

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

LINDA STOUT, et al.,)
)
Plaintiffs,)
)
UNITED STATES OF AMERICA,)
)
Plaintiff-Intervenor,)
)
v.)
)
JEFFERSON COUNTY BOARD OF)
EDUCATION,)
)
Defendant,)
)
GARDENDALE CITY BOARD OF)
EDUCATION,)
)
Defendant-Intervenor.)

Case No.: 2:65-cv-00396-MHH

**MOTION TO OPERATE MUNICIPAL SCHOOL SYSTEM AND PLAN OF
SEPARATION**

COMES NOW the City of Gardendale Board of Education (“**GBOE**”) and requests the Court’s approval of its plan to form and operate a school system separate from the one operated by the Jefferson County Board of Education (“**JCBOE**”). In support of this Motion, GBOE states as follows:

INTRODUCTION

1. On March 3, 2014, the City of Gardendale (the “**City**”) adopted a resolution establishing a city school system in compliance with applicable

Alabama law. Pursuant to this resolution, GBOE would assume operations of four schools currently operated by JCBOE: (1) Snow Rogers Elementary, (2) Gardendale Elementary, (3) Bragg Middle, and (4) Gardendale High (collectively, the “**Gardendale Schools**”).

2. GBOE must obtain this Court’s approval before it may begin to operate as a municipal system separate from the Jefferson County system.

3. GBOE proposes the plan of separation summarized below and detailed in the draft Agreement attached hereto as **Exhibit A** (the “**Separation Agreement**”). The plan of separation is designed to minimize the impact on students who are zoned for Gardendale Schools and as a result it is Gardendale’s position that the separation of Gardendale from the Jefferson County system will not adversely affect the County’s ability to provide equivalent facilities and educational opportunities or otherwise impact its ability to meet its desegregation obligations or impede the progress of the JCBOE as a whole in achieving unitary status.

STATEMENT OF FACTS

4. Soon after it adopted a resolution to establish a municipal school system, the City appointed board members of GBOE, who were sworn in on April 1, 2014. GBOE hired Superintendent Dr. Patrick Martin to begin service on August 1, 2014.

5. Shortly after that, GBOE and JCBOE began to negotiate the terms of the separation.

6. Unable to reach an agreement, on November 18, 2014 GBOE and JCBOE filed a Joint Petition with the Office of the State Superintendent of Education requesting review and resolution of their disagreements.

7. On February 26, 2015, the State Superintendent of Education issued his Final Decision.¹ In the Final Decision, Dr. Bice determined that GBOE would not have to pay any sum of money as a precondition to assuming operational control of the schools within the City's corporate limits, but reserved the right to reconsider this decision at a later date. The Final Decision also stated that this Court "has the jurisdiction and authority to review and/or modify this office's decision to ensure compliance with federal desegregation laws and the orders of [the Court]." (*See* Doc. 1001-27, p. 3).

8. On March 12, 2015, JCBOE filed a Supplemental Report to the Court Regarding Matters Relating to the Formation of the Gardendale City School System (Doc. 1001), bringing the status of negotiations between GBOE and JCBOE before the Court.

¹ Dr. Bice's Final Decision was amended on March 2, 2015.

9. On March 13, 2015, GBOE filed its Motion to Intervene (Doc. 1002), seeking to formally become a party to this case. This motion was granted on March 18, 2015. (*See* Doc. 1003).

10. Since that time, consistent with this Court's orders (*see* Docs. 1010, 1013, and 1038) GBOE has been negotiating with the parties to this action with the goal of reaching an agreed plan of separation that all the parties would jointly submit to the Court for approval. On March 30, 2015 GBOE circulated to the parties its proposal regarding a plan of separation and constitutional desegregation obligations, including resolution of the various threshold issues that had been the subject of negotiations with JCBOE. The proposed Separation Agreement constitutes GBOE's good faith effort to address concerns brought to its attention by the parties or the Court since circulation of the original proposal.

GARDENDALE'S PROPOSAL

11. GBOE's proposed plan of separation is set out in the Separation Agreement. (*See* Ex. A). However, the plan of separation may be summarized as follows:

- (a) GBOE will assume operational control of the Gardendale Schools on July 1, 2016.
- (b) Students (K-12) residing within the City's corporate limits will attend the Gardendale Schools.

- (c) Students (K-12) residing in the North Smithfield Manor and Greenleaf Heights communities will attend the Gardendale Schools.
- (d) Students (6-12) who have historically attended Mt. Olive Elementary School and Brookville Elementary School and then matriculated through Bragg Middle School and Gardendale High School will attend Gardendale Schools pursuant to a thirteen-year transition plan as set out in the Separation Agreement.
- (e) Gardendale and Jefferson County students will continue to have programmatic access to the Burkett Learning Center (operated by JCBOE), International Baccalaureate Program (operated by JCBOE) and vocational programs offered at Gardendale High School, as set out in the Separation Agreement.

12. GBOE's proposed plan of separation complies with the *Singleton* order entered in this case. (*See* Doc. 226). The Separation Agreement provides that tax dollars will follow students as required under Section V.(a) of the *Singleton* order, and based on the data and information available to GBOE at this time, the requirements set forth in Section V.(c) will also be met. (*Id.* at pp. 8–9). GBOE recognizes its continuing obligation to ensure that it is in compliance with the other requirements set forth in the *Singleton* order. (Doc. 226).

13. GBOE believes the proposed plan of separation will have no adverse impact upon Jefferson County's ability to provide equivalent facilities and educational opportunities to its students. This is true because, under the proposed transition plan, North Smithfield Manor and Greenleaf Heights students will be able to attend Gardendale Schools for the indefinite future and all other County

students who are currently zoned for Gardendale Schools will be allowed to continue to attend Gardendale Schools during a thirteen-year transition period. The plan of separation proposed by GBOE is intended to meet the long term needs of County students in the Gardendale attendance zone.

14. GBOE reserves the right to amend the proposed plan to address concerns of the Court or the other parties. It is GBOE's desire to reach a consensus with the parties and jointly submit a proposal to the Court for approval.

Respectfully submitted on this 11th day of December 2015.

/s/ Russell Rutherford
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Russell J. Rutherford
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Board of Education

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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing to be filed using the CM/ECF system, which will automatically notify all counsel of record.

/s/ Russell Rutherford
OF COUNSEL

**AGREEMENT BY AND BETWEEN
THE GARDENDALE CITY BOARD OF EDUCATION
AND THE JEFFERSON COUNTY BOARD OF EDUCATION**

This Agreement (the “**Agreement**”) is made by and between the Gardendale City Board of Education (the “**City Board**”) and the Jefferson County Board of Education (the “**County Board**”).

I. FACTS, CONSIDERATION, AND DEFINITIONS

A. AGREED FACTS

1. The County Board has historically exercised general administration and supervision of the public schools lying within the City, as well as all other schools in Jefferson County, other than those administered by the Birmingham City Board of Education, Bessemer City Board of Education, Fairfield City Board of Education, Tarrant Board of Education, Mountain Brook Board of Education, Vestavia Board of Education, Homewood Board of Education, Midfield Board of Education, Hoover Board of Education, Leeds Board of Education, and Trussville Board of Education.
2. The City of Gardendale, Alabama (the “**City**”) lies wholly within Jefferson County, Alabama and is a “city” as that term is defined in Ala. Code § 16-11-1.
3. Ala. Code §§ 16-11-1, *et seq.*, provide that a “city” may form a city school system.
4. Ala. Code § 16-11-9 vests in a city board of education all powers necessary or proper for the administration and management of the public schools within such city and territory adjacent to the city which has been annexed as part of the school district and which includes a city having a city board of education.
5. On March 3, 2014, the Gardendale City Council adopted ordinance No. 2014-007, by which it established the City Board.
6. The County Board is authorized by Alabama law to enter into an agreement with the City Board with reference to the matters of existing indebtedness and the

provision of educational facilities and programs for the children of the Gardendale Schools.

7. The City Board and the County Board desire to establish attendance zones and attendance policies which will balance the interests of the City Board and the County Board and the students attending the Gardendale Schools, particularly with respect to attendance by students residing outside the City. These students include those in the North Smithfield Manor and Greenleaf Heights community and Transition Zone.
8. The County Board and the City Board propose to enter into this Agreement to address the disposition of certain schools and property held by County Board and the employment of affected employees.

B. CONSIDERATION

1. The mutual promises and covenants of the County Board and the City Board as stated in this Agreement serve as its agreed consideration. Each party agrees to bind itself and its successors to the terms of this Agreement based thereupon.

C. DEFINITIONS

The following terms and phrases as used in this Agreement shall have the following meanings:

1. Attendance Zones. Except as otherwise provided herein, attendance zones shall be determined with reference to city limits, county boundaries, and federal court orders affecting attendance zones in Jefferson County and Gardendale City.
2. Gardendale School Zone. The attendance zone established by the Jefferson County Board of Education for Gardendale High School and its feeder schools.
3. Gardendale Schools. The following schools presently in the Jefferson County School System: Gardendale High School, Bragg Middle School, Gardendale Elementary School, and Snow Rogers Elementary School, all of which lie within the corporate limits of the City.
4. Gardendale Students. Those students residing within the corporate limits of the city.

5. North Smithfield Manor and Greenleaf Heights Students. Those County Students who reside in the communities of North Smithfield Manor and Greenleaf Heights. These students are further defined by the community footprint served by the North Smithfield Manor and Greenleaf Heights Fire District as of the 2015-2016 school year.
6. County Schools. Those schools under the general administration and supervision of the County Board for the 2015-2016 school year, except Gardendale High School, Bragg Middle School, Gardendale Elementary School, and Snow Rogers Elementary School.
7. County Students. Students residing in Jefferson County other than (i) Gardendale Students, (ii) North Smithfield Manor and Greenleaf Heights Students, and (iii) students residing in any other municipality lying wholly or in part in Jefferson County that has formed a city board of education.
8. Students. School-aged children eligible to attend public schools in grades K-12.
9. Transfer Date. July 1, 2016.
10. Transition Zone. That part of the Gardendale School Zone located outside of the corporate limits of the city of Gardendale. This zone denotes those students in the county who have historically attended Mt. Olive Elementary School and Brookville Elementary School and then matriculated through Bragg Middle School and Gardendale High School.

The Transition Zone also includes students living within the Gardendale City limits who have attended Snow Rogers Elementary School and then North Jefferson Middle School and Mortimer Jordan High School.
11. Transition Zone Students. Those students residing within the Transition Zone.

II. SUBSTANTIVE PROVISIONS

A. GENERAL ADMINISTRATION AND SUPERVISION OF GARDENDALE SCHOOLS

The City Board shall assume responsibility for the general administration and supervision of Gardendale Schools and the educational interest of the City, effective on the Transfer Date, subject to the terms and conditions of this Agreement.

B. STATUTORY COMPLIANCE

In accordance with Ala. Code §§ 16-8-1, *et seq.*, and Ala. Code § 16-11-1, *et seq.*, the City Board and the County Board have structured this Agreement to facilitate a fair and equitable transition for those County Students living outside the corporate limits of the City but who attended Gardendale Schools for the 2015-2016 school year. The City Board and the County Board have agreed to a phase-through attendance plan, as explained hereinafter, that is intended to minimize academic disruption and enable both the County Board and the City Board to formulate and implement appropriate plans for their respective students in subsequent years.

C. STUDENT ATTENDANCE

1. Attendance Zone. The attendance zone for the Gardendale Schools shall be the city limits of the City.
2. Gardendale Students. All Gardendale Students (who, by definition, reside in the attendance zone defined in Section C.1. above) shall attend the Gardendale Schools.
3. North Smithfield Manor and Greenleaf Heights Students. North Smithfield Manor and Greenleaf Heights Students shall attend the Gardendale Schools on the same basis as Gardendale Students, provided that the County Board or the tax collector for Jefferson County shall pay to the City Board the ad valorem school taxes collected from the North Smithfield Manor and Greenleaf Heights communities. In addition, for the purposes of continuity, it is agreed that all students within North Smithfield Manor and Greenleaf Heights, grades Kindergarten to 12, shall attend the Gardendale Schools. Eligibility of North Smithfield Manor and Greenleaf Heights Students to attend the Gardendale Schools shall continue as long as those Local Taxes and Revenue described in Section II.M of this Agreement shall apply to North Smithfield Manor and Greenleaf Heights Students in the same manner that they do to Gardendale Students.
4. Out-of-Zone Attendance
 - a. *Gardendale Transition Zone.* In order to provide continuity to the students affected by this Agreement, the Parties shall establish a Transition Zone comprised of that part of the Gardendale School Zone that lies outside of the corporate limits of the City and the North Smithfield Manor and Greenleaf Heights communities. All students who, as of the 2016-2017 school year, reside in the Transition Zone and either attend or are slated to attend (when

they reach the appropriate age) grades 6 through 12 at the Gardendale Schools will begin to transition to schools operated by the County Board on a grade-by-grade basis, as reflected in the table below:

Gardendale & Jefferson County Transition Schedule														
Brookville E.S. – Brookside Zoned Students for Gardendale Mt. Olive E.S. – Mt. Olive Zoned Students for Gardendale														
	16-17	17-18	18-19	19-20	20-21	21-22	22-23	23-24	24-25	25-26	26-27	27-28	28-29	29-30
K	J	J	J	J	J	J	J	J	J	J	J	J	J	J
1 st	J	J	J	J	J	J	J	J	J	J	J	J	J	J
2 nd	J	J	J	J	J	J	J	J	J	J	J	J	J	J
3 rd	J	J	J	J	J	J	J	J	J	J	J	J	J	J
4 th	J	J	J	J	J	J	J	J	J	J	J	J	J	J
5 th	J	J	J	J	J	J	J	J	J	J	J	J	J	J
6 th	G	G	G	G	G	G	G	J	J	J	J	J	J	J
7 th	G	G	G	G	G	G	G	G	J	J	J	J	J	J
8 th	G	G	G	G	G	G	G	G	G	J	J	J	J	J
9 th	G	G	G	G	G	G	G	G	G	G	J	J	J	J
10 th	G	G	G	G	G	G	G	G	G	G	G	J	J	J
11 th	G	G	G	G	G	G	G	G	G	G	G	G	J	J
12 th	G	G	G	G	G	G	G	G	G	G	G	G	G	J
* G = Gardendale City Board of Education ** J = Jefferson County Board of Education														

Gardendale Students currently zoned to attend Snow Rogers Elementary and then matriculate to North Jefferson Middle and/or Mortimer Jordan High (when they reach the appropriate age) shall be given the option to attend those schools, provided that if any such student so elects and then elects to transfer to the Gardendale Schools, he or she shall be required to attend the Gardendale Schools from then on. All obligations by both the City Board and County Board will be held consistent for this group of select students including transportation responsibility.

School attendance for students residing in the Transition Zone is governed solely by this Agreement, and no individual right for any Transition Zone Student to attend the Gardendale Schools is created by this Agreement.

- b. *Burkett Learning Center.* Gardendale Students who are currently attending the Burkett Learning Center (the “BLC”) have special needs, and the parties agree that it is in their best interest to remain at the BLC. In addition, the City Board shall be permitted to place the following categories of Gardendale Students at the BLC as provided below:
- i. Gardendale Students with multiple disabilities or autism who are currently placed at the BLC may attend BLC as long as the County Board operates the BLC;
 - ii. Gardendale Students enrolled or entitled to be enrolled in Gardendale Schools (to include preschool aged students) after the effective date of this Agreement who have multiple disabilities or autism and who require the BLC as their Least Restrictive Environment may attend BLC; and
 - iii. Gardendale Students with Emotional Disabilities and for whom the BLC has been determined to be their Least Restrictive Environment may attend the BLC.

In determining whether placement at the BLC for Gardendale Students is appropriate, the parties shall apply the same factors and criteria as are utilized in determining whether BLC is the appropriate placement for County Students.

The City Board will pay the County Board for providing services to each Gardendale Student at the BLC in an amount equal to the per-pupil cost of operating the BLC, to be calculated as shown herein. In addition, the City Board will be responsible for any and all additional, necessary costs referable to individual Gardendale Students attending the BLC and such individually based costs will be calculated based on the actual cost of providing such services to such individual students.

The City Board will count the Gardendale Students attending the BLC in its ADM and shall receive all local, state, and federal funding that is appropriate or allocated for such students. The City Board will also be responsible for transportation of these students to and from the BLC.

The special attendance provisions concerning the BLC will terminate on June 30, 2029 unless, prior to that date, the parties agree to extend the termination date.

- c. *Jefferson County International Baccalaureate School.* Gardendale Students who are currently attending the County Board's International Baccalaureate School (the "IB School") for the 2015-2016 school year will be allowed to remain in such specified program until graduation. This will include students who had intended to attend the IB School as 9th graders during the 2016-2017 school term.

Upon the execution of this Agreement, the County Board will provide the City Board a list of high school students who are covered under this provision along with the name of the County Board program in which they are participating if necessary. Transportation for students included under this provision will be provided by the City Board. The City Board will count the Gardendale Students participating in these specialized programs in its ADM and will be responsible for payment to the County Board of costs referable to participation of Gardendale Students in such programs.

- d. *Career Technical/Specialized High School Programs.* County Students who are currently attending Gardendale High School Vocational Programs and those who elect to attend for the 2016-2017 school year will be allowed to remain in such specified program until graduation.

If students enrolled in the County Schools wish to continue attendance in Gardendale High School Vocational Programs in which they are enrolled as of the effective date of this Agreement and there is capacity following enrollment by Gardendale Students, upon execution of this Agreement, the County Board shall pay the City Board for providing services to each County Student at Gardendale High School in an amount equal to the per-pupil cost of operating the vocational programs to be calculated by the City Board. In addition, the County Board will be responsible for any and all additional, necessary costs referable to individual County Students attending the school and such individually based costs will be calculated based on the actual cost of providing such services to such individual students.

The County Board will count County Students attending Gardendale High School Vocational Programs in its ADM and shall receive all local, state, and federal funding that is appropriated or allocated for each student. The County

Board will also be responsible for transportation of these students to and from Gardendale High School.

- e. *Students/Children of County Board and City Board Employees.* The City Board and the County Board will each establish their own policies concerning out-of-zone attendance by students who are children of employees of either the City Board or the County Board. Neither system will be required to accept students who reside outside the respective system's attendance zone and who are children of employees of the other system.
- f. *Interdistrict Transfer Policies.* Each Board will retain the authority to establish, modify, and utilize transfer policies as each respective Board elects, and this Agreement shall not impair or abridge that authority.
- g. *State Reporting for Student Attendance.* Students will be reported for State Department of Education attendance purposes at the school in which they are enrolled regardless of whether they are County Students or Gardendale/North Smithfield Manor and Greenleaf Heights Students, except as provided above with respect to students at the BLC, Gardendale High School vocational program, and the IB School.
- h. *Federal Court Orders.* All provisions of this Agreement regarding student attendance must yield to and be consistent with federal court orders respecting such matters.

D. CONVEYANCE OF SCHOOL FACILITIES AND OTHER PROPERTY.

- 1. *Gardendale Schools.* All right, title, and interest to each of the following schools and to the tracts of real estate on which they are located and to the fixtures and improvements associated with each, now held by the County Board will be conveyed to the City Board by appropriate warranty deed, on or before July 1, 2016:
 - a. Gardendale High School
 - b. Bragg Middle School
 - c. Gardendale Elementary School
 - d. Snow Rogers Elementary School

2. *Additional Matters Related to the Gardendale Schools.* The County Board shall assign to the City Board any warranty currently held by the County Board pertaining to facilities and other improvements related to the Gardendale Schools. Any retainage on construction contracts or casualty insurance proceeds relating to said schools will either be transferred to the City Board with the conveyance of the interests hereinabove described, or shall be held by the County Board for the benefit of the City Board at the election of the parties.
3. *Materials, Equipment, and Supplies.* Not later than July 1, 2016, all portable classrooms, furniture, equipment, materials, supplies (including textbooks), and other personal property (including but not limited to technology resources, transportation equipment, vehicles, inventory, and supplies) located in or upon the premises of the Gardendale Schools or assigned or allocated to the Gardendale Schools, whether physically located within or upon the premises of the schools or not, as of the effective date of this Agreement shall be conveyed to the City Board; provided, however, that specialized equipment provided to comply with a particular special education student's Individualized Education Plan (IEP) will be the property of the system where the student will attend for the upcoming school year. The City Board shall assume all obligations associated with the operation of the Gardendale Schools and with property transferred under this Agreement (e.g., equipment leases, service contracts, and school loans from commercial lenders); provided that payments on any such leases or service contracts are current (that is, not in default) as of the effective date of this Agreement and that executed copies (original, whenever possible) of all such leases and contracts are provided to the City Board by May 1, 2016.
4. *Transfer of Documents and Records.* The County Board will provide to the City Board, upon execution of this Agreement, copies of any existing land surveys, plats, building drawings, and blueprints related to any property (or interest therein) transferred pursuant to this Agreement, as well as all records related to repair and maintenance of the same or to any other environmental matters, including but not limited to asbestos and lead-based paint.

The County Board will also provide to the City Board upon execution of this Agreement the Fixed Asset reports for the Gardendale Schools. All assets currently assigned to Gardendale Schools, as indicated on the County Board's Fixed Asset report, will become assets of the City Board not later than the Transfer Date.

5. *Underdeveloped Real Property.* The parties are unaware of any real property, other than property set forth specifically in this Agreement, located in the City of

Gardendale that is owned, controlled, or held for the benefit of the County Board. To the extent that such additional property exists within the City of Gardendale, the parties agree that it shall be considered to be rightfully the property of the City Board, and the parties shall take any and all necessary measures to properly transfer ownership to the City Board, in the event such real property is identified.

E. MAINTENANCE, MANAGEMENT, AND OPERATION OF GARDENDALE SCHOOLS

The County Board will maintain, manage, and operate the Gardendale Schools from the date hereof until the Transfer Date in a manner consistent with the County Board's prior management of those schools. The County Board will cooperate with the City Board, its Superintendent, and other central office personnel with respect to all activities undertaken by the City Board to assume administration and responsibility for Gardendale Schools as of the Transfer Date, and use its best efforts to effect the transactions contemplated by this Agreement. Such cooperation will include, but not be limited to, providing reasonable access to the faculty and staff of Gardendale Schools.

F. CAPITAL IMPROVEMENTS TO GARDENDALE SCHOOLS

After a review of the condition and construction history relative to the school buildings in Gardendale, the City Board and County Board have agreed that the City Board will assume (that is, agree to make payments with respect to) certain portions of debt issued by the County Board for capital improvements to Gardendale Schools. The obligations and responsibilities of the respective boards with regard to such debt will be set forth in this Agreement.

G. TRANSPORTATION EQUIPMENT

The County Board shall, on or before the Transfer Date, assign, transfer, and convey to the City Board all vehicles described herein. The County Board shall maintain all of these vehicles in operational condition until the Transfer Date. In the event that any of these vehicles becomes inoperable or is damaged prior to the Transfer Date, the County Board shall repair the vehicle on or before that date or replace it with a similar vehicle of equal value. In addition, the County Board agrees that all vehicles used to transport students to be transferred to the City Board will be made available for inspection by the State Department of Education prior to July 1, 2016, to determine whether such vehicles are certified to meet all applicable standards and requirements of the Department for the 2016-2017 school year for vehicles used to transport students. No later than May 1, 2016, the County Board will advise the City

Board of the chassis numbers of the school buses and VIN of other system-level vehicles, such as maintenance vans, service vehicles, driver's education vehicles, and other vehicles assigned to or utilized for the benefit of the Gardendale Schools, and such-vehicles will be transferred from the County Board to the City Board on the Transfer Date. Beginning October 1, 2016, the City Board will be entitled to receive from the State Department of Education any and all Fleet Renewal Funds referable to vehicles bearing the said chassis numbers so long as such Fleet Renewal Funds are available from the State Department of Education with respect to such vehicles, all in accordance with the regulations and practices of the State Department of Education regarding the disbursement of Fleet Renewal Funds. The City Board further agrees to satisfy outstanding lease payments or debt amounts on the buses being transferred, as identified herein, and will make any payments to satisfy such outstanding lease obligations or outstanding debt, plus any termination payments or other additional payments required by the outstanding leases or loans on such buses, in full on or before the Transfer Date.

H. CONDITION OF PREMISES AND PROPERTY CONVEYED

The parties understand and agree, except as otherwise specifically provided herein, that all schools and property of any kind transferred under this Agreement shall be conveyed in an "as-is" condition as of the Transfer Date and that the County Board assumes no obligation whatsoever to repair or to maintain property accepted as of the Transfer Date. County Board disclaims any and all warranties of any kind, express or implied with regard to the condition or fitness of said property (real or personal) for its intended purpose or any other purpose, other than warranties of title and manufacturers' or contractors' warranties which are to be assigned to the City Board.

I. ACCESS TO GARDENDALE CITY SCHOOLS

On and after the effective date of this Agreement, the County Board will permit agents of the City Board to have access to the Gardendale Schools to evaluate and initiate modification and improvements to school facilities (at the City Board's expense), provided that the City Board submits requests for such access in written form to the Superintendent of the County Board and that such access does not disrupt the educational environment of the said schools.

Upon the final execution of this Agreement, the facilities should be left in good working order and in their current condition which should include fixtures, furnishings, equipment and all items which have been acquired for the proper operation of the Gardendale Schools.

J. RISK OF LOSS

The County Board agrees to maintain present levels of insurance coverage in force on all property to be transferred under the terms of this Agreement until 12:01 a.m. on July 1, 2016. In the event of an insured loss relating to such property occurring prior to that time, the County Board shall transfer or assign any insurance proceeds to which it is entitled as a result of such loss to the City Board. The County Board shall have no obligation to provide insurance coverage of any kind after the Transfer Date on the Gardendale Schools or any of the assets transferred to the City Board as provided herein.

K. PERSONNEL

1. *Employment.* All employees of the County Board who, as of the effective date of this Agreement, are currently employed in the Gardendale Schools and who are not transferred to a County School prior to the end of the 2015-2016 school year and who are employees of the County Board assigned to one of the Gardendale Schools as of the Transfer Date will become employees of the City Board as of the Transfer Date.
2. *Terms of Employment*
 - a. *Job Information.* The City Board will provide job information (salary and benefits) to any prospective employees expressing an interest in being employed by the City Board. The City Board salary schedule will provide salaries at no less than the state minimum salary schedule for the 2015-2016 school year, plus any increases provided by the State.
 - b. *Responsibilities for Salaries.* The County Board will continue to pay the salaries and benefits of its employees through Transfer Date, including those employees who will become employees of the City Board under this Agreement after the Transfer Date.
 - c. *Payroll Obligation.* Both the County Board and the City Board operate on an October 1st to September 30th fiscal year. Funding for employees at the Gardendale Schools has been or will be provided to the County Board through September 30, 2016. Because the County Board has and will continue to receive all state and federal funds from the State Department of Education (“SDE”) for Fiscal Year 2016 and all local ad valorem taxes (from which employees are paid) through September 30, 2016, the County Board will be responsible for funding the payments of salaries and benefits for any and all

positions of employment assigned to the Gardendale Schools for the remainder of the 2015-2016 fiscal year, including, specifically and without limitation, payment of salaries and benefits for the September 2016 payroll period and shall pay all such amounts to the City Board, which shall be responsible for processing and distributing payroll for that period; provided, however, that the City Board shall reimburse the County Board an agreed upon amount (which will be determined by the Parties at a later date) to be applied toward salaries and benefits for certain locally funded positions. Such reimbursement by the City Board shall be set off from amounts owed to the City Board by the County Board under this Agreement. The obligation set forth in this paragraph shall not extend to new positions or jobs that are added by the City Board after the Transfer Date, the intent being that the County Board will be responsible for payroll obligations through the end of the current fiscal year as it would have in the absence of this Agreement.

3. *Personnel Files.* Copies of all personnel and payroll records for all employees assigned to the Gardendale Schools shall be made available for copying and inspection to the City Board by May 1, 2016.

L. COUNTY BOARD ASSETS

The City Board relinquishes all claims to other assets of the County Board except those assets described in this Agreement.

M. LOCAL TAXES AND REVENUES

1. *Countywide Ad Valorem Taxes.* Beginning October 1, 2016, the net proceeds of the following ad valorem taxes levied on a countywide basis in Jefferson County shall be allocated, apportioned and distributed between the County Board and the City Board as directed by State Law (presently, Ala. Code § 16-13-31(b), which provides that the allocation, apportionment, and distribution of countywide taxes shall be on this basis on which Foundation Program funds are allocated, apportioned, and distributed within the County:

[SPECIFIC PROVISIONS TO BE SUPPLIED]

2. *District Ad Valorem Tax – Gardendale City School Tax District.* Beginning October 1, 2016, the net proceeds of the following district ad valorem taxes levied on property situated within the corporate limits of the City (which hereafter, by operation of state law, shall become and be known as the Gardendale

City School Tax District) shall be allocated, apportioned, and distributed to the City Board:

[SPECIFIC PROVISIONS TO BE SUPPLIED]

3. *District Ad Valorem Tax – County Board.* Beginning October 1, 2016, the net proceeds of the following ad valorem taxes levied on property situated in the Jefferson County School Tax District, including property situated in the Transition Zone (but not including any property situated within the Gardendale City School Tax District) shall be allocated, apportioned, and distributed to County Board:

[SPECIFIC PROVISIONS TO BE SUPPLIED]

4. *District Ad Valorem Taxes – Adjustment for Out-of-District Students.*
For each Transition Zone Student who attends a school operated by the City Board, the County Board shall pay to the City Board an amount equal to the “County Board Per Student Amount,” as defined below.

[SPECIFIC PROVISIONS TO BE SUPPLIED]

For each Gardendale Student who attends a school operated by the County Board, the City Board shall pay to the County Board an amount equal to the “City Board Per Student Amount,” as defined below.

[SPECIFIC PROVISIONS TO BE SUPPLIED]

5. *Miscellaneous Revenues*

[SPECIFIC PROVISIONS TO BE SUPPLIED]

N. ASSUMPTION OF DEBT BY CITY BOARD

The City Board shall assume full responsibility for payment of its pro rata share of the County Board’s current long-term indebtedness in the principal amount to be determined later, which will be calculated and paid pursuant to the schedule to be provided:

[SPECIFIC PROVISIONS TO BE SUPPLIED]

Payments shall be remitted by the City Board to the County Board pursuant to the Payment Schedule to be provided. No other bonded indebtedness will be assigned to the City Board by the County Board.

O. MISCELLANEOUS MATTERS

1. a. *Local School Account Fund Balances.* The County Board agrees that actual local school account fund balances shall remain with individual Gardendale Schools or be transferred to the City Board.
- b. *Child Nutrition Program Account Balance.* The Child Nutrition Program Account balance for each of the Gardendale Schools as of June 30, 2016 (net of July and August indirect cost; July and August gross payroll and benefits; July, August, and September OCE state reimbursement; and state pass-through revenue) shall be transferred to the City Board.
2. *Utility Payments.* The County Board shall be responsible for payment of utility bills, including telephone, electricity, water, natural gas, and sewer for utility services rendered to the Gardendale Schools through the Transfer Date.
3. *Contracts or Agreements Related to the Gardendale Schools.* By May 1, 2016, the County Board shall identify and produce to the City Board for reproduction executed copies of all contracts or agreements binding or relating to the Gardendale Schools between the County Board and any third party. The County Board shall execute assignments of all such contracts and agreements in favor of the City Board to the extent the contracts or agreements are assignable. With respect to contracts or agreements which are not assignable without the consent of a third party, the County Board will identify said contracts so that the City Board can acquire consent from said third parties.
4. *Liability.* The City Board shall have no liability or responsibility for any act, omission, accident, event, or occurrence in or related to the Gardendale Schools or the County Board; the County Schools; or the property, employees, or agents of the County Board accruing prior to the Transfer Date. The County Board shall have no liability or responsibility for any act, omission, accident, event, or occurrence in or related to the Gardendale Schools; the City Board; or the property, employees or agents of the City Board accruing on or after the Transfer Date. By May 1, 2016, the County Board shall notify, in writing, the City Board of any act, omission, accident, event or occurrence in or related to the Gardendale Schools of which the County Board and/or Superintendent has knowledge, which has resulted or may result in a claim of liability or responsibility. The County

Board shall provide updated information about any additional accidents, events, or occurrences happening after May 1, 2016 when and if the County Board becomes aware of same.

5. *Records.* The County Board shall provide such information, reports, records and files which it is required to provide hereunder in the form in which it maintains such data. If the County Board maintains such records in electronic format, the County Board shall provide such records in their native format.
6. *Identification of Special Education Students.* Prior to finalizing this Agreement, the County Board will identify to the City Board the names, ages, genders, and exceptionalities of all special education students who are known to the County Board who reside within the corporate limits of the City, the Transition Zone, or the North Smithfield Manor/Greenleaf Heights communities.
7. *State Bond or Warrant Issues.* The parties agree that, with regard to distributions or grants to be made on the basis of ADM or number of students, the City Board shall be entitled to any proceeds under those initiatives as if it were in existence on the day such legislation passed, and further, that the City Board shall receive a pro rata share of the benefits or proceeds provided for in the initiatives based on the number of Gardendale Students included in the applicable distribution formulas employed.

III. GENERAL PROVISIONS

A. ENTIRE AGREEMENT

This Agreement constitutes the final and entire understanding and agreement between the parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, representations, and agreements between the parties, whether written or oral.

B. MODIFICATION

This Agreement may not be modified or amended except by written agreement signed by both parties or upon order of a court of competent jurisdiction.

C. BINDING EFFECT

The terms, provisions, and conditions stated herein shall extend to, be binding upon, and inure to the benefit of the parties hereto and their successors.

D. DISPUTE RESOLUTION

The parties shall endeavor to resolve any dispute arising out of or related to this Agreement by mediation with the State Superintendent of Education and/or his designee.

E. SEVERABILITY

If any clause, phrase, sentence, paragraph, or provision of this Agreement shall be invalidated by a court of competent jurisdiction, it is the intent of the parties hereto that such invalidation shall not affect the validity of any other clause, phrase, sentence, paragraph, or provision thereof. Moreover, if any provision of this Agreement is deemed invalid due to its scope or breadth, that provision shall be deemed valid to the extent of the scope or breadth permitted by applicable law.

F. TITLES

The titles appearing in this Agreement are for reference only and shall not be considered a part of this Agreement or in any way modify, amend, or affect the provisions hereof.

G. RELATIONSHIP OF THE PARTIES

This Agreement creates no agency relationship between the Parties hereto, and nothing herein contained shall be construed to place the Parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other in any manner whatsoever.

H. PARTIES IN INTEREST

Nothing in this Agreement, expressed or implied, is intended to confer upon any third person any rights or remedies under or by reason of this Agreement.

I. MUTUAL COOPERATION

The County Board and the City Board agree to cooperate in all matters required to implement and accomplish the terms and tenor of this Agreement.

J. COMPLIANCE WITH STATE AND FEDERAL LAW

The County Board and the City Board acknowledge and agree that this Agreement is intended to comply with the laws of Alabama and the United States of America.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and made effective on this _____ day of _____, 2016.

**GARDENDALE CITY BOARD
OF EDUCATION**

By: _____
CHRIS M. SEGROVES, President of the
Gardendale City Board of Education

By: _____
DR. PATRICK M. MARTIN,
Superintendent of the
Gardendale City Board of Education

Adams and Reese LLP

By: _____
Stephen A. Rowe
Russell J. Rutherford
1901 6th Avenue North, Suite 3000
Birmingham, Alabama 35203
Attorneys for Gardendale City
Board of Education

**JEFFERSON COUNTY BOARD
OF EDUCATION**

By: _____
JACQUELINE A. SMITH, President of
the Jefferson County Board of Education

By: _____
DR. WARREN CRAIG POUNCEY,
Superintendent of the
Jefferson County Board of Education

Bishop, Colvin, Johnson, & Kent LLC

By: _____
Carl Johnson
Whit Colvin
1819 5th Avenue North
Birmingham, Alabama 35203
Attorneys for Jefferson County Board of
Education