



School District of the City of Pontiac

Kelley Williams, Superintendent

PONTIAC BOARD OF EDUCATION Agenda Item Request Form

Purpose:	<input type="checkbox"/>	Discussion
	<input checked="" type="checkbox"/>	Action
	<input type="checkbox"/>	Report
Contract:	<input type="checkbox"/>	New
	<input checked="" type="checkbox"/>	Renewal
	<input type="checkbox"/>	Extension/ Modification
	<input type="checkbox"/>	N/A

Presenter(s): Kelley Williams, Superintendent
Darryl Segars, General Counsel

Attachment(s): Oakland Schools Turn Around IGA

Board Meeting Date: 19 June 2017

Agenda Item: Oakland Schools Turn-Around (Academic) IGA

Background/Rationale: Renewal of the Intergovernmental Agreement for Turn-Around Services ("Agreement") with Oakland Schools for the period of July 1, 2017 to June 30, 2020, provided that the May 1, 2017 MDE Partnership Agreement is still in effect.

Scope of Services: Oakland Schools agrees to perform the services as set forth and described below during the Term of this Agreement (the "Services"):

1. Provide turnaround services for the District to assist with the acceleration of the work on the District's Blueprint for Turnaround.
2. In cooperation with the District, establish a plan with deliverables for the implementation of each phase of the Blueprint for Turnaround from Launch through Phase III (the "Plan").
3. In cooperation with the District and the Michigan Department of Education (the "MDE"), construct a performance management system that identifies organizational effectiveness outcomes as well as student outcomes.
4. Provide support in the following areas based upon the needs of the District to implement the Plan: curriculum; assessment; data; professional learning; leadership; culture and climate and school improvement.
5. Provide those services to the District through the state system of support that are in alignment with the School District's Blueprint for Turnaround.
6. Establish a team that meets regularly with the District and the MDE to ensure that the



School District of the City of Pontiac

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District's Plan is being implemented based upon the benchmarks specified in the Plan.

Funding Source/Account Number/s: 110-029-1111-0000-0000-8210 \$16,500.00
 110-057-1113-0000-0000-8210 \$24,500.00
 110-071-1112-0000-0000-8210 \$12,000.00

Recommendation: It is the recommendation of Administration that the Board of Education approve the Oakland School Turn-Around IGA in an amount not to exceed \$53,000.00.

Approvals Required:

<i>Kelley Williams</i> Superintendent	<i>6-15-17</i> Date	<i>Camen White</i> Human Resources	<i>6-15-17</i> Date
<i>[Signature]</i> Business and Finance	<i>15 June 2017</i> Date	<i>D. Bennett</i> Curriculum & Instruction	<i>6-15-17</i> Date
<i>Darryl Segars</i> Legal Counsel	<i>6/15/17</i> Date		

Moved By: _____

Supported By: _____

Board Vote:

Ayes:

Nays:

Request Approved: Yes No

Date Approved: _____

INTERGOVERNMENTAL AGREEMENT FOR TURN-AROUND SERVICES

This Intergovernmental Agreement for Turn-Around Services (“Agreement”) made this _____ day of _____, 2017 (the “Effective Date”), by and between **OAKLAND SCHOOLS**, a Michigan intermediate school district, whose address is 2111 Pontiac Lake Rd, Waterford Michigan, 48328 (“Oakland Schools”), and the **SCHOOL DISTRICT OF THE CITY OF PONTIAC**, a Michigan general powers school district, whose address is 47200 Woodward Avenue, Pontiac, Michigan 48324 (the “District”). Each a “Party” and collectively the “Parties.”

RECITALS

- A. The School District of the City of Pontiac (the “District”) is a constituent local school district of Oakland Schools.
- B. Pursuant to Sections 11a(3) and (4) of the Revised School Code, MCL 380.11a(3) and (4), a general powers school district has the authority to exercise a power incidental or appropriate to the performance of any function related to the operation of the school district in the interests of public elementary and secondary education in the school district and to enter into agreements or cooperative arrangements with other entities, public or private, or join organizations as part of performing the functions of the school district.
- C. Pursuant to Sections 601a(1) and (2) of the Revised School Code, MCL 380.601a(1) and (2), an intermediate school district has the authority to exercise a power incidental or appropriate to the performance of any function related to the operation of the intermediate school district in the interests of public elementary and secondary education in the intermediate school district and to enter into agreements or cooperative arrangements with other entities, public or private, or join organizations as part of performing the functions of the intermediate school district.
- D. Pursuant to Section 627(1)(a), (2), and (4) of the Revised School Code MCL 380.627, Oakland Schools: (i) shall, upon request of the board of a constituent school district, furnish services on a management, consultant, or supervisory basis to the school district and may charge for the costs of the services furnished; (ii) may conduct or participate in cooperative programs for information technology systems as the intermediate school board considers appropriate; and (iii) shall offer to provide for its constituent school districts located within the intermediate school district those business services that can be accomplished more cost-effectively by an intermediate school district, may charge a fee for these services, and may contract with a third-party for provision of some or all of these business services.
- E. Pursuant to the Urban Cooperation Act of 1967, MCL 124.501 *et seq.*, and the Intergovernmental Contracts between Municipal Corporations Act, 1951 PA 35, MCL 124.1, *et seq.*, each Party to this Agreement may enter into this Agreement in order to establish the terms and conditions upon which they cooperatively perform and carry out this Agreement.
- F. The District desires to engage Oakland Schools to provide those Services described herein and Oakland Schools is willing to accept such engagement upon the terms and conditions set forth herein.

NOW THEREFORE, it is hereby agreed between the Parties as follows:

I. ENGAGEMENT AND SCOPE OF SERVICES

- A. Purpose of Agreement. The purpose of this Agreement is to set forth the scope and general terms and conditions under which the Services (as defined in Section I.C. below) will be provided by Oakland Schools. The Appendices to this Agreement, if any, set forth the specific Services to be provided by Oakland Schools, and any additions to, or modifications of, the standard terms and conditions contained in this Agreement. To the extent there is a conflict between the Appendices and this Agreement, the Appendices shall control.
- B. Engagement and Relationship of Parties. District hereby engages Oakland Schools and Oakland Schools accepts such engagement to provide the Services set forth in this Agreement for the consideration and upon the terms and conditions set forth in this Agreement. The relationship between District and Oakland Schools (including any personnel, third-party consultants or independent contractors of Oakland Schools) shall be that of independent contracting parties. Oakland Schools' personnel, third-party consultants and independent contractors shall be self-directed in their activities, provided that said personnel, consultants or independent contractors shall abide by the terms of their respective employment agreement or contractual arrangement with Oakland Schools, as well as the policies and procedures of District to the extent such District policies and procedures are made known to Oakland Schools prior to the delivery of the Services, and to the extent the District policies and procedures comply with applicable law and are applicable to the delivery of the Services. This Agreement shall not be construed as authority for any Party to act for the other Party in any agency or other capacity or to make commitments of any kind for the account of, or on behalf of the other Party, except to the extent, and for the purposes, expressly provided for and set forth herein, and no partnership or joint venture is created hereby. It is expressly agreed that neither Oakland Schools nor any third-party consultants or independent contractors provided by Oakland Schools hereunder are entitled to participate in any plans, arrangements, or distributions by District pertaining to or in connection with any fringe, pension, bonus, profit sharing, or similar benefits, or any medical, dental, life or disability insurance plans.
- C. Scope of Services. Oakland Schools agrees to perform the services as set forth and described below during the Term of this Agreement (the "Services"):
1. Provide turnaround services for the District to assist with the acceleration of the work on the District's Blueprint for Turnaround.
 2. In cooperation with the District, establish a plan with deliverables for the implementation of each phase of the Blueprint for Turnaround from Launch through Phase III (the "Plan").

3. In cooperation with the District and the Michigan Department of Education (the "MDE"), construct a performance management system that identifies organizational effectiveness outcomes as well as student outcomes.
4. Provide support in the following areas based upon the needs of the District to implement the Plan: curriculum; assessment; data; professional learning; leadership; culture and climate and school improvement.
5. Provide those services to the District through the state system of support that are in alignment with the School District's Blueprint for Turnaround.
6. Establish a team that meets regularly with the District and the MDE to ensure that the District's Plan is being implemented based upon the benchmarks specified in the Plan.

With respect to the Services to be provided by Oakland Schools, the Parties acknowledge and agree that Oakland Schools may utilize Oakland Schools' personnel or may secure third-party consultants or independent contractors (collectively the "Service Personnel") to perform the Services, and that Oakland Schools' election to utilize, and the selection of, its own personnel or a third-party consultant(s) or an independent contractor(s) to perform the Services shall be determined in the business judgment, and sole discretion, of Oakland Schools. If Oakland Schools elects to utilize a third-party consultant(s) or an independent contractor(s) to perform the Services, or portion thereof, Oakland Schools agrees to cooperate with the District in the selection of said third-party consultant(s) or an independent contractor(s), provided that Oakland Schools reserves the right to make the final selection in its sole discretion. If the Plan is not implemented by the District, then Oakland Schools may withdraw any third-party consultant(s) or an independent contractor(s) it engaged to perform Services pursuant to this Agreement. Furthermore, if Oakland Schools fails to perform in accordance with this Agreement, the District may pursue termination in accordance with Section VIII.

D. Change in Scope of Services.

1. If during the Term of this Agreement, the District desires to: (i) make any changes to the quantity or specifications of any Services; (ii) request Oakland Schools' assistance in any special projects not included in the scope of Services or terms of this Agreement or Appendices, (iii) change or modify the scope of Services as a result of a change in applicable law; or (iv) change or modify the scope of Services based upon a material change in student enrollment or the number of buildings the District operates; the District shall submit a request detailing the desired change/modification in writing to Oakland Schools (a "Change in Scope of Work Request"). Oakland Schools shall promptly evaluate all Change in Scope of Work Requests and respond in writing with the terms under which Oakland Schools is willing to accommodate the same and any modification to the Contribution paid under this Agreement. The District acknowledges that, among other things, the Change in Scope

of Work Request may likely result in adjustments to the Contribution payable under this Agreement, wind-up costs, if any, and service levels. Oakland Schools shall not be required to accept any Change in Scope of Work Request if Oakland Schools determines in good faith that it is not feasible or is impractical to execute the Change in Scope of Work Request. In the event the Parties agree on the terms of a Change in Scope of Work Request, the Parties shall execute a written amendment to this Agreement (and the applicable Appendices) confirming the applicable terms and when such amendment is duly signed by both Parties, this Agreement shall automatically be deemed amended as applicable to incorporate the Change in Scope of Work Request as set forth in the amendment.

II. OBLIGATIONS OF DISTRICT

- A. The District shall provide Oakland Schools' Service Personnel who performs the Services with the tangible and intangible items and support that are reasonable and necessary to perform the Services, including but not limited to:
 - 1. Access to parking, office space, fax machine, copiers, printers and any other equipment and supplies as deemed reasonable and necessary by Oakland Schools and the District.
 - 2. Access to all relevant records and other information, databases, software, documentation, reports, District policies, protocols, procedures and/or processes etc., as deemed reasonable and necessary by Oakland Schools and the District or required to perform the Services.
 - 3. Access to the District's administration and other personnel and third-party contractors, as deemed reasonable and necessary by the District and Oakland Schools.
- B. The District shall provide access for the Oakland Schools' Service Personnel to District meetings regarding its academic programs and the District's Blueprint for Turnaround.
- C. The District shall implement the Blueprint for Turnaround based on the mutually determined plan and deliverables.
- D. The District shall require that the proper District personnel attend all regularly scheduled meetings designed to ensure that the Plan is being implemented as mutually determined by the District and Oakland Schools, and students are progressing academically, socially and emotionally. As part of this process, both the organizational and program effectiveness will be assessed by Oakland Schools.
- E. The District shall implement and monitor the plan for turnaround at each School in the District for administrator and teacher outcomes.
- F. District acknowledges that Oakland Schools will need the active support and adequate performance of the District's professional, administrative, operations,

and other personnel and contractors in order to provide the Services under this Agreement and District agrees to use its best efforts to: i) fully cooperate with Oakland Schools; ii) perform its obligations under this Agreement; iii) implement the Plan; and iv) provide in a timely manner all data, reports, meeting notes and other information or documentation reasonably requested by Oakland Schools. The District acknowledges and agrees that as part of this obligation, the District's professional, administrative, operations, and other personnel and contractors must have the proper qualifications and training commensurate with, and necessary to perform, their assigned position/job function.

III. RESERVED

IV. COMMUNICATION

- A. The District's liaison to Oakland Schools, and its personnel, for purposes of the Services and this Agreement is the District's Superintendent. All communications to District shall be provided to its Superintendent or his/her designee. The Oakland Schools liaison to District for purposes of the Services and this Agreement is Oakland Schools' Superintendent. All communications to Oakland Schools shall be provided to its Superintendent or his/her designee.

V. PERFORMANCE

- A. Oakland Schools agrees that its Service Personnel shall perform all the Services in a professional and workmanlike manner in accordance with all applicable federal, state and local laws, rules, regulations and ordinances, as well as the policies and procedures of District to the extent such District policies and procedures are made known to Oakland Schools prior to the delivery of the Services, and to the extent the District policies and procedures comply with applicable law and are applicable to the delivery of the Services. Notwithstanding the forgoing, if the performance by the District (including District staff, personnel, agents or contractors) or any other external service provider of any duties or obligations are necessary for, or a prerequisite to, the proper performance of the Services by Oakland Schools, and the District (including District staff, personnel, agents or contractors) or any other external service provider fails to perform, or improperly performs, those duties or obligations, Oakland Schools may alter the Services rendered or be relieved of the performance of the Services until such duties and obligations are fulfilled by District or any other external service provider. Oakland Schools agrees to perform the Services on-site at the District or other location agreed to by the Parties, provided however, the Parties acknowledge and agree that some Services may be performed remotely. Furthermore, the Parties acknowledge and agree that Oakland Schools, in performing the Services, may make applicable recommendations in accordance with applicable laws, rules and regulations, and District's policies and procedures made known to Oakland Schools. However, the District shall be solely responsible for all functions or services required for the ownership and operation of the District beyond the scope of the Services to be provided through Oakland Schools. Finally, Oakland Schools is not providing any legal services as part of the Services and the District

is responsible for securing any legal services necessary for the operation of the School District.

VI. DISTRICT CONTRIBUTION FOR SERVICES

- A. Contribution. The Parties acknowledge and agree that Oakland Schools is providing the Services to the District as part of a Pilot Program and as such, the District will not be charged a fee for the Services, provided however, in the event that Oakland Schools does elect to engage a third-party consultant(s) or an independent contractor(s) to perform any of the Services, the District agrees to contribute Fifty Thousand and 00/100 Dollars (\$50,000.00) to Oakland Schools for the Services during the Term of this Agreement, provided however, if the total cost to Oakland Schools to engage a third-party consultant(s) or an independent contractor(s) to perform any of the Services is less than \$50,000.00, the District shall contribute an amount equal to the total cost to Oakland Schools to engage a third-party consultant(s) or an independent contractor(s) to perform any of the Services (the "Contribution").
- B. Renewal Term Contribution. Any fees or contributions for any agreed-upon Renewal Term of this Agreement must be mutually agreed to by the Parties in writing prior to the commencement of the Renewal Term.
- C. Special Project Fees and Services. In the event District requests, and Oakland Schools agrees to perform any additional services or projects not covered by this Agreement and/or outside the scope of Services through a Change in Scope of Work Request, the District acknowledges and agrees that any such additional services are subject to additional fees to be agreed upon by the Parties in accordance with Section I.C.

VII. INVOICING AND PAYMENT

- A. If the District owes all or part of the Contribution, the District shall pay the Contribution in four (4) installments based upon a schedule mutually agreed to by the Parties in writing.
- B. If Special Project Fees are mutually agreed to by the Parties in writing for additional services outside the scope of the Services, Oakland Schools shall submit invoices to District for the fees for those additional services rendered as of the respective invoice date, together with supporting documentation and records as reasonably requested by District.
- C. The District shall make payment of the Contribution on or before the mutually agreed upon installment dates, and shall remit payment of undisputed amounts in any other invoice no later than thirty (30) days after receipt of the original invoice.
- D. Billed amounts which are the subject of a good faith dispute shall be subject to the following dispute resolution procedures:
 - 1. Within thirty (30) days of the District's receipt of Oakland Schools' invoice, the District shall provide Oakland Schools with written notice of

the amount on the invoice which is in dispute and the basis for the dispute. Within ten (10) business days of its receipt of a notice of dispute from the District, Oakland Schools shall respond in writing to the District. In its response, Oakland Schools shall either (A) credit to District the disputed amount; or (B) confirm the amount of the invoice which Oakland Schools contends is due and owing from District and the basis for its contention.

2. In the event that the amount on an Oakland Schools invoice remains in dispute following the implementation of the procedures specified in Section VII.D.1. above, and should the District seek to further contest the invoice, the District shall follow the procedures of Article IX and issue a notice of default and opportunity to cure and, should that procedure not resolve the matter, the District may elect to institute the dispute resolution procedures under Article X of this Agreement.
 3. The invoice dispute resolution procedures set forth under this Article VII.D. shall apply solely to claims arising out of alleged errors, omissions, mistakes or other billing issues on Oakland Schools' invoices to District, and shall not apply to or otherwise limit either Party's ability to seek immediate relief for any other claims arising out of this Agreement or its performance by either Party, including without limitation claims for breach of contract or warranty or actions to enforce confidentiality or indemnification obligations hereunder.
- D. All fees invoiced and not subject to a good faith dispute which remain unpaid after sixty (60) days from the date of receipt of the invoice may accrue interest at a rate of one-half percent (0.5%) per month, and Oakland Schools will provide written notice thereof to District.

VIII. TERM AND TERMINATION

- A. Term and Renewal. The Term of this Agreement shall commence as of the Effective Date and expire on June 30, 2020 (the "Term") provided that the May 1, 2017 MDE Partnership Agreement is in force and in effect unless terminated by the Parties as provided in this Agreement. Provided this Agreement has not been sooner terminated, the Parties agree to engage in good faith discussion regarding the possible renewal of this Agreement beginning in April 2020, provided however, that neither Party shall be obligated to agree to a renewal or extension of this Agreement.
- B. Termination for Convenience. Either Party may elect to terminate this Agreement for any reason at any time upon thirty (30) days written notice to the other Party.
- C. Termination upon Mutual Agreement. The Parties may elect to terminate this Agreement at any time upon the mutual written agreement of the Parties.
- D. Termination for Cause. If a Party fails to perform its obligations under this Agreement or otherwise breaches the terms of this Agreement, the non-defaulting Party may pursue a termination for cause by following the procedures set forth in Articles IX and X of this Agreement. If, at the conclusion of the Mediation

process under Section X.B., the breach or dispute has not been resolved, the non-defaulting Party may terminate this Agreement for cause by providing written notice to the defaulting Party. Notwithstanding the forgoing requirements, if District fails to pay in full any undisputed invoice amounts within the later of sixty (60) days after the date of receipt of the invoice or within sixty (60) days after delivery of a Notice Of Default And Opportunity To Cure under Section IX.A., in addition to any other remedies available at law or in equity, Oakland Schools may terminate this Agreement for cause by providing written notice to the District without the requirement to pursue any other requirements under Articles IX or X.

- E. Wind-Up Costs. Additionally, the Parties agree that if this Agreement is terminated or not renewed, the wind-up costs associated with this Agreement including but not limited to: unemployment, compensated absences, workers compensation, or third-party contractual liability of Oakland Schools, shall be allocated between the Parties as follows:
1. If the District terminates this Agreement for convenience in accordance with Section VIII.B., or Oakland Schools terminates this Agreement for “cause” in accordance with Article VIII.D. above, the District agrees to be responsible for any wind-up costs incurred by Oakland Schools as a direct result of the termination of this Agreement.
 2. If Oakland Schools terminates this Agreement for convenience in accordance with Section VIII.B. or District terminates this Agreement for “cause” in accordance with Article VIII.D. above, Oakland Schools agrees to be responsible for any wind-up costs incurred by Oakland Schools as a direct result of the termination of this Agreement, such as any unemployment liability of Oakland Schools.
 3. If the Parties agree to not extend this Agreement for the Renewal Term(s), or the Parties mutually agree to terminate this Agreement in accordance with Section VIII.C., the Parties agree to equally split any wind-up costs incurred by Oakland Schools as a direct result of the termination of this Agreement, such as any unemployment liability of Oakland Schools.
- F. Termination rights and remedies under this Article following a material breach by a Party shall be in addition to and not in lieu of any rights or remedies of the aggrieved Party. The Parties acknowledge that the payments required following a termination of this Agreement are an integral component of the overall pricing of the Services and are not intended to be a penalty.

IX. NOTICE OF DEFAULT AND OPPORTUNITY TO CURE

- A. Notice of Default and Opportunity to Cure Defect. In the event of a default by either Party, the other Party shall provide a written Notice of Default and Notice of Opportunity to Cure default to the alleged defaulting Party.

- B. Prior to issuing a written Notice of Default and Notice of Opportunity to Cure, the Party must have first raised any issues informally to the other Party and sought informal resolution of the issue.
- C. If the dispute is not resolved, the disputing Party must provide said written Notice of Default and Opportunity to Cure identifying the dispute and the provision of this Agreement allegedly violated, or any alleged problems with Service Personnel or staffing arrangements, together with a proposal for curing the alleged problem and providing a sixty (60) day period to cure any alleged problem. If the alleged problem is not cured within the cure period, or the Party to whom the notice is directed states in writing that it believes no valid dispute exists or that the problem has been cured, the Parties shall proceed to Informal Resolution as set forth in Article X of this Agreement.

X. DISPUTE RESOLUTION

- A. 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 names of all witnesses and relevant documents.
- B. Mediation. Disputes that are not resolved to a Party’s satisfaction through informal resolution by the Superintendents shall be submitted to non-binding mediation administered by the American Arbitration Association under its Commercial Mediation Procedures as soon as practicable. The purpose of the mediator is to facilitate the negotiation and resolution of the dispute between the Parties. The mediator shall not be empowered with the authority to render a binding opinion or award. The Parties will participate in the mediation in good faith and will share equally the cost of mediation. In the event the independent mediator’s attempt to resolve the dispute between the Parties fails, then the non-defaulting Party may seek termination in accordance with Section VIII.D., and each Party will be free to pursue recovery in a court of competent jurisdiction as permitted by law.

XI. NOTICES

- A. 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 Oakland Schools or 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:

Superintendent
Oakland Schools
2111 Pontiac Lake Rd.
Waterford, MI 48328

Superintendent
School District of the City of Pontiac
47200 Woodward Avenue
Pontiac, MI 48324

- B. 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.

XII. RECORDS AND CONFIDENTIAL INFORMATION

All records, forms and supplies or any reproduced copies provided and furnished by District to Oakland Schools or its Service Personnel or obtained by Oakland Schools or its Service Personnel during the course of rendering the Services to District shall always remain the property of District and shall be returned to District on demand, or upon the expiration or termination of this Agreement. All records and related documents prepared by the aforementioned consultants or otherwise created in connection with the rendering of Services to District shall be prepared in accordance with requirements and shall be the property of District. Oakland Schools and its Service Personnel shall maintain records of any obligations performed, and any payments received or costs incurred under this Agreement. Such records shall be kept in accordance with Generally Accepted Accounting Principles, and shall be made available to District upon reasonable notice. Except as required to perform the Services, Oakland Schools and its Service Personnel agree that they will never, during the Term of this Agreement or at any time subsequent to the expiration or earlier termination of this Agreement, directly or indirectly use or disclose any confidential information of the District without the written consent of the District or as required by law. All records must be retained in compliance with Bulletin 522 or as otherwise required by law.

XIII. COPYRIGHT AND INTELLECTUAL PROPERTY

If Oakland Schools or its Service Personnel performing Services under this Agreement develop any work product, information material, document, writing, publication, software, recording or procedure, whether in written, video, audio or other media format, ("the Work") Oakland Schools and its Service Personnel agree that the Work is a "work-for-hire" and District shall be deemed the copyright author and holder of all intellectual property rights. In the event, for any reason, the Work is found to be other than a "work-for-hire," Oakland Schools and its Service Personnel agree to assign its/their rights in any copyrights and other intellectual property to District.

XIV. OTHER ACTIVITIES

Oakland Schools shall remain free to engage in other independent contracting activities, provided, however, that Oakland Schools shall at all times remain available to perform the Services under this Agreement in a first-class manner and shall refrain from engaging in any activities which are inconsistent with, which interfere with, or which are in conflict with any of the terms of this Agreement.

XV. TENURE DISCLAIMER

Oakland Schools and its Service Personnel performing the Services will not acquire tenure under the Teacher Tenure Act in connection with the performance of the Services.

XVI. FINGERPRINTING AND BACKGROUND CHECK

Oakland Schools acknowledges and agrees that it shall have any of its Service Personnel who will be on District's premises regularly and continuously to perform the Services, fingerprinted and subjected to criminal history and background checks through the Michigan State Police and Federal Bureau of Investigation, as detailed in Public Act 680 of 2006, as amended, prior to commencing any Services under this Agreement. Oakland Schools agrees to transfer the appropriate fingerprinting and criminal history background report to the District as permitted by law. Oakland Schools represents and warrants to District that it will at all times during the Term, or any renewal term(s) of this Agreement be in compliance with the provisions of Michigan Public Act 680 of 2006, as amended, including, but not limited to, reporting to District within 3 business days of when any of its Service Personnel who will regularly and continuously be on District premises to perform the Services, is/are charged with a crime listed in Section 1535a(1) or 1539b(1) of the Revised School Code, being MCL 380.1535a(1) and 380.1539b(1), or a substantially similar law, and to immediately report to District if that person is subsequently convicted, plead guilty or plead no contest to that crime. Oakland Schools, or Service Personnel shall be responsible for all costs and expenses associated with the above-required fingerprinting and background checks. Oakland Schools shall supply all necessary data and information, as requested by District, to enable District to properly submit any Oakland Schools Service Personnel for inclusion in the State of Michigan Department of Education's list of "registered educational personnel" as may be required.

XVII. FACILITIES

- A. Working Facilities. Oakland Schools' Service Personnel performing the Services pursuant to this Agreement may utilize those premises and facilities of the District as identified in writing by District.

XVIII. EXCLUSIVE SERVICES

District agrees to use Oakland Schools exclusively to perform the Services as defined in this Agreement.

XIX. RELIANCE UPON DISTRICT PERSONNEL AND INFORMATION

The Services that Oakland Schools has agreed to provide under this Agreement and the corresponding Contribution were developed based on the Services being part of a Pilot program, and on the operational and financial information provided by District and the understanding that the District is responsible to, and will, provide any staff or other District personnel who have the proper qualifications and training as reasonably necessary to carry out the District's operational functions that are outside of the Services, or that the Services are reliant upon. The District represents and warrants that: (i) such information is current, complete, and accurate; (ii) such District staff and other personnel will have the proper qualifications and training; and the District acknowledges that Oakland Schools has reasonably relied on these representations as a basis for entering into this Agreement. The District shall continue to provide similar information to Oakland Schools from time to time, which will also be current, complete, and accurate, so that Oakland Schools may reasonably rely on it in providing the Services contemplated hereunder. If such operational and/or financial

information of District is inaccurate, or the District fails to provide the necessary District staff or personnel who are properly trained and qualified, then the financial terms and obligations of Oakland Schools shall be renegotiated and restated to correct such change or inaccuracy on mutually agreeable terms. Furthermore, the Services shall not constitute an audit of any of District's financial statements or internal controls. Furthermore, District acknowledges and agrees that Oakland Schools will rely upon all information, data and District staff/personnel provided by District to perform the Services and Oakland Schools shall not be liable for any damages if such information, data or personnel/staff provided by District is incorrect, incomplete, inaccurate or not properly trained/qualified.

XX. LIMITATION OF LIABILITY

- A. In the event Oakland Schools secures a third-party consultant or independent contractor to provide the Services, the District and Oakland Schools agree that, by entering into this Agreement, Oakland Schools has not assumed any duty or obligation the District is required to perform by any federal state or local law, rule or regulation. Oakland Schools has only assumed the obligation to verify that the duties of any third-party consultant or independent contractor secured by Oakland Schools to perform the Services were performed in accordance with the agreement between Oakland Schools and the respective third-party consultant or independent contractor secured by Oakland Schools to perform the Services.
- B. Oakland Schools' liability under this Agreement shall not under any circumstances exceed the annual consideration/contribution paid by District to Oakland Schools for the functional component(s) of the Services that are provided under this Agreement and directly involved with and give rise to the matter of liability. The District agrees that if the performance by Oakland Schools of its obligations under this Agreement is delayed or prevented in whole or in parts by acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties, or any law, rule regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within Oakland Schools' control, whether or not specifically mentioned herein, Oakland Schools shall be excused, discharged and released of performance to the extent such performance or obligation is so delayed or prevented by such occurrence without liability of any kind.
- C. Except as otherwise set forth in this Agreement, provided that Oakland Schools complies with Section V.A. of this Agreement, the District and Oakland Schools also agree that Oakland Schools has not provided any warranty, express or implied, concerning the performance of the Services and Oakland Schools SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER ARISING FROM THIS AGREEMENT OR THE SERVICES.

XXI. LIABILITY AND INSURANCE

- A. Insurance. During the term of this Agreement, the District shall procure and maintain, at its sole costs and expense, commercial general liability and other insurance policies as required by law, with minimum limits as customary and commercially reasonable for the operations of the District. Oakland Schools shall be named as an additional insured on District's Commercial General Liability Insurance policy and Umbrella Excess Liability policy. The District will provide the certificates of insurance evidencing such coverage to Oakland Schools upon Oakland Schools' request. The District will provide Oakland Schools with thirty (30) calendar days' prior written notice of any changes in such policies and will pay all deductibles and retentions associated with such policies. Oakland Schools will procure and maintain throughout the Term, or renewal term, general liability insurance, employers liability insurance, workers compensation insurance, and unemployment insurance for its personnel assigned to provide the Services in this Agreement. To the extent a third party consultant or independent contractor is secured by Oakland Schools to perform the Services, Oakland Schools will require the third party consultant or independent contractor to maintain insurance coverages similar to those required by Oakland Schools.
- B. Reservation of Rights. This Agreement does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty or immunity of each Party and shall not be construed to waive the defense of governmental immunity held by any Party to this Agreement.

XXII. MISCELLANEOUS

- A. Entire Agreement. This Agreement sets forth all the covenants, agreements, stipulations, promises, conditions and understandings of the Parties concerning the activities and Services contemplated herein. No Party, or its respective Board members, personnel, attorneys, consultants, advisors, agents, representatives or students, have made any covenant, agreement, stipulation, promise, condition or understanding, warranty or representation, either oral or written, other than set forth herein.
- B. Legal Compliance. Oakland Schools and District shall abide by and adhere to all applicable federal, state and local laws, rules, regulations and ordinances pertaining to the performance of any obligations under this Agreement
- C. Amendment. This Agreement shall not be modified, altered or amended except by written agreement duly executed by all Parties to this Agreement in accordance with the terms hereof.
- D. Invalidity of Particular Provision. 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 be enforced to the fullest extent permitted by law.
- E. Captions. The captions in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, enlarge or describe the

scope or intent of this Agreement nor in any way shall affect this Agreement or the construction of any provision hereof.

- F. Waivers. A Party may not waive any default, condition, promise, obligation or requirement applicable to the other Party hereunder, unless such waiver is in writing signed by an authorized representative of such Party and expressly stated to constitute such waiver. Such waiver shall only apply to the extent given and shall not be deemed or construed to waive any such or other default, condition, promise, obligation or requirement in any past or future instance. No failure by a Party to insist upon strict performance of any covenant, agreement, term, or condition of this Agreement, or to the exercise any right or remedy in the event of default, shall constitute a waiver of any such default of such covenant, agreement, term or condition.
- G. Governing Law. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Michigan, and Parties consent to the jurisdiction and venue of the appropriate Oakland County Court.
- H. Successors and Assigns. The covenants, conditions and agreements in this Agreement shall be binding upon and inure to the benefit of each Party, their respective legal representatives, successors and assigns.
- I. Counterparts. 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.
- J. Authorized Signatory. All 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.

WHEREAS, the Parties execute this Intergovernmental Agreement for Turn-Around Services as of the Effective Date.

OAKLAND SCHOOLS

**SCHOOL DISTRICT OF THE CITY OF
PONTIAC**

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____