

INTERMUNICIPAL AGREEMENT

THIS AGREEMENT (this "Agreement") entered into this ____ day of May, 2014 by and between the **ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT**, a Massachusetts regional school district acting by and through its duly authorized Regional District School Committee, with a mailing address of 16 Charter Road, Acton, Massachusetts 01720 (the "District"), and the **TOWN OF BOXBOROUGH**, a Massachusetts municipality acting by and through its duly authorized Board of Selectmen, with a mailing address of 29 Middle Road, Boxborough, Massachusetts 01719 (the "Town"). Hereinafter, the District and the Town are together the "Parties" and individually a "Party."

WITNESSETH:

WHEREAS, the District, the Town and the Town of Acton have agreed to regionalize the elementary schools in the Town and the Town of Acton;

WHEREAS, the voters of the Town and the Town of Acton voted on June 3, 2013, to accept the amendments to the Agreement for a Regional School District for the Towns of Acton and Boxborough, Massachusetts (the "Regional Agreement");

WHEREAS, the District and the Town wish to carry out the requirements of the Regional Agreement with respect to regionalizing the elementary schools in the Town;

WHEREAS, Section 4.B of the Regional Agreement requires that, effective July 1, 2014, the Town will sell and convey to the District for the sum of one dollar each, ownership of the Town's elementary school buildings and the property on which said buildings are located;

WHEREAS, Section 4.B of the Regional Agreement further requires that the conveyance of the Town's elementary school buildings and the property on which said buildings are located shall be contingent upon the execution of an intermunicipal agreement between the District and the Town;

WHEREAS, Section 4.B of the Regional Agreement requires that an intermunicipal agreement between the District and the Town shall resolve any outstanding title issues associated with the properties, allocate responsibility for any pre-existing condition of or debt service associated with the properties or buildings, address any pre-existing leases of any portions of the properties or buildings, reserve and ensure continued Town uses as defined in the intermunicipal agreement, and otherwise ensure that any issues of mutual concern to the Town and the District regarding these properties are satisfactorily addressed in the intermunicipal agreement;

WHEREAS, in accordance with Section 4.B of the Regional Agreement, the District and the Town intend to address the transfer of personal property and the disposition of various funds held by the Town;

WHEREAS, Section 4.B of the Regional Agreement requires that if, at any time in the future, the District no longer needs for school-related purposes the buildings and properties located in

the Town and owned by the District, the ownership of said buildings and properties shall be sold and conveyed to the Town for the sum of one dollar;

WHEREAS, Chapter 71, Section 16, of the Massachusetts General Laws authorizes the District to acquire property within its member towns; and

WHEREAS, the District and the Town intend that this Agreement shall be the intermunicipal agreement required by Section 4.B of the Regional Agreement and intend that this Agreement shall comply with all requirements set forth in Section 4.B of the Regional Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the District and the Town agree as follows:

SECTION 1. REAL PROPERTY TO BE CONVEYED TO THE DISTRICT:

A. School Property: In accordance with Section 4.B of the Regional Agreement, the Town agrees to sell and the District agrees to buy, upon the terms and conditions set forth in this Agreement, all of the Town's right, title and interest in and to the following real property, together with all the rights and appurtenances pertaining to such property, including, without limitation, any rights in private ways, water courses or water bodies adjacent to, abutting or serving such land (the "School Property"):

The land and buildings known as the Blanchard Elementary School, located at 493 Massachusetts Avenue in Boxborough, Massachusetts and shown as "Lot A" on the plan entitled: "Plan of Land in Boxborough, Mass. Owned By: Town of Boxborough at 493 Massachusetts Avenue," dated April 4, 2014, prepared by Goldsmith, Prest & Ringwall, Inc. and recorded with said Registry in Plan Book 2014, Page 385 and attached hereto as Exhibit A (the "Blanchard Plan"). For the Town's title to said property, see deed recorded with the Middlesex South District Registry of Deeds in Book 11518, Page 377.

B. Fixtures: Included in the sale of the School Property are the buildings, structures and improvements now located on the School Property, and the fixtures belonging to the Town and used in connection with the School Property, including, but not limited to, all wall-to-wall carpeting, blinds, window shades, screens, storm windows and doors, awnings, furnaces, heaters, heating equipment, generators, stoves, ranges, burners, hot water heaters, plumbing and bathroom fixtures, electric and other lighting fixtures, fences, gates, trees, shrubs and plants.

C. Title Deed: The School Property shall be conveyed by a good and sufficient quitclaim deed running to the District (the "Deed"). The Deed shall convey good, clear, record and marketable title to the School Property, free from encumbrances, except:

1. Provisions of existing and future building and zoning laws;
2. The restrictions and easements set forth in Section 1.F and Section 1.G of this Agreement; and

3. Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the use of the School Property for school-related purposes.

Notwithstanding any provision of this Agreement to the contrary, the School Property shall not be considered to be in compliance with the title provisions of this Agreement unless there is a recorded Certificate of Compliance for each Order of Conditions in the chain of title to the School Property.

Notwithstanding any provision of this Agreement to the contrary, if the Town is required to expend in excess of a total of \$5,000 to convey good, clear record and marketable title as provided herein, the Town shall be entitled to a one-time credit in FY 2015 against its annual assessment from the District equal to fifty percent (50%) of the amount the Town must expend above \$5,000 (the "Title Credit").

D. Title Reports: The District shall be responsible for obtaining title examinations for the School Property.

E. Preparation of the Deed: The Town shall prepare the Deed for the School Property, said Deed to be provided to the District not later than fourteen (14) days before the Closing (as defined in Section 9 below).

F. Restrictions: The Deed for the School Property shall contain (i) an option providing the Town the right to purchase the School Property for one dollar (\$1.00) if, at any time in the future, the District no longer needs the School Property for school-related purposes, or if the Town withdraws from the District, which option right shall be mutually agreed upon prior to the Closing (as defined in Section 9 below) and recorded at the Closing, and (ii) a restriction providing that the public school located on the School Property shall at all times retain the name "Blanchard Memorial Elementary School."

G. Easements:

1. Town Reserved Easements: The Town shall reserve in the Deed (or, in the case of the Title 5 Covenant and Easement, the District shall grant to the Town) the following easements:
 - a. A perpetual easement for use and access permitting the Town's use of the School Property for (i) emergency shelters; (ii) federal, state and local elections; and (iii) Annual and Special Town Meetings (but not meetings of boards, committees and other Town public bodies); provided, however, that Town's use of the School Property for the purposes set forth in items (ii) and (iii) above shall not interfere with the District's use of the School Property and shall be subject to the District's receipt of written notice at least thirty (30) days in advance of said event, and the District shall respond to said request within five (5) business days; provided further that, notwithstanding the foregoing,

unless and until the Town provides notice to the District of any change, the District shall incorporate into its schedule every year for the use of the School Property: (x) the second Monday in May for the Annual Town Meeting, plus such adjourned sessions as may be necessary to complete the business of the Annual Town Meeting; (y) the third Monday in May for the Annual Town Election; and (z) all regular federal and state primary and general election days (said easement to be substantially in the form attached hereto as **Exhibit B-1**);

- b. A perpetual easement to construct, reconstruct, operate, maintain, use, repair, renovate, improve, enlarge, and remove the water line running across the School Property and associated lines, connections, equipment and appurtenances, on, over, beneath and through the School Property, necessary to provide water service to Town property and facilities (said easement to be substantially in the form attached hereto as **Exhibit B-2**);
- c. Such perpetual easements as are necessary to provide for Town ownership of the septic treatment system located partially on the School Property and partially on adjacent Town property (the "Septic System"), use of the Septic System as a shared system to serve the School Property and Town property, and the right of the Town to construct, reconstruct, operate, maintain, use, repair, renovate, improve, enlarge, and remove the Septic System to provide for such shared use (said easements to be substantially in the form attached hereto as **Exhibit B-3**), with the operation costs (including debt service) for the Septic System to be shared between the District and the Town as follows:
 - i. For FY2015, the District shall pay 85% of such costs, such percentage being derived from the design flows for the current users of the Septic System;
 - ii. For the remainder of the term of this Agreement, the District's share of such costs shall be equal to the percentage its total water usage bears to the total water usage of all the properties served by the Septic System, such water usage to be determined by water meters installed for each Septic System user;
 - iii. To the extent the cost share determined for FY2016 on the basis of the prior year's water meter readings is different from that set forth in subsection i), above, a credit for such difference shall be applied as appropriate in equal amounts over the next three fiscal years, or otherwise as the parties may agree.

The Town shall retain ownership of the Septic System and its appurtenances, including such system components as may be within the building located on School Property, but not including such pipes and other appurtenances on the School Property that solely serve that property. Further terms regarding the ownership, use, and maintenance of the Septic System may be set forth in a Memorandum of Understanding between the parties.

2. Town Granted Easements: At the Closing (defined in Section 9 below), the Town shall grant to the District the following easements:

- a. Such perpetual easements in its abutting property as are required to provide for approval of the Septic System as a shared system under Title 5 serving the School Property and Town property, and to allow the District to use, maintain, repair, and upgrade the Septic System to provide for its continued use (said easements to be substantially in the form attached hereto as **Exhibit C-1**);
- b. Such perpetual easements as are required to provide the School Property with the right to obtain drinking water sufficient to support a public school at the School Property from the adjacent Town property, which presently contains a well (known as the "Hager Well") providing water to the School Property and adjacent Town properties, to take such water from the Hager Well, or from such other well as the District of the Town may locate on the adjacent Town property in the event the Hager Well ceases to function, and to construct, reconstruct, operate, maintain, use, repair and remove new and existing pipes and related appurtenances to carry out such purpose (said easements to be substantially in the form attached hereto as **Exhibit C-2**), provided, however, that the Hager Well shall remain the property of the Town and under the Town's exclusive control for all purposes, subject to the District's easement rights. For such time as the District takes water from the Hager Well or such other well as the Town may locate on its property, the District shall pay to the Town its proportionate share of the operation costs (including debt service) for such Well, to be determined as follows:
 - i. For FY2015, the District shall pay 85% of such costs;
 - ii. For the remainder of the term of this Agreement, the District's share of such costs shall be equal to the percentage its total water usage bears to the total water usage of all the properties served by the Well, such water usage to be determined by water meters installed for each user;
 - iii. To the extent the cost share determined for FY2016 on the basis of the prior year's water meter readings is different from that

set forth in subsection i, above, a credit for such difference shall be applied as appropriate in equal amounts over the next three fiscal years, or otherwise as the parties may agree.

The Town shall retain ownership of the Well and its appurtenances, including the distribution system for the Well, but not including such pipes and other appurtenances on the School Property that solely serve that property. Further terms regarding the ownership, use, and maintenance of the Well may be set forth in a Memorandum of Understanding between the parties.

H. Plans: If the Deed refers to any plan that must be recorded with the Deed, the Town shall deliver such plan with the Deed in a form adequate for recording or registration. Prior to the Closing (as defined in Section 9 below), the Town will prepare "Approval Not Required" or ANR plans establishing the boundaries of the properties set forth on Exhibit A and in connection with the Closing, shall record the plans with the Middlesex South District Registry of Deeds.

I. Registered Title: If the title to the School Property is registered, the Deed shall be in a form sufficient to entitle the District to a Certificate of Title to the School Property, and the Town shall deliver with the Deed all instruments, if any, necessary to enable the District to obtain such Certificate of Title.

J. Purchase Price: The purchase price for the School Property shall be one dollar (\$1).

SECTION 2. PERSONAL PROPERTY TO BE CONVEYED TO THE DISTRICT:

A. Personal Property: Along with the sale of the School Property, the Town shall transfer ownership of all personal property purchased for or otherwise controlled by the Boxborough Public Schools and located on the School Property at the time of Closing (as defined in Section 9 below) including, but not limited to, all furniture, machinery, equipment, tools, computer hardware, computer software and licenses, supplies, materials and snow blowers, together with any express or implied warranty by the manufacturers or sellers or lessors of any item or component part thereof and all maintenance records and other documents relating thereto (the "Personal Property").

B. Records: Along with the sale of the School Property, the Town shall transfer to the District ownership of all books, records and files, including student records, controlled by the Boxborough Public Schools (the "Records"), subject to compliance by the Parties with any applicable federal, state and local laws, bylaws, rules, regulations and policies relating to privacy and confidentiality. The Parties shall be guided by any applicable and lawful instructions that may be issued by the Massachusetts Department of Elementary and Secondary Education ("DESE") with respect to the transfer of the Records.

SECTION 3. INTANGIBLE PROPERTY TO BE CONVEYED TO THE DISTRICT:

The Town shall convey all intangible property (collectively, the "Intangible Property", together with the Personal Property and the School Property, the "Property") now or hereafter owned by the Town relating to the School Property or the Personal Property, including transferrable licenses, architectural, site, landscaping or other permits, applications, approvals, authorizations and other entitlements and transferable guarantees and warranties covering the School Property.

SECTION 4. DISPOSITION OF SCHOOL LUNCH AND REVOLVING FUNDS:

A. Subject to appropriation and to all applicable statutes, laws, rules and regulations, the Town agrees to seek any Town Meeting votes necessary to transfer to the District on or after July 1, 2014, an amount equal to the balance of the lunch fund and all revolving funds currently maintained for the Blanchard Memorial School as of the end of fiscal year 2014, which funds include: Student Activities, School Choice, School Lunch, Extended Day Program, Full Day Kindergarten Program, Blanchard Early Childhood Program and School Meals Tax.

B. With respect to each such amount transferred by the Town to the District, the District agrees to hold the amount (together with any interest thereon) pursuant to M.G.L. c. 44, § 53A, or other applicable law or regulation, as a separate account (collectively, the "Special Accounts") and to expend those funds at the same school for the same purposes as the prior Town revolving or lunch fund, as applicable.

SECTION 5. DISPOSITION OF GIFTS AND GRANTS:

A. Transfer of Gifts and Grants: Subject to appropriation, to all applicable terms and conditions of each grant and gift, and to all applicable statutes, laws, rules and regulations, the Town agrees to seek any Town Meeting votes necessary to transfer to the District on or after July 1, 2014, an amount equal to the balance at the end of fiscal year 2014 of each of the gift and grant accounts maintained by the Town with respect to the School Property as set forth on Exhibit D attached hereto and made a part hereof (collectively, the "Gift and Grant Accounts"). The Parties agree that prior to the Closing (as defined in Section 9 below), the Town will transfer and deposit funds sufficient to bring to a zero balance and close out all Gift and Grant Accounts on Exhibit D that have a negative balance. With respect to each such amount transferred by the Town to the District, the District agrees to hold the amount (together with any interest thereon) pursuant to M.G.L. c. 44, § 53A, as a separate account and to expend those funds for the same purposes as the purpose of the prior gift or grant to the Town.

B. Judicial and Other Governmental Approval of Gift or Grant Transfers: The Town Treasurer, in consultation with the Town Administrator, Town Counsel and the Town Auditor, will determine whether and to what extent it is permissible pursuant to the applicable terms and conditions of the Gift and Grant and to applicable statutes, laws, rules and regulations for the Town to transfer the balance of each Gift and Grant Account to the District. The Town shall cooperate with the District and the District will have the responsibility to seek and obtain any

judicial or other governmental approvals necessary to transfer any Gift and Grant Accounts to the custody and control of the District.

SECTION 6. CREDITS FOR TOWN BOND PAYMENTS:

Notwithstanding the sale of the School Property to the District, any unpaid balance on the outstanding bonds authorized for the construction or maintenance of the School Property (the "Bonds") shall remain the obligation of the Town; provided, however, that the Town shall be entitled to a credit against its annual assessment from the District equal to the total of principal and interest payments made by the Town for the Bonds during the fiscal year of the assessment, minus any payments received for the corresponding fiscal year by the Town relating to school building reimbursements from the Commonwealth or its agencies, including but not limited to the Massachusetts School Building Authority, or its successor, with respect to the corresponding bonded construction or maintenance project at the School Property (a "Credit" or the "Credits"). The Bonds subject to the Credits are set forth on Exhibit E attached hereto and made a part hereof.

Once all of the Bonds have been repaid, the Town shall not be entitled to any further Credits under this Section 6 against its annual assessment from the District with respect to the School Property. The Town has provided a list of the Bonds in Exhibit E hereto and not later than December 1 of each calendar year thereafter, shall provide the District with (i) its debt repayment schedule for the Bonds for the next fiscal year, and (ii) its estimate of payments from the Massachusetts School Building Authority with respect to the construction and maintenance of the School Property for the next fiscal year, for the purpose of calculating the Credits.

SECTION 7. APPROVALS

Except as otherwise set forth herein, the Town will be responsible for pursuing any approvals from governmental agencies necessary to convey the School Property, the Personal Property and the Records to the District, including, but not limited to (i) endorsement from the Boxborough Planning Board of an Approval Not Required (ANR) Plan suitable for recording at the Middlesex South District Registry of Deeds, provided that any proposed ANR Plan shall be submitted by the Town for approval by the District prior to filing with the Planning Board, such approval not to be unreasonably withheld, conditioned or delayed; (ii) any necessary approval by any lessees of the School Property, (iii) approvals or relief required to bring the School Property into compliance with Section 1.C of this Agreement, respectively, subject to the Title Credit, (iv) any votes of Town entities, including, but not limited to, Town Meeting, and (v) any approvals of state or local entities necessary to share the Septic System (the "Approvals"). The District shall fully cooperate with the Town's efforts to obtain the Approvals, but such cooperation shall not require the District to incur any material costs or expenses. From time to time upon the request of the District, the Town shall provide a detailed written statement to the District of the Town's efforts to obtain the Approvals. The Approvals shall not be deemed to have been obtained until all appeal periods have expired with no appeal having been taken. In the event that the Approvals have not been obtained by the Town prior to the Closing Date (as defined in Section 9 below), the Town shall promptly notify the District and the Parties hereby agree to deliver the Closing Deliverables, as set forth in Section 9.B, herein, into escrow with the District's title

insurance company or Town Counsel, as mutually agreed to by the Parties pending a mutually agreed resolution of any such outstanding issues; provided, however, that any failure to obtain the Approvals prior to the Closing shall not terminate the Town's obligations to use its good faith best efforts to obtain the Approvals as required under this Agreement.

SECTION 8. AS-IS:

Except as expressly provided otherwise herein, the Property is being sold and conveyed, and the District accepts the Septic System and Hager Well and associated water distribution system to which it is granted rights of use and access, in an "AS IS, WHERE IS" condition and "WITH ALL FAULTS" and without any representation or warranty as of the date of this Agreement and as of Closing (as defined in Section 9 below). No responsibility has been or is assumed by the Town or by any person, firm, agent, attorney or representative acting or purporting to act on behalf of the Town. The parties agree that neither party is relying upon any statement or representation by the other.

SECTION 9. CLOSING

A. Closing Date: The consummation of the transactions contemplated by this Agreement shall take place at 10:00 a.m. at Boxborough Town Hall on June 30, 2014 (the "Closing"), provided that if the parties are prepared to close earlier, the parties may agree to a mutually acceptable earlier closing date. It is agreed that time is of the essence with respect to all time periods in this Agreement.

B. Closing Deliverables:

1. At Closing, the Town shall:
 - a. Deliver to the District the duly executed Deed conveying the School Property, subject to the easements and restrictions described in Sections 1.F. and 1.G.1, as well as Section 1.C.3 ;
 - b. Deliver to the District the duly executed easement or easements necessary to comply with Section 1.G of this Agreement;
 - c. Assign to the District, and the District shall assume, all assignable contracts and agreements (the "Operating Agreements") (listed in Exhibit F) relating to the upkeep, repair, maintenance or operation of the School Property by a duly executed Assignment and Assumption of Operating Agreements in the form attached hereto as Exhibit G;
 - d. Deliver to the District an affidavit duly executed by the Town stating that the Town is not a "foreign person" as required by Section 1445 of the Internal Revenue Code of 1986;

- e. Deliver to the District a Bill of Sale and Assignment in the form of **Exhibit H** attached hereto, executed by the Town, pursuant to which the Town will transfer to the District all the Personal Property and the Intangible Property;
 - f. Deliver to the District standard affidavits regarding mechanics liens and parties in possession addressed to in the form and substance reasonably acceptable to the District's title insurer; and
 - g. Deliver such additional documents as shall be reasonably required to consummate the transactions expressly contemplated by this Agreement.
2. At Closing, the District shall:
- a. Pay to the Town the Purchase Price set forth in Section 1.J;
 - b. Join the Town in execution of the instruments set forth in Section 9(B)(1)(b) and (e) above; and
 - c. Deliver such additional documents as shall be reasonably required to consummate the transactions expressly contemplated by this Agreement.
3. Closing Costs:
- a. The following shall be apportioned with respect to the School Property as of 12:01 a.m. on the day of the Closing, as if the District were vested with title to the School Property during the entire day upon which Closing occurs:
 - i. Gas, electricity, and other utility charges for which the Town is liable, if any, such charges to be apportioned at Closing on the basis of the most recent meter reading occurring prior to Closing and to be paid by Boxborough Public Schools; and
 - ii. Payments under the Operating Agreements, if any.
 - b. The Town shall pay (a) the fees of any counsel representing it in connection with this transaction, (b) the cost for any ANR Plan, (c) recording costs for ANR Plans, (d) recording costs for the Town Meeting votes or any other approvals that need to be recorded.
 - c. The District shall pay (a) the fees of any counsel representing it in connection with this transaction and (b) the fees for recording the Deeds and any other documents related to the title transfers.

SECTION 10. RISK OF LOSS:

In the event of loss or damage to any of the School Property or to the Property, this Agreement shall remain in full force and, at the Town's option, the Town may (i) elect to perform repairs upon the damaged property and complete such repairs prior to the Closing or (ii) pay over or assign to the District at Closing all of the Town's rights, if any, to any insurance proceeds recovered or recoverable relating to such damage, whereupon full risk of loss with respect to the Property shall pass to the District.

SECTION 11. ASSIGNMENT:

No assignment or other transfer of any right or obligation under this Agreement shall be made by either of the Parties, and any attempt to so assign or transfer such right or obligation shall be a breach of this Agreement and the assignment shall be of no effect.

SECTION 12. DISPUTE RESOLUTION:

A. No suit upon any claim or cause of action upon, or for damages upon, by reason of, or arising from, this Agreement or its non-performance or faulty performance, shall be filed or maintained by either of the Parties unless notice of such claim or cause of action is first given to the other Party to be delivered at least thirty (30) days before any suit or action may be filed, and in every case within a reasonable time under the circumstances from the date upon which limitation would commence to run against such claim or cause of action on behalf of the claimant Party. The Parties agree to participate in non-binding mediation during the thirty (30) day period.

B. Notwithstanding any other provision herein, the Parties reserve the right, either in law or equity, by suit, and complaint in the nature of specific performance, or other proceeding, to enforce or compel performance of any or all provisions of this Agreement. The Parties may also mutually agree to use other forms of alternative dispute resolution to address disputes arising under this Agreement.

SECTION 13. AMENDMENTS:

This Agreement may only be amended by a written document duly executed by both of the Parties.

SECTION 14. TERM AND TERMINATION:

This Agreement shall remain in full force and effect indefinitely, unless otherwise set forth in an amendment to this Agreement.

SECTION 15. SEVERABILITY:

If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full

force and effect, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable provision, which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

SECTION 16. CONSTRUCTION OF AGREEMENT:

This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, sets forth the entire contract between the parties on the subjects covered by this Agreement, is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns (if any), and may be cancelled, modified or amended only by a written instrument executed by both the Town and the District. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intent of the parties to it.

SECTION 17. INTERPRETATION:

The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

Each party to this Agreement agrees that delivery of an executed signature page of this Agreement to the other party (or its attorney) by facsimile or other electronic transmission shall be binding on each of the parties as if the original of such facsimile or other electronic transmission had been delivered to the other party.

SECTION 18. DISCLOSURE OF BENEFICIAL INTEREST FORM:

Within three days of execution of this Agreement, the District shall provide to the Town a completed disclosure of beneficial interest form in the form that is attached hereto as **Exhibit I** as required under G.L. c. 7C, sec. 38. The Town will file the form with the Division of Capital Asset Management and Maintenance of Massachusetts.

SECTION 19. [Reserved]

SECTION 20. INSURANCE:

Until the Closing Date, the Town shall maintain insurance on the School Property in the same amounts as currently in place as of the date hereof.

SECTION 21. BROKERS:

The District and the Town each warrant and represent to the other that neither has dealt with any real estate broker, salesperson, finder, or other person entitled to a commission or fee in

connection with the negotiation or execution of this Agreement or the consummation of the transaction contemplated hereby.

SECTION 22. SURVIVAL

The following Sections shall survive delivery of the Deeds for the School Property or the early termination hereof: Section 8, 11, and 21.

SECTION 23. NOTICES:

All notices required or permitted by this Agreement shall be in writing and shall be sent by certified mail, postage prepaid:

If intended for the District:

Superintendent of Schools
Acton-Boxborough Regional School District
District Central Office
16 Charter Road
Acton, Massachusetts 01720

If intended for the Town:

Town Administrator
Town of Boxborough
29 Middle Road
Boxborough, Massachusetts 01719

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the District and the Town have caused this instrument to be executed in their behalf by their respective officers thereunto duly authorized as of the day and year first above written.

**ACTON-BOXBOROUGH
REGIONAL SCHOOL DISTRICT**

By its Regional District School
Committee, and its Transitional School
Committee

Name: Maria E. Neyland
Title: Chair
Duly authorized by vote of the Regional
School District Committee dated
_____ and attached hereto as
Exhibit J, and by vote of the
Transitional School Committee dated
_____ and attached hereto as
Exhibit K, and

Approved as to Form:

Name: Kimberly A. Rozak
Title: District Counsel

TOWN OF BOXBOROUGH

By its Board of Selectmen

Name: Vincent M. Amoroso
Title: Chair
Duly authorized by vote of the Board of
Selectmen dated _____ and
attached hereto as Exhibit L, and

Approved as to Form:

By its School Committee

Name:
Title: Chair
Duly authorized by vote of the
Boxborough School Committee dated
_____ and attached hereto as
Exhibit M, and

Approved as to Form:

Name: Jonathan D. Eichman
Title: Town Counsel

LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
A	Blanchard School Plan
B-1 to B-3	Form of Easements to Town
C-1 to C-2	Form of Easements to District
D	List of Gift and Grant Accounts
E	List of Bonds and Credits
F	List of Operating Agreements
G	Assignment of Operating Agreements
H	Bill of Sale and Assignment
I	Disclosure of Beneficial Interest Form
J	Authorizing Vote of A-B Regional School District Committee
K	Authorizing Vote of A-B Transitional School Committee
L	Authorizing Vote of Boxborough Board of Selectmen
M	Authorizing Vote of Boxborough School Committee

Exhibit A

Blanchard School Plan
(to be attached)

Exhibit B-1
Use and Access Easement

Exhibit B-2

Water Easement – *District to Town*

Exhibit B-3

Title 5 Covenant and Easement – *District to Town*

Exhibit C-1

Title 5 Covenant and Easement –*Town to District*

Exhibit C-2

Water Easement –*Town to District*

Exhibit D

List of Gift and Grant Accounts

- Blanchard Educational Gift Fund
- Patricia A. Hall Scholarship
- SPED 94-192 (FY 14)
- Title IIA Teacher Quality (FY 14)
- Title 1 Program (FY 14)
- SPED Early Childhood (FY 14)
- RTTT Grant (FY 14)
- SPED Program Improvement (FY 14)
- SPED ECP Program Improvement (FY14)
- LELD Grant
- Mass Cultural Council Grant (Stars Program)
- Education Circuit Breaker.

Exhibit E

**List of Bonds Subject to Credits
(to be attached)**

Exhibit F

List Of Operating Agreements

Exhibit G

ASSIGNMENT AND ASSUMPTION OF OPERATING AGREEMENTS

THIS ASSIGNMENT AND ASSUMPTION OF OPERATING AGREEMENTS ("Assignment") is made and entered into as of _____, 2014 by and between the Town of Boxborough, a Massachusetts municipality, ("Assignor"), and Acton-Boxborough Regional School District, a Massachusetts regional school district ("Assignee").

RECITALS

A. Assignor and Assignee have entered into that certain Intermunicipal Agreement dated as of _____, 2014 (the "Intermunicipal Agreement") with respect to, among other things, the transfer of the School Property.

B. The Assignor is a party to those certain operating agreements relating to the School Property and identified on Exhibit 1 attached hereto, copies of which are attached and incorporated herein by reference (collectively, the "Operating Agreements"); and

C. Sections 9.B.1.a and 9.B.2.c of the Intermunicipal Agreement requires Assignor and Assignee to execute this Assignment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. **Definitions.** All capitalized terms used but not otherwise defined herein shall have the respective meanings provided therefor in the Intermunicipal Agreement.
2. **Assignment and Assumption.** From and after the date hereof and for the remainder of the term of each of the Operating Agreements, the Assignor hereby irrevocably assigns, sets over, transfers, grants, bargains and conveys to Assignee all of Assignor's right, title and interest in and to the Operating Agreements. Assignee hereby expressly assumes for itself and its successors, assigns and legal representatives, the Operating Agreements and all of the rights, obligations and liabilities of Assignor thereunder to the extent first accruing and arising on or after the date hereof and (a) agrees to be fully bound by all of the terms, covenants, agreements, provisions, conditions, obligations and liabilities of Assignor thereunder that first accrue and arise on or after the date hereof, and (b) keep, perform and observe all of the covenants and conditions contained therein on the part of Assignor to be kept, performed and observed, from and after the date hereof.

3. **General Provisions.**

- a. **Successors.** This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
- b. **Counterparts.** This Assignment may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument.
- c. **Governing Law.** This Assignment and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of law.
- d. **No Representation or Warranty.** EXCEPT AS OTHERWISE PROVIDED HEREIN OR IN THE INTERMUNICIPAL AGREEMENT, ASSIGNOR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, OF ANY NATURE WHATSOEVER IN CONNECTION WITH THIS ASSIGNMENT AND THE OPERATING AGREEMENTS.

[Signatures on next page]

IN WITNESS WHEREOF, this Assignment was made and executed as of the date first above written.

ASSIGNEE:

By its Regional District School
Committee, and its Transitional School
Committee

Name:

Title: Chair

Duly authorized by vote of the Regional
District School Committee dated
_____ and attached hereto

ASSIGNOR:

TOWN OF BOXBOROUGH

By its Board of Selectmen

Name:

Title: Chair

Duly authorized by vote of the Board of
Selectmen dated _____ and
attached hereto

Approved as to form:

Boxborough Public School Committee

Name:

Title: Chair

Duly authorized by vote of the
Boxborough Public School Committee
dated _____ and attached hereto

Exhibit H
BILL OF SALE AND ASSIGNMENT

THIS **BILL OF SALE AND ASSIGNMENT** ("**Bill of Sale**") is made as of _____, 2014 between the Town of Boxborough, a Massachusetts municipality, ("**Seller**"), and Acton-Boxborough Regional School District, a Massachusetts regional school district ("**Buyer**").

RECITALS

A. Seller is the owner of that certain real property located in the Town of Boxborough, County of Middlesex, Commonwealth of Massachusetts (the "**Real Property**"), as more particularly described in the Intermunicipal Agreement (as such term is defined herein).

B. Seller and Buyer have entered into that certain Intermunicipal Agreement dated as of _____, 2014 (the "**Intermunicipal Agreement**") with respect to, among other things, the transfer of the Real Property as well as the "**Personal Property**," the "**Intangible Property**" and certain other property.

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

1. Unless the context otherwise requires, all capitalized terms used but not otherwise defined herein shall have the respective meanings provided therefor in the Intermunicipal Agreement.
2. Seller does hereby unconditionally, absolutely, and irrevocably grant, bargain, sell, transfer, assign, convey, set over and deliver unto Buyer all of Seller's right, title and interest in and to the Personal Property and the Intangible Property (collectively, the "**Property**").
3. Seller represents that it is the sole owner of the Property and that the same is free and clear of all liens, mortgages, pledges, security interests, prior assignments and encumbrances.
4. This Bill of Sale shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.
5. This Bill of Sale and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to its principles of conflicts of law.

[Signatures on next page]

IN WITNESS WHEREOF, this Bill of Sale was made and executed as of the date first above written.

BUYER:
ACTON-BOXBOROUGH
REGIONAL SCHOOL DISTRICT

By its Regional School District
Committee

Name:
Title: Chair
Duly authorized by vote of the Regional
District School Committee dated
_____ and attached hereto

SELLER:
TOWN OF BOXBOROUGH

By its Board of Selectmen

Name: Vincent M. Amoroso
Title: Chair
Duly authorized by vote of the Board of
Selectmen dated _____ and
attached hereto

Approved as to Form:
Boxborough School Committee

Name:
Title: Chair
Duly authorized by vote of the
Boxborough School Committee dated
_____ and attached hereto]

Exhibit I

**BENEFICIAL INTEREST DISCLOSURE STATEMENT
ACQUISITION OF REAL PROPERTY**

For acquisition of Real Property by the Acton-Boxborough Regional School District, the undersigned does hereby state, for the purposes of disclosure pursuant to Massachusetts General Laws, Chapter 7C, Section 38, of a transaction relating to real property as follows:

- (1) REAL PROPERTY DESCRIPTION: 493 Massachusetts Avenue in Boxborough, Massachusetts
- (2) TYPE OF TRANSACTION: Purchase
- (3) SELLER: Town of Boxborough
- (4) BUYER: Acton-Boxborough Regional School District
- (5) Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above:

NAME

RESIDENCE

Acton-Boxborough Regional School District

16 Charter Road
Acton, Massachusetts 01720

- (6) None of the above mentioned persons is an employee of the Division of Capital Asset Management or an official elected to public office in the Commonwealth except as listed below.
- (7) This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named above. If this form is signed on behalf of a corporation or other legal entity, it must be signed by a duly authorized officer of that corporation or legal entity. The undersigned acknowledges that any changes or additions to items 3 and or 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Asset Management and Maintenance within thirty (30) days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects.

Signature: _____

Printed Name: Dr. Stephen Mills

Title: Superintendent

Date: _____

Exhibit J

Authorizing Vote of A-B Regional School District Committee

Exhibit K

Authorizing Vote of A-B Transitional Regional School District Committee

Exhibit L

Authorizing Vote of Boxborough Board of Selectmen

Exhibit M

Authorizing Vote of Boxborough School Committee

EXHIBIT B-1

USE AND ACCESS EASEMENT (to be reserved in the Deed to the District)

Reserving to the Town a perpetual right and easement in gross to pass and repass over, across and along and to use the Property: (i) as a public emergency shelter; (ii) for federal, state and local elections; and (iii) for Annual and Special Town Meetings (but not meetings of boards, committees and other Town public bodies); provided, however, that the Town's use of the Property for the purposes set forth in items (ii) and (iii) above shall not interfere with the District's use of the Property (collectively, the "Permitted Uses"). The Permitted Uses shall be further subject to the following terms and conditions:

(a) Emergency Shelter: The building on the Property shall be available, at the Town's sole cost and expense, for use as a public emergency shelter during periods of federal, state or local declared emergencies. The Town shall maintain insurance coverage for its use of the Property as an emergency shelter, and shall provide the District with evidence of such insurance coverage upon request. The Regional District School Committee, in consultation with the Board of Selectmen of the Town, may from time to time promulgate policies governing the use of the Property for emergency shelter purposes, which policies shall accommodate both the need for the emergency shelter and the need to protect the Property and the health, safety and welfare of the District's employees and students during such an emergency.

(b) Elections: The building on the Property will be available to the Town for election purposes on election days during the hours of 7:00 a.m. to 9:00 p.m., and during reasonable times before and after such elections necessary for the Town to assemble and disassemble polling places, to be determined by mutual agreement between the District and the Town. The Town's use of the Property for election purposes shall be at the Town's sole cost and expense and the District shall charge no fee for such use. The Town shall maintain insurance coverage for its use of the Property for elections, and shall provide the District with evidence of such insurance coverage upon request. The Town shall provide written notice to the District at least thirty (30) days in advance of said elections and the District shall respond to the Town's request within five (5) business days. Notwithstanding the foregoing, unless and until the Town provides notice to the District of any change, the District shall incorporate into its schedule every year: (i) the Annual Town Meeting for the election of Town Officers on the third Monday in May and (ii) all regular federal and state primary and general election days. Subject to academic program requirements, during the times required for an election the District will not schedule other uses of the Property that interfere with the Town's rights hereunder. If the Town's request for the use of the Property for an election would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution.

(c) Town Meetings: The building on the Property shall be available to the Town for Annual and Special Town Meetings (except the Annual Town Meeting for the election of Town Officers) (a "Town Meeting") during the hours of 6:00 p.m. to midnight, and during reasonable times before and after a Town Meeting necessary for the Town to assemble and disassemble the space used for such Town Meeting, to be determined by mutual agreement between the District

and the Town. The Town's use of the Property for Town Meeting purposes shall be at the Town's sole cost and expense and the District shall charge no fee for such use. The Town shall maintain insurance coverage for its use of the Property for Town Meetings, and shall provide the District with evidence of such insurance coverage upon request. Unless and until the Town provides notice to the District of any change, the District shall incorporate into its schedule every year the following Annual Town Meeting times: (i) the second Monday in May for the Annual Town Meeting, and (ii) such adjourned sessions as may be necessary to complete the business of the Annual Town Meeting (which may include, in addition to the second Monday in May, the immediately following Tuesday and Thursday and the next Wednesday and Thursday, if needed). Subject to academic program requirements, during the times required for a Town Meeting, the District will not schedule other uses of the Property that interfere with the Town's rights hereunder. For the Town's use of the Property for Special Town Meetings, the Town shall provide at least thirty (30) days advance notice to the District, and the District shall respond to said request within five (5) business days. If the Town's request for the use of the Property for a Special Town Meeting would interfere with the District's use of the Property, the parties shall work together to arrive at a mutually agreeable resolution within five (5) business days of the District's response.

2. The Town shall have the right to permit the Town's employees, agents, contractors, guests and invitees, including without limitation the inhabitants of the Town of Boxborough, to use the Property for the Permitted Uses in accordance with this Easement.

3. Parking on the Property associated with the Permitted Uses shall be allowed subject to and in accordance with reasonable policies to be developed by the Regional District School Committee.

4. Any notice hereunder shall be in writing and shall be deemed to have been properly given when mailed, if mailed by registered or certified mail, return receipt requested, all charges prepaid, or when hand delivered or sent by a recognized overnight courier service, addressed as follows:

If to Town: Town Hall
 29 Middle Road
 Boxborough, Massachusetts 01719
 Attention: Town Administrator

If to District: Acton Boxborough Regional School District
 16 Charter Road
 Acton, Massachusetts 01720
 Attention: Superintendent of Schools

5. The terms of this Easement shall run with the Property and shall benefit and be binding upon the successor owners thereof.

6. This Easement may only be amended by a written instrument, clearly designated to be an amendment, signed by all parties and recorded with the Registry.

7. If any provision of this Easement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Easement shall nonetheless remain in full force and effect, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable provision, which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.



EXHIBIT C-2

A. Water Easement Grant to Benefit District

Together with the perpetual and non-exclusive right and easement in, under, through, and upon Grantor's remaining land at 427 Massachusetts Avenue (the "Town Property"), said land being more particularly described in a deed recorded with the Middlesex (South) Registry of Deeds in Book 11518, Page 377, less that portion of said land conveyed to Grantor herein (the "District Property"), for the purpose of taking and supplying the District Property with water from the so-called Hager Well, or from such other well as Grantor or Grantee may locate on the Town Property in the event the Hager Well ceases to function, and to construct, reconstruct, operate, maintain, use, repair and remove new and existing pipes and related appurtenances to carry out such purpose, provided that the wells and appurtenant facilities presently in place or hereafter constructed by the Town on the Town Property, including those pipes and related appurtenances used to distribute water from said well, shall at all times be and remain the property of Town, and shall be maintained and serviced exclusively by the Town, and further provided that as long as the Town continues to draw water from the Town Property and make such water available to Grantee, Grantee shall not exercise any of the easement rights granted herein, other than the right to the use of such water, without prior approval of Grantor, such approval not be unreasonably withheld. The easement shall further include the permanent right of entry upon and passage over the Town Property, by foot, motor vehicle, and heavy equipment, and to the extent feasible in such location as has already been provided for such access, for all purposes aforesaid and for uses incidental thereto. In no event shall Grantee's exercise of the easement rights granted herein, other than use of the water drawn from the Hager Well, unnecessarily and materially limit or compromise the Town Property and the Town's use thereof, as determined by the Town in its reasonable discretion.

EXHIBIT B-2

B. Water Easement Reservation to Benefit Town

Reserving to the Town a perpetual and non-exclusive easement in, under, through, and upon the Property for the purpose of using, operating, maintaining, repairing, constructing, reconstructing, and removing new and existing pipes and related appurtenances for the distribution of water taken from the Town Property to any other property, which facilities, less those facilities which distribute such water exclusively to the Property, shall at all times be and remain the property of the Town and shall be maintained and serviced exclusively by the Town. Such easement shall further include the permanent right of entry upon and passage over the Property, by foot, motor vehicle, and heavy equipment, and to the extent feasible in such location as has already been provided for such access, for all purposes aforesaid and for uses incidental thereto. In no event shall the Town's exercise of the easement rights granted herein unnecessarily and materially limit or compromise the Property and the District's use thereof, as determined by the District in its reasonable discretion.

497457/BOXB/0502

EXHIBIT B-3

GRANT OF TITLE 5 COVENANT AND EASEMENT

(property served by Shared System)

310 CMR 15.290(2)(e)

This GRANT OF TITLE 5 COVENANT AND EASEMENT made as of this day of _____ 2014, by the ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT (the "District" or "Grantor"), a Massachusetts regional school district acting by and through its duly authorized Regional District School Committee, with a mailing address of 16 Charter Road, Acton, Massachusetts 01720.

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of that certain parcel of land in the Town of Boxborough, Middlesex County, Massachusetts (the "Property"), located at 493 Massachusetts Avenue, described in a deed recorded with the Middlesex (South) Registry of Deeds in Book _____, Page ___, and shown as "Lot A" on the plan entitled: "Plan of Land in Boxborough, Mass. Owned By: Town of Boxborough at 493 Massachusetts Avenue," dated April 4, 2014, prepared by Goldsmith, Prest & Ringwall, Inc. and recorded with said Registry in Plan Book 2014, Page 385 (the "Plan");

WHEREAS, there is appurtenant to and the Property has the benefit of a Shared System, as defined in 310 CMR 15.002, said Shared System being located in part on the Property and in part on that certain parcel of land in the Town of Boxborough, Middlesex County, Massachusetts abutting the Property, located at 427 Massachusetts Avenue and described in a deed recorded with the Middlesex (South) Registry of Deeds in Book 11518, Page 377 (the "Town Property", and, together with the Property, the "Shared System Property");

WHEREAS, the Town of Boxborough is the owner of the Town Property and the Shared System in its entirety;

WHEREAS, the Property shall have the benefit of easements within those portions of the Town Property shown variously as "Util. Ease", "Septic Easement" and "Reserve Septic Easement" on the Plan sufficient to allow for construction, use, maintenance, and expansion of the Shared System, among other related purposes, such easements being granted by the Town and recorded herewith, and the Town shall have the benefit of easements for such purposes within that area of the Property shown on the Plan as "Util. Ease.", "Util. & Septic Easement", and "Temp. Const. Easement", and otherwise within the Property where elements of the Shared System are presently located, which may include the buildings on the Property (the easement premises for both the Property and the Town Property as shown on the Plan being hereinafter referred to as the "Shared System Easement");

WHEREAS, the Shared System has been approved by the Approving Authority, as defined in 310 CMR 15.002, in accordance with Title 5, 310 CMR 15.000, as amended ("Title 5"); said approval being based upon the agreements by Grantor and Grantee to incur certain obligations regarding the construction, inspection, maintenance, upgrade and expansion of the Shared System and to grant to the Approving Authority a perpetual easement to construct,

inspect, maintain, upgrade and expand any component of the Shared System and in connection herewith a perpetual easement to pass and repass over the Property and the Shared System Property for purposes of inspecting the Shared System to insure compliance with and fulfillment of the terms of this Covenant/Easement as hereafter set forth;

NOW, THEREFORE, pursuant to the provisions of 310 CMR 15.290, Grantor hereby GRANTS to the TOWN OF BOXBOROUGH, a Massachusetts municipal corporation situated in Middlesex County, having an address of 29 Middle Road, Boxborough, Massachusetts 01719 ("Grantee" or "Town"), which shall include its Board of Health (hereinafter, "Approving Authority"), in consideration of and coincidental with Grantee's conveyance of easements and restrictions for the Shared System to Grantor, with QUITCLAIM COVENANTS, a TITLE 5 COVENANT AND EASEMENT ("Covenant/Easement"), in, on, upon, through, over and under the Property in the locations shown on the Plan and set forth more fully herein, the terms and conditions of which are as follows:

OBLIGATIONS AND EASEMENT

1. Inspection and Pumping. Grantor, its successors and assigns, covenants to the Approving Authority to have the Shared System inspected at least every three years by a System Inspector, as defined in 310 CMR 15.002, and pumped on an as needed basis, but in no event shall the Shared System be pumped less than every three years. The System Inspector shall submit the results of the inspection on a System Inspection Report (Appendix) to the Approving Authority within 30 days of the Shared System's inspection. Grantor shall provide the Approving Authority with a copy of the receipt obtained from the duly registered septage hauler upon pumping of the Shared System within 30 days of the Shared System's pumping.
2. Obligations and Costs. Grantor, in consideration of the covenants made by the Town to Grantor in the Town's Grant of Title 5 Covenant and Easement, recorded herewith, to operate, maintain, inspect, repair, upgrade, and remove and replace the Shared System as required, and to allow the Grantor full and lawful use of said Shared System, covenants to the Town:
 - a. that the Property shall be served and benefited exclusively by the Shared System for as long as the Town's aforesaid covenants remain in effect;
 - b. that the Town shall be deemed the owner of the Shared System and shall have the right as such owner, subject to such lawful approvals as are required and subject to consultation with Grantor, to establish regulations for the use and operation of the Shared System and to determine in its discretion and carry out such maintenance, inspection, repair, upgrade, and removal and replacement of the Shared System as is necessary and appropriate to provide for its use by the parties as set forth herein;
 - c. that Grantor shall pay to the Town Grantor's proportionate share of the cost of such operation, maintenance, inspection, repair, upgrade, and removal and replacement as determined by the parties by separate agreement; and
 - d. should the Town approve Grantor's request to lawfully expand, alter or relocate the Shared System and the Shared System Easement as provided for in the

Town's Grant of Title 5 Covenant and Easement, that such expansion, alteration or relocation shall be undertaken by the Town at Grantor's sole cost and expense.

3. Financial Assurance Mechanism. Grantor, its successors and assigns, agrees to provide the Approving Authority with such financial assurance mechanism, naming the Approving Authority as beneficiary, as the Approving Authority may request, which shall provide for upgrade of the Shared System in the event the Shared System fails to protect public health and the environment pursuant to the criteria established in 310 CMR 15.303.
4. Maintenance. Grantor agrees that the Shared System has been constructed such that the Sanitary Sewage, as defined in 310 CMR 15.002, from any Facility, as defined in 310 CMR 15.002, owned by Grantor may be denied access to the Shared System in the event Grantor fails to pay its proportionate share of the cost of operation, maintenance, inspection, repair, upgrade, and removal and replacement costs incurred for said Shared System.
5. Insurance. The Town shall maintain insurance coverage for its use of the Shared System Easement, and shall provide the District with evidence of such insurance coverage upon request.
6. Easements. Grantor hereby grants to Grantee and its successors and assigns a perpetual, nonexclusive EASEMENT to enter upon and the right to bring equipment onto the Shared System Easement to do any and all acts deemed necessary to construct, install, use, operate, maintain, inspect, upgrade, repair, remove, excavate, replace, and expand the Shared System, together with a right to pass and repass by foot and by vehicle over the Shared System Easement for said purposes, including the removal and trimming of vegetation, trees, or shrubs therefrom, and for purposes of inspecting the Shared System Easement to insure compliance with and fulfillment of the terms of this Covenant/Easement; provided, however, that Grantee shall provide Grantor with notice prior to any entry upon the Shared System Easement for the purposes set forth herein at least fifteen (15) days in advance of such entry, except in cases of emergency repairs for which Grantor shall provide notice to Grantee as soon as possible, and except in cases where Grantee has provided Grantor with a written waiver of this notice requirement; and, provided further, that Grantee shall not, without Grantor's express written permission, such permission not to be unreasonably withheld, construct, install or expand the Shared System so as to locate any part of the Shared System within that portion of the Shared System Easement shown as "Temp. Const. Easement" on the Plan. In exercising its rights and obligations hereunder, the Town shall use reasonable efforts to minimize any interference with the District's use of the Property and the Shared System Easement, and shall immediately repair any damage to the Property and its improvements caused by the Town's exercise of its rights hereunder.
7. Lien Authority of Local Approving Authority. For purposes of enforcing a lien against Shared System Property, Grantor hereby agrees that the phrase "...land upon which the structure is or was located..." as used in the second paragraph of M.G.L. c. 111, §127B shall include the Property and Grantor's rights to use the Town Property, thereby authorizing the Approving Authority to impose a lien on such property in the event the Approving Authority has incurred debt in accordance with the provisions of M.G.L. c. 111, §127B.

8. Severability. If any court or other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

9. Enforcement. Grantor expressly acknowledges that a violation of the terms of this instrument could result in the following:

(i) upon determination by a court of competent jurisdiction, in the issuance of criminal and civil penalties, and/or equitable remedies, including, but not limited to, injunctive relief, which injunctive relief may include the issuance of an order to modify or remove any improvements constructed upon the Shared System Easement in violation of the terms of this Covenant/Easement; and

(ii) in the assessment of penalties and enforcement action by the Approving Authority and DEP to enforce the terms of this Covenant/Easement, pursuant to Title 5; M.G.L. c. 111, §§17, 31, 122, 124, 125, 125A, 127A through 127O, and 129; and M.G.L. c. 83, § 11.

10. Provisions to Run with the Land. This Covenant/Easement sets forth rights, liabilities, agreements and obligations upon and subject to which the Shared System Easement or any portion thereof, shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. The rights, liabilities, agreements and obligations herein set forth shall run with the Shared System Property, as applicable thereto, and any portion thereof and shall inure to the benefit of and be binding upon Grantor and Grantee and all parties claiming by, through or under them. The rights hereby granted to Grantee, its successors and assigns, constitute the perpetual right of Grantee to enforce this Covenant/Easement, and Grantor hereby covenants for itself and its successors and assigns, to stand seized and hold title to the Shared System Property, as applicable thereto, and any portion thereof, subject to this Covenant/Easement, provided, however, that a violation of this Covenant/Easement shall not result in a forfeiture or reversion of Grantor's title to the Shared System Property, as applicable thereto.

11. Concurrence Presumed. It being agreed that Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions herein set forth and to agree for and among themselves and any party claiming by, through or under them, and their respective agents, contractors, sub-contractors and employees, that the Covenant/Easement herein established shall be adhered to and not violated and that their respective interests in the Shared System Property, as applicable thereto, shall be subject to the provisions herein set forth.

12. Incorporation into Deeds, Mortgages, Leases and Instruments of Transfer. Grantor hereby agrees to incorporate this Covenant/Easement, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Shared System Property, or any portion thereof, is conveyed.

13. Recordation. Grantor shall record and/or register this Covenant/Easement with the appropriate Registry of Deeds and/or Land Registration Office within 30 days of receipt from the Local Approving Authority of the approved Covenant/Easement. Grantor shall file with the Approving Authority a certified Registry copy of this Covenant/Easement as recorded and/or registered within 30 days of its date of recordation and/or registration.

14. Amendment and Release. This Covenant/Easement may be amended or released only upon approval by the Approving Authority. Any such amendment or release shall be recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

15. Term. The covenants granted and declared herein are made for the benefit of the Grantor and the Grantee, their transferees, successors and assigns, and may be enforced as such by those parties. Said covenants further constitute restrictions held by a governmental body, as those terms are defined in G.L. c.184, §26, and as such shall run in perpetuity and are not subject to G.L. c.184, §§27-30. To the extent such restrictions are deemed subject to said statutes, the restrictions shall have a duration of 99 years, and may be renewed for successive twenty-year periods by filing a notice of restriction prior to thirty years from the date of imposition, and thereafter prior to the end of each such twenty-year renewal period, as allowed by law pursuant to G.L. c.184, §§23 & 26-30, as the same may be amended or replaced.

16. Rights Reserved. This Covenant/Easement is granted to Grantee in connection with the approval of a Shared System pursuant to 310 CMR 15.290 through 15.292. It is expressly agreed that acceptance of this Covenant/Easement by Grantee shall not operate to bar, diminish, or in any way affect any legal or equitable right of the Approving Authority or DEP to issue any future order with respect to the Shared System Property, as applicable thereto, or in any way affect any other claim, action, suit, cause of action, or demand which the Approving Authority or DEP may have with respect thereto. Nor shall acceptance of this Covenant/Easement serve to impose any obligations, liabilities, or any other duties upon the Approving Authority. This Covenant/Easement shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

[signatures on following page]

WITNESS the execution hereof under seal this ____ day of ____, 2014.

ACTON-BOXBOROUGH
REGIONAL SCHOOL DISTRICT

By its Regional District School
Committee, and its Transitional School
Committee

Name: Maria E. Neyland
Title: Chair

THE COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss _____, 2014

Then personally appeared the above-named _____, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name he/she signed on the foregoing instrument in my presence, and further acknowledged the foregoing instrument to be his/her free act and deed, before me.

Notary Public

My Commission Expires:

The Boxborough Board of Health hereby approves this Grant of Title 5
Covenant and Easement (as to form only):

BOXBOROUGH BOARD OF HEALTH

By:

Date: _____

REGULATORY AUTHORITY
310 CMR 15.000: M.G.L. c. 21A, § 13.

305853/PROVWW/0006

ACCEPTANCE

The Town of Boxborough, acting by and through its Board of Selectmen pursuant to the authority granted under G.L. c.83, §1, G.L. c.40, §14, and all other authority appertaining, hereby accepts the foregoing Grant of Title 5 Covenant and Easement concerning the land at 493 Massachusetts Avenue, Boxborough, Massachusetts.

TOWN OF BOXBOROUGH,
By its Board of Selectmen

THE COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss _____, 2014

Then personally appeared the above-named _____, member of said Town of Boxborough Board of Selectmen, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name he signed on the foregoing instrument in my presence, and further acknowledged the foregoing instrument to be his free act and deed and the free act and deed of said Board of Selectmen, before me.

Notary Public

My Commission Expires:

497451/BOXB/0502

EXHIBIT C-1

GRANT OF TITLE 5 COVENANT AND EASEMENT

(property served by Shared System)

310 CMR 15.290(2)(e)

This GRANT OF TITLE 5 COVENANT AND EASEMENT made as of this day of _____, 2014, by the TOWN OF BOXBOROUGH, a Massachusetts municipal corporation situated in Middlesex County, having an address of 29 Middle Road, Boxborough, Massachusetts 01719 ("Grantor" or "Town").

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of that certain parcel of land in the Town of Boxborough, Middlesex County, Massachusetts (the "Property"), located at 427 Massachusetts Avenue and described in a deed recorded with the Middlesex (South) Registry of Deeds in Book 11518, Page 377, less that portion of said land conveyed to the Acton-Boxborough Regional School District by deed recorded with said Registry in Book __, Page __ and shown as "Lot A" on the plan entitled: "Plan of Land in Boxborough, Mass. Owned By: Town of Boxborough at 493 Massachusetts Avenue," dated April 4, 2014, prepared by Goldsmith, Prest & Ringwall, Inc. and recorded with said Registry in Plan Book 2014, Page 385 (the "Plan");

WHEREAS, the Property serves as the location for a portion of a Shared System, as defined in 310 CMR 15.002, said Shared System being located on the Property and on the adjoining parcel of land which the Shared System benefits and is appurtenant to, said parcel being located at 493 Massachusetts Avenue and described in the abovesaid deed recorded with said Registry in Book __, Page, and being shown as "Lot A" on the Plan (the "District Property", and, together with the "Property", the "Shared System Property");

WHEREAS, the Town of Boxborough is and shall remain the sole owner of said Shared System;

WHEREAS, the Town of Boxborough, as owner of the Property and the Shared System, shall have the benefit of easements within those portions of the District Property shown variously as "Util. Ease.", "Util. & Septic Easement", and "Temp. Const. Easement" on the Plan sufficient to allow for construction, use, maintenance, and expansion of the Shared System, among other related purposes, such easements being granted by the Acton-Boxborough Regional School District and recorded herewith, and Grantee, as defined below, shall have the benefit of easements for such purposes within that area of the Property shown on the Plan as "Util. Ease", "Septic Easement" and "Reserve Septic Easement" (the easement premises for both the Property and the District Property as shown on the Plan being hereinafter referred to as the "Shared System Easement");

WHEREAS, the Shared System has been approved by the Approving Authority, as defined in 310 CMR 15.002, in accordance with Title 5, 310 CMR 15.000, as amended ("Title 5"); said approval being based upon the agreement of Grantor and Grantee to incur certain

obligations regarding the construction, inspection, maintenance, upgrade and expansion of the Shared System and to grant to the Approving Authority a perpetual easement to construct, inspect, maintain, upgrade and expand any component of the Shared System and in connection herewith a perpetual easement to pass and repass over the Property and the Shared System Property for purposes of inspecting the Shared System to insure compliance with and fulfillment of the terms of this Covenant/Easement as hereafter set forth;

NOW, THEREFORE, pursuant to the provisions of 310 CMR 15.290, Grantor hereby GRANTS to the ACTON-BOXBOROUGH REGIONAL SCHOOL DISTRICT, a Massachusetts regional school district acting by and through its duly authorized Regional District School Committee, with a mailing address of 16 Charter Road, Acton, Massachusetts 01720 ("Grantee" or "District"), in consideration of and coincidental with Grantee's conveyance of easements and restrictions for the Shared System to Grantor, with QUITCLAIM COVENANTS, a TITLE 5 COVENANT AND EASEMENT ("Covenant/Easement"), in, on, upon, through, over and under the Property in the locations shown on the Plan and set forth more fully herein, the terms and conditions of which are as follows:

OBLIGATIONS AND EASEMENT

1. Inspection and Pumping. Grantor covenants to Grantee and its assigns to have the Shared System inspected at least every three years by a System Inspector, as defined in 310 CMR 15.002, and pumped on an as needed basis, but in no event shall the Shared System be pumped less than every three years. The System Inspector shall submit the results of the inspection on a System Inspection Report (Appendix) to the Approving Authority and the District within 30 days of the Shared System's inspection. Grantor shall provide the Approving Authority and the District with a copy of the receipt obtained from the duly registered septage hauler upon pumping of the Shared System within 30 days of the Shared System's pumping.
2. Obligations and Costs. Grantor, consistent with the covenants made by the District to the Grantor in the District's Grant of Title 5 Covenant and Easement, recorded herewith, covenants to Grantee and its successors and assigns, that it shall operate, maintain, inspect, repair, upgrade, and remove and replace as required the Shared System within the Shared System Easement as necessary to benefit and serve the District Property for all uses incidental to the use and maintenance of a public school on such property, in accordance with applicable law, and shall allow said Acton-Boxborough Regional School District and its assigns the full use of the Shared System at all times to benefit the aforementioned land, provided that such use is lawful and otherwise in compliance with the covenants made to Grantor by Grantee concerning such use, and that said District Property is used for school purposes only. The cost of such operation, maintenance, inspection, repair, upgrade, and removal and replacement shall be divided between the parties as they shall determine by separate agreement.

At the reasonable request and at the sole expense of the Acton-Boxborough Regional School District, Grantor shall lawfully expand, alter or relocate the Shared System and the Shared System Easement to accommodate the District's use of the District Property for school purposes, provided that such expansion, alteration or relocation shall not in any manner, as determined by the Town in its reasonable discretion, pose an increased risk to or materially limit or compromise

the Town's property and its use thereof, reduce the capacity of the Shared System available for Town use, or significantly compromise the Town's ability to make use of such capacity.

3. Financial Assurance Mechanism/Insurance. Grantor, its successors and assigns, agrees to provide the Approving Authority with such financial assurance mechanism, naming the Approving Authority as beneficiary, as the Approving Authority may request, which shall provide for upgrade of the Shared System in the event the Shared System fails to protect public health and the environment pursuant to the criteria established in 310 CMR 15.303. In addition, the District shall maintain general liability and property insurance coverage for its use of the Shared System Easement and shall provide the Town with evidence of such insurance coverage upon request.

4. Easements. Grantor hereby grants to Grantee and its successors and assigns a perpetual, nonexclusive EASEMENT to enter upon and the right to bring equipment onto the Shared System Easement to do any and all acts deemed necessary to construct, install, lay, operate, use, maintain, inspect, upgrade, repair, remove, excavate, replace, and expand any component of the Shared System, together with a right to pass and repass by foot and by vehicle over the Shared System Easement for said purposes, including the removal and trimming of vegetation, trees, or shrubs therefrom, and for purposes of inspecting the Shared System Easement to insure compliance with and fulfillment of the terms of this Covenant/Easement, provided, however, that Grantee shall provide Grantor with notice prior to any entry upon the Shared System Easement for the purposes set forth herein at least fifteen (15) days in advance of such entry, except in cases of emergency repairs for which Grantor shall provide notice to Grantee as soon as possible, and except in cases where Grantee has provided Grantor with a written waiver of this notice requirement, and shall not exercise any of such easement rights other than the right to use the Shared System, without prior approval of Grantor, such approval not be unreasonably withheld. The rights of easement granted herein are further subject to Grantor's reserved right to lawfully relocate, at any time and for any reason, in its sole discretion and at its sole cost and expense, the portions of the Shared System and Shared System Easement located on the Property, and to construct, install, operate, use, maintain, inspect, upgrade, repair, remove, excavate, replace, and expand any component of the Shared System to serve the Property and any other property owned by the Town, provided, however, that the Town shall not, by the exercise of such reserved rights, unnecessarily and materially limit or compromise the District's exercise of the rights granted to it hereunder.

5. Severability. If any court or other tribunal determines that any provision of this instrument is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal. In the event the provision invalidated is of such a nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect.

6. Enforcement. Grantor expressly acknowledges that a violation of the terms of this instrument could result in the following:

(i) upon determination by a court of competent jurisdiction, in the issuance of criminal and civil penalties, and/or equitable remedies, including, but not limited to, injunctive relief, which injunctive relief may include the issuance of an order to modify or remove any improvements constructed upon the Shared System Easement in violation of the terms of this Covenant/Easement; and

(ii) in the assessment of penalties and enforcement action by the Approving Authority and DEP to enforce the terms of this Covenant/Easement, pursuant to Title 5; M.G.L. c. 111, §§17, 31, 122, 124, 125, 125A, 127A through 127O, and 129; and M.G.L. c. 83, § 11.

7. Provisions to Run with the Land. This Covenant/Easement sets forth rights, liabilities, agreements and obligations upon and subject to which the Shared System Easement or any portion thereof, shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. The rights, liabilities, agreements and obligations herein set forth, except as otherwise stated herein, shall run with the Shared System Property, as applicable thereto, and any portion thereof and shall inure to the benefit of and be binding upon Grantor and Grantee and all parties claiming by, through or under them. The rights hereby granted to Grantee and its successors and assigns, constitute the perpetual right of Grantee to enforce this Covenant/Easement, and Grantor hereby covenants for itself and its successors and assigns, to stand seized and hold title to the Shared System Property, as applicable thereto, and any portion thereof, subject to this Covenant/Easement, provided, however, that a violation of this Covenant/Easement shall not result in a forfeiture or reversion of Grantor's title to the Shared System Property, as applicable thereto.

8. Concurrence Presumed. It being agreed that Grantor and all parties claiming by, through or under Grantor shall be deemed to be in accord with the provisions herein set forth and to agree for and among themselves and any party claiming by, through or under them, and their respective agents, contractors, sub-contractors and employees, that the Covenant/Easement herein established shall be adhered to and not violated and that their respective interests in the Shared System Property, as applicable thereto, shall be subject to the provisions herein set forth.

9. Incorporation into Deeds, Mortgages, Leases and Instruments of Transfer. Grantor hereby agrees to incorporate this Covenant/Easement, in full or by reference, into all deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer by which an interest in and/or a right to use the Shared System Property, or any portion thereof, is conveyed.

10. Recordation. Grantor shall record and/or register this Covenant/Easement with the appropriate Registry of Deeds and/or Land Registration Office within 30 days of receipt from the Local Approving Authority of the approved Covenant/Easement. Grantor shall file with the Approving Authority a certified Registry copy of this Covenant/Easement as recorded and/or registered within 30 days of its date of recordation and/or registration.

11. Amendment and Release. This Covenant/Easement may be amended or released only upon approval by the Approving Authority. Any such amendment or release shall be recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office.

12. Term. The covenants granted and declared herein are made for the benefit of the Grantor and the Grantee, their transferees, successors and assigns, and may be enforced as such by those parties. Said covenants shall constitute restrictions held by a governmental body, as those terms are defined in G.L. c.184, §26, and as such shall run in perpetuity and are not subject to G.L. c.184, §§27-30. To the extent such restrictions are deemed subject to said statutes, the restrictions shall have a duration of 99 years, and may be renewed for successive twenty-year periods by filing a notice of restriction prior to thirty years from the date of imposition, and thereafter prior to the end of each such twenty-year renewal period, as allowed by law pursuant to G.L. c.184, §§23 & 26-30, as the same may be amended or replaced.

13. Rights Reserved. This Covenant/Easement is granted to Grantee in connection with the approval of a Shared System pursuant to 310 CMR 15.290 through 15.292. It is expressly agreed that acceptance of this Covenant/Easement by Grantee shall not operate to bar, diminish, or in any way affect any legal or equitable right of the Approving Authority or DEP to issue any future order with respect to the Shared System Property, as applicable thereto, or in any way affect any other claim, action, suit, cause of action, or demand which the Approving Authority or DEP may have with respect thereto. Nor shall acceptance of this Covenant/Easement serve to impose any obligations, liabilities, or any other duties upon the Approving Authority. This Covenant/Easement shall become effective upon its recordation and/or registration with the appropriate Registry of Deeds and/or Land Registration Office.

WITNESS our hands and seals this _____ day of _____, 2014.

TOWN OF BOXBOROUGH,
By its Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

On this _____ day of _____, 2014, before me, the undersigned Notary Public, personally appeared _____, and proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose as Selectmen of the Town of Boxborough.

Notary Public

My Commission Expires:

The Boxborough Board of Health hereby approves this Grant of Title 5
Covenant and Easement (as to form only):

BOXBOROUGH BOARD OF HEALTH

By:

Date: _____

REGULATORY AUTHORITY
310 CMR 15.000: M.G.L. c. 21A, § 13.

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