

**Withdrawal Agreement
Between
Maine School Administrative District No. 70 and
the Cary Plantation Withdrawal Committee**

This Agreement dated as of October 6, 2015, is by and between Maine School Administrative District No. 70, a Maine regional school unit comprising the municipalities of Amity, Cary Plantation, Haynesville, Hodgdon, Linneus, Ludlow and New Limerick (hereinafter "SAD 70" or the "District") and the Cary Plantation Withdrawal Committee, a duly appointed municipal withdrawal committee for Cary Plantation (hereinafter "Cary") organized 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 Cary from SAD 70;
 - b. To provide educational continuity for students residing in Cary to continue their education with SAD 70; and
 - c. To allocate SAD 70's financial and contractual obligations, and its assets, between SAD 70 and the new school administrative unit that includes or comprises Cary Plantation (hereinafter the "New Cary Plantation SAU"), as of the effective date of Cary'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. For purposes of this Agreement the term "New Cary Plantation SAU" includes any school administrative unit that is composed solely of Cary or that includes Cary as a member during the term of this Agreement. By way of example, if Cary becomes a municipal school unit, the term "New Cary Plantation SAU" would encompass the Cary municipal school unit. If Cary deorganizes, however and Cary becomes part of Maine's unorganized territory, the term "New Cary Plantation SAU" shall not include the State of Maine, Division of Education in the Unorganized Territories.
2. **Withdrawal.** Pursuant to 20-A MRS §1466, Cary shall withdraw from SAD 70 in accordance with the terms of this Agreement as of June 30, 2016 and thereafter shall no longer be a member of the SAD 70 school administrative unit. As of July 1, 2016 (the "Effective Date"), Cary shall become a separate municipal school unit composed solely of Cary Plantation.
3. **Continuity of Educational Program.** During the first year following withdrawal (July 1, 2016, to June 30, 2017), students residing in Cary may attend the school they would have attended if Cary had not withdrawn. The tuition rate for Cary students during the first year after withdrawal shall be determined under 20-A M.R.S. § 5804 (for elementary students) and 20-A M.R.S. § 5805(1) (for secondary students); however, secondary student tuition shall not be subject to the state per pupil average limitation in 20-A M.R.S. § 5805(2).

1. **Continued Enrollment / Ten Year Tuition Agreement.**

- a. During the ten-year period from July 1, 2017, to June 30, 2027, all students residing in Cary shall exclusively attend school in SAD 70. Additional students who are new residents in Cary shall also exclusively enroll in schools in SAD 70.
- b. During the ten-year period from July 1, 2017, to June 30, 2027, the tuition rate for Cary students shall be determined under 20-A M.R.S. § 5804 (for elementary students) and 20-A M.R.S. § 5805 (for secondary students).
- c. To the extent that the costs of programs provided by SAD 70 to Cary students (such as, but not limited to, gifted and talented programs) are not included in the calculation of tuition rates under sections 5804(1) and 5805(1), the New Cary Plantation SAU shall be responsible to pay such costs to SAD 70 in proportion to the number of Cary students participating in such programs.
- d. In consideration of Cary's agreement not to receive any portion of SAD 70's undesignated fund balance as of the Effective Date, SAD 70 shall not charge a debt service factor for any (i) newly incurred capital outlay and debt service costs; or (ii) newly incurred renovation project capital outlay and debt service.
- e. Tuition determined under Section 5805(1) expressly excludes costs for career and technical education. Accordingly, the New Cary Plantation SAU shall be directly responsible to pay all costs that are attributable to Cary resident students' attendance at a career and technical program (currently Region Two School of Applied Technology (the "Region")). Upon approval of this Agreement by the voters of Cary Plantation, SAD 70 shall work with the Region and, as needed, the school administrative units affiliated with the Region, *see* 20-A M.R.S. § 8451(2)(B), to provide for the New Cary Plantation SAU to be billed directly for its career and technical education costs by the Region.

2. **Termination of Right to Attend SAD 70.** A student's right to continue to be educated at SAD 70 schools under Sections 3 and 4 of this Agreement 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.

3. **Adult Education.** The New Cary Plantation SAU shall be responsible to pay all costs paid by SAD 70 that are attributable to Cary residents' 16 to 20 year old out-of-school youth enrollment in adult education high school completion courses provided by SAD 70.

4. **Special Education.** SAD 70 shall provide all special education services to SAD 70 enrolled students from Cary required by the IEP prepared by each student's IEP Team to the extent that SAD 70 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 70 can implement the terms of the IEP and whether SAD 70 has an appropriate program or placement for a student pursuant to the requirements of the IEP shall be made by SAD 70 after a careful review of the IEP for the student. In no event shall SAD 70 refuse to provide needed special education services as provided in the IEP, except for student removals of not more than 10 school days or when SAD 70 has determined that SAD 70 cannot provide an appropriate program or placement for that student. The New Cary Plantation SAU's special education director shall represent the New Cary Plantation SAU for special education programming, supervision of the IEP Team process, and supervision of the student evaluation process for SAD 70 enrolled students. In the event that the IEP Team is unable to reach consensus on issues that are the responsibility of the Team, the New Cary 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 70 personnel will work cooperatively with the New Cary Plantation SAU's special education director and other staff, and upon request will provide the New Cary Plantation SAU's special education director with all information regarding classroom observations, student performance, academic achievement testing and functional behavior assessment components of the student evaluation process. The New Cary Plantation SAU's special education director may provide input to SAD 70's special education director (or other administrative designee) on the proper implementation of SAD 70 enrolled student IEPs, or perceived deficiencies in IEP implementation. SAD 70 shall consider that input seriously and in good faith and SAD 70 shall respond in an appropriate manner consistent with the terms of this Agreement.

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 Cary Plantation SAU shall be responsible for the costs of special education for Cary resident students. Therefore, in addition to the tuition required under Sections 3 and 4 of this Agreement, the New Cary Plantation SAU shall be responsible for the actual costs of special education for Cary resident students attending SAD 70 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 7, special education shall include non-special education Section 504/ADA plans, services, facilities modifications and reasonable attorney fees incurred by SAD 70 in connection with disputes over delivery of special education services and/or Section 504/ADA plans and services for individual Cary students. SAD 70 shall provide an itemized invoice to the New Cary Plantation SAU for such special education costs during the fiscal year in which the special education costs are incurred.

8. **Transportation.** SAD 70 shall provide transportation for Cary students during the tuition contract period provided in Sections 3 and 4 above, provided that the New Cary Plantation SAU enrolls its students in SAD 70 schools on an exclusive basis in accordance with Section 4 above. The New Cary Plantation SAU shall be responsible for the cost of

transportation of its students, which shall be determined by dividing the total transportation costs of the District by the portion of District transportation attributed to Cary on the basis of student miles. The New Cary Plantation SAU may request transportation for its resident students in addition to the regular school-day pick-ups and drop-offs (for example, "late bus" service). To the extent that such additional transportation runs serve Cary students exclusively (i.e., times when all students on a bus are Cary students), the New Cary Plantation SAU shall be responsible for the entire cost.

9. **Financial Commitments for Bonds, Notes and Lease Purchase Agreements.** 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; however, a withdrawal agreement may provide for alternate means of retiring outstanding indebtedness.
 - a. **Existing Debt and Lease Purchase Obligations.** As an alternate means of retiring SAD 70's outstanding indebtedness and lease purchase obligations, the New Cary Plantation SAU agrees to give up any claim to a share of SAD 70's undesignated fund balance as of the Effective Date and SAD 70, excluding Cary, agrees to pay all of the debt service on SAD 70's outstanding indebtedness and lease purchase obligations due after the Effective Date.
 - b. **New Financial Commitments Issued Prior to Vote on Withdrawal.** During FY 2015-2016 SAD 70 may issue bonds or notes or enter into lease purchase financial arrangements to upgrade facilities at the SAD's schools or for other purposes. For any debt or lease purchase obligations issued or incurred by SAD 70 before the Cary vote on withdrawal, under 20-A M.R.S.A. § 1466(16) SAD 70 will remain intact for purposes of retiring and securing that indebtedness. If Cary's withdrawal is approved at referendum, as an alternate means for retiring such indebtedness or lease purchase obligations under 20-A MRS § 1466(16), SAD 70, exclusive of the New Cary Plantation SAU, hereby agrees to pay such indebtedness or lease purchase obligations.
 - c. **Debt Obligations for Current Operating Expenses.** To the extent that any obligation may be issued by SAD 70 for current operating expenses during FY 2015-2016, including tax and revenue anticipation notes, the obligation shall be a general obligation of SAD 70 payable from ad valorem taxation in all of its member municipalities, including Cary or the New Cary Plantation SAU.
 - d. **Lease Purchase Agreements.** As of the Effective Date, the SAD 70, excluding the New Cary Plantation SAU, will pay all lease purchase agreements for buses, photocopiers, other equipment, and personal property incurred by SAD 70 prior to the Effective Date.

To the extent requested by the Maine Municipal Bond Bank (the "Bond Bank") with respect to bonds issued (and to be issued) by SAD 70 and held by the Bond Bank that are outstanding as of the Effective Date, SAD 70 shall have its bond counsel prepare and

operating budget for the New Cary Plantation SAU for the 2016-2017 fiscal year. This Agreement shall not prevent the Boards of SAD 70 and the New Cary Plantation SAU from entering a separate agreement to share superintendent and/or central office services in 2016-2017 or beyond.

The New Cary Plantation SAU School Committee shall be responsible for hiring necessary administrative staff, including a superintendent, and providing for necessary central office services.

Following certification of voter approval of this Agreement, the voters of Cary Plantation thereafter shall not participate in, as applicable, the annual budget meeting or budget validation referendum for the SAD 70 2016-2017 annual school budget, and shall not vote on whether or not to continue the budget validation process in SAD 70.

16. **Superintendents' Agreements.** Nothing in this Withdrawal Agreement shall limit the availability or use of Superintendents' Agreements with respect to any student who is not an enrolled student under this Agreement.
17. **Dispute Resolution.** Any dispute between Cary Plantation, the New Cary Plantation SAU and SAD 70 (hereinafter individually a "Party" or collectively, the "Parties") arising out of or relating to this Agreement shall be resolved in accordance with this paragraph. Either Party may give written notice of a dispute arising out of or related to this Agreement to the other Party 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 ten (10) days from the date of receipt of notice by the noticed Party. If the dispute has not been resolved within ten (10) days, either Party may serve written notice on the other Party 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 thirty (30) days from the date of receipt of notice of a request for mediation. In the event that the Parties are unable to agree on a mediator within ten (10) days, or to resolve the dispute through mediation within 30 days, each party retains all rights and remedies provided by law and equity, including the right to initiate and pursue litigation. The parties knowingly, voluntarily, intentionally, and irrevocably waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.
18. **Applicability to Successor School Administrative Units.** Upon approval by the Maine Commissioner of Education and approval of Cary at referendum by a two-thirds majority of the voters of Cary Plantation, this Agreement shall be binding upon Cary Plantation, the New Cary Plantation SAU and its successor school administrative units, and on SAD 70 and its successor school administrative units. Accordingly, the terms of this Agreement shall be incorporated by reference into any Reorganization Plan to which Cary, the New Cary Plantation SAU, or SAD 70, or their respective successor school administrative units, is or becomes a party. For purposes of this section, in the event Cary Plantation deorganizes, the State of Maine, Department of Education, Division of Education in the

22. Miscellaneous

- a. 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.
- b. This Agreement may only be amended by mutual written agreement of the school boards of SAD 70 and the New Cary Plantation SAU. Any amendment is subject to the written approval of the Commissioner of the Maine Department of Education. Substantive amendments to this Agreement may, in the discretion of the Commissioner of the Maine Department of Education, be approved only after a referendum by the voters of Cary to approve the amendment.
- c. 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.
- d. 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.
- e. 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.
- f. 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.
- g. In the event that any of the methods of calculation described herein become unworkable due to a change in law, regulation, policy, or procedure of the State or the Maine Department of Education, the method of calculation shall be equitably modified to effect the original intent of the Parties as closely as possible.
- h. 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.
- i. This Agreement shall remain in effect until such time as it may be terminated by mutual written agreement of the governing bodies of SAD 70 and the New Cary Plantation SAU with the prior written approval of the Commissioner of the Maine Department of Education. This Agreement shall also terminate in the event that Cary

Plantation is deorganized and becomes part of the State of Maine's unorganized territory.

[signature page(s) follow]

In witness whereof, the duly authorized representatives of the parties have set their hands as of the date(s) written below.

Dated: October 06, 2015 Cary Plantation Withdrawal Committee

By: Cristina Chibky

[Signature]

[Signature]

Maine School Administrative District No. 70

By: [Signature]
Scott Richardson

Superintendent of Schools

Dated: October 06, ~~2014~~ 2015

By: [Signature]

Chair of the School Board

Dated: October 6, ~~2014~~ 2015

Approved this 1st day of December, 2015:

[Signature]
~~Thomas A. Desjardin~~ William H. Beardley
Acting Commissioner, Maine Department of Education