

## **ENERGY REBATE SERVICES AGREEMENT**

This Energy Rebate Services Agreement ("Agreement") is by and between Berrien Regional Education Service Agency ("Berrien RESA") and \* School District ("Local District"), each a party and collectively the "Parties."

### **PREAMBLES**

A. Revised School Code Section § 627(4) generally authorizes intermediate school districts to provide to constituent districts business services that can be accomplished more cost effectively by an intermediate school district, and to charge a fee for such services.

B. The Parties, after careful consideration, have concluded that Berrien RESA can furnish the Local District certain business services on a more cost-effective basis.

C. Berrien RESA is willing to furnish, and the local district desires to receive, such services for the consideration and on the terms and conditions stated in this Contract.

D. The objective of the parties is to improve the efficiency and effectiveness of business services and reduce costs while maintaining or improving the quality of services. Achieving this goal will require changes in local district policies, procedures, practices, and operating practices. Cooperation and openness to innovative new ways of doing business will be essential for Berrien RESA to achieve this objective.

E. The parties agree to form an Advisory Council consisting of the Superintendent of each contracting district, and Berrien RESA representation that will provide input on shared service staffing, plans and recommended changes.

***NOW THEREFORE***, in consideration of the mutual promises and benefits contained herein, the Parties agree as follows:

### **ARTICLE I**

#### **DESCRIPTION OF BERRIEN RESA SERVICES**

1.1 **Description of Services.** Berrien RESA shall provide to Local District the Energy Rebate billing services set forth in Appendix A, including but not limited to the employment and supervision of a LEA Energy Rebate Coordinator, equipment, supplies and other items, necessary to render such services (collectively the "Services"). Berrien RESA will, as appropriate, add permanent, temporary or consulting services to meet special or critical needs of Local District. Berrien RESA maintains sole right to select vendor platforms used to provide Energy Rebate billing services. Appendix A may, from time to time be amended by mutual agreement of the Parties.

1.2 **Place and Hours of Service.** Berrien RESA personnel shall perform services at the Berrien RESA offices and at the Local District offices. Berrien RESA staff assigned to the

Local District will be available to respond to questions or issues. All parties will develop a schedule that will optimize the use of staff time to meet the varying needs of Local District.

1.3 **Services Personnel.** Berrien RESA shall furnish to Local District the names of all primary personnel to be utilized by Berrien RESA in connection with the performance of the Services. Personnel assigned by Berrien RESA to perform Services for Local District shall be experienced, fully qualified and certified or licensed as or when legally necessary to perform the Services pursuant to and in conformance with the provisions of the Michigan Revised School Code. Berrien RESA represents that it has secured any necessary licenses, approvals and regulatory authorizations to provide the Services.

1.4 **Standard of Services.** Berrien RESA shall be responsible that the individuals which Berrien RESA assigns to perform Services for Local District adhere to professional standards and perform all Services in a manner consistent with generally accepted proficiency and competency for the type and nature of Services rendered.

1.5 **Background Checks.** Berrien RESA shall not assign any employee or agent to perform Services without first conducting employment reference checks and any legally required criminal background checks, and reviewing the results of the same with Local District reserves the right to refuse the assignment of any employee of Berrien RESA to render Services where the employment or any criminal record history or employment references for that individual (including any pending criminal charges) indicate, in Local District's judgment, unfitness to perform Services.

1.6 **Compliance with Policies.** The individuals which Berrien RESA assigns for Services to Local District under this Agreement shall abide by those policies of Berrien RESA which are applicable to performance of Services under this Agreement including, but not limited to, policies pertinent to:

- A. Child abuse and neglect reporting;
- B. Sexual harassment;
- C. Confidentiality of student records and student record information;
- D. Communicable diseases;
- E. Alcohol/controlled substance possession and use;
- F. Copyright; and
- G. Non-discrimination

## **ARTICLE II**

### **RELATIONSHIP OF PARTIES**

2.1 **Independent Contractor.** In the provision of Services, Berrien RESA shall be regarded at all times as performing Services as an independent contractor of the Local District. Consistent with that status, Berrien RESA reserves to itself the right to designate the means and methods of accomplishing the objectives and purposes of this Service

Agreement and Local District shall not exercise (or have the right to exercise) control or direction over the means and methods utilized by Berrien RESA in providing Services.

**2.2 Not LOCAL DISTRICT Employees.** The Parties intend that an independent contractor relationship exists between Berrien RESA and the Local District, and that nothing in this Agreement shall be construed as being inconsistent with that status and relationship. All individuals which Berrien RESA assigns for Services to Local District shall be employees of Berrien RESA and shall never be considered as employees or individual agents or contractors of Local District for any purpose. No such Berrien RESA employees or agents are entitled to any of the rights, compensation or other benefits which Local District may provide to its own employees.

**2.3 Berrien RESA as Employer.** Berrien RESA shall be regarded, designated, and considered to be the employer with respect to all individuals whom Berrien RESA may select and assign to provide Services. Berrien RESA shall be exclusively and solely responsible for compensating, hiring, retaining, evaluating, disciplining, dismissing and otherwise regulating the employment conditions, employment rights, compensation, and other similar matters relative to all individuals whom Berrien RESA utilizes in connection with providing Services.

**2.4 Employment Claims to Berrien RESA.** Berrien RESA shall be responsible for answering, defending and/or resolving any and all claims arising from the assignment and performance of Berrien RESA employees designated by Berrien RESA to perform the Services.

- (a) These claims shall include, but shall not be limited to: proceedings before the Michigan Employment Relations Commission; the National Labor Relations Board; proceedings for unemployment compensation benefits; claims for workers' compensation disability benefits; claims of unlawful discrimination brought before any state or federal agency or court; claims or grievances for breach of Agreement; and any other claims of whatsoever kind or character arising from or which are attributable to the performance of Services by Berrien RESA employees in connection with this Agreement.
- (b) All costs (including legal fees) incurred in connection with the defense of the foregoing matters and any judgments resulting there from shall be the sole and exclusive responsibility of Berrien RESA.

**2.5 Non-Exclusive Services.** Local District does not agree to use Berrien RESA exclusively for the provision of Services or otherwise. It is understood and acknowledged that Local District is free to Agreement similar services to be performed by other persons or entities so long as such services do not interfere with the performance of the obligations of the Parties under this Agreement.

**2.6 Berrien RESA Taxation Responsibilities.** Berrien RESA shall be responsible for any taxation consequences to it or its employees as a result of Berrien RESA engagement under this Agreement. Berrien RESA shall be responsible, as legally required, to report as income its compensation received from the Local District. Berrien RESA shall make, on behalf of itself and its employees, including its employees performing Services, all

requisite tax filings, and payments to the appropriate federal, state, and local tax authorities. No part of compensation to Berrien RESA under this Agreement shall be subject to withholding by Local District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation. Berrien RESA agrees to indemnify and holds Local District harmless from any and all such claims.

### ARTICLE III

#### **TERM OF AGREEMENT AND EARLY TERMINATION**

3.1 **Term.** This Agreement shall be in effect beginning April 1, 2023 through June 30, 2024 and shall continue in full force and effect after the expiration date above until either Party provides the other Party with written notice of termination. Such written notice shall be provided at least thirty (30) days prior to the termination date as identified in the written notice of termination.

3.2 **Early Termination.** This Agreement may be terminated for any reason during its initial term by either Party upon thirty (30) days written notice to the other Party. In the event that this Agreement is terminated during its term pursuant to this provision or after its initial term pursuant to Section 3.1, Local District will pay Berrien RESA for services provided up to and including the date set for termination. Any funds remitted by Local District to Berrien RESA in excess of the pro-rata charges for Services provided by Berrien RESA up to and including the date set for termination will be returned to Local District by Berrien RESA. Any such amounts owed by either Party to the other shall be paid within thirty (30) days of the date set for termination of this Agreement.

3.3 **Survival of Certain Terms.** Sections 2.4, 2.6, 5.1 and 6.1 of this Agreement survive the expiration or termination of this Agreement for any reason.

### ARTICLE IV

#### **REIMBURSEMENT AND PAYMENT**

4.1 **Reimbursement and Payment.** In consideration of the Services provided to Local District by Berrien RESA under this Agreement, Local District will release the portion of collected rebates to Berrien RESA for Services on the basis and at the rate of Reimbursement ("Reimbursement") as specified in Appendix B. The district authorizes Berrien RESA to collect all rebate payments from respective energy providers. Should the estimated reimbursement used to calculate these fees change, an amended appendix B will be forwarded to the district for signature of new reimbursement schedule. Appendix B will be updated by Berrien RESA and provided to Local District annually.

4.2 **Reimbursement Procedure.** Berrien RESA shall submit to Local District on the periodic basis, as set forth in Appendix B, a summary of rebates collected and paid to the local district, along with an itemized list of allowable deductions made for the services provided.

(a) Local District authorizes Berrien RESA as the entity that has been empowered to submit and collect energy rebates on behalf of the district, less the fifteen percent (15%) processing fee.

(b) If Local District disputes the accuracy of any rebates delivered by Berrien RESA, Local District shall, within thirty (30) days of date of rebate, deliver a written notice and explanation of such dispute to Berrien RESA. Berrien RESA shall meet with the Local District to review the rebate and account within ten (10) business days. If the dispute is not resolved to either parties satisfaction the agreement will terminate in (30) days.

**4.3 Berrien RESA Services Costs.** Berrien RESA shall have sole and exclusive responsibility for the following costs and charges attributable to the persons (i.e., who are Berrien RESA employees) Berrien RESA assigns to perform Services:

- (a) All wage and salary compensation.
- (b) All required statutory or contractual pension and retirement contributions.
- (c) All applicable state and federal employment taxes and FICA.
- (d) All unemployment taxes and costs (whether by commercial or self-insurance) attributable to or arising from the performance of services by Berrien RESA's employees or agents pursuant to this Agreement.
- (e) All applicable premium costs for insurance coverage and programs applicable to Berrien RESA's personnel.
- (f) All expenses whether out-of-pocket or overhead, in providing Services and upon mutual agreement between Berrien RESA and the Local District.

## **ARTICLE V**

### **INDEMNIFICATION AND INSURANCE**

**5.1 Indemnification.** Except as hereafter provided in this Article, Berrien RESA shall be solely and entirely responsible for its acts and omissions and for the acts and omissions of Berrien RESA employees, agents, or sub-contractors in connection with the performance of Services. Berrien RESA shall defend and indemnify Local District from any and all such claims and/or judgments resulting from such acts or omissions, except for liability for damages which result from the sole negligence or willful misconduct of Local District or its employees or agents. Local District shall defend and indemnify Berrien RESA from any and all such claims and/or judgments resulting from such acts or omissions, except for liability for damages which result from the sole negligence or willful misconduct of Berrien RESA or its employees or agents.

**5.2 Workers' Compensation.** Berrien RESA shall procure and maintain in full force and effect worker's compensation insurance covering its employees while those persons are engaged in performing Services. In the event that a claim is filed under the provisions of the Michigan Worker's Compensation Disability Act against Local District by an employee

or agent of Berrien performing Services, Berrien RESA shall defend and hold harmless Local District from such claim(s).

5.3 **Minimum Insurance.** Berrien RESA shall carry comprehensive general liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury and property damage against liability or claims of liability which may arise out of Berrien RESA provision of Services under this Agreement.

5.4 **Insurance Certificates.** Berrien RESA shall provide, upon request by Local District, with certificates evidencing all coverage and endorsements required hereunder. Failure of the Local District to make such a request shall not affect Local District rights under this Article.

## ARTICLE VI

### **CONFIDENTIALITY/COPYRIGHT**

6.1 **Copyright Compliance.** Berrien RESA shall advise the Local District of any and all programs or materials used or recommended for use by Berrien RESA to achieve Services goals that are subject to any copyright restrictions or requirements.

6.2 **Confidentiality.** Berrien RESA shall preserve the confidentiality of Local District records and information, including student records and student record information, to the extent that Berrien RESA (its employees and agents) are permitted to access such records or information.

## ARTICLE VII

### **NON-DISCRIMINATION**

7.1 **No Employment Discrimination.** The Parties shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions or privileges of employment, or a matter directly or indirectly related to employment, due to race, color, religion, sex, national origin, age, height, weight, disability, marital status or veteran status.

7.2 **No Service Discrimination.** The Parties shall not discriminate against any student or other recipient of service under this Agreement due to race, color, religion, sex national origin, or disability in the delivery of Services rendered under this Service Agreement.

7.3 **Discrimination as Material Breach.** Breach of obligations recited in this Article shall be regarded as a material breach of this Agreement.

## ARTICLE VIII

### MISCELLANEOUS

8.1 **Non-Assignment.** Neither Party may assign this Agreement, nor its rights and duties hereunder, nor any interest herein without prior written consent from the other.

8.2 **Entire Agreement.** This Agreement, and any Appendices or exhibits attached hereto or incorporated by reference, constitute the entire Agreement between the Parties regarding its subject matter and supersedes any prior or contemporaneous understandings or agreements with respect to the Services.

8.3 **Amendments.** None of the terms and provisions of the Agreement or its Appendices A and B, may be modified or amended in any way except by an instrument in writing executed by authorized representatives of Berrien RESA and the Local District.

8.4 **Non-Waiver.** Failure by either Party at any time to require performance by the other Party or to claim breach of any provision of this Agreement shall not be construed as a waiver of any subsequent breach nor affect the validity and operation of this Agreement, nor prejudice either Party with regard to any subsequent action to enforce the terms of this Agreement.

8.5 **Notices.** Any notice or other communications required or permitted under this Agreement shall be sufficiently given if in writing and delivered personally or sent by confirmed facsimile transmission, telex, telecopy or other wire transmission (with request for assurance in a manner typical with respect to communications of that type), overnight air courier (postage prepaid), registered or certified mail (postage prepaid with return receipt requested) addressed to the Party's principal place of business, marked to the attention of the office held by its signatory of this Agreement, or such other address or officer of which the Parties may have given notice. Unless otherwise specified herein, notices shall be received (a) on the date delivered, if delivered personally, by wire transmission or confirmed facsimile transmission; (b) on the next business day after deposit with an overnight air courier; or (c) three (3) business days after being signed for, if sent by registered or certified mail.

8.6 **Severability.** If any provisions of this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected, impaired or prejudiced thereby.

8.7 **Force Majeure.** Neither Party hereto shall be liable to the other for any loss of business or any other damages caused by an interruption of this Agreement where such interruption is due to war, rebellion or insurrection; an act of God; fire; government statute, order or regulation prohibiting the performance of this Agreement; riots; strikes; labor stoppages, lockouts or labor disputes to the extent such occurrences are not caused by the actions of the Party seeking relief under this Section; or other causes beyond the reasonable and respective control of Berrien RESA or the Local District.

8.8 **Headings and Titles.** Any Article or Section headings in this Agreement are for convenience of the Parties only and in no way alter, modify, amend, limit or restrict contractual obligations of the Parties.

8.9 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which constitute one and the same agreement.

8.10 **No Third Party Beneficiary.** Nothing in this Agreement shall be intended to confer third party beneficiary status or rights, pursuant to MCL 600.1405 or under the common law, to any person or entity that is not a party to this Agreement.

8.11 **Term.** Annual renewals shall be completed and approved 90 days prior to the end of the Agreement term.

**ARTICLE IX**  
**AUTHORIZATION**

9.1 **Signer's Representation.** This Agreement has been duly authorized, executed and delivered by the Parties and constitutes a legal, valid and binding obligation upon each of them, enforceable in accordance with its terms. Each person placing his/her signature below represents and warrants that she/he is the signatory duly authorized to execute this Agreement on behalf of LOCAL DISTRICT or BERRIEN RESA, as is respectively applicable.

9.2 **Signatures**

**BERRIEN REGIONAL EDUCATION SERVICE AGENCY (“BERRIEN RESA”)**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: Superintendent

**SCHOOL DISTRICT (“LOCAL DISTRICT”),**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Its: Superintendent

## **APPENDIX A - SERVICES**

### BERRIEN REGIONAL EDUCATION SERVICE AGENCY

#### Description of Energy Rebate Services for

#### **School District**

- Will execute strategies to leverage utility and government incentives for the school district.
- Provide energy efficiency and utility rebate expertise for the local district.
- Obtain and communicate available rebates and incentive funds from utilities and government programs.
- Process all paperwork associated with the rebate program.
- Track rebate/incentive dollars to distribute to the appropriate local district and provide updates to district and payback.
- Work with the district finance department to ensure that any monthly rebates are paid from the utility companies.
- Perform program audits with utility companies.
- Resolve rebate discrepancies with the utility companies.
- Communicate with utility companies to stay current with rebate pricing.
- Develop strategies to maximize rebates/incentives.

#### Local district will:

- Provide the necessary documents so that utility/government rebates can be submitted with required documentation.
- 
- Contact Berrien RESA prior to scheduling service work or projects so that maximum rebates/incentives can be obtained.
- Participate in any required program rebate audits.
- Designate an individual as point of contact for energy rebate services.
- Participate in periodic meetings to review/recommend expansion strategies for additional income/rebates in Green initiatives.

**APPENDIX B - REIMBURSEMENT**

BERRIEN REGIONAL EDUCATION SERVICE AGENCY

Description of Energy Rebate Services for

**School District**

**Fees for Fiscal Year 2026/27:**

In consideration of the Services specified in this agreement, \* School District will pay Berrien Regional Education Service Agency, 15% of collected reimbursements designated for the district. It is understood that Berrien RESA will collect all rebate/energy incentive payments for the districts and return those payments to the district less 15% servicing fee. A minimum of one Agreement year (12 months) is required.

The fees established in this agreement do not include the following costs which shall be the responsibility of \* School District:

1. Activities outside the scope of this agreement
2. Any continuing Agreements or obligations of \* School District

\_\_\_\_\_  
Initials

\_\_\_\_\_  
Initials

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

(LOCAL DISTRICT)

(BERRIEN RESA)