

INTERLOCAL AGREEMENT FOR A VEHICLE MAINTENANCE FACILITY
30-A M.R.S. Chapter 115

This INTERLOCAL AGREEMENT FOR A VEHICLE MAINTENANCE FACILITY (the "Agreement") is made by and between the Town of Windham, a municipal corporation with its principal office located at 8 School Road, Windham, Maine 04062 (the "Town") and Regional School Unit No. 14, a school administrative unit with its principal office located at 228 Windham Center Road, Windham, Maine 04062 ("RSU 14") (each individually, a "Party"; collectively, the "Parties").

WITNESSETH:

WHEREAS, the Parties are public agencies within the meaning of Chapter 115 of Title 30-A of the Maine Revised Statutes; and

WHEREAS, 30-A M.R.S. § 2203 provides that any powers, privileges, or authority exercised or capable of exercise by a public agency may be exercised jointly with any other public agency by means of an interlocal agreement; and

WHEREAS, the Parties intend to enter into an agreement with one another for cooperative action pursuant to 30-A M.R.S. § 2203 in order to establish and operate on a long-term basis a shared vehicle maintenance facility to store and maintain the Parties' respective fleets of motor vehicles.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. FLEET, DEFINED. For purposes of this Agreement, with reference to a Party hereto, the term "Fleet" means all motor vehicles owned or leased by that Party, including without limitation public works vehicles, school buses, vans, trucks, cars, and service vehicles.
2. PURPOSE. The purpose of this Agreement is for the Town to make available to RSU 14 on a long-term basis a portion of a shared vehicle maintenance facility (the "Facility") to be constructed by the Town in order to store and maintain the Parties' respective Fleets and provide for any other shared transportation or fleet maintenance services in accordance with the terms of this Agreement and, with respect to the Initial Term (as defined in Paragraph 4.B ("Term, Extension"), below), a lease substantially in the form attached as Exhibit A (the "Form of Lease").
3. AUTHORITY. This Agreement is made pursuant to the authority granted to the Parties by Chapter 115 of Title 30-A of the Maine Revised Statutes (the "Act").
4. EFFECTIVE DATE; TERM; LEASE.
 - A. Effective Date. The effective date of this Agreement shall be October 15, 2018 (the "Effective Date").
 - B. Term; Extension. The initial term of this Agreement shall be 40 years (the "Initial Term"), commencing on the Effective Date and subject to extension as follows: At the conclusion of the Initial Term and, as applicable, any Agreement extension

term, the term of this Agreement shall be automatically renewed for ten additional years, unless a Party hereto delivers a written notice of non-renewal to the other Party in accordance with Paragraph 8 ("Termination"). Each Party agrees that it shall exercise this non-renewal right only upon approval of the governing body of the respective Party. Nothing in this paragraph precludes the Parties from exercising their collective right of termination pursuant to Paragraph 8 ("Termination") at any time.

- C. Lease; Incorporation by Reference. The terms and conditions of the Lease Agreement (defined below) are hereby incorporated by reference into this Agreement as if fully set forth in this Agreement if at any time during the Initial Term or any renewal term of this Agreement a lease between the Parties for a portion of the Facility is not in effect. "Lease Agreement" means the current or, if no lease agreement is then in effect, the last lease agreement between the Parties for a portion of the Facility.

- 5. ADMINISTRATOR. In accordance with the Act, the Town Manager of the Town is hereby designated as the administrator responsible for administering this cooperative undertaking (the "Administrator"). The Administrator shall be responsible for all aspects of managing the Facility, including without limitation, administering the annual operating budget of the Facility. Except as may otherwise be provided in this Agreement or the Lease Agreement, the Town, or a public agency (as that term is defined in 30-A M.R.S.A. § 2202(1)) successor in interest, shall hold title to the Facility. Notwithstanding the foregoing, each Party shall be the holder of title for its Fleet, shall be responsible for maintaining the insurances set forth in the Lease Agreement (whether or not a Lease Agreement is in effect), including insuring and maintaining its Fleet, shall pay for and be the owner of any parts acquired for its Fleet, whether through the Facility or not, and shall be otherwise fully responsible for its Fleet and its employees and invitees. Furthermore, for the avoidance of doubt, each Party's employees using the Facility are and shall remain the employees of their respective employer.

- 6. FACILITY FINANCING, CONSTRUCTION, AND MAINTENANCE; SPACE ALLOCATION.

- A. Facility Financing, Construction, and Maintenance; Space Allocation. The Town expects to finance and construct the Facility on Town property located at 185 Windham Center Road, Windham, Maine. The Town shall be responsible for financing and constructing the Facility as contemplated by this Agreement and the Lease Form. The Facility shall contain, at minimum, (i) Fleet storage and office spaces designated for the Town public works department and the RSU 14 school transportation department, (ii) a break room and lockers for common/shared use by the Parties, (iii) a fueling station for common/shared use by the Parties; and (iv) meeting space for use by the Parties individually and collectively. Each Party shall have the right to the exclusive use of designated areas of the Facility as specifically identified in Schedule A ("Leased Premises") of Exhibit A (the "Form of Lease"). The allocation of space within the Facility for exclusive or common/shared use may be modified from time to time by mutual written agreement of the Parties; provided, however, that any such modification shall be identified on an amended Schedule A

to the Lease Agreement or, if no Lease Agreement is then in effect, a schedule attached to this Agreement identifying such modifications.

- B. Lease Form. All other obligations of the Parties regarding the leasing arrangement will be as set forth in the Lease Agreement or, if no Lease Agreement is in effect, the Lease Agreement incorporated by reference into this Agreement.
- C. Substantial Completion. It is the goal of the Parties that those portions of the Facility designated for exclusive and common/shared use by RSU 14 on Schedule A of the Lease Form shall be substantially completed, and a certificate of occupancy shall have issued such that those portions are available for use by RSU 14 no later than December 31, 2018 (the "Date of Substantial Completion").

7. BUDGET; RENT CALCULATION.

- A. Facility Operating Budget. By January 15 of each year during the period that this Agreement is in effect, the Administrator shall prepare a proposed annual operating budget for the Facility and share the budget with RSU 14. The Administrator shall consult with RSU 14 in preparing the budget and RSU 14 shall be given a meaningful opportunity to review the proposed budget and make suggestions with respect to cost-cutting measures or other modifications before the budget is finalized by the Administrator. The budget shall include all reasonable anticipated costs of operating and maintaining the Facility, including without limitation (i) salaries and benefits of custodial personnel necessary to operate the Facility (including wages and benefits, but without markup); and (ii) Facility costs associated with capital improvements, maintenance, repair, renovation costs, shared mechanical supplies and equipment, and utilities and other service charges (including water, gas, oil, electricity, heat, telephone, sewage, trash removal, janitorial service, grounds maintenance, snow removal, and insurance premiums). The budget shall identify, with specificity, any proposed expenditures for renovations, repairs, and capital improvements. If the Parties are unable to agree upon the reasonableness of the Town's proposed annual operating budget, including appropriate amount of RSU 14's share of the costs and expenses for any capital improvements (including, without limitation, the amortization and payment structure of RSU 14's pro rata share for any such capital improvements), the Parties shall resolve any such dispute pursuant to Paragraph 9 of this Agreement ("Dispute Resolution").
- B. Lease Agreement; Rent Calculation. No later than the Effective Date and every ten years thereafter for as long as this Agreement remains in effect, the Town and RSU 14 shall enter into a ten-year lease agreement setting forth the rent and other terms by which RSU 14 shall lease from the Town that portion of the Facility designated for RSU 14's exclusive and common/shared use. During the Initial Term, the lease agreement shall be substantially in the form set forth in Exhibit A (the "Form of Lease"), with such changes as the Parties may mutually agree or with such changes as required in connection with the resolution of any dispute pursuant to Paragraph 9 of this Agreement ("Dispute Resolution"). Notwithstanding the foregoing, for purposes of the Lease Agreement, rent payable by RSU 14 to the Town shall be calculated as follows:

- i. Fixed Rent based on a percentage of the annual debt service on the bonds or notes issued by the Town for the original construction of the Facility, the debt service schedule which is attached hereto as Exhibit B, which percentage is equal to the area of the Facility designated for RSU 14's exclusive use divided by the sum of the areas of the Facility designated for RSU 14's exclusive use and the Town's exclusive use, which shall be identified on Schedule A of the Lease Agreement (the "RSU 14 Percentage"); *provided, however*, that the Fixed Rent shall not exceed one dollar (\$1) annually after the twentieth year of this Agreement. RSU 14's pro rata allocation of common/shared space shall equal the RSU 14 Percentage.
 - ii. A pro rata share of the Town's actual, reasonable, direct, out-of-pocket costs related to the Facility's operation and maintenance, which shall be equal to the RSU 14 Percentage("Additional Rent").
- C. Loss of Use. If the portions of the Facility designated for the exclusive use of RSU 14 are not available for use by RSU 14 by the Date of Substantial Completion, and if RSU 14 cannot otherwise store its Fleet and keep its Fleet operational at 185 Windham Center Road, Windham, Maine, the Town shall compensate RSU 14 for the loss of use of its designated portion of the Facility by providing a credit to RSU 14 against RSU 14's rent obligation pursuant to the Lease Agreement during such period of non-use in an amount corresponding to the actual, reasonable cost to RSU 14 of storing and maintaining its Fleet other than at the Leased Premises.
- D. Fleet Parts and Fuel. Each Party shall pay for any parts or fuel purchased for its Fleet. To the extent any such payments are payable to the Town by RSU 14, such amounts will be in addition to the costs for which RSU 14 is responsible under this Agreement and the Lease Agreement.

8. TERMINATION.

A. When Termination is Permitted.

- i. This Agreement may not be terminated during the Initial Term unless (u) such early termination is mutually agreed to by both Parties, as evidenced by the execution of a written termination agreement by both Parties; (v) the Lease Agreement is terminated (and not merely expired) in accordance with its terms, in which case this Agreement shall also terminate; (w) such early termination is required in connection with the resolution of any dispute pursuant to Paragraph 9 ("Dispute Resolution"); or (x) such early termination occurs as a result of RSU 14's failure to appropriate funds for the payment of rent pursuant to Section 4(D) of Exhibit A (the "Form of Lease"; "Current Expense, Nonappropriation").
- ii. In addition, after the expiration of the Initial Term, this Agreement and the Lease Agreement may be terminated (w) by mutual agreement of the Parties; (x) in accordance with the terms of the Lease Agreement; (y) in

connection with the resolution of any dispute pursuant to Paragraph 9 ("Dispute Resolution") or as a result of RSU 14's failure to appropriate funds for the payment of rent pursuant to Section 4(D) of Exhibit A (the "Form of Lease"; "Current Expense, Nonappropriation"); or (z) upon delivery of a written notice of non-renewal by one Party to the other Party at least 24 months prior to the proposed termination date (to effectuate a termination date corresponding to the end of the Initial Term, said notice must be delivered 24 months prior to the end of the Initial Term), provided that the Parties will continue to abide by its covenants and agreements herein and, if applicable, the Lease Agreement during such 24-month period; in such circumstance, this Agreement and the Lease Agreement shall terminate on the last day of the fiscal year 24 months after the written notice of non-renewal is delivered to the other Party.

- B. Termination Agreement. Prior to termination of this Agreement, the Parties shall make suitable provision for the transition of administration and other matters related to the Facility by negotiating in good faith a termination agreement that provides RSU 14 with reasonable time to secure another facility for the storage and maintenance of its Fleet (which reasonable time shall be 24 months, unless RSU 14 agrees to a lesser time) and equitably allocates to each Party the financial benefit of the bargain that each Party anticipated acquiring by entering into this Agreement, provided that the ownership or removal of any improvements or other fixtures made by RSU 14 to the Facility will be controlled by the Lease Agreement. The failure of the Parties to agree to a termination agreement in connection with a non-mutual termination of this Agreement or the Lease Agreement will not prevent the occurrence of termination; in such circumstance, this Agreement and the Lease Agreement shall terminate on the last day of the fiscal year 24 months after delivery of written notice of the termination event, provided that the Parties will continue to abide by the covenants and agreements herein and, if in effect, the Lease Agreement during such 24-month period.

9. DISPUTE RESOLUTION. Any dispute among the Parties arising out of or relating to this Agreement or the Lease Agreement shall be resolved as follows:

A. Negotiation. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy, or claim arising out of or relating to this Agreement or the Lease Agreement ("Dispute") within 30 days after the date that an aggrieved Party has given written notice of such Dispute to the other Party.

B. Mediation. If the Dispute has not been resolved within 30 days, any Party may serve written notice on the other Party of a request for non-binding mediation. The mediation shall be conducted in Maine by a mediator mutually agreeable to the aggrieved Party and the other Party, shall not exceed one full day or two half days in length, and shall be completed within 90 days from the date of receipt of notice of a request for mediation by the Party to receive such notice. The aggrieved Party shall be responsible for the costs of the mediator, provided that any mediated settlement or, if applicable, a judge in a court of competent jurisdiction, may award the aggrieved Party all or a portion of such costs. In the event that the Parties are

unable to agree on a mediator within 14 days, or to resolve the dispute through mediation within 90 days, the Parties reserve the right to file a civil action in a court of competent jurisdiction located in Cumberland County, Maine.

- C. Performance During Dispute. The Parties shall continue performance under this Agreement and, if applicable, the Lease Agreement while matters in dispute are being resolved.

This Paragraph 9 (“Dispute Resolution”) shall survive a termination of this Agreement or the Lease Agreement if the Parties have not entered into a termination agreement pursuant to Paragraph 8.B (“Termination Agreement”).

10. NO EXCLUSIVITY. Nothing in this Agreement shall obligate any Party to any exclusive relationship with the other Party or the Facility; nor shall it prevent or limit any Party’s participation in any other agreement or arrangement for vehicle maintenance services; nor shall it impair any rights that any Party may have under any other plan, program, agreement, or arrangement of any kind.
11. AMENDMENT. This Agreement may be amended only upon mutual written agreement of the Parties, subject to approval of each Party’s respective governing body
12. APPLICABILITY TO SUCCESSOR PARTIES. This Agreement shall be binding upon any permitted successor or assigns of each Party, with the provisions of Section 7 of Exhibit A (the “Form of Lease”; “Sublease and Assignment”) being incorporated into this Agreement as if fully set forth herein. Notwithstanding the foregoing, if either Party should be dissolved or is no longer in existence for any reason, the only permitted successor to that Party under this Agreement and any Lease Agreement is one that will be eligible to enter into an interlocal agreement as contemplated by Chapter 115 of 30-A M.R.S.A., as amended from time to time, and all of the provisions of Section 7 of Exhibit A will apply to any such successor or assignee of RSU 14. If no successor satisfies these criteria at the time a Party is dissolved or no longer in existence, the other Party may immediately, in the exercise of its sole discretion, terminate this Agreement and any Lease Agreement that may be in effect.
13. NOTICE. Any notice given to or served upon either Party pursuant to this Agreement shall be in writing and deemed to be duly delivered when personally delivered or transmitted by any method that provides confirmation of transmission and delivery (e.g., e-mail, facsimile, certified mail, or registered mail) and properly addressed as follows:

RSU 14:
Superintendent of Schools
Regional School Unit No. 14
228 Windham Center Road
Windham, ME 04062

TOWN:
Town Manager
Town of Windham
8 School Road
Windham, ME 04062

14. MISCELLANEOUS. This Agreement shall be interpreted, governed, construed, and enforced in accordance with the laws of State of Maine. This Agreement and the Lease Agreement, if any, contain the entire integrated 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. If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part for any reason, such provision 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 fullest 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. The headers set forth in this Agreement are for convenience only and are of no substantive effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned Parties have caused this Interlocal Agreement to be signed on their behalf by their duly authorized representatives who, by their signatures below, attest that they have the power and authority to bind their respective Party.

TOWN OF WINDHAM

Anthony Plante, Town Manger

Date

REGIONAL SCHOOL UNIT NO. 14

Sanford Prince, Superintendent of Schools

Date

INTERLOCAL AGREEMENT FOR A VEHICLE MAINTENANCE FACILITY

EXHIBIT A

FORM OF LEASE

LEASE AGREEMENT
(Triple Net)

This LEASE AGREEMENT (the "Lease") is made by and between the Town of Windham, a municipal corporation with its principal office located at 8 School Road, Windham, Maine 04062, (the "Landlord"), and Regional School Unit No. 14, a school administrative unit with its principal office located at 228 Windham Center Road, Windham, Maine 04062 ("Tenant") (each individually, a "Party"; collectively, the "Parties"), pursuant to an Interlocal Agreement for a Vehicle Maintenance Facility between the Parties with an effective date of October 15, 2018 (the "Interlocal Agreement"). For valuable consideration, the sufficiency and receipt of which is hereby acknowledged, Landlord and Tenant agree as follows:

1. **LEASED PREMISES.** Landlord hereby lets and demises to Tenant, and Tenant hereby takes and hires from Landlord, subject to the terms and conditions of this Lease, a portion of the real estate located at 185 Windham Center Road, Windham, Cumberland County, Maine (the "Vehicle Maintenance Facility"), the Vehicle Maintenance Facility and the leased premises being more particularly described in the attached Schedule A (hereafter, the "Premises"), subject to the scheduling provisions set forth in Schedule A.
2. **TERM.** This Lease shall be for a term (the "Lease Term") of ten years commencing on _____ (the "Commencement Date") and expiring, unless sooner terminated in accordance with the terms of this Lease, without further notice or act on the last day of the month in which the tenth anniversary of the Commencement Date occurs.
3. **LANDLORD'S OBLIGATIONS.**
 - A. **Construction of Vehicle Maintenance Facility.** Landlord shall cause the construction of the Vehicle Maintenance Facility to be completed in a workmanlike manner that is in compliance with applicable governmental requirements.
 - B. **Utilities and Other Services.** Throughout the Lease Term, Landlord shall make reasonable provision to allow for the provision of utilities to the Vehicle Maintenance Facility, provided that Landlord shall not be responsible for the delivery or sufficiency of any utilities serving the Vehicle Maintenance Facility. In addition, Landlord will provide for certain services to be provided to the exterior and shared/common use portions of the Vehicle Maintenance Facility, which are anticipated to be trash removal, janitorial service, grounds maintenance, snow removal, and insurance premiums.

- C. Maintenance, Repair and Capital Improvements. Throughout the Lease Term, Landlord shall keep and maintain the Premises in the same order and condition as they are on the Commencement Date and shall make all repairs, replacements, renewals, and capital improvements necessary to keep the Premises in such order and condition, in each case of the foregoing reasonable wear and tear and damage by fire and other casualty (including the elements) or condemnation excepted.
 - D. Taxes and Other Charges. Throughout the Lease Term, Landlord shall pay all taxes, and all other license and permit fees and other governmental charges (including without limitation any transfer, recording, inheritance, estate, succession, franchise, excise, income, or capital levy that is or may be imposed upon Landlord) that are assessed, levied, confirmed, imposed upon, or become due and payable with respect to the Vehicle Maintenance Facility (including the Premises) or any part thereof or any appurtenance thereto. Notwithstanding the contrary, Landlord has no responsibility whatsoever for any of such fees imposed on Tenant.
4. RENT. (Fixed Rent and Additional Rent, as those terms are defined in this section are sometimes referred to hereinafter collectively as "Rent"). From and after the Commencement Date, Tenant agrees to pay to Landlord:
- A. Fixed Rent. Fixed rent in the amount set forth on Schedule B, attached hereto and made a part hereof ("Fixed Rent"), payable semi-annually and in advance on each November 1 and May 1 of each year during the Lease Term; and
 - B. Additional Rent. Tenant's Pro Rata Share (defined below) of all of Landlord's actual, reasonable, direct, out-of-pocket costs related to the operation and maintenance of the Vehicle Maintenance Facility ("Additional Rent").
 - i. Tenant's Pro Rata Share of Additional Rent. "Tenant's Pro Rata Share" means the area (in square feet) of the Premises designated on Schedule A as Tenant's "Share of Exclusive Space," calculated as Tenant's exclusive space (in square feet) of the building comprising the Vehicle Maintenance Facility, divided by the sum of Tenant's exclusive space and Landlord's exclusive space (in square feet) of the building comprising the Vehicle Maintenance Facility. Additional Rent shall include, without limitation, the cost of utilities and other services supplied to the Vehicle Maintenance Facility (by way of example, but not limitation, water, gas, oil, electricity, heat, telephone, sewage, trash removal, janitorial service, grounds maintenance, snow removal, insurance premiums, and any other utilities and services customarily provided in a vehicle maintenance facility); the cost of repairs, replacements, renewals, and capital improvements necessary to keep the Vehicle Transportation Facility, including related improvements outside the building comprising a portion of the Vehicle Transportation Facility (e.g., driveways, sidewalks, storm water collection systems, etc.), in workmanlike order (reasonable wear and tear excepted); and such other capital improvements that will benefit the Tenant (including, without limitation, additions to the original building comprising the Vehicle Maintenance Facility and new buildings) (each, a "New Capital Improvement"). Landlord

will consult with Tenant regarding any Additional Rent for which Landlord will require Tenant to pay Tenant's Pro Rata Share in accordance with Paragraph 7.A of the Interlocal Agreement ("Facility Operating Budget"). Additional Rent shall not include general administrative costs, overhead, or multipliers, or the Administrator's salary, benefits, or expenses, but will include any other amounts payable by Tenant to Landlord under this Lease. Tenant is solely responsible for the payment of all utilities separately metered for the Premises and for any services for which Tenant contracts for directly related to the Premises. For the avoidance of doubt, Tenant has no right to contract for utilities or services for or to any portion of Vehicle Maintenance Facility except those portions designated for Tenant's exclusive use.

- ii. Payment. Tenant will pay Additional Rent to Landlord semi-annually and retroactively on the date that each Fixed Rent payment is due during this Lease.
- C. Late Charge. If Tenant does not pay any Rent due pursuant to this Lease within 7 days of its due date, then Landlord, in its sole discretion, may charge Tenant a late fee equal to 2% of the amount due for each month that Tenant fails to pay the amount due after the due date.
- D. Current Expense; Nonappropriation. The Rent payment obligations of Tenant under this Lease shall constitute a current expense of Tenant. Any non-substitution, notification, time limitation, or other Lease provision restricting or limiting Tenant's right to terminate the Lease upon the nonappropriation of funds for Rent payments by the legislative body of Tenant shall be enforceable only to the extent that such restriction or limitation is permitted by law and would not cause Tenant's obligation to make payments to be deemed or construed as a debt of Tenant in contravention of any constitutional, statutory, or other legal requirement governing the creation of indebtedness by Tenant. Nothing in the Lease shall be deemed a pledge of general tax revenues, funds, or monies of Tenant. If Tenant fails to appropriate funds for the payment of all Rent, Landlord will have the right to terminate this Lease effective upon the first date on which Tenant has failed to appropriate any Rent by sending written notice to the Tenant of such termination and such termination shall be effective immediately upon such date set forth in the notice without reference to the termination provisions in the Interlocal Agreement. All obligations of the Landlord and Tenant accruing prior to such termination date will survive any such termination.
- 5. USE. Tenant shall have the right to use the Premises solely as a vehicle maintenance facility for its Fleet and related amenities, such as office space and other reasonable accommodations for Tenant's employees in the performance of their employment obligations to Tenant so long as such use is in compliance with Section 6, below.
- 6. COMPLIANCE WITH LAW AND LANDLORD'S DEBT COVENANTS; CERTAIN COVENANTS. The Parties agree that during the Lease Term, they will, at their own cost and expense, promptly comply with: (a) all applicable present and future federal, state, county, municipal,

or other statutes, charters, laws, rules, orders, regulations, and ordinances affecting the Vehicle Maintenance Facility (including the Premises), the occupancy, use, and repair thereof; (b) all rules, orders, and regulations of all public officers including the police, health and fire departments, and the National Board of Fire Underwriters or other similar organizations for the prevention of fire or the corrections of hazardous conditions; and (c) the requirements of their respective insurance companies having policies or public liability, fire, and other insurance at any time in force and effect with respect to the Vehicle Maintenance Facility (including the Premises) or the use and occupancy thereof. Tenant further agrees to: (i) comply with any covenants, limitations, and restrictions applicable to Landlord related to loans, leases and other debt instruments financing of all or any portion of the Vehicle Transportation Facility; (ii) at its sole cost and expense, maintain the Premises in good repair and condition, reasonable wear and tear excepted; (iii) be solely responsible for any of its employees, guests, and invitees, including, without limitation, for any damage to the Premises caused by any of the foregoing; (iv) promptly comply with all of its obligations under this Lease and all requirements of Landlord's insurance companies having policies of insurance at any time in force and effect with respect to the Vehicle Maintenance Facility; (v) upon the expiration or earlier termination of this Lease, vacate the Premises, remove all of its furniture and equipment and any other items as required pursuant to Section 11 ("Tenant Improvements"), restore the Premises to good condition (reasonable wear and tear excepted), and return any and all keys and other items to Landlord.

7. SUBLEASE AND ASSIGNMENT. Tenant shall not have the right to sublease, license, or allow any third party to use all or any portion of the Premises or assign this Lease without the prior written approval of Landlord, which approval Landlord may grant or withhold in its sole discretion. If Landlord consents to any such sublease, license, use, or assignment, Landlord will have the right to require that Tenant provide Landlord with an opinion of counsel reasonably satisfactory to Landlord that any such arrangement will not adversely affect any bonds issued by the Landlord, including, without limitation, cause such bonds to become taxable (or the interest thereon to become taxable to any holder thereof) or otherwise become a private activity bond, as defined in Section 141 of the Internal Revenue Code of 1986, as amended from time to time.

8. FIRE OR OTHER CASUALTY.

- A. The term "Major Casualty" as used in this Section means any fire or other casualty (including the elements) which causes damage to or destruction of the Vehicle Maintenance Facility of such an extent that, in Landlord's reasonable exercise of its judgment, it would require one year or more to restore the Vehicle Maintenance Facility to the condition which existed prior to the Major Casualty, from the date of such casualty. The term "Minor Casualty" as used in this Section means any fire or other casualty (including the elements) which causes damage to or destruction of the Vehicle Maintenance Facility of such an extent that it would require less than one year to restore the Vehicle Maintenance Facility to the condition which existed prior to the Minor Casualty, from the date of such casualty. The term "Casualty" as used in this Section means either a Minor Casualty or a Major Casualty.

- B. Promptly following the occurrence of a Casualty, Landlord shall send written notice to Tenant estimating the date ("Restoration Completion Date") that the Vehicle Maintenance Facility will be fully restored to the condition which existed prior to the Casualty.
- C. If the occurrence is a Minor Casualty, Landlord shall, at its sole cost and expense, and only to the extent sufficient insurance proceeds have been made available to Landlord, proceed with reasonable diligence to restore the Vehicle Maintenance Facility as nearly as possible to its condition prior to the occurrence of the Minor Casualty.
- D. If the occurrence is a Major Casualty, after receiving Landlord's notice specifying the Restoration Completion Date, the Parties shall negotiate in good faith to either mutually terminate this Lease or elect to keep this Lease in effect. If the Parties mutually agree to terminate this Lease, then the Parties shall negotiate in good faith a termination agreement in accordance with Paragraph 8 of the Interlocal Agreement ("Termination") and this Lease shall terminate as of the date and upon the terms established in the termination agreement, whereupon the Parties shall have no further liability or obligation under this Lease. If the Parties elect to keep this Lease in effect, Landlord shall, to the extent sufficient insurance proceeds have been made available to Landlord, proceed with reasonable diligence to restore the Vehicle Maintenance Facility as nearly as possible to its condition prior to the occurrence of the Major Casualty. If the Parties cannot agree upon a termination agreement or whether or not this Lease should continue, either Party has the right to terminate this Lease in accordance with Paragraph 8.B of the Interlocal Agreement ("Termination") and, upon such termination, Landlord will have no obligation to rebuild or restore all or any portion of the Vehicle Maintenance Facility.
- E. If there occurs any Casualty, Tenant's obligation to pay Rent for any portion of the Premises shall be equitably abated as of the date of the Casualty; provided, however, that such abatement shall apply only to the portion of the Premises rendered unusable, and only for so long as unusable, for the Tenant's use of such portion of the Premises.

9. INSURANCE.

- A. During the Lease Term, Landlord, at its expense, shall maintain in effect general liability insurance, workers' compensation, employer's liability, and fire and casualty insurance (with extended coverage (*i.e.*, "all risk coverage"), if available to Landlord at commercially reasonable rates) as Landlord deems appropriate, in an amount equal to the full replacement value of the Vehicle Maintenance Facility and other improvements situated thereon with a deductible that is comparable to deductibles carried by similar landlords for properties similar to the Vehicle Maintenance Facility in the vicinity of the Vehicle Maintenance Facility. Tenant shall reimburse Landlord as Additional Rent for Tenant's Pro Rata Share of the cost of such coverage pursuant to Section 4.B.

- B. During the Lease Term, Tenant will maintain in effect general liability, workers' compensation, employer's liability, fire and casualty insurances with respect to Tenant's improvements and Tenant's other property at the Vehicle Maintenance Facility and vehicle insurance covering Tenant's fleet at such levels of coverage as may be required by law. Tenant will cause Landlord to be an additional named insured on all policies concerning the Premises.
- C. Each Party hereby releases the other from any and all liability or responsibility to the other Party or anyone claiming through or under it by way of subrogation or otherwise for any loss or damage to property covered by any insurance then in force, even if such loss or damage shall have been caused by the fault or negligence of the other Party or anyone for whom such Party may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to any loss or damage occurring during such time as the policy or policies of insurance covering said loss shall contain a clause or endorsement to the effect that this release shall not adversely affect or impair such insurance or prejudice the right to recover thereunder. The Parties will use best efforts to obtain insurance with such clauses and endorsements to the extent available at commercially reasonable rates.
10. SIGNS. With Landlord's prior written consent, to be granted or withheld in Landlord's reasonable discretion, Tenant may place signs upon the exterior of the Premises in such locations as approved by Landlord identifying Tenant, provided such signs comply with applicable statutes, regulations, and ordinances. Tenant will, at its sole cost and expense, maintain any such approved signs in good condition and will remove such signs on the expiration or earlier termination of this Lease and, restore the Premises to the conditions as they existed immediately prior thereto, reasonable wear and tear excepted, provided that nothing in this Section will limit or otherwise modify Tenant's maintenance and repair obligations in Section 6 of this Lease.
11. TENANT IMPROVEMENTS. Tenant shall not make any alterations to, install any fixtures on, or otherwise modify the Premises without the prior written consent of Landlord, which consent Landlord may withhold or condition as Landlord deems necessary or desirable. Landlord's condition to approval of any such alternations, installations, or other modifications may include, without limitation, review and approval of any plans, specifications, and contractors; Tenant's agreement to prevent the imposition of any mechanics' liens; and Tenant's agreement to remove such alterations, fixtures, or other modifications and restore the Premises to the conditions as they existed immediately prior thereto (reasonable wear and tear excepted), assuming that Tenant has otherwise complied with its obligations under this Lease regarding the maintenance of the Premises.
12. DEFAULT.
- A. Event of Default. The occurrence of any one of the following shall constitute an event of default under this Lease: (i) failure by Tenant to pay Rent or any other sum required to be paid pursuant to this Lease within thirty days after Tenant receives written notice from Landlord that the same is due and payable; or (ii) failure by either Party to comply with any material covenant, term, or provision of this Lease

within thirty days after written notice thereof from the other Party and such additional time as is reasonably necessary to correct such failure, provided that the other Party has promptly commenced, and diligently pursues, to cure such failure, but in no event longer than ninety days unless the Parties mutually agree to a longer cure period.

- B. Remedy. Upon the occurrence of any of the foregoing events of default, the aggrieved Party may, at its option, deliver a written notice of default to the other Party, and the Parties shall resolve the default through the dispute resolution provision of Paragraph 9 of the Interlocal Agreement ("Dispute Resolution"), including by filing a civil action if the Parties are unable to resolve the dispute through negotiation or mediation. Unless otherwise ordered by a court of competent jurisdiction, either Party may thereafter terminate this Lease in accordance with Paragraph 8 of the Interlocal Agreement ("Termination") and this Lease shall terminate as of the date and upon the terms established in the termination agreement provisions in the Interlocal Agreement, whereupon the Parties shall have no further liability or obligation under this Lease. Upon any termination of this Lease, each Party's obligations accruing prior to such termination will survive any such termination.

Notwithstanding the foregoing, upon the occurrence of an event of default by either Party, the aggrieved Party may, at its option, perform the obligation which the other Party has failed to perform after providing the other Party with written notice and opportunity for cure; provided, however, that in case of an emergency, the aggrieved Party has the right to perform any obligation that the other Party has failed to perform, without giving the notice and opportunity for cure required under Section 8.A, above. The aggrieved Party shall, however, give such notice as may be reasonable under the circumstances. The other Party shall pay the aggrieved Party upon demand all reasonable costs incurred by the aggrieved Party in performing other Party's obligations under this paragraph. If the other Party fails to pay the aggrieved Party such amounts within thirty days after demand therefor, all such amounts due shall accrue interest thereon at a rate of 2% per annum.

13. COVENANT OF QUIET ENJOYMENT. Landlord covenants and agrees that, so long as Tenant keeps and performs each and every covenant and condition contained herein to be kept and performed by Tenant, Tenant shall quietly possess and enjoy the Premises without hindrance or molestation by Landlord or any party claiming under or by Landlord.
14. INSPECTION. Landlord has the right upon reasonable notice and at reasonable times during business hours to inspect all parts of the Premises. Landlord shall use reasonable efforts to avoid or minimize any interference or disruption of Tenant's use of the Premises in the exercise by Landlord of its rights under this Section.
15. HAZARDOUS MATERIALS. The Parties agree that any Hazardous Material existing on, or entering, the Vehicle Maintenance Facility (including the Premises), and all containers therefor, shall be used, kept, stored, maintained, and disposed of in a manner that complies with all federal, state, and local laws or regulations applicable to any such Hazardous Material. Neither Party will in any event permit or cause any unlawful disposal of

Hazardous Materials on or around the Premises. A Party shall give immediate notice to the other Party of any violation of the provisions of this Section. Each Party will be responsible for, and will reimburse the other Party, for reasonable costs and expenses incurred by the other Party arising during or after the Lease Term as a result of any violation by the reimbursing Party of the terms of this Section, or any contamination of the Vehicle Maintenance Facility (including the Premises) by Hazardous Materials as a result of any action or omission by the reimbursing Party or the reimbursing Party's agents, employees, contractors, or invitees. As used herein, the term "Hazardous Material" means any and all materials or substances which are defined as "hazardous waste" or "hazardous substance" under any state, federal, or local law, and includes, without limitation, asbestos, lead, waste oil, and petroleum products. The provisions of this Section shall be in addition to any other obligations and liabilities each Party may have to the other at law or equity and shall survive the termination of this Lease.

16. RECORDING. Tenant may, at its sole cost and expense, record a memorandum of lease in form and substance reasonably satisfactory to Landlord in the Cumberland County Registry of Deeds.
17. APPLICABILITY TO SUCCESSOR PARTIES. This Lease shall be binding upon any successor and assign of each Party, provided that Tenant shall have no right to assign this Lease or any portion thereof without the prior written consent of Landlord as set forth in Section 7 ("Sublease and Assignment"), above.
18. NOTICE. Any notice given to or served upon either Party pursuant to this Agreement shall be in writing and deemed to be duly delivered when personally delivered or transmitted by any method that provides confirmation of transmission and delivery (e.g., e-mail, facsimile, certified mail, or registered mail) and properly addressed as follows:

RSU 14:
Superintendent of Schools
Regional School Unit No. 14
228 Windham Center Road
Windham, ME 04062

TOWN:
Town Manager
Town of Windham
8 School Road
Windham, ME 04062

19. MISCELLANEOUS. This Lease shall be interpreted, governed, construed, and enforced in accordance with the laws of State of Maine. This Lease and the Interlocal Agreement contain the entire integrated 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 Lease. Any particular waiver by Landlord or Tenant of any covenant or condition of this Lease shall extend to that particular case only in the manner specified and shall not be construed as applying to or in any manner waiving any further or other rights hereunder. If any provision of this Lease is determined to be invalid or unenforceable in whole or in part for any reason, such provision shall be severed and the Parties shall negotiate in good faith to amend this Lease so as to effect the original intent of the Parties as closely as possible. The remaining provisions of this Lease shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law. This Lease 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. This

Agreement may be amended only by a writing signed by the Parties, subject to the approval of each Party's respective governing body. The headers set forth in this Lease are for convenience only and are of no substantive effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned Parties have caused this Lease Agreement to be signed on their behalf by their duly authorized representatives who, by their signatures below, attest that they have the power and authority to bind their respective Party.

TOWN OF WINDHAM

Anthony Plante, Town Manger

Date

REGIONAL SCHOOL UNIT NO. 14

Sanford Prince, Superintendent of Schools

Date

Schedule A Leased Premises

Schedule B Fixed Rent

LEASE AGREEMENT
(Triple Net)

SCHEDULE A

LEASED PREMISES

I. Description of Vehicle Maintenance Facility and the Premises

The "Vehicle Maintenance Facility" is composed of the real estate located at 185 Windham Center Road in Windham, Maine, being more particularly described in a deed from James R. Dorr and Priscilla V. Dorr to the Town of Windham and recorded in the Cumberland County Registry of Deeds, Book 8001 Page 222.

The "Premises" are those portions of the Vehicle Maintenance Facility comprising:

- A. Tenant's Exclusive Space, as identified in Section II ("Space Allocation"), below;
- B. Tenant's Allocation of Shared/Common Space, as identified in Section II ("Space Allocation"), below;
- C. A portion of outdoor spaces, including ingress to and egress from the Vehicle Maintenance Facility and employee/guest and Fleet parking areas. The Parties hereby agree to cooperate in good faith to determine an equitable allocation of exclusive, common, and/or shared outdoor spaces; and
- D. A percentage of the interior square footage of the cold storage building that is equal to the percentage identified as Tenant's Share of Exclusive Space set forth in Section II.C ("Space Allocation Table").

II. Space Allocation

- A. Definitions. "Exclusive Space" means any usable portion of the Vehicle Maintenance Facility dedicated to the exclusive use by Landlord or Tenant, including their employees and invitees. "Common Space" means any usable portion of the Vehicle Maintenance Facility dedicated to the nonexclusive, contemporaneous use by Landlord and Tenant (for example, hallway, lobby, elevator). "Shared Space" is any usable portion of the Vehicle Maintenance Facility dedicated to the nonexclusive, non-simultaneous use by Landlord or Tenant and subject to the scheduling provisions set forth in Section II.B, below (for example, conference room). Notwithstanding the foregoing definitions, the Parties agree to cooperate and work in good faith to accommodate one another and to resolve any space usage conflicts during the Lease Term.
- B. Scheduling Provisions. For any areas identified as "Shared Space" in the Space Allocation Table, below, the Parties will negotiate in good faith a schedule identifying the dates and times when Landlord or Tenant may each use the affected spaces.

C. Space Allocation Table. All numbers in the table, below, are in square feet.

***EXPLANATORY NOTE:** Before executing the Lease Agreement, this space allocation table may be updated to reflect the most current Vehicle Maintenance Facility building floor plans; the Parties' shares of exclusive space, however, are expected to remain unchanged.*

<i>Note: Shared Space is identified with an asterisk (*)</i>	Vehicle Maintenance Facility Usable Area	Landlord's Exclusive Space	Tenant's Exclusive Space	Landlord's Allocation of Common and Shared Space	Tenant's Allocation of Common and Shared Space
PW Director Office	240	240			
Road Crew Supervisor Office	240	240			
Grounds Supervisor Office	240	240			
Administrative Assistant/Waiting	234	234			
Work Room	100	100			
Documents Room/GIS	288	288			
Conference Room	672	672			
Kitchenette	60	60			
Circulation	390	390			
RSU Supervisor Office	225		225		
Administrative Assistant	140		140		
Conference Room	225		225		
Phone Room	49		49		
Toilet Room	56		56		
Kitchenette	80		80		
Copy/Print/Supplies	120		120		
Circulation	150		150		
Vestibule/Lobby	227			169.24	57.76
Elevator	72			53.68	18.32
IT	40			29.82	10.18
Meeting/Seminar/Training Room*	660			492.06	167.94
Men's & Women's Toilets	270			201.30	68.70
Circulation	236			175.95	60.05
Wash Bay (1)*	1,440			1,073.58	366.42
Fabrication Bay w/Crane (1)*	1,440			1,073.58	366.42
PWD Work Bays - 2 w/Crane (6)	7,680	7,680			
PWD Light Vehicle Work Bay (1)	900	900			
RSU Work Bay (1)	1,200		1,200		
RSU Light Vehicle Work Bay (1)	900		900		
Shared/Long Term Bay (1)*	1,200			894.65	305.35
Safety Aisle	600			447.33	152.67

PWD Fleet Supervisor	120	120			
PWD Parts Manager	120	120			
RSU Fleet Supervisor	144		144		
PWD Parts Storage	1,270	1,270			
RSU Parts Storage	400		400		
Fluids Room	240			178.93	61.07
Secured Tools Room	200			149.11	50.89
Road Crew Tools Room	160	160			
Waste Oil Collection/Burner*	240			178.93	61.07
Custodial	96			71.57	24.43
Time Clock/Work Area*	240			178.93	61.07
Lockers/Toilets*	1,530			1,140.68	389.32
Break/Meeting/Training Room*	682			508.46	173.54
Custodial Storage	256			190.86	65.14
Carpentry/Grounds Repair Shop	256	256			
Shared General Storage	192			143.14	48.86
Sprinkler Room	80			59.64	20.36
Utility Room	377			281.07	95.93
IT	48			35.79	12.21
Elevator/EMR	144			107.36	36.64
Circulation	794			591.96	202.04
Mezzanine PWD Parts Storage	1,120	1,120			
Mezzanine RSU Parts Storage	1,120		1,120		
Mezzanine Circulation	160			119.29	40.71
	30,363	14,090	4,809	8,547	2,917
SHARE OF EXCLUSIVE SPACE					
Total Exclusive Space	18,899	100%			
Landlord's Share of Exclusive Space	14,090	74.6%			
Tenant's Share of Exclusive Space	4,809	25.4%			

D. Vehicle Maintenance Facility Floor and Site Plans

EXPLANATORY NOTE: Floor and site plans identifying the Vehicle Maintenance Facility, including Tenant's and Landlord's exclusive spaces, will be attached hereto before executing the Lease Agreement.

SCHEDULE B

FIXED RENT

EXPLANATORY NOTE: This rent schedule is based on the estimated MMBB debt service schedule; before executing the Lease Agreement, this rent schedule will be updated to reflect the actual debt service schedule set by the MMBB, in accordance with the formula established in the Interlocal Agreement.

PAYABLE NO LATER THAN	FIXED RENT (ESTIMATED—see explanatory note, above)
1. FY 2019	
May 1, 2019	38,994.67
2. FY 2020	
November 1, 2019	97,676.97
May 1, 2020	97,676.97
3. FY 2021	
November 1, 2020	96,466.34
May 1, 2021	96,466.34
4. FY 2022	
November 1, 2021	95,167.13
May 1, 2022	95,167.13
5. FY 2023	
November 1, 2022	93,764.58
May 1, 2023	93,764.58
6. FY 2024	
November 1, 2023	92,273.44
May 1, 2024	92,273.44
7. FY 2025	
November 1, 2024	90,693.72
May 1, 2025	90,693.72
8. FY 2026	
November 1, 2025	89,025.41
May 1, 2026	89,025.41
9. FY 2027	
November 1, 2026	87,283.29
May 1, 2027	87,283.29
10. FY 2028	
November 1, 2027	85,467.35

May 1, 2028

85,467.35

INTERLOCAL AGREEMENT FOR A VEHICLE MAINTENANCE FACILITY

EXHIBIT B

Debt Service Schedule for Original Construction of Vehicle Maintenance Facility

EXPLANATORY NOTE: This debt service schedule is the estimated MMBB debt service schedule; before executing the Lease Agreement, this schedule will be updated to reflect the actual debt service schedule set by the MMBB.

ESTIMATE OF DEBT SERVICE

Town of Windham
PREPARED ON 03/24/2018

	DATE	PRINCIPAL	RATE	INTEREST	TOTAL	ANNUAL DEBT SERVICE
TOTALS		9,300,000.00		3,641,254.83	12,941,254.83	12,941,254.83
1	05/01/2019			153,522.33	153,522.33	153,522.33
2	11/01/2019	465,000.00	2.000%	154,380.00	619,380.00	
3	05/01/2020			149,730.00	149,730.00	769,110.00
4	11/01/2020	465,000.00	2.100%	149,730.00	614,730.00	
5	05/01/2021			144,847.50	144,847.50	759,577.50
6	11/01/2021	465,000.00	2.300%	144,847.50	609,847.50	
7	05/01/2022			139,500.00	139,500.00	749,347.50
8	11/01/2022	465,000.00	2.450%	139,500.00	604,500.00	
9	05/01/2023			133,803.75	133,803.75	738,303.75
10	11/01/2023	465,000.00	2.600%	133,803.75	598,803.75	
11	05/01/2024			127,758.75	127,758.75	726,562.50
12	11/01/2024	465,000.00	2.750%	127,758.75	592,758.75	
13	05/01/2025			121,365.00	121,365.00	714,123.75
14	11/01/2025	465,000.00	2.900%	121,365.00	586,365.00	
15	05/01/2026			114,622.50	114,622.50	700,987.50
16	11/01/2026	465,000.00	3.000%	114,622.50	579,622.50	
17	05/01/2027			107,647.50	107,647.50	687,270.00
18	11/01/2027	465,000.00	3.150%	107,647.50	572,647.50	
19	05/01/2028			100,323.75	100,323.75	672,971.25
20	11/01/2028	465,000.00	3.250%	100,323.75	565,323.75	
21	05/01/2029			92,767.50	92,767.50	658,091.25
22	11/01/2029	465,000.00	3.450%	92,767.50	557,767.50	
23	05/01/2030			84,746.25	84,746.25	642,513.75
24	11/01/2030	465,000.00	3.650%	84,746.25	549,746.25	
25	05/01/2031			76,260.00	76,260.00	626,006.25
26	11/01/2031	465,000.00	3.800%	76,260.00	541,260.00	
27	05/01/2032			67,425.00	67,425.00	608,685.00
28	11/01/2032	465,000.00	3.950%	67,425.00	532,425.00	
29	05/01/2033			58,241.25	58,241.25	590,666.25
30	11/01/2033	465,000.00	4.050%	58,241.25	523,241.25	
31	05/01/2034			48,825.00	48,825.00	572,066.25
32	11/01/2034	465,000.00	4.100%	48,825.00	513,825.00	
33	05/01/2035			39,292.50	39,292.50	553,117.50
34	11/01/2035	465,000.00	4.150%	39,292.50	504,292.50	
35	05/01/2036			29,643.75	29,643.75	533,936.25
36	11/01/2036	465,000.00	4.200%	29,643.75	494,643.75	
37	05/01/2037			19,878.75	19,878.75	514,522.50
38	11/01/2037	465,000.00	4.250%	19,878.75	484,878.75	
39	05/01/2038			9,997.50	9,997.50	494,876.25
40	11/01/2038	465,000.00	4.300%	9,997.50	474,997.50	