

Withdrawal Agreement
Between
Regional School Unit No. 32 d/b/a School Administrative District No. 32
and the Oxbow Plantation Withdrawal Committee

This Agreement dated as of May 3, 2016, by and between Regional School Unit No. 32 d/b/a School Administrative District No. 32, a Maine regional school unit comprising the municipalities of Ashland, Garfield Plantation, Masardis, and Oxbow Plantation (hereinafter "SAD 32") and the Oxbow Plantation Withdrawal Committee, a duly appointed municipal withdrawal committee for Oxbow Plantation formed in accordance with 20-A M.R.S. § 1466(4)(A).

1. **Purposes** The purposes of this Agreement are:

- a) To provide for the timely and orderly withdrawal of Oxbow Plantation from SAD 32;
- b) To provide educational continuity for those students residing in Oxbow Plantation who wish to continue their education with SAD 32; and
- c) To allocate SAD 32's financial and contractual obligations, and its assets, between SAD 32 and the new school administrative unit that includes Oxbow Plantation (hereinafter the "New Oxbow SAU"), as of the effective date of Oxbow Plantation's withdrawal in a manner that fairly takes into account the continuing educational needs of students, the continuity of educational programs and the goal of avoiding sudden or excessive increases in property taxes in Oxbow Plantation and the member municipalities of SAD 32.

2. **Withdrawal** Pursuant to 20-A M.R.S. § 1466, Oxbow Plantation shall withdraw from SAD 32 in accordance with the terms of this Agreement as of June 30, 2017, and thereafter shall no longer be a member of SAD 32. As of July 1, 2017 (the "Effective Date") Oxbow Plantation shall become its own, separate municipal school unit pursuant to 20-A M.R.S. Chapter 111. For purposes of this Agreement the term "New Oxbow SAU" includes any school administrative unit that is composed solely of Oxbow Plantation or that includes Oxbow Plantation as a member.

In the event of deorganization of Oxbow Plantation as provided in Chapter 302 of Title 30-A of the Maine Revised Statutes, this Agreement shall be subject to the deorganization procedure described therein, including 30-A M.R.S. § 7205(2) regarding education services for students in the municipality being deorganized.

3. **Continued Enrollment (First Year After Withdrawal)** During the first school year after the Effective Date, students residing in Oxbow Plantation may attend the school they would have attended if Oxbow Plantation had not withdrawn from the SAD 32. In accordance with 20-A M.R.S. § 1466(4)(A)(1), for this first year, the New Oxbow SAU shall pay tuition for Oxbow Plantation students attending SAD 32 schools, which tuition shall be computed for elementary students as

provided by 20-A M.R.S. § 5804(1), and for secondary students as provided by 20-A M.R.S. § 5805(1) without regard to the state per pupil average limitation provided in section 5805(2).

4. **Continuity of Educational Program (Ten Years After Withdrawal)** For the nine-year period following the first school year after the Effective Date, Oxbow Plantation resident students in grades K through 12 who choose to attend public school shall enroll exclusively in SAD 32 schools unless an exception enumerated in 20-A M.R.S. § 5205 applies.

For this nine-year period, the New Oxbow SAU shall pay tuition for Oxbow Plantation students, which tuition shall be computed as provided by 20-A M.R.S. § 5804(1) for elementary students, and as provided by 20-A M.R.S. § 5805(1) without regard to the state per pupil average limitation provided in section 5805(2) for secondary students.

5. **Right to Discontinue Education** An Oxbow Plantation resident student's right to be educated at SAD 32 schools as set forth in Sections 3 and 4 may be discontinued to the extent provided by law, including without limitation, for reasons of suspension, expulsion, out-of-district placement, or enrollment in another public or private school.

6. **Special Education**

A. Placement and Planning. Following the Effective Date, the New Oxbow SAU shall be responsible for special education and Section 504 placement obligations for Oxbow Plantation resident students. SAD 32 shall provide all special education services to Oxbow Plantation students enrolled in SAD 32 required by the IEP prepared by each student's IEP Team to the extent that SAD 32 has an appropriate program to meet the terms of the IEP and applicable requirements of Maine law and regulations. Except for short term programming changes of not more than ten (10) school days, decisions about whether SAD 32 can implement the terms of the IEP and whether SAD 32 has an appropriate program or placement for a student pursuant to the requirements of the IEP shall be made by SAD 32 after a careful review of the IEP for the student. In no event shall SAD 32 refuse to provide needed special education services as provided in the IEP for students who are permitted to attend SAD 32 schools under this Agreement, except for student removals of not more than 10 cumulative days in the school year, when a student has been properly expelled from SAD 32, or when SAD 32 has determined that SAD 32 cannot provide an appropriate program or placement for that student.

In the event that SAD 32 cannot implement the terms of an Oxbow Plantation resident student's IEP and provide an appropriate program or placement for that student, the New Oxbow SAU shall be responsible for implementing the terms of the IEP for that student. The New Oxbow Plantation SAU's special education director or designee shall represent the New Oxbow Plantation SAU for special education programming, supervision of the IEP Team process, and supervision of the student evaluation process for Oxbow Plantation students enrolled in SAD 32. In the event that the IEP Team is unable to reach consensus on issues that are the responsibility of the Team, the New Oxbow Plantation 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 32 personnel will work cooperatively with the New Oxbow Plantation SAU's representative and other staff, and upon request will provide the New Oxbow Plantation 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 New Oxbow Plantation SAU's representative may provide input to SAD 32's special education director (or other administrative designee) on the proper implementation of SAD 32 enrolled student IEPs, or perceived deficiencies in IEP implementation. SAD 32 shall consider that input seriously and in good faith and SAD 32 shall respond in an appropriate manner consistent with the terms of this Agreement.

B. Special Education and 504 Costs. The tuition rate determined under 20-A M.R.S. §§ 5804 and 5805 expressly excludes expenditures for special education. In accordance with Chapter 101 of the Rules of the Maine Department of Education, *Maine Unified Special Education Regulations*, Sections IV(4)(A), (B), the New Oxbow Plantation SAU shall be responsible for the costs of special education for Oxbow resident students. Therefore, in addition to the tuition required under Sections 3 and 4 of this Agreement, the New Oxbow Plantation SAU shall be responsible for the actual costs of special education for Oxbow resident students attending SAD 32 schools, including special education transportation costs and costs for facilities modifications required to accommodate the students, to the extent that such costs are not included in the calculation of the tuition rate and regardless of whether the costs qualify for state subsidy. For purposes of this Section 6, special education shall include non-special education Section 504/ADA plans, services, facilities modifications and reasonable attorney fees incurred by SAD 32 in connection with disputes over delivery of special education services and/or Section 504/ADA plans and services for individual Oxbow students. SAD 32 shall provide an itemized invoice to the New Oxbow Plantation SAU for such special education costs during the fiscal year in which the special education costs are incurred.

7. **Transportation** SAD 32 shall provide transportation for Oxbow Plantation resident students for the ten-year period following the Effective Date. The cost of transportation shall be determined by dividing the total transportation costs of SAD 32 by the portion of SAD 32 transportation attributable to Oxbow Plantation on the basis of miles. Transportation attributable to Oxbow Plantation on the basis of miles shall be only those miles traveled within Oxbow Plantation.

8. **Allocation and Distribution of Outstanding Indebtedness**

A. **Financial Commitments from Outstanding Bonds or Notes** On May 28, 2009, SAD 32 issued a bond to the Maine Municipal Bond Bank (the "Bond Bank") in the original principal amount of \$21,937,929 (the "Bond"). After the Effective Date, the remaining debt service due on the Bond will be \$17,674,148.67 (\$14,259,662 in principal and \$3,414,486.67 in interest). Of this remaining debt service, \$1,386,459 (\$1,118,606 principal and \$267,853 interest) is the local-only portion that is not state/local debt service eligible for state subsidy.

In accordance with 20-A M.R.S. § 1466(16), when Oxbow Plantation withdraws from SAD 32, SAD 32 shall remain intact for the purpose of retiring and securing the Bond. As an alternate means of retiring the Bond, until the Bond is retired, the New Oxbow SAU agrees to assume the appropriate share of state/local debt service on the Bond as determined on an annual basis by the Department of Education. In addition, the New Oxbow SAU agrees to pay to SAD 32 on the Effective Date a lump sum amount representing its share of the future local-only debt service on the Bond based on SAD 32's 70% valuation/30% pupil count cost-sharing formula averaged over the past three school years, calculated for SAD 32 as if the Town of Portage Lake had not withdrawn (2013-14 (3.79%), 2014-

15 (3.80%), and 2015-16 (3.65%) = average of 3.75%). This lump sum amount is 3.75% of \$1,386,459, which equals \$51,992.

To the extent requested by the Bond Bank with respect to the Bond, SAD 32 shall have its bond counsel prepare and submit an opinion to the Bond Bank as to whether this Agreement would substantially affect the Bond Bank's substantive rights to enforce the terms of the Bond. The New Oxbow SAU shall reimburse SAD 32 its legal cost for this opinion of bond counsel.

B. Financial Commitments arising from other Contract Obligations Except as provided in this Agreement, the New Oxbow SAU is not responsible for SAD 32's contractual obligations, if any, that extend beyond the Effective Date.

C. Superintendent Contract After the Effective Date, the New Oxbow SAU shall have no obligations for SAD 32's financial commitments to the Superintendent of Schools of SAD 32.

9. **Contingent Liabilities** For the purposes of this Section 9, Oxbow Plantation's "share" shall be 3.75%, based on SAD 32's 70% valuation/30% pupil count cost-sharing formula averaged over the past three school years.

A. Future Claims The Parties acknowledge that SAD 32 may be liable for future legal claims based on incidents arising prior to the Effective Date, when Oxbow Plantation was a member of SAD 32. The New Oxbow SAU shall be responsible for and agrees to pay Oxbow Plantation's share of SAD 32's costs, expenses, damages, and other losses arising from such claims, including costs to defend such claims, to the extent that SAD 32's costs, expenses, damages, and other losses are not covered by insurance or other sources. SAD 32 shall give written notice of such claims to the New Oxbow SAU within 30 days after SAD 32 receives notice of a claim. SAD 32 shall regularly update the New Oxbow SAU regarding the status of such claims, and shall consult with the school committee or as applicable the superintendent of the New Oxbow SAU before entering into a settlement of such claims.

B. Audits In the event that SAD 32 becomes the subject of a federal or state audit for a period when Oxbow Plantation was a member of SAD 32 and as a result of such audit, SAD 32 becomes subject to any payment obligation or withholding by federal or state authority, then the New Oxbow SAU shall reimburse SAD 32 for Oxbow Plantation's share of the amount of such payment obligation or withholding relating to the period when Oxbow Plantation was a member of SAD 32 including without limitation, any interest and penalties thereon, within thirty (30) days of any such payment by SAD 32 or any such withholding from SAD 32. If, as a result of such audit, SAD 32 receives any rebate, refund, credit or overpayment from any federal or state authority, then SAD 32 shall reimburse the New Oxbow SAU for Oxbow Plantation's share of such rebate, refund, credit or overpayment within thirty (30) days of receipt of any such payment or credit to SAD 32.

10. **Collective Bargaining Agreements** The withdrawal of Oxbow Plantation from SAD 32 will not directly affect any of SAD 32's collective bargaining agreements. To the extent the withdrawal and any resultant loss of revenue may constitute a change in local conditions that warrants the elimination of teaching positions, SAD 32 will remain subject to the terms of its collective bargaining agreements.

11. **Continuing Contract Rights under Section 13201** The withdrawal of Oxbow Plantation from SAD 32 will not affect the continuing contract rights of teachers under 20-A M.R.S. § 13201.
12. **Disposition of Real and Personal Property** Except as otherwise provided herein, there will be no transfer of real or personal property between SAD 32 and Oxbow Plantation under this Agreement.
13. **Transition of Administration and Governance** As of the Effective Date, Oxbow Plantation will become a municipal school unit and the administration and governance of education for students residing in Oxbow Plantation will be transferred accordingly. Upon approval of this Agreement by the voters of Oxbow Plantation, Oxbow Plantation shall provide for the election of a school committee in accordance with state law. Said school committee will have the responsibility to develop an operating budget for the fiscal year commencing on the Effective Date, to hire and/or contract for services of administrative staff including a superintendent, and to administer the terms of this Agreement. After approval of this Agreement, the voters of Oxbow Plantation shall not participate in the approval of the SAD 32 budget for the fiscal year commencing on the Effective Date at either the SAD 32 budget meeting or the SAD 32 budget validation referendum.
13. **Superintendents' Agreements** Nothing in this Agreement shall limit the availability or use of Superintendents' Agreements with respect to any Oxbow Plantation resident student.
14. **Dispute Resolution** Any dispute between Oxbow Plantation, the New Oxbow SAU and SAD 32 (hereinafter individually a "Party" or collectively, the "Parties") arising out of or relating to this Agreement shall be resolved in accordance with this paragraph. Any Party may give written notice of a dispute arising out of or related to this Agreement to another Party or Parties in person or 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 last Party to receive notice. If the dispute has not been resolved within thirty (30) days, any Party may serve written notice on the other Party(ies) of a request for mediation. 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 notice of a request for mediation by the last Affected Party to receive notice. In the event that the Affected Parties are unable to agree on a mediator within thirty (30) days, or to resolve the dispute through mediation within ninety (90) days, the dispute shall be submitted to arbitration in accordance with the procedures of the Maine Uniform Arbitration Act, 14 M.R.S. §§ 5927 et seq.
15. **Applicability to Successor School Administrative Units** Upon approval by the Maine Commissioner of Education and the voters of Oxbow Plantation, this Agreement shall be binding upon the Oxbow Plantation, the New Oxbow SAU and its successor school administrative units, and on SAD 32 and its successor school administrative units. Accordingly, the terms of this Agreement shall be incorporated by reference into any Reorganization Plan to which Oxbow Plantation, the New Oxbow SAU, or SAD 32, or their respective successor school administrative units, is or becomes a party.

16. Need for School Construction The withdrawal of Oxbow Plantation from SAD 32 will not cause a need within five (5) years from the effective date of withdrawal for any school construction projects that would be eligible for state funds.

17. 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 a two-thirds vote of those casting valid votes in the municipality of Oxbow Plantation at a referendum conducted in Oxbow Plantation as required by 20-A M.R.S. § 1466(9).

18. Amendment This Agreement may be amended by mutual written agreement of the SAD 32 School Board and the New Oxbow SAU School Committee. Any amendment to this Agreement shall require the written approval of the Commissioner of the Maine Department of Education.

19. Miscellaneous

This Agreement may not be assigned and shall be interpreted, governed, construed, and enforced in accordance with the laws of State of Maine.

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 signatories to this Agreement are 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, such provision(s) shall be severed and the Parties shall negotiate in good faith to amend this Agreement so as to effect the original intent of the Parties as closely as possible. 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 this 29 day of April, 2016.

WITHDRAWAL COMMITTEE OF OXBOW PLANTATION:

Steven Sherman
Thomas Dittus
Paul May

Countersigned this 3 day of MAY, 2016.

MAINE SCHOOL ADMINISTRATIVE DISTRICT NO. 32

Gehrig T. Johnson
Gehrig T. Johnson
Superintendent of Schools

Sherri Calhoun
Sherri Calhoun
Chair of the School Board

Approved this 16th day of August, 2016.

William H. Beardsteph
Print Name: WILLIAM H. BEARDSTEPH

Deputy Commissioner Maine Department of Education