

AGREEMENT FOR ADMINISTRATIVE REVIEW OF FINANCIAL STATUS

Fenton Area Public Schools, a Michigan general powers school district, whose address is 3100 Owen Road, Fenton, Michigan 48430, and Genesee Intermediate School District, a Michigan intermediate school district, whose address is 2413 West Maple Avenue, Flint, Michigan 48507, have entered into this Agreement as of April 11, 2016 ("Effective Date"). In this Agreement, Genesee Intermediate School District and Fenton Area Public Schools ("District") may be referred to individually as a "Party" or jointly as the "Parties."

RECITALS

WHEREAS, The State Treasurer has declared that the potential for fiscal stress exists for the District under MCL 380.1219(3);

WHEREAS, The District desires to enter into this agreement to obtain the assistance of Genesee Intermediate School District to address the financial conditions within the District, which will also make unnecessary the submission of periodic financial status reports to the State Treasurer for a period of two years under MCL 380.1219(8);

WHEREAS, Genesee Intermediate School District has the expertise in fiscal management required to review and issue recommendations as to how the District can eliminate the potential for fiscal stress;

WHEREAS, MCL 380.1219(5) permits the Parties to enter into this Agreement; and

WHEREAS, the Parties have reviewed this Agreement and agree to be bound by the terms and conditions hereof.

NOW THEREFORE, the Parties agree as follows:

ARTICLE I DUTIES OF GENESEE INTERMEDIATE SCHOOL DISTRICT

Section 1.1 Within 90 days after the Effective Date, Genesee Intermediate School District shall complete an administrative review of the financial status of the District.

Section 1.2 Within 90 days of the Effective Date, Genesee Intermediate School District shall issue recommendations to the District concerning those steps the School District should consider taking to avoid a deficit ("Recommendations").

Section 1.3 After completion of the administrative review, Genesee Intermediate School District shall present the Recommendations issued under Section 1.2 at the next scheduled public meeting of the governing body of the District.

Section 1.4 Genesee Intermediate School District shall send a copy of the Recommendations issued under Section 1.2 to the Department of Education and the Department of Treasury.

Section 1.5 Genesee Intermediate School District may, in the course of its administrative review, make other findings that do not result in Recommendations under Section 1.2. Genesee Intermediate School District may communicate these other findings regarding the District's financial situation to the Superintendent of the District, which may include suggestions for further examination into certain costs or revenue opportunities.

Section 1.6 Genesee Intermediate School District may choose, in its sole discretion, to work in a consortium with another intermediate school district or multiple intermediate school districts in performing the administrative review. Genesee Intermediate School District may also choose, in its sole discretion, to use a contractor or contractors to assist in the administrative review.

Section 1.7 Genesee Intermediate School District shall submit quarterly reports to the Department of Treasury on the status of the implementation of the Recommendations issued under Section 1.2 to the District by Genesee Intermediate School District.

ARTICLE II CONTENTS OF ADMINISTRATIVE REVIEW

Section 2.1 Genesee Intermediate School District's administrative review shall include all those items identified under MCL 380.1219, and shall include but is not limited to all of the following:

- i. An examination of financial practices, including at least an examination of the District's compliance with the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to 141.440a, budget to actual expense report monitoring, and budget amendment practices after budget adoption.
- ii. An examination of staffing and a comparison of staffing to other school districts, as applicable.
- iii. An examination of wages and a comparison of wages to other school districts in the area, as applicable.
- iv. An examination of benefit costs as a percentage of wages and a comparison of benefit costs as a percentage of wages to other school districts in the area, as applicable.
- v. A school building student capacity utilization review.
- vi. An examination of non-instructional costs by function and a comparison of those costs to other school districts, as applicable.
- vii. A review of enrollment projection methods and history.
- viii. An examination of deferred maintenance and capital investment needs. Capital investment needs include technology equipment and technology infrastructure needs.

- ix. An examination of substitute costs, workers compensation costs, unemployment compensation costs and forecasts, and a review of other insurance programs.
- x. An examination of pupil transportation costs and routing.
- xi. An examination of the current and future costs of existing bargaining agreements.
- xii. An examination of state and federal grants.
- xiii. An examination of any other revenue or expenditure that may have a material impact upon the financial condition of the district.

Section 2.2 The parties may request the Department of Treasury to waive 1 or more of the requirements for items to be included in Genesee Intermediate School District's administrative review under MCL 380.1219. If the Department of Treasury grants a waiver, then Genesee Intermediate School District's administrative review is not required to include the waived item or items.

ARTICLE III DUTIES OF THE DISTRICT

Section 3.1 While Genesee Intermediate School District's duties are limited to analyzing and assisting the District with its financial situation as previously set forth, and do not include a review and audit of all aspects of the District's organization, nonetheless, both parties recognize that Genesee Intermediate School District may need information from a wide variety of sources within the District in order for it to perform its duties. Accordingly, the District shall give Genesee Intermediate School District and its contracted agents prompt and full access to any and all financial data or information relating to the financial condition of the District as requested by Genesee Intermediate School District. This includes, but is not limited to, information regarding the district's budget and audit; ongoing, pending, and anticipated litigation, arbitrations, mediations, insurance claims, real estate issues and negotiations, payments to contractors, settlement agreements of any type, employment contracts, management letters from the district's auditor, corrective action plans for audit findings, competitive bid and/or RFP documents and responses; and resumes and qualifications of personnel assigned to support service or other positions.

Furthermore, as the parties agree that time is of the essence in the performance of their respective obligations under this agreement, the District agrees that "prompt" access to information and staff shall mean as quickly as reasonably possible, and not to exceed two business days, absent special circumstances.

Section 3.2 The District shall allow Genesee Intermediate School District and its contracted agents to promptly examine all financial records and books of account of the District.

Section 3.3 The District shall promptly and fully provide the assistance and information necessary and properly requested by Genesee Intermediate School District or its contracted agent in the effectuation of the Genesee Intermediate School District's administrative review duties, including, but not limited to, complying with a request that the District provide a

facility condition assessment or a physical asset inventory if either of these has not been completed in the immediately preceding 24 months.

Section 3.4 Upon request by Genesee Intermediate School District, the District shall promptly make available any District staff to meet with Genesee Intermediate School District or its contracted agents, including business and other administrative leadership.

Section 3.5 Upon the request of Genesee Intermediate School District, the District shall promptly arrange for a meeting between Genesee Intermediate School District or its contracted agents and the leadership of any professional or labor organization contracted with the District so that Genesee Intermediate School District may obtain input and information from the organization regarding the financial status of the District.

Section 3.6 Upon the request of Genesee Intermediate School District, the District shall promptly arrange for a public hearing at a District facility in the event that Genesee Intermediate School District determines that it would be appropriate to obtain input and information from the public regarding the finances of the District.

Section 3.7 The District shall implement all of the Recommendations made by Genesee Intermediate School District (see Section 1.2).

ARTICLE IV TERMINATION

Section 4.1 Genesee Intermediate School District may rescind the contract if the District is not complying with 1 or more of the Recommendations issued to the District, or the District breaches any of its obligations under this agreement, upon 5 days written notice.

Section 4.2 The District may rescind the contract for any reason upon 5 days written notice.

Section 4.3 In the event of termination, the District shall pay all applicable costs incurred by Genesee Intermediate School District as provided elsewhere in this agreement.

ARTICLE V CONSIDERATION AND PAYMENT

Section 5.1 For the Services that Genesee Intermediate School District and its agents/contractors will provide in the performance of Genesee Intermediate School District's duties under this agreement, the District shall pay to Genesee Intermediate School District an amount that reflects Genesee Intermediate School District's actual costs incurred plus 4% of such actual costs to recoup indirect costs. Schedule A to this agreement sets forth a listing of the estimated Services to be provided and a good faith estimate of total costs.

Section 5.2 Payment of the fees shall be made monthly as costs are incurred. Amounts not subject to a good faith dispute unpaid after sixty (60) days from the date of the

invoice shall accrue interest at a rate of one-half percent (.5%) per month, and Genesee Intermediate School District will provide written notice thereof to the District.

**ARTICLE VI
DISPUTE RESOLUTION**

Section 6.1 Informal Resolution. Disputes arising from or relating to this agreement must be presented to the Parties' Superintendents, in writing, for discussion and informal resolution. Such disputes must identify the provision or provisions in dispute, the full relief requested and all of the facts and circumstances supporting the requested relief, including the relevant documents and witnesses as applicable.

Section 6.2 Final and Binding Arbitration. Disputes that are not resolved to a party's satisfaction through informal resolution by the Superintendents must be submitted to the Treasurer for resolution. If the Treasurer fails or refuses to act, then a party may submit the dispute to final and binding arbitration, before a single arbitrator, according to the Commercial Arbitration Rules of the American Arbitration Association. Any party may move for the entry of judgment on the arbitrator's award in any court of competent jurisdiction.

**ARTICLE VII
GENERAL PROVISIONS**

Section 7.1 All notices, consents, approvals, requests and other communications, herein collectively called "Notices," required or permitted under this agreement shall be given in writing, signed by an authorized representative of Genesee Intermediate School District or the District, and mailed by certified or registered mail, return receipt requested, personally delivered, sent by overnight courier or sent by facsimile or electronic mail transmission to the other Party as follows:

Genesee Intermediate School District:

Genesee Intermediate School District
Attn: Lisa A. Hagel, Superintendent
2413 West Maple Avenue
Flint, Michigan 48507

The District:

Fenton Area Public Schools
Attn: Superintendent
3100 Owen Road Road
Fenton, Michigan 48430

Unless otherwise provided for in this agreement, all such notices, certificates or other communications shall be deemed served upon the date of personal delivery, the day after

delivery to a recognized overnight courier, the date of the transmission by facsimile or other electronic means is verified or two days after mailing by registered or certified mail. Any Party may designate in writing any further or different addresses or recipients to which subsequent notices, certificates or communications hereunder shall be sent.

Section 7.2 Both Parties acknowledge that Genesee Intermediate School District will need the active support of the District's administrative, operations, and other personnel to provide the Services under this Agreement, and each Party agrees to use its best efforts to cooperate with each other in that regard. This shall include prompt if not immediate access to all information, materials and documents necessary to provide the Services.

Section 7.3 Except as provided for the benefit of the Parties, this Agreement does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation and/or any other right in favor of any other person or entity.

Section 7.4 This Agreement sets forth all the covenants, agreements, stipulations, promises, conditions and understandings between Genesee Intermediate School District and the District concerning the activities contemplated herein, and there are no other promises or understandings, either oral or written, other than set forth herein.

Section 7.5 This agreement shall not be modified, altered or amended except by written agreement duly executed by Genesee Intermediate School District and the District in accordance with the terms hereof.

Section 7.6 The invalidity of any article, section, subsection, clause or provision of this agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions hereof which remain valid and will be enforced to the fullest extent permitted by law.

Section 7.7 This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Michigan. The parties agree, consent and submit to the personal jurisdiction of any competent court of jurisdiction in Genesee County, Michigan, or the United States Federal Courts sitting in the Eastern District of Michigan, for any action brought against it arising out of this Agreement.

Section 7.8 The covenants, conditions and agreements in this agreement shall be binding upon and inure to the benefit of the parties, their respective legal representatives, successors and assigns.

Section 7.9 Neither this agreement, its performance, nor any rights or obligations of the parties may be assigned, encumbered or delegated without the prior written consent of the

other party, which shall not be unreasonably withheld, conditioned or delayed. Any purported assignment, encumbrance or delegation in contravention of this Section shall be null and void. The parties intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any person or entity other than the parties and their respective permitted successors and assigns.

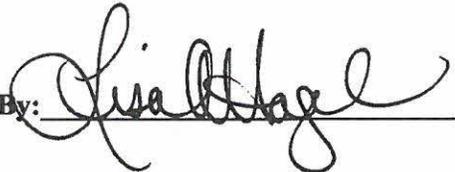
Section 7.10 This Agreement may be executed in any number of counterparts, each of which shall be an original, but all such counterparts shall together constitute one and the same instrument.

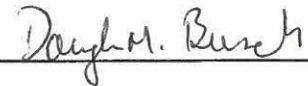
Section 7.11 Both Parties represent that the individual executing this Agreement is duly authorized by, and has the authority to execute this Agreement and bind, the respective Party.

IN WITNESS WHEREOF: the Parties hereto on this day execute this Agreement as of the Effective Date.

**GENESEE INTERMEDIATE
SCHOOL DISTRICT**

FENTON AREA PUBLIC SCHOOLS

By: 

By: 

Name: Lisa A. Hagel

Name: DOUGLAS M. BUSCH

Title: Superintendent

Title: INTERIM SUPERINTENDENT
EXECUTIVE DIRECTOR OF
FINANCE / PERSONNEL

Date: 3/28/16

Date: 4-25-16

Resolved by Rick Koester, supported by Tammy Valley to approve a contract with the Genesee Intermediate School District to conduct an administrative fiscal review.



Drew Shapiro, Board President
Fenton Area Public Schools

Ayes: Tammy Valley, Drew Shapiro, Rick Koester, Dana Jones,
Keith Reynolds Nays:

Absent: Lynn Hopper, Daniel Carter

Adopted: April 25, 2016

SCHEDULE A – SERVICES & COMPENSATION

Genesee Intermediate SCHOOL DISTRICT
Business Services

Administrative Review of Financial Status for
FENTON AREA PUBLIC SCHOOLS
2015-2016 FISCAL YEAR

Estimated annual amount of \$30,000 per year, based upon an hourly rate of \$90 per person plus travel expenses, software costs of up to \$3,500 and all applicable subcontractor costs.

Invoices shall be issued on a monthly basis, net sixty (60) days. Amounts not subject to a good faith dispute unpaid after sixty (60) days from the date of the invoice shall accrue interest at a rate of one-half percent (0.5%) per month.

Services are to be provided pursuant to the appending Contract, which shall commence on April 11, 2016 and continue for a period of up to 365 days.