from Outstanding Bonds, Notes, and Lease Purchase Agreements; Contingent Liabilities.

A. Debt and Lease Purchase Obligations Generally. Pursuant to 20-A M.R.S. § 1466(16)(A), whenever a municipality withdraws from a regional school unit having outstanding indebtedness, the regional school unit remains intact for the purpose of securing and retiring the indebtedness, provided that the withdrawal agreement may provide for alternate means for retiring outstanding indebtedness.

B. Debt and Lease Purchase Obligations, Specifically as Issued by SAD 44. As of the date of this Agreement, SAD 44 has issued the following bonds, notes and lease purchase agreements that were outstanding as of May 1, 2014:

<u>Date Issued</u>	<u>Amount Issued</u>	<u>Type/Purpose</u>	<u>Outstanding Principal Balance as of June 30, 2015</u>
December 27, 2012	\$1,300,000	Telstar ESCO (local debt)	\$1,105,000
May 27, 2004	\$986,400	Telstar Track/Auditorium (local debt)	\$493,200
May 22, 2003	\$752,593	Telstar Water/Sewer (local debt)	\$200,692

The parties recognize that all of its students, including those from Andover that are enrolled at Telstar, benefit from the issuance of capital debt for facilities. The parties further recognize that the voters of SAD 44 approved the debt with the understanding that all member municipalities would contribute, and that a decision by Andover to withdraw will leave the other members of SAD 44 with increased debt responsibility unless Andover fulfills its share of those obligations. The parties also recognize that the calculation of tuition charges under this Agreement do not include these debt service costs. Accordingly, in accordance with 20-A M.R.S.A. §1466(16) (A), as an alternate means of retiring indebtedness, the New Andover SAU shall pay SAD 44 a sum on the Effective Date, representing 6.77% of the remaining principal balance plus 6.77% of accrued interest as of the Effective Date on the three local debts identified in the above chart, namely, the Telstar ESCO debt, the Telstar Track/Auditorium and the Telstar Water/Sewer debt. By way of illustration, if the Effective Date under this Agreement is July 1, 2015, the payment for debt service shall be \$121,785 plus 6.77% of accrued interest.

To the extent requested by the Maine Municipal Bond Bank (the "Bond Bank") with respect to outstanding bonds issued by SAD 44 and held by the Bond Bank, SAD 44 shall have its bond counsel prepare and submit an opinion to the Bond Bank that this Agreement does not affect the Bond Bank's substantive rights to enforce the terms of such outstanding bonds.

C. Other Obligations of the New Andover SAU. The New Andover SAU agrees to assume any other SAD 44 indebtedness, including bonds, notes or lease purchase agreements, not otherwise provided for herein, for equipment or other personal property that serves or is related to Andover Elementary, that predates this Agreement and that has not been identified herein. To the extent such other existing indebtedness also covers equipment or other personal property that serves or is related to other SAD 44 schools, the New Andover SAU shall comply with the terms

and conditions of the same, shall not exercise any right of non-appropriation without the consent of SAD 44, and shall promptly pay the invoices of SAD 44 for an equitable pro rata share of each payment obligation based upon cost of the equipment that serves or is related to Andover Elementary.

D. Contingent Liabilities.

- i. The Parties acknowledge that SAD 44 may be liable for future legal claims based on incidents arising prior to the Effective Date, when Andover was a member of SAD 44. The New Andover SAU shall be responsible for and agrees to pay 6.77% of SAD 44's costs, expenses, damages, and other losses arising from such claims, including costs to defend such claims, to the extent that SAD 44's costs, expenses, damages, and other losses are not covered by insurance or other sources. SAD 44 shall give written notice of such claims to the New Andover SAU within 30 days after SAD 44 receives notice of a claim. SAD 44 shall regularly update the New Andover SAU regarding the status of such claims, and shall consult with the school board or as applicable the superintendent of the New Andover SAU before entering into a settlement of such claims.
- ii. In the event that SAD 44 becomes the subject of a federal or state audit for a period when Andover was a member of SAD 44 and as a result of such audit, SAD 44 becomes subject to any payment obligation or withholding by federal or state authority, then the New Andover SAU shall reimburse SAD 44 for 6.77% of the amount of such payment obligation or withholding relating to the period when Andover was a member of SAD 44 including without limitation, any interest and penalties thereon, within thirty (30) days of any such payment by SAD 44 or any such withholding from SAD 44. If as a result of such audit SAD 44 receives any rebate, refund, credit or overpayment from any federal or state authority, then SAD 44 shall reimburse the New Andover SAU for 6.77% of such rebate, refund, credit or overpayment within thirty (30) days of receipt of any such payment or credit to SAD 44.

8. New Financial Commitments Issued Prior to the Effective Date.

If Andover votes to withdraw from SAD 44, during the period between the date of certification of that vote and the Effective Date, pursuant to applicable provisions of law (including without limitation sections 5721, 5724(4) and 5772 of Title 30-A , Andover shall have the responsibility to issue such debt (including lease purchase agreements) as it deems necessary to make unexpected or emergency repairs, or other renovations as it deems necessary, to Andover Elementary School. If Andover issues a bond or note or enters into a lease purchase agreement for such repairs, renovations or upgrades, these obligations shall be issued in the name of Andover and shall be the sole responsibility of Andover with no contribution from SAD 44. Until the school is transferred to the New Andover SAU, the parties shall reasonably cooperate to complete the financed renovations, upgrades or repairs to effect the same without unnecessarily interfering with the operation of the school.

In addition, if Andover votes to withdraw from SAD 44, during the period between the date of certification of that vote and the Effective Date, SAD 44 may issue bonds or notes or enter into lease purchase financing arrangements to upgrade facilities at SAD 44 schools and for other purposes. During this period of time, however, SAD 44 agrees not to issue such obligations for Andover Elementary. Pursuant to 20-A M.R.S. § 1466(16), SAD 44 will remain intact for purposes of retiring and securing that indebtedness. SAD 44, however, hereby agrees to assume, and at its own expense to pay, such obligations entirely from its own funds with no contribution or participation from the New Andover SAU (except for the Debt Service Factor under the tuition agreement as described above, but subject to the five year waiver period).

9. **Undesignated Fund Balance and All Other SAD 44 Funds.** Within thirty (30) days of a finalized audit, SAD 44 shall pay to the New Andover SAU 6.77% of the undesignated fund balance as of June 30, 2015. Funds for 2015 summer salaries and benefits obligations shall not be included in SAD 44's undesignated fund balance as of June 30, 2015, but rather shall be treated as encumbered funds to be used to pay FY2014-2015 salary and benefit obligations of SAD 44. The audit relied upon by SAD 44 to determine the amount of the year end undesignated fund balance shall be based upon, and shall take into account accrued expenses pursuant to, generally accepted accounting principles. Additionally, Andover students will benefit from expenditures at Telstar from the capital reserve fund, but not from expenditures at other SAD 44 schools from the capital reserve fund. Accordingly, SAD 44's withdrawals from the capital reserve fund following the Effective Date are subject to this Agreement. As of the

Effective Date, the amount in the capital reserve fund shall be determined by finalized audit, net of encumbered funds in that account, if any. Following the Effective Date, SAD 44 may withdraw all or any portion of that balance from the capital reserve fund for capital equipment or capital improvements for Telstar. Following the Effective Date, SAD 44 may withdraw all or any portion of that balance for other purposes, including capital improvements or capital equipment at other SAD 44 schools, but shall determine and pay the New Andover SAU 6.77% of such withdrawn amount. For purposes of this determination, amounts that SAD 44 pays from the capital reserve fund for any purpose shall be deemed first to be drawn from the amount audited as of the Effective Date. The parties recognize the following exception to this treatment of funds withdrawn from the capital reserve fund following the Effective Date. The SAD 44 board has requested authorization of the 2014-2015 district budget meeting to expend \$210,000 from the capital reserve fund for roof work at Telstar, Woodstock Elementary and Andover Elementary, including approximately \$21,000 in project costs at Andover Elementary. These roof projects are expected to be complete prior to the Effective Date. However, in the unexpected event these roof projects are not completed by the Effective Date, these expenditures from the capital reserve fund following the Effective Date shall not be subject to this provision for withdrawals from the capital reserve fund.

The parties recognize SAD 44 currently has no transfers planned to occur prior to the Effective Date from undesignated fund balances to the capital reserve fund. Should such transfers occur prior to the Effective Date, the amounts so transferred shall be shared in accordance with the provision for sharing 6.77% of net undesignated fund balances.

10. Collective Bargaining Agreements.

SAD 44 is a party to the following collective bargaining agreements:

- The Telstar Educators Association CBA expires on the day before the first work day in the 2016-2017 school year.
- The AFSMCE CBA expires June 30, 2015.

A. Collective bargaining agreements listed above that are in effect on the Effective Date and that expire after the Effective Date shall, to the extent they cover employment positions that will be included in the New Andover SAU, be assigned to and assumed by the New Andover SAU as of the Effective Date. A list of positions currently located in Andover Elementary and the names of persons currently filling those positions is attached to this Agreement as **Exhibit C**. This list shall be updated to the Effective Date by SAD 44, and the updated list shall be attached to this Agreement as **Replacement Exhibit C**.

B. After withdrawal is approved by the voters of Andover, SAD 44 shall have no further authority to bargain with respect to employment positions to be assigned to the New Andover SAU for any period following the Effective Date.

C. If any collective bargaining agreement covering employment positions to be assigned to the New Andover SAU has expired and no successor agreement has been executed as of the Effective Date, New Andover SAU shall maintain the static status quo existing under the expired agreement with regard to employment positions assigned to the New Andover SAU.

D. Employees occupying employment positions that are included in existing bargaining units and are assigned to New Andover SAU shall continue to be represented by the bargaining agents representing them before the Effective Date.

E. Liability for encumbered payroll and benefits accrued by employees for the school year immediately preceding the Effective Date, but not paid as of the Effective Date will remain with SAD 44.

11. Continuing Contract Rights under Section 13201.

A. On the Effective Date, all continuing contract teachers assigned to the New Andover SAU, and having a right to continued employment as of the Effective Date, shall become continuing contract teachers of the New Andover SAU. A list of continuing contract teachers and probationary teachers with their number of years of service toward continuing contract status, assigned to the Andover schools is attached as **Exhibit D**. This list shall be updated to the Effective Date by SAD 44 and the updated list shall be attached to this Agreement as **Replacement Exhibit D**.

B. The New Andover SAU shall credit probationary teachers assigned to the New Andover SAU who become employees of the New Andover SAU with prior consecutive years of probationary service, if any, that they accumulated as employees of SAD 44.

C. The SAD 44 Board shall refrain from filling positions at Andover Elementary for periods of employment beginning on or after the Effective Date. The New Andover SAU shall be responsible for decisions on new probationary contracts or continuing contracts to probationary teachers occupying positions assigned to the New Andover SAU for periods of employment beginning on or after the Effective Date.

12. Disposition of Real and Personal Property.

Except as expressly provided otherwise herein, the New Andover SAU shall be responsible for the cost, including any attorneys' fees, for all recording, registration and filing fees; and all transfer, re-titling, inspection and other taxes, fees or charges of any governmental authority to effectuate the transfer of any property pursuant to this Agreement. All transfers and assignments shall be without warranty or covenant of title of any kind, and subject to rights and interests of lessors, lessees, secured parties, and others, if any, whether or not recorded or filed of record.

A. **Real Property:** SAD 44 shall convey all right, title and interest in and to the Andover Elementary premises to the New Andover SAU, including the building, grounds and all improvements and fixtures thereon, all as set forth on **Exhibit E** attached hereto and made a part hereof (collectively, the "*Real Estate*") by quitclaim deed. SAD 44 shall be responsible for preparing the deed and for the costs of that preparation.

B. **Personal Property:** All right, title and interest of SAD 44 in and to the three (3) school buses listed in **Exhibit A**, and all tangible personal property of SAD 44, including moveable equipment, furnishings, textbooks and other curriculum materials, supplies, and inventories (and specifically including a shed and its contents, which include a ride-on lawnmower), located within or on Andover Elementary premises as of the Effective Date, shall become the property of the New Andover SAU on the Effective Date. SAD 44 shall be responsible for transferring the bus title certificates and for preparing a quitclaim bill of sale for the personal property to be transferred, and for the costs of that preparation, provided that if the New Andover SAU requires

an itemized list of property for attachment to the bill of sale, it shall prepare that list at its cost and expense for SAD 44's approval.

Pursuant to section 1466(19) of Title 20-A, the SAD 44 Board has determined that its education program will not be disrupted solely because of the transfer of the real estate and tangible personal property identified in this Agreement to be transferred to the New Andover SAU.

As of the Effective Date, license agreements and software for the direct operation of Andover Elementary and equipment and other tangible personal property transferred by this Agreement shall be assigned by SAD 44 to the New Andover SAU to the extent permitted by the terms of the licensing or software agreements, and to the extent such transfer is permissible under the terms of such agreements without imposition of any additional fee or cost to SAD 44 or any limitation or restriction on SAD 44's use of such license or software agreement in connection with SAD 44's other facilities, equipment and operations. For purposes of the preceding sentence, "direct operation" does not include SAD 44's software and licenses pertaining to its central office operations serving its schools, including Andover Elementary. Thus for example, SAD 44's ADS accounting software is not assigned or transferred under this Agreement. The New Andover SAU shall be responsible for purchasing all of its central office licenses and software, including accounting software. Any transfers of software and license agreements are further subject to the terms and conditions of such agreements, which the new Andover SAU assumes and agrees to pay.

C. Cooperation; Records. SAD 44 and Andover shall reasonably cooperate to effect the withdrawal. All SAD 44 files and records in any form, including computer files, shall remain the property of SAD 44. Files and records applicable to Andover, Andover employees or Andover students, to the extent reasonably necessary and not prohibited by applicable privacy, confidentiality or other laws, shall be made available solely to duly authorized school officials of the New Andover SAU for (i) review at an agreed time following reasonable notice during the regular business hours of SAD 44 and (ii) copying at the expense of the New Andover SAU upon the request of the New Andover SAU. SAD 44 shall not be required to create records not otherwise in its possession, and copying of computer files shall be done in whatever medium is convenient for SAD 44. The New Andover SAU shall pay SAD 44 its costs for such copying of public records to the extent permitted by section 408-A(8) of Title 1, and its actual costs,

including time for employees, to prepare and copy non-public records to the extent permitted by law.

13. Transition of Administration and Governance. If this Agreement is approved by the Commissioner of Education and the voters of Andover, the administration and governance of education for Andover students will be transferred from SAD 44 to the New Andover SAU as of the Effective Date, except as provided herein with respect to the Andover students attending SAD 44 schools as tuition students. Prior to the Effective Date, Andover shall elect a school committee ("*School Committee*"). The School Committee shall have authority to take all actions necessary to prepare for the establishment of the New Andover SAU, including but not limited to establishing a budget for the fiscal year that commences on the Effective Date, and shall constitute the governing committee of the New Andover SAU.

If this withdrawal agreement is approved by the Commissioner of Education and the withdrawal of Andover as of the Effective Date is approved by the voters of Andover, the voters of Andover shall not participate in the approval of the SAD 44 budget or other SAD 44 budget or other matters for the fiscal year commencing on the Effective Date at either the budget meeting or the budget validation referendum.

14. Dispute Resolution. Any dispute between the New Andover SAU and SAD 44 (each a "*Party*" and collectively the "*Parties*") arising out of or relating to this Agreement shall be resolved in accordance with this section 14. Either Party may give written notice of a dispute arising out of or related to this Agreement to the other Party by certified mail, return receipt requested. The Parties shall attempt to resolve the matter through informal communication or negotiation for a period of thirty (30) days from the date of receipt of notice by the notified Party. If the dispute has not been resolved within said thirty (30) days, either Party may serve written notice by certified mail, return receipt requested, on the other Party of a request for mediation, which request shall trigger required mediation between the Parties. The mediation shall be conducted in Maine by a mediator mutually agreeable to the Parties, shall not exceed one full day or two half days in length, and shall be completed within ninety (90) days from the date of receipt of the request for mediation. The Parties shall share the cost of the mediator, but each shall bear its own costs related to mediation. If the Parties are not able to reach agreement with the assistance of the mediator, then each retains all rights and remedies provided by law, including the right to initiate and pursue litigation.

15. **State and Local Approval.** This Agreement is subject to approval by the Maine Commissioner of Education as required by 20-A M.R.S. § 1466(4)(B) and approval by two-thirds of the voters of the Town of Andover at a referendum conducted in Andover as required by 20-A M.R.S. § 1466(9-A) or (9-B), as applicable.

16. **Applicability to Successor School Administrative Units.** Upon approval by the Maine Commissioner of Education and pursuant to 20-A M.R.S. § 1466(9-A) or (9-B) approval by a two-thirds majority vote of the Town of Andover, this Agreement shall be binding upon the Town of Andover, the New Andover SAU, and any successor school administrative units that the New Andover SAU may join, merge with or otherwise be included in as a member, and on SAD 44 and its successor school administrative units. Accordingly, the terms of this Agreement shall be incorporated by reference into any Reorganization Plan to which Andover, the New Andover SAU, or SAD 44, or their respective successor school administrative units, is or becomes a party.

17. **Amendment.** This Agreement may be amended by vote of the SAD 44 school board and the elected school board of the New Andover SAU, either before or after the Effective Date. Any such amendment shall be effective only if in writing, signed by duly authorized representatives of the parties to the amendment. No such amendment shall be effective unless approved by the Commissioner of the Maine Department of Education.

18. **Miscellaneous.** This Agreement may not be assigned and shall be interpreted, governed, construed, and enforced in accordance with the laws of State of Maine, without regard to any of its conflict of laws principles. This Agreement contains the entire agreement between the Parties in relation to its subject matter, and there are no other agreements or understandings, oral or otherwise, between the Parties at the time of execution of this Agreement. Each Party represents that its signatory to this Agreement is duly authorized by that Party to execute this Agreement and in so doing to bind that Party to its terms. The headings and subheadings of the sections and paragraphs of this Agreement are inserted for convenience of reference only and shall not control or affect the meaning or construction of any of the agreements, terms, covenants and conditions of this Agreement in any manner. If any provision(s) of this Agreement is determined to be invalid or unenforceable in whole or in part for any reason, the remaining provisions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the full extent

permitted by law. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same Agreement.

[Signature Page Follows]

Signed at Andover, this 19 day of JUNE, 2014

The Withdrawal Committee of the Town of Andover:

Tim Ches
Member from the SAD 44 School Board

Jim
Member and representative from Municipal Officers

Shawn A. Dutcher
Member at Large

Paula Lee
Member of Petitioning Group

Signed at Bethel, this _____ day of _____, 2014.

Chair, SAD 44 School Board

Signed at Augusta, this _____ day of _____, 2014.

Approved as a Final Withdrawal Agreement under 20-A M.R.S. §1466(5)

James E. Rier, Jr.
Maine Commissioner of Education

Signed at Andover, this _____ day of _____, 2014

The Withdrawal Committee of the Town of Andover:

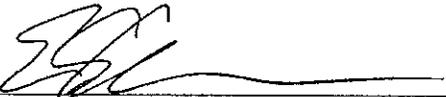
Member from the SAD 44 School Board

Member and representative from Municipal Officers

Member at Large

Member of Petitioning Group

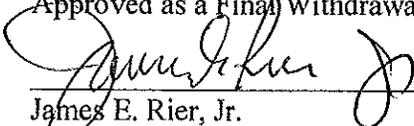
Signed at Bethel, this 26 day of JUNE, 2014.



Chair, SAD 44 School Board

Signed at Augusta, this 12th day of August, 2014.

Approved as a Final Withdrawal Agreement under 20-A M.R.S. §1466(5)



James E. Rier, Jr.
Maine Commissioner of Education

List of Exhibits

- Exhibit A: Three (3) buses to be transferred to the New Andover SAU
- Exhibit B: List of contracts relating to Andover Elementary School
- Exhibit C: List of employees and positions covered by CBAs and assigned to Andover
- Exhibit D: List of continuing contract teachers and probationary teachers with their number of years of service toward continuing contract status, assigned to Andover
- Exhibit E: Real Estate description for Andover School

Andover Withdrawal Agreement

EXHIBIT A

Buses to be transferred from SAD 44 to the New Andover SAU

Bus # 19: Type C Conventional Capacity 66, Mileage – 138,029, Year 2004.

Bus #22: Type C Conventional Capacity 72, Mileage – 84,596, Year 2008.

Bus #24: Type C Conventional Capacity 72, Mileage – 110,267, Year 2008.

Andover Withdrawal Agreement

EXHIBIT B

Vendor Contracts Related to Andover Elementary School

Honeywell Building Solutions, Service Agreement # 963-82-50696

- MSAD #44 Maintenance Agreement, dated May 9, 2011
- Contract term: September 1, 2011 to August 31, 2014
- Annual pricing: \$33,824.00; \$34,838.00; \$35,884.00
- Equipment covered at:
 - o Telstar High & Middle School
 - o Woodstock Elementary School
 - o Andover Elementary School
 - o Bus Garage
 - o Crescent Park School

BEU (Business Equipment Unlimited)

- MSAD #44 is Customer No. 204051
- Service Contract covers copier equipment at:
 - o Woodstock Elementary School
 - o Crescent Park School
 - o Telstar High School
 - o Telstar Middle School
 - o Bus Garage
 - o Andover Elementary School
 - o Superintendent's Office
- All schools are grouped together for billing purposes
- MSAD #44 is billed quarterly at a per copy rate
- Service Contract automatically renews until MSAD meets with BEU to negotiate new terms

Andover Withdrawal Agreement

EXHIBIT E

Deed to Andover Elementary School

See attached Municipal Quitclaim Deed from Town of Andover to School Administrative District #44, dated March 17, 1966, and recorded in the Oxford County Registry of Deeds in Book 642, Page 275.

Andover Withdrawal Agreement

EXHIBIT C

**List of CBA employment positions “located in Andover Elementary School”
(Exhibit to be updated and replaced as of Effective Date)**

Dee Nadeau - Food service, AFSCME contract

Brenda Bailey, Custodian/bus driver, AFCSME contract

Jolene Perry Dumas, 40% Title I Teacher, TEA contract

Megan Smith, K/1 Teacher, TEA contract

Karen Thurston, 4/5 Teacher, TEA contract

Francis Yates, part time bus driver/garage, AFSCME contract

Sharon Hutchins, bus driver, AFSCME contract

Kelly Scotti, secretary, TEA contract

Note: a grade 2/3 teacher/teaching principal position is currently open in 2014-2015.

Andover Withdrawal Agreement

EXHIBIT D

**List of continuing contract teachers and probationary teachers (w/# years of service)
assigned to Andover
(Exhibit to be updated and replaced as of Effective Date).**

You will note that this list overlaps Exhibit C to some extent.

Jolene Perry Dumas, 40% Title I Teacher, TEA contract - Continuing Contract - 5years

Megan Smith, K/1 Teacher, TEA contract - Just approved for 3rd year probationary contract for FY 14

Karen Thurston, 4/5 Teacher, TEA contract - Just approved for 3rd year probationary contract for FY 14

Note: a grade 2/3 teacher/teaching principal position is currently open in 2014-2015.