

AGREEMENT FOR PROVISION OF SERVICES

BETWEEN THE

**SCHOOL BOARD OF THE
SCHOOL DISTRICT OF THE CITY OF HIGHLAND PARK**

AND THE

HIGHLAND PARK PUBLIC SCHOOL ACADEMY SYSTEM
(a Michigan public school academy and body corporate)

July 27, 2012

RECITALS

The following recitals are made regarding this agreement between the School Board of the School District of the City of Highland Park (“District Board”) and the Highland Park Public School Academy System (“System”):

1. The State of Michigan and its political subdivisions have been authorized by the People of the State of Michigan to enter into agreements for the performance, financing, and execution of governmental functions through Section 5 of Article III of the State Constitution of 1963.

2. Additionally, under Section 28 of Article VII of the State Constitution of 1963, the People of the State of Michigan have required the Michigan Legislature to authorize two or more counties, townships, cities, villages, or districts to, among other things: (a) enter into contracts, including with the State, for the joint administration of functions or powers; (b) share costs and responsibilities; (c) transfer functions or responsibilities; (d) cooperate; and (e) lend their credit in connection with any publicly owned undertaking.

3. The Michigan Legislature has implemented Section 5 of Article III of the State Constitution of 1963 and Section 28 of Article VII of the State Constitution of 1963 in part by enacting all of the following:

a. Section 11a(4) of The Revised School Code, 1976 PA 451, MCL 380.11a(4), authorizing a general powers school district to enter into agreements or cooperative arrangements with other entities, public or private.

b. Section 1228 of The Revised School Code, 1976 PA 451, MCL 380.1228, authorizing, among other things, the board of a school district to enter into an agreement with a public school academy for the public school academy to provide services to the school district or pupils of the school district.

4. Under Section 11a(3) of The Revised School Code, 1976 PA 451, MCL 380.11a(3), a general powers school district has all of the rights, powers, and duties expressly stated in The Revised School Code; may exercise a power implied or incident to a power expressly stated in The Revised School Code; and, except as provided by law, may exercise a power incidental or appropriate to the performance of a function related to operation of the school district in the interests of public elementary and secondary education in the school district.

5. The District Board is the school board of a general powers school district and the System is a public school academy and each are authorized to enter into an agreement under Section 1228 of The Revised School Code, 1976 PA 451, MCL 380.1228.

6. The District Board and the System seek to enter into an agreement for the purpose of assuring the continued provision of public educational services to residents of the School District of the City of Highland Park.

Accordingly, the District Board and the System agree to the following terms and conditions:

ARTICLE 1

Definitions

Section 1.1 **Definitions.** As used in this intergovernmental agreement:

- (a) “Act” means the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531.
- (b) “Agreement” means this agreement between the District Board and the System.
- (c) “Code” means The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853.
- (d) “Contract” means the executive act taken by the District Board under the Code issuing to the System a contract to charter a public school academy.
- (e) “District” means the School District of the City of Highland Park.
- (f) “District Board” means the District school board. If an Emergency Manager is in place for the District under the Act, or any successor statute, “District Board” means the Emergency Manager as the Emergency Manager is authorized to act in the place and stead of the District Board under the Act and may be authorized to act in the place and stead of the District Board under a successor statute. If the Act is repealed, suspended, or no longer in effect, former 1990 PA 72 is again in effect or applicable, and an emergency financial manager is in place for the District under former 1990 PA 72, “District Board” means the emergency financial manager for the District under former 1990 PA 72.
- (g) “Effective Date” means the date on which all of the following are satisfied:
 - (i) The Agreement is approved and entered into by the District Board.
 - (ii) The Agreement is approved and entered into by the System Board.
- (h) “Emergency Manager” means the individual appointed under the Act, or any successor statute, as the emergency manager for the District. If the Act is repealed, suspended, or no longer in effect and former 1990 PA 72 is again in effect or applicable, “Emergency Manager” means the individual appointed under former 1990 PA 72 as the emergency financial manager for the District.
- (i) “Party” means an authorizing body that has approved and entered into this Agreement, including both the District Board and the System.

(j) “System” means the Highland Park Public School Academy System, a Michigan nonprofit corporation, established as a public school academy pursuant to a contract initially issued by the District on July 27, 2012.

(k) “System Board” means the board of directors of the System.

Section 1.2 Captions and Headings. The captions, headings, and titles in this Agreement are a convenience and not intended to have any substantive meaning or be interpreted as part of this Agreement.

Section 1.3 Plural Terms. A term or phrase in this Agreement importing the singular number may extend to and embrace the plural number and every term or phrase importing the plural number may be applied and limited to the singular number.

ARTICLE 2

Purpose

Section 2.1 Purpose. The purpose of this Agreement is to assure the provision of public educational services to residents of the District.

ARTICLE 3

Provision of Services

Section 3.1 Public Educational Services. While this Agreement is in effect, the District Board will not directly provide public educational services to residents of the District or within the geographic boundaries of the District and will instead cause public educational services to be provided to residents of the District or within the geographic boundaries of the District by the System. Any obligation of the District to provide public educational services to residents of the District or within the geographic boundaries of the District is assumed by the System. If an obligation to provide public educational services is within the scope of the contract initially issued to the System on July 27, 2012, the public educational services shall be provided by the System under the Contract. If an obligation to provide public educational services is not within the scope of the Contract, the public educational services shall be provided by the System under this Agreement.

Section 3.2 Enrolling District Students. Any student seeking to enroll in the District or obtain public educational services from the District shall be enrolled by the System in the System. The System shall give preference to eligible students from the District subject only to the preference for currently enrolled students in the System and their siblings. An eligible student includes a student otherwise eligible to enroll in the District who meets any applicable District residency requirements, who was not previously expelled from the District.

Section 3.3 Student Selection. Notwithstanding Section 3.2, the System shall continue to enroll pupils using a random selection process, if required by the Code. The System shall assure that adequate capacity exists to allow the enrollment of any student eligible to enroll in the System under Section 3.2.

Section 3.4 Student Membership. For purposes of The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896, and other applicable law, students otherwise eligible to be counted in membership in the District and enrolled in the System shall be counted in membership of System, and not the District. For each school year in which this Agreement is in effect, the pupil count of the District shall be zero.

Section 3.5 Student Records. Upon the enrollment of a student in the System, the District will provide the System with any records relating to the student in a manner that complies with applicable law as requested by the System, no later than 14 days after receipt of a request for the records from the System.

Section 3.6 Schools of Choice. Nothing in this Agreement shall prohibit or restrict the ability of the District to grant consent to a resident of the District to attend another public school other than the System.

ARTICLE 4

Additional Provisions

Section 4.1 Relationship of the Parties. No one Party shall be responsible for the acts of another Party or of the employees, agents, and servants of the other Party, whether acting separately or in conjunction with the implementation of this Agreement. The Parties shall only be bound and obligated under this Agreement as expressly agreed to by each Party and no Party may otherwise obligate any other Party.

Section 4.2 No Third-Party Beneficiaries. Except as expressly provided in this Agreement, the Agreement does not create in any person or entity, and is not intended to create by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right to be indemnified (such as contractually, legally, equitably, or by implication), right to be subrogated to any Party's rights in this Agreement, or any other right.

Section 4.3 Employees. The District will function as the employer of any employees of the District. The District Board shall have the responsibility, authority, and right to manage and direct any employees of the District. Nothing in this Agreement creates an employment relationship between the District and any employee of the System Board or the System. The System will function as the employer of any employees of the System. The System Board shall have the responsibility, authority, and right to manage and direct any employees of the System. Nothing in this Agreement creates an employment relationship between the System and any employee of the District. Nothing in this Agreement creates a joint employer relationship between the District and the System.

Section 4.4 No Waiver of Governmental Immunity. The Parties agree that no provision of the Agreement is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under the Act or other law.

Section 4.5 Term. This Agreement shall commence on the Effective Date and continue while the Contract remains in place. The Agreement may be terminated at any time by joint action of the Parties.

Section 4.6 Due Execution of Agreement. Each Party shall duly execute not less than 4 copies of this Agreement, each of which, taken together, is an original but all of which constitute 1 instrument. A copy of the executed Agreement shall be transmitted by the District Board to the State Superintendent of Public Instruction and to the State Treasurer.

Section 4.7 Amendment. This Agreement may be amended or an alternative form of this Agreement adopted only upon written agreement of all Parties. Any contract among the Parties that is inconsistent with this Agreement shall not be effective until the contract is approved as an amendment to this Agreement by the District Board and the System Board.

Section 4.8 Public Purpose and Governmental Functions. The powers, duties, rights, obligations, functions, and responsibilities exercised by the Parties under this Agreement constitute essential public purposes and governmental functions.

Section 4.9 Non-Impairment. Nothing in this Agreement authorizes the impairment of a bond, note, security, or uncontested legal obligation of a Party.

Section 4.10 Notices. Any and all correspondence or notices required, permitted, or provided for under this Agreement to be delivered to any Party shall be sent to that Party by first-class mail. All such written notices shall be sent to each other Party's signatory to this Agreement or that signatory's successor. All correspondence shall be considered delivered to a Party as of the 2nd business days after the date that the notice is deposited with sufficient postage with the United States Postal Service. A notice of withdrawal shall be sent via certified mail to the address included with each Party's signature to this Agreement and shall be deemed received on the date noted on the return receipt.

Section 4.11 Severability of Provisions. If any provision of this Agreement, or its application to any Person, Party, or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other Persons or circumstances and to the remaining Parties is not affected but will be enforced to the extent permitted by law, it being the intent of the remaining Parties to continue to agree to the substantive provisions of this Agreement and to implement the Agreement.

Section 4.12 Governing Law. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced, and governed under Michigan law without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

Section 4.13 Jurisdiction and Venue. Jurisdiction and venue for any disputes between the Parties over the meaning, interpretation, or implementation of the terms, covenants, or conditions of this Agreement not resolved by the Parties shall be submitted to the courts of the State in the County of Wayne.

Section 4.14 Effective Date. This Agreement is effective on the Effective Date.

This Agreement is executed by the Parties on the dates indicated below:

SCHOOL BOARD OF THE SCHOOL DISTRICT OF THE CITY OF HIGHLAND PARK

By: _____

Joyce Parker, Emergency Manager

Address:

20 Bartlett Street
Highland Park, Michigan 48203

Date: July __, 2012

HIGHLAND PARK PUBLIC SCHOOL ACADEMY SYSTEM

By: _____

_____, System Board Designee

Address:

20 Bartlett Street
Highland Park, Michigan 48203

Date: July __, 2012