

PUBLIC SCHOOL ACADEMY CONTRACT AND RELATED DOCUMENTS

BETWEEN

SCHOOL DISTRICT OF THE CITY OF DETROIT
(The Authorizing Body)

AND

DAVID ELLIS ACADEMY
(A Public School Academy)

ARTICLE I	DEFINITIONS	1
Section 1.01	<i>Certain Definitions.....</i>	1
Section 1.02	<i>Statutory Definitions</i>	3
Section 1.03	<i>Number and Gender.....</i>	3
Section 1.04	<i>Inconsistencies or Conflicts</i>	3
ARTICLE II	LEGAL STATUS OF THE PUBLIC SCHOOL ACADEMY	3
Section 2.01.	<i>Governing Law.....</i>	3
Section 2.02	<i>Limitation on Actions to Performance of Governmental Functions.....</i>	3
Section 2.03	<i>Independent Status of the PSA</i>	3
Section 2.04	<i>Relationship between the PSA and DPS</i>	3
ARTICLE III	ORGANIZATIONAL STRUCTURE AND GOVERNANCE PLAN...4	
Section 3.01	<i>Non-Profit Status.</i>	4
Section 3.02	<i>Method of Selection, Length of Term, and Number of Members of the PSA Board.</i>	4
Section 3.03	<i>Articles of Incorporation.....</i>	5
Section 3.04	<i>Governance Structure</i>	5
Section 3.05	<i>DPS Approval for Assignments and Transfers</i>	5
Section 3.06	<i>Conflicts of Interest.....</i>	5
ARTICLE IV	RESERVED.....	6
ARTICLE V	OPERATION OF THE PUBLIC SCHOOL ACADEMY	6
Section 5.01	<i>Nonsectarian and Non-Religious Operation</i>	6
Section 5.02	<i>Accounting Standards</i>	6
Section 5.03	<i>Acquisition and Ownership of Property and Borrowing Limitations</i>	6
Section 5.04	<i>Contributions and Fundraising</i>	7
Section 5.05	<i>Matriculation Agreements.</i>	7
Section 5.06	<i>Role of Parents and Guardians.....</i>	7
Section 5.07	<i>DPS Approval of Condemnation.....</i>	7
Section 5.08	<i>Special Education Services</i>	7
Section 5.09	<i>English Language Learners</i>	7
Section 5.10	<i>Open Meetings</i>	7
Section 5.11	<i>Transportation</i>	7
Section 5.12	<i>Prohibition of Identified Family Relationships.....</i>	8
Section 5.13	<i>Prohibition of Employment in More than One Full-time Position</i>	8
ARTICLE VI	CURRICULUM, INSTRUCTIONAL METHODS, AND PUPIL ASSESSMENT	8
Section 6.01	<i>Curriculum.....</i>	8
Section 6.02	<i>Benchmarks, Academic Assessments, and Indicators of Performance.....</i>	8
Section 6.03	<i>Determining Educational Success of the PSA</i>	8
Section 6.04	<i>Reports to DPS.....</i>	9

ARTICLE VII	GRADE LEVELS AND PUPIL ENROLLMENT.....9
Section 7.01	<i>Enrollment Capacity</i>9
Section 7.02	<i>Enrollment of Students</i>9
Section 7.03	<i>Tuition Prohibited</i>10
Section 7.04	<i>Student Enrollment Count</i>10
Section 7.05	<i>Student Identification</i>10
ARTICLE VIII	SCHOOL CALENDAR.....11
Section 8.01	<i>Commencement/Continuation of Operations</i>11
Section 8.02	<i>Fiscal Year</i>11
Section 8.03	<i>Length of School Day</i>11
Section 8.04	<i>Common Calendar</i>11
ARTICLE IX	PUBLIC SCHOOL ACADEMY STAFF.....11
Section 9.01	<i>Authorization of Employment</i>11
Section 9.02	<i>Contract with Educational Service Provider</i>11
Section 9.03	<i>Status as Employees</i>15
Section 9.04	<i>Board Liaison</i>15
Section 9.05	<i>Employment Qualifications</i>15
Section 9.06	<i>Employee License or Certification</i>15
Section 9.07	<i>Criminal Background and Unprofessional Conduct Checks</i>15
Section 9.08	<i>Total Compensation</i>16
ARTICLE X	PHYSICAL PLANT16
Section 10.01	<i>Location of Operation</i>16
Section 10.02	<i>Description of the Physical Plant</i>16
Section 10.03	<i>Right of Occupancy and Use</i>16
Section 10.04	<i>Compliance with Applicable Law</i>16
Section 10.05	<i>Notice of Material Changes</i>16
ARTICLE XI	BUDGET, FINANCIAL PLANS, AND AUDITS16
Section 11.01	<i>Fiscal Agent</i>16
Section 11.02	<i>Annual Audit</i>17
Section 11.03	<i>Budget and Accounting</i>17
Section 11.04	<i>Inspection and Review</i>17
Section 11.05	<i>Insurance</i>17
Section 11.06	<i>Indemnification</i>19
Section 11.07	<i>Terms of Insurance and Indemnification</i>19
Section 11.08	<i>Notice of Claims</i>19
ARTICLE XII	COMPLIANCE WITH LAW20
Section 12.01	<i>Generally</i>20
Section 12.02	<i>Specific Assurances</i>20
Section 12.03	<i>Open Meetings Act</i>21
Section 12.04	<i>Freedom of Information Act</i>21

Section 12.05	<i>Competitive Bidding</i>	21
Section 12.06	<i>Other Statutes Specified in Section 503(7)</i>	21
Section 12.07	<i>Notice of Judicial or Administrative Proceedings</i>	21
Section 12.08	<i>Transparency Reporting</i>	21
Section 12.09	<i>Maintenance of Records</i>	23
Section 12.10	<i>Facility Signage</i>	23
Section 12.11	<i>Certified Staff</i>	23
Section 12.12	<i>Reports to MDE</i>	23
ARTICLE XIII	OVERSIGHT OF THE PUBLIC SCHOOL ACADEMY	23
Section 13.01	<i>PSA Responsibilities.</i>	23
Section 13.02	<i>DPS Responsibilities</i>	23
Section 13.03	<i>Administrative Fee</i>	24
ARTICLE XIV	TERM, MODIFICATION, AND TERMINATION/REVOCATION OF THE CONTRACT	24
Section 14.01	<i>Term and Renewal</i>	24
Section 14.02	<i>Amendments</i>	24
Section 14.03	<i>Termination by Agreement</i>	25
Section 14.04	<i>Grounds for Termination or Revocation</i>	25
Section 14.05	<i>Procedures for Termination or Revocation</i>	26
Section 14.06	<i>Authority and Finality of DPS' Decisions</i>	26
Section 14.07	<i>PSA's Responsibilities upon Termination, Revocation or Non- Renewal</i>	26
Section 14.08	<i>Notification by State</i>	27
Section 14.09	<i>Notification by Superintendent of Public Instruction</i>	27
Section 14.10	<i>Issuance of Order</i>	28
Section 14.11	<i>Corrective Action by Order of Reconstitution</i>	28
ARTICLE XV	GENERAL TERMS	29
Section 15.01	<i>Notices</i>	29
Section 15.01	<i>Interpretation, Enforcement, Validity, Construction and Effect</i>	29
Section 15.03	<i>Captions</i>	29
Section 15.04	<i>Non-Waiver</i>	29
Section 15.05	<i>Force Majeure</i>	30
Section 15.06	<i>Severability.</i>	30
Section 15.07	<i>Counterparts</i>	30
Section 15.08	<i>Access to Copies of the Contract</i>	30
Section 15.09	<i>DPS Immunity</i>	30
Section 15.10	<i>Schedules and Attachment.</i>	30
Section 15.11	<i>Entire Contract</i>	30
Section 15.12	<i>Contract Submission to MDE</i>	30

ARTICLE XVI	RESERVED.....	31
ARTICLE XVII	EFFECTIVENESS CONTINGENCIES.....	31
Section 17.01	<i>Effectiveness Contingencies.....</i>	31

DETROIT PUBLIC SCHOOLS PUBLIC SCHOOL ACADEMY CONTRACT

This Public School Academy Contract made and entered as of **July 1, 2015**, by and between the School District of the City of Detroit ("DPS"), a Michigan public school district and statutory body, and **David Ellis Academy** (the "PSA"), a Michigan non-profit corporation.

WHEREAS, DPS and the PSA are authorized to enter into this Contract for the purposes stated herein pursuant to Part 6A of Act No. 451, Public Acts of Michigan, 1976, as amended (the "Code"); and

WHEREAS, the PSA previously submitted an application to DPS to authorize the PSA as a public school academy under and in accordance with DPS' re-authorization procedures, the PSA agreed to the terms of DPS' re-authorization (the procedures and agreement are referred to herein as the "Application"), a copy of which is attached hereto as **Attachment A** and made a part hereof, to DPS to re-authorize the PSA as a public school academy under and pursuant to Part 6A of the Code; and

WHEREAS, DPS has, by one or more Orders authorized the issuance of a Contract to the PSA, approved the form of this Contract and authorized the execution and delivery of this Contract by the undersigned officers of DPS and the performance of the terms hereof by such officers and by all other applicable officers, employees, agents and representatives of DPS, and approved the method of selection, length of term, number and qualifications of the members of the board of directors of the PSA; and

WHEREAS, the Board of Directors (the "Directors") of the PSA has, by resolution adopted as of **May 17, 2015** approved the form of this Contract and authorized the execution and delivery of this Contract by the undersigned officers of the PSA and the performance of the terms hereof by such officers and by all other applicable Directors, officers, employees, and agents of the PSA.

NOW, THEREFORE, DPS and the PSA agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 *Certain Definitions.* In addition to the terms defined throughout this Contract, the following terms shall have the meanings provided below.

- (a) "Authorizing Body" means DPS.
- (b) "Director of the DPS Office of Charter Schools" means the Director of the DPS Office of Charter Schools or the person holding office at DPS with responsibility over such matters.

(c) “Chief Financial Officer” means the Chief Financial Officer of DPS or the person holding the highest office of DPS with responsibility over financial affairs.

(d) “Contract” means this contractual agreement for the maintenance and operation of a Michigan public school academy and all documents incorporated herein by reference.

(e) “Code” means the Michigan Revised School Code, as amended (including Public Act 451 of 1976, as amended by Public Act 289 of 1995 and Act 277 of 2011), which is codified at Sections 380.1 to 380.1852 of the Michigan Compiled Laws.

(f) “Academy”, “the Academy” or the “PSA” means the Michigan non-profit corporation that is established as a Public School Academy pursuant to this Contract.

(g) “Detroit Public Schools” or “DPS” means the School District of the City of Detroit established pursuant to the Michigan Revised School Code.

(h) “Directors” means the Board of Directors of the PSA, as identified by order of DPS.

(i) “Director” means a person who is a member of the Board of Directors.

(j) “DPS Designee” means the DPS Office of Charter Schools.

(k) “ESEA” means the Education and Secondary Education Act Reauthorization of 2001 (Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002)), which is also known as the No Child Left Behind Act of 2001.

(l) “ESP” means the Educational Service Provider engaged by the Academy pursuant to the terms of Section 9.2 of this Contract.

(m) “Order” means the Order of the School District of the City of Detroit, dated the date of execution by DPS of this Contract, which, for the purposes of this Contract, shall constitute an authorizing body resolution described in Part 6A of the Code.”

(n) “PSA Board” means the board of directors of the PSA.

(o) “Relative” means mother, mother-in-law, father, father-in-law, son, son-in-law, daughter, daughter-in-law, sister, sister-in-law, brother, brother-in-law, spouse, domestic or same-sex partner.

(p) “School Board” means the elected board of the School District of the City of Detroit or other duly authorized individual or governing body empowered by law to manage the School District of the City of Detroit

(q) “State School Aid Act” means the State School Aid Act of 1979 (Public Act 94 of 1979), as amended, which is codified at Sections 388.1601 to 388. 1896 of the Michigan Compiled Laws.

(r) “Transparency Reporting” means all documents required to be obtained by the Board and provided to DPS pursuant to MCL 380.503 (6)(m).

Section 1.02 *Statutory Definitions.* Statutory terms, used in this Contract, and defined in the Code, including Section 6A, shall have the same meaning in this Contract.

Section 1.03 *Number and Gender.* The use of any gender in this Contract shall be deemed to be or include the other genders, including neuter, and the use of the singular shall be deemed to include the plural (and vice versa), wherever applicable.

Section 1.04 *Inconsistencies or Conflicts.* In the event that there is an inconsistency or conflict between materials in the Application and this Contract, the Attachments, or the Orders, the language in this Contract, the Attachments and the Orders shall control.

ARTICLE II LEGAL STATUS OF THE PUBLIC SCHOOL ACADEMY

Section 2.01 *Governing Law.* The PSA is a Michigan public school academy, established pursuant to Sections 501 through 507 of the Code (MCL 380.501-.507) and shall be subject to the laws and regulations of the United States and the State of Michigan and the policies of DPS applicable to public school academies as they may be established from time to time, except to the extent exempted by law.

Section 2.02 *Limitation on Actions to Performance of Governmental Functions.* The PSA shall act exclusively as a public school academy and shall not undertake any action inconsistent with its status as a public school academy under the Code, including, but not limited to, its authorization to receive State School Aid.

Section 2.03 *Independent Status of the PSA.* The PSA is not a division or part of DPS, and nothing in this Contract shall be construed to create a partnership or joint venture between the parties or to waive any aspect of DPS’ autonomy or powers

Section 2.04 *Relationship between the PSA and DPS.* The relationship between the PSA and DPS is based solely on the applicable Code provisions and the terms of this Contract or other agreements between DPS and the PSA.

ARTICLE III
ORGANIZATIONAL STRUCTURE AND GOVERNANCE PLAN

Section 3.01 *Non-Profit Status.* The PSA shall be organized and operated as a non-profit corporation organized under the Michigan Nonprofit Corporation Act, as amended.

Section 3.02 *Method of Selection, Length of Term, and Number of Members of the PSA Board.*

(a) Method of Selection. The initial members of the PSA Board shall be the individuals named on **Attachment B**, who shall each be a citizen of the United States. In the event of a vacancy on the PSA Board, whether by resignation, removal or conclusion of a term, the PSA Board, within five (5) business days of such vacancy, shall present the names and credentials of at least two qualified persons for each vacancy to DPS, along with such additional forms, information and certificates required by DPS,. DPS will consider any such candidates presented, along with others that DPS may recruit, but is not required to select any candidates presented by the PSA Board. Within thirty (30) days after the effective date of the vacancy (whether or not the PSA Board has presented any candidates, with the requisite documentation), DPS shall select someone to fill the vacancy. If DPS does not make a timely selection, the PSA Board may select one of the two persons presented to fill the vacancy subject to DPS further approval. A person selected to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the vacating member. In all cases, the PSA Board is required satisfy any and all criminal background check requirements of DPS and/or the Code and to pay the costs related thereto.

(b) Length of Term. The term of each member of the PSA Board shall be three (3) years, except that of the members first appointed to the initial Board, 1/3 shall be appointed for a term of three (3) years, 1/3 shall be appointed for a term of two (2) years, and the remainder shall be appointed for a term of one (1) year. Members continuing on the Board at time of the re-authorization contemplated by this Contract will serve out their remaining terms, subject to their earlier removal, resignation, retirement or death.

(c) Removal. DPS may terminate the service of any Board member at any time at its sole discretion. The Board may remove a director upon a 2/3 vote of its members.

(d) Number of Directors. The number of members of the PSA Board shall not be fewer than five (5) nor more than nine (9) as determined from time to time by the PSA Board with the consent of DPS. All members of the Academy Board shall be citizens of the United States and residents of Michigan.

(e) Qualifications. To the extent possible, the members of the PSA Board shall include at least one representative of the parents of children attending the Academy. Members of the PSA Board shall not include: (i) employees of the Academy or their Relatives; (ii) owners, directors, officers and employees of a management company that contracts with the Academy or their Relatives; (iii) owners, directors, officers and employees of a company, or a person, who leases property to the Academy or their Relatives, unless the DPS Designee consents to such membership and the lease was approved by a majority of the other board members; or (iv) executive employees or board members of DPS or their Relatives..

(f) Oath. All members of the PSA's Board shall take and sign the constitutional oath of office, and shall cause a copy of such oath of office to be filed with the DPS Office of Charter Schools. No appointment shall be effective prior to the taking and signing of the oath of office.

Section 3.03 *Articles of Incorporation*. Unless amended pursuant to this Contract, the articles of incorporation of the PSA as set forth in **Attachment C** shall be the governing Articles of Incorporation of the PSA.

Section 3.04 *Governance Structure*. The PSA shall be organized and administered under the direction of the PSA Board and pursuant to the governance structure of the PSA, as set forth in the bylaws, attached hereto as **Attachment D**, incorporated herein by reference.

Section 3.05 *DPS Approval for Assignments and Transfers*. The PSA may not transfer or assign its rights and responsibilities under this Contract, including by contract, the operation of the PSA, without the prior written approval of DPS and a written amendment of this Contract. The terms and provisions of this Contract are binding on and shall inure to the benefit of the parties and their respective successors and permitted assigns.

Section 3.06 *Conflicts of Interest*. All employees and officers of the PSA shall comply with the provisions of MCL 15.321, *et. seq.* regarding conflicts of interest and MCL 15.181, *et seq.* regarding incompatible public offices. In addition, the PSA Board, by approval of this Contract, does hereby adopt the conflict of interest policy attached hereto as **Attachment E**, which shall apply in all respects to any contract, purchase or obligation of the PSA board. In the event an ESP is engaged by the PSA pursuant to this Contract, the ESP shall adopt the conflict of interest policy with respect to its services and actions on behalf of the PSA.

**ARTICLE IV
RESERVED**

**ARTICLE V
OPERATION OF THE PUBLIC SCHOOL ACADEMY**

Section 5.01 *Nonsectarian and Non-Religious Operation.* To the extent disqualified under the State or Federal constitutions, the PSA shall not have any organizations or contractual affiliation with a church or other religious organization. Nothing in this Section shall be deemed to diminish or enlarge the civil and political rights, privileges, and capacities of any person on account of his/her religious belief.

Section 5.02 *Accounting Standards.* The PSA shall at all times comply with generally accepted public sector accounting principles applicable to Michigan public school academies as well as the requirements under Article XI of this Contract.

Section 5.03 *Acquisition and Ownership of Property and Borrowing Limitations.* The PSA may, pursuant to Section 503(9) of the Code, acquire by purchase, gift devise, lease, sublease, or any other means as provided by law, hold and own in its own name, buildings and other property for school purposes, and interests therein, and other real and personal property necessary or convenient to fulfill its educational purposes and may issue bonds pursuant to Section 504(a)(g) of the Code. The PSA may not levy taxes. Notwithstanding the foregoing, the PSA, only after obtaining the prior written consent of DPS, which consent may be withheld for any reason, may incur debt only as follows:

(a) Short-term: As provided in Section 504a of the Code, the PSA may incur temporary debt in accordance with Section 1225 of the Code.

(b) Long-term: The PSA may enter into installment purchase contracts and related security agreements for any lawful purpose described in the Code and, after the second anniversary of this Contract, may issue bonds pursuant to Section 504(a)(g).

(c) No contract, mortgage, loan or other instrument of indebtedness entered into by the Academy and a third party shall in any way constitute an obligation, either general, special, or moral, of the State of Michigan or DPS. Neither the full faith and credit nor the taxing power of the State of Michigan or any agency of the State, nor the full faith and credit of the DPS, shall ever be pledged for the payment of any Academy contract, mortgage, loan or other instrument of indebtedness.

(d) The Academy has no authority whatsoever to enter into any contract or other agreement that would financially obligate the State of Michigan or DPS, nor does the Academy have any authority whatsoever to make any representations

to lenders or third parties that the State of Michigan or DPS in any way guarantee, are financially obligated, or are in any way responsible for any agreement, promissory note, contract, mortgage, loan or other instrument of indebtedness entered into by the Academy.

(e) In no event shall the Academy enter into any financing prior to submitting the documentation related to that financing to DPS for review at least fifteen (15) days prior to the anticipated closing date of the financing.

Section 5.04 *Contributions and Fundraising.* The PSA may solicit and receive contributions as permitted by law. No solicitation shall indicate that a contribution to the PSA is for the benefit of the Detroit Public Schools.

Section 5.05 *Matriculation Agreements.* The Academy may enter into one or more Matriculation Agreements, provided it receives the prior written approval of DPS for such agreement(s).

Section 5.06 *Role of Parents and Guardians.* The PSA shall encourage the active participation of parents and guardians in the education of its student body. Parents and guardians may volunteer or be selected to serve on committees established by the PSA.

Section 5.07 *DPS Approval of Condemnation.* In the event that the Academy desires to acquire property pursuant to the Uniform Condemnation Procedures Act or other applicable statutes, it shall obtain express written permission for such acquisition from DPS. The Academy shall submit a written request to DPS describing the proposed acquisition and the purpose for which the Academy desires to acquire the property. Provided the Academy Board submits the written request DPS shall determine appropriate action and whether to give express written permission for the acquisition.

Section 5.08 *Special Education Services.* The Academy shall ascertain the number and percentage of students with disabilities enrolled in the Academy shall provide new or continuity of services to such students in accordance with applicable law.

Section 5.09 *English Language Learners.* The Academy shall ascertain the number and percentage of English Language Learners enrolled in the Academy and shall provide new or continuity of appropriate services to such students in accordance with applicable law.

Section 5.10 *Open Meetings.* The Academy shall conduct all of its regular board meetings in accordance with the Michigan Open Meetings Act, and shall conduct all regular meetings pertaining to the Academy at the Academy facility. All special board meetings shall be held in the City of Detroit.

Section 5.11 *Transportation.* **Not Applicable – Section Reserved.**

Section 5.12 *Prohibition of Identified Family Relationships.* No person shall be a member of the Academy Board if he or she is: (i) an employee of the Academy or a Relative of an employee of the Academy; (ii) an owner, director, officer or employee of a management company that contracts with the Academy or a Relative of same; (iii) a Relative of a member of the Academy Board; (iv) an owner, director, officer or employee of a company, or a person, who leases property to the Academy or a Relative of same, unless the DPS Designee consents to such membership and the lease is approved by a majority of the other board members; or (v) an executive employee or board member of DPS or a Relative of same. Additionally, no Relative may occupy a direct supervisory position over another Relative. All Relatives providing services to the Academy Board shall be identified in writing by their respective organizations, by position and company, to the Academy Board and DPS and each organization providing services to the Academy shall certify its compliance with this Section. Likewise prohibitions against holding incompatible public office and against specified conflicts of interest set forth in MCL 15.181 to 15.185 and MCL 15.321 to 15.330, respectively, shall be scrupulously observed.

Section 5.13 *Prohibition of Employment in More than One Full-time Position.* No individual shall be employed by or at the Academy in more than 1 full-time position in which he or she is compensated at a full time rate for each of those positions.

ARTICLE VI CURRICULUM, INSTRUCTIONAL METHODS, AND PUPIL ASSESSMENT

Section 6.01 *Curriculum.* The PSA's curriculum is attached hereto as **Attachment F**.

Section 6.02 *Benchmarks, Academic Assessments, and Indicators of Performance.* As required by Section 503(6)(a) of the Code, to the extent applicable, the PSA's students must be assessed using at least the Michigan Student Test of Educational Progress (M-STEP), Michigan Merit Exam (MME) and NWEA Measures of Academic Progress, or an assessment instrument developed under Section 1279 of the Code. Methods of pupil assessment are set forth in **Attachment G**.

Section 6.03 *Determining Educational Success of the PSA.* The PSA's educational success will be determined by evidence of the PSA's progress toward preparing students for college and careers, as measured by the educational goals set forth below and in **Attachment H** of this Contract and such other goals as determined by the PSA and agreed to and approved by DPS in writing. The PSA will provide DPS with its annual educational goals and milestones by the date established by DPS for DPS' review and approval.

At a minimum, those goals shall be:

(a) The academy will demonstrate the grade-level median growth percentiles for Reading and Math identified in **Attachment H**;

(b) Within three years [from the date of this Contract and annually thereafter, students shall outperform DPS general admission pupils by 10% in proficiency on state math exams in each subgroup (for example, if the DPS general admission pupils score 60% proficient, the academy scores must reflect 66% proficiency);

(c) Within three years from the date of this Contract and annually thereafter, students shall outperform DPS general admission pupils by 10% in proficiency on state reading exams in each subgroup;

(d) Within three years from the date of this Contract and annually thereafter, students shall outperform DPS general admission pupils by 10% in proficiency on state science exams in each subgroup; and

(e) Demonstrated improved pupil academic achievement for all groups of pupils.

DPS reserves the right to change these minimum goals to comply with new state and federal state requirements or educational industry or pedagogical standards with prior written notice to the Academy. The Educational Program is attached as **Attachment I**.

Section 6.04 *Reports to DPS.* The PSA shall provide the DPS Designee with copies of reports and assessments, at least semi-annually, regarding the educational outcomes achieved by pupils of the PSA showing, at a minimum, the attendance rates for the quarter and the results of any standardized test scores by grade occurring within the quarter, as well as any reports prepared by or for the PSA that evaluate or summarize the performance of the PSA's pupils or staff and such other information and reports requested by, and in a form and with such frequency acceptable to, the Director of DPS Office of Charter Schools, including, but not limited to those documents listed in any master calendar of reporting requirements distributed by the DPS Office of Charter Schools.

ARTICLE VII GRADE LEVELS AND PUPIL ENROLLMENT

Section 7.01 *Enrollment Capacity.* The PSA serves students in grades kindergarten through eighth (8th) grade.

Section 7.02 *Enrollment of students will take place as follows:*

(a) The PSA shall comply with Section 380.503(6) of the Code and Section 388.1769 of the State aid Act in advertising its presence and the fact that it is enrolling students; the PSA shall submit evidence of its faithful adherence to this section to the DPS Designee.

(b) The process for enrollment is as follows:

(i) *Applications for Enrollment.* The PSA may consider applications for enrollment of any child between the ages of 5 and the maximum age allowed by law or the maximum grade permitted to the Academy, whichever is less, who resides within the geographic boundaries set by statute for a public school academy authorized by a school district.

(ii) *Admission of Students.* The PSA shall enroll any student who meets the age and residency requirements and who submits a timely application for enrollment. The PSA may not discriminate in its admission policies or practices on the basis of intellectual or athletic ability, measures of achievement or aptitude, race, ethnicity, national origin, disability, gender, religion, or any other basis that would be illegal if used by a school district.

(iii) *Enrollment When Applicants Exceed Capacity.* If the number of applicants for admission exceeds the capacity stated in this Contract for any grade, pupils shall be selected for attendance based on a random selection process, as required by Section 504(3) of the Code, except as provided below. The PSA must annually submit to the DPS Designee a copy of the procedures to be used to select students when applicants for enrollment exceed capacity.

The PSA must allow any pupil who was enrolled in the PSA in the immediately preceding school year to enroll in the PSA in the appropriate grade unless the appropriate grade is not offered at the PSA.

The PSA may give enrollment priority to the sibling(s) of a pupil enrolled at the PSA.

(c) The PSA shall provide documentation to DPS annually sufficient to establish that the Academy has made a reasonable effort to advertise its enrollment efforts to all pupils and that the Academy's open enrollment period was for a duration of at least two weeks and permitted the enrollment of pupils by parents/guardians at times that include evenings and weekends.

Section 7.03 *Tuition Prohibited.* The PSA shall not charge tuition. The PSA may impose fees and require payment of expenses for its activities where such fees and payments are not prohibited by law.

Section 7.04 *Student Enrollment Count.* The PSA will maintain student enrollment count records in a manner that will enable it to provide an electronic file with student enrollment data.

Section 7.05 *Student Identification.* The PSA will assign and use student identification numbers in administering state assessments and in meeting other state data

reporting requirements. The PSA will follow procedures established by the State Board of Education and the Michigan Department of Education for issuance and record keeping of student identification numbers.

ARTICLE VIII SCHOOL CALENDAR

Section 8.01 *Commencement/Continuation of Operations.* The PSA shall begin or continue operations promptly upon the approval of this Contract by MDE and shall perform school operations in accordance with the School Calendar and School Day Schedule, attached as **Attachment I** hereto. For each subsequent year of this Contract, the PSA shall adopt a school calendar no later than April 1st of the prior school year, and shall submit that calendar to the DPS Designee no later than May 1st of that year.

Section 8.02 *Fiscal Year.* The PSA fiscal year shall be July 1 – June 30 for each school year under this Contract.

Section 8.03 *Length of School Day.* The length of the PSA school day for the first year of this Contract shall be **7 a.m. to 7.p.m.** For each subsequent year of this Contract, the PSA shall adopt a school day no later than April 1st of the prior school year.

Section 8.04 *Common Calendar.* The PSA shall adhere to the Common Calendar established by Wayne RESA unless a waiver is obtained.

ARTICLE IX PUBLIC SCHOOL ACADEMY STAFF

Section 9.01 *Authorization of Employment.* The PSA may employ or contract with personnel and companies for the operation of the PSA, to prescribe their duties, and to fix their compensation, as permitted by applicable law.

Section 9.02 *Contract with Educational Service Provider.* The Academy has previously obtained DPS' review of and has placed on file with DPS its contractual agreement (the "Management Agreement") with its educational service provider ("ESP") and the written opinion of its counsel, addressed to DPS, or indicating it may be relied upon by DPS, that the Management Agreement complies with all applicable law and this contract "Legal Opinion"). The name of the Academy's ESP is: Bardwell Group Inc.. In the event the Academy desires to amend its Management Agreement, or seeks to engage an ESP other than the ESP identified in this section, all of the following shall apply.

(a) In negotiating and finalizing any such contract, the Academy Board must seek the advice of independent legal counsel, who must deliver to DPS the Legal Opinion referenced above. The Management Agreement must be approved by the Academy Board, during a meeting open to the public held pursuant to the Michigan Open

Meetings Act at a portion on the agenda in which public comment is invited regarding the agreement.

(b) The Academy Board must ensure that, at all times during the term of this Contract, any ESP employed by the Academy maintains comprehensive general liability and umbrella insurance coverage at levels satisfactory to DPS. The insurance coverage required of the ESP shall not be in lieu of the insurance coverage requirements applicable to the Academy. Any policy of insurance maintained by the ESP must include coverage for sexual molestation or abuse, must name DPS as an additional, named insured, and shall not be changed, revoked or modified absent thirty (30) days' notice to DPS. The Management Agreement shall also specify that, in the event DPS modifies the level, type, scope or other aspects of such coverage, then the ESP shall undertake like and similar modifications within 30 days of being notified of such change.

(c) The Academy Board must ensure that, and the Management Agreement shall provide that, any ESP performing services at the Academy shall comply with the requirements under this Contract to the extent such ESP is performing services on behalf of the PSA.

(d) No provision of the Management Agreement shall interfere with the Academy Board's duties under the Contract, and the Academy's duties under the Contract shall not be limited or rendered impossible by action or inaction of the ESP.

(e) No provision of the Management Agreement shall predetermine the Academy Board's course of action in choosing to assert or not assert governmental immunity.

(f) The Management Agreement shall state that all financial, educational, and student records pertaining to the Academy and/or showing all expenses to be paid by the Academy are Academy property and that such records are subject to and shall be made available in accordance with the provisions of Michigan's Freedom of Information Act. All such records must be stored, in physical form, on-site at the Academy's facility or be directly accessible at the Academy facility. All records pertaining to teacher and administrator certification, as well as a copy of the employee handbook, shall be maintained physically on site or be directly accessible at the Academy facility.

(g) The Management Agreement shall state that all of the Academy's financial and other ESP-related records will be made available to the Academy's independent auditor and that the ESP staff will cooperate with said auditor, and that the ESP shall not select or retain the Academy's auditor.

(h) The Management Agreement must certify that there shall be no markup of costs for supplies, materials, or equipment procured by the ESP on the Academy's behalf and that the Academy and that all supplies, materials, and equipment procured for the Academy by the ESP shall be inventoried by an acceptable method of

inventory and further that an inventory of Academy equipment shall be maintained so that it can be clearly established which property belongs to the Academy.

(i) The Management Agreement shall contain a provision that states upon termination, the ESP shall work for a specified period of time to transition to a new ESP. There shall be an agreed-upon fee set forth in the Management Agreement for this service.

(j) The Management Agreement shall contain a provision that states upon termination the ESP shall, without charge (i) close the books on the then-current fiscal quarter; (ii) organize and prepare the Academy's records for transition to the new ESP; (iii) organize and prepare student records for transition to the new ESP; and (iv) provide for the orderly transition of employee compensation and benefits to the new ESP without disruption to staffing

(k) The Management Agreement shall prohibit the ESP from executing contracts with its staff assigned to the Academy (including by way of example and not limitation, teachers administrators, counselors and the like) that contain noncomplete agreements of any nature.

(l) The Management Agreement shall require the ESP to have a written conflict of interest policy and prohibit the ESP from executing contracts with any third party for services to be provided to or on behalf of the Academy where there is a conflict of interest.

(m)The Academy Board and the ESP may not amend the management contract without notifying DPS. No amendment shall be contrary to this section and each shall be accompanied by a Legal Opinion. Whether or not substantial, the Academy shall submit to DPS all amendments to the management contract within 10 days after such amendment. No Amendment shall be effective until DPS notifies the Academy that it does not disapprove of such Amendment.

(n) The Management Agreement shall contain the following provision:

“Indemnification of DPS. In consideration for the grant of this Contract to the Academy, which is of material value to the [the ESP], the parties hereby promise to indemnify and hold harmless DPS Board, DPS and its Board members, officers, employees, agents or representatives from all claims, demands, or liability, including attorney fees, and related expenses, on account of injury, loss or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage or any other losses of any kind

whatsoever and not caused by the sole negligence of DPS, which arise out of or are in any manner connected with DPS' approval of the Application, DPS Board's consideration of or issuance of a Contract, the Academy's preparation for and operation of a public school, or which are incurred as a result of the reliance by DPS and its Board members, officers, employees, agents or representatives upon information supplied by the Academy or the Education Service Provider, or which arise out of the failure of the Academy to perform its obligations under the Contract issued to the Academy by DPS Board of Control. [The ESP] expressly acknowledges and agrees that DPS and its Board members, officers, employees, agents or representatives may commence legal action against [the ESP] to enforce its rights as set forth in this Agreement.”

(o) The Management Agreement shall require all ESP employees to undergo criminal background and unprofessional conduct checks required by applicable law and for the ESP to store evidence of such on site, in physical form, at the Academy or be directly accessible at the Academy facility.

(p) The Management Agreement shall contain a provision requiring the educational service provider to make information available to the Academy as deemed necessary by the Academy Board in order to enable the Academy to fully satisfy its Transparency Reporting under this Contract and also at least the information that a school district is required to be disclosed under MCLA 388.1618 for the most recent fiscal year for which that information is available.

(q) No ESP employee shall be designated as the Chief Administrative Officer, as that term is defined in Section 2b(3) of the Uniform Budgeting and Accounting Act, MCLA 141.421 *et seq.*

(r) The ESP shall notify the Academy Board if any principal or officer of the ESP, or the ESP (including any related organizations or organizations in which a principal or officer of the ESP served as a principal or officer) as a corporate entity, has filed for bankruptcy protection in the last six (6) months or within any applicable preference period, whichever is longer.

(s) The Management Agreement must contain a provision providing for the early termination or amendment of the Management Agreement, with no cost or penalty to the Academy, and no recourse to DPS or any third party affiliated with or engaged by DPS, by the ESP or any subcontracted person or entity of the ESP, in the

event DPS determines to exercise its prerogative under this Contract to reconstitute the Academy by requiring the termination or amendment of the Management Agreement.

(t) Each Management Agreement shall contain an acknowledgement by the ESP that DPS shall review any and all proposed Management Agreements, and no Management Agreement shall be effective until the Academy is notified in writing that DPS does not disapprove of such Management Agreement.

Section 9.03 *Status as Employees.* All persons employed to work for the PSA, not including persons employed by an ESP pursuant to Section 9.02 or other authorized subcontractor are deemed to be PSA employees. **Attachment K** includes all contracts between the PSA and any group of employees whose employment is governed by contract. The PSA's governing body shall provide the DPS Designee with any amended or additional contracts for employment at the PSA not more than ten (10) business days after such contract is executed.

Section 9.04 *Board Liaison.* If the Academy employs a Board liaison or contract administrator, it shall specify the role of such individual or entity in **Schedule K and include a copy of the agreement with same.**

Section 9.05 *Employment Qualifications.* Except as provided in Section 505 of the Code, the PSA shall employ, or contract with a management company as provided under Section 9.02 which employs, classroom teachers, paraprofessionals and other personnel who meet the certification and other requirements under state and federal law. The PSA must annually provide DPS with documentation sufficient to demonstrate that it has complied with all applicable requirements and staff qualifications, including certifications of teachers, administrators, et al. This documentation must include copies of the applicable State certifications for each teacher, administrator and paraprofessional working at the PSA.

Section 9.06 *Employee License or Certification.* The PSA shall assure that persons working in the PSA, including both instructional and non-instructional staff, meet any and all licensing and certification requirements imposed by applicable local, state or federal ordinance, statute, law or regulation. The PSA must annually provide documentation to demonstrate its compliance with all such requirements, including copies of all required licenses and certifications.

Section 9.07 *Criminal Background and Unprofessional Conduct Checks.* The PSA will conduct criminal background and unprofessional conduct checks required by applicable law. The PSA will annually certify its compliance with the requirements of this Section, and, upon the request of DPS, will provide copies of all background and unprofessional conduct checks performed.

Section 9.08 *Total Compensation.* The Academy Board shall, upon request, report the total compensation of each individual working at the Academy.

ARTICLE X PHYSICAL PLANT

Section 10.01 *Location of Operation.* The PSA shall operate at the two following locations and no others without the written consent of DPS: 18962 Schaefer Highway, Detroit, Michigan 48235 (for kindergarten operations) and 18977 Schaefer Highway, Detroit, Michigan 48235 (for grades one to eight operations) (each, “physical plant”).

Section 10.02 *Description of the Physical Plant.* The PSA represents that the description set forth in **Attachment L** of this Contract is a current and accurate description of the physical plant. **Attachment L** shall include a description of the physical plant, site plan, the lease or other agreement under which the Academy enjoys occupancy of the physical plant and any other documents required by DPS.

Section 10.03 *Right of Occupancy and Use.* **Attachment M** hereto is a copy of the current occupancy and use licenses (i.e., deed or lease) that confirms the PSA's right to occupy and use the physical plant for school purposes.

Section 10.04 *Compliance with Applicable Law.* The PSA represents that the physical plant complies with all applicable building, fire and safety, and zoning codes for school use. **Attachment N** hereto includes copies of all required Michigan Department of Licensing and Regulatory Affairs - Office of Fire Safety inspections of the physical plant as a school for children in the grades permitted under this Contract.

Section 10.05 *Notice of Material Changes.* The PSA will notify the DPS Designee not more than five (5) business days following any material changes in the availability or condition of the physical plant, such as through flood, fire, or other unanticipated circumstance. The PSA will notify the DPS Designee not more than five (5) business days following any allegation that the PSA or the lessor has breached any lease agreement concerning the physical plant.

ARTICLE XI BUDGET, FINANCIAL PLANS, AND AUDITS

Section 11.01 *Fiscal Agent.* Pursuant to Section 507 of the Code, DPS is the fiscal agent of the State of Michigan for the PSA. As fiscal agent, DPS assumes no responsibility for the financial condition of the Academy. In accordance with the provisions of the State School Aid Act, DPS shall forward to the PSA, all State School Aid funds received by DPS for the benefit of the PSA, provided there has been no material breach of this Contract; and further provided that DPS has not been directed by the

Michigan Department of Education to withhold payment of any State School Aid to the PSA, and subject also to any contractual right DPS may have to withhold a portion of any State School Aid as payment for rent or fees for any services provided to the Academy by DPS and under section 13.03 hereof.

Section 11.02 *Annual Audit.* The PSA shall conduct an annual audit by an independent certified public accountant in accordance with generally accepted governmental accounting principles and in accordance with laws and regulations applicable to public schools and public school academies in Michigan. The PSA shall transmit a copy of the audit and any management letter to DPS concurrently with the PSA’s filing of such audit to the Michigan Department of Education.

Section 11.03 *Budget and Accounting.* The PSA shall establish an annual budget in accordance with the requirements of applicable law. The PSA shall record all liabilities and loans in excess of \$3,000, individually or in the aggregate, in the fiscal year to which the liability relates.

Section 11.04 *Inspection and Review.* The PSA shall permit inspection of its records and/or review of its fiscal operations at any time during normal business hours by DPS’ office of internal audit or others as may be designated.

Section 11.05 *Insurance.* The PSA shall maintain insurance policies as described below:

(a) The insurance must be obtained from a mutual, stock, or other responsible company licensed to do business in the State of Michigan. The PSA may join with other public school academies to obtain insurance if the PSA finds that such an association would provide economic advantages to the PSA.

(b) During the term of this Contract, the PSA shall maintain insurance coverage as follows:

POLICY TYPE	MINIMUM COVERAGE REQUIREMENTS
<p><i>Commercial Property Policy</i> This shall be an all risk policy covering real and personal property of the PSA both on premises and in transit. Replacement cost coverage is preferred but shall in no circumstances be less than actual cash value based.</p>	<p>At least actual cash value of the PSA’s real and personal property on premises and in transit.</p>
<p><i>Comprehensive General Liability</i></p>	<p>\$1,000,000</p>

<p>This shall include, but not be limited to, personal injury and property damage for premises and operations product liability, fire legal liability, non-owned automobile and contractual liability. The Detroit Public Schools must be named as an additional insured with a minimum 30-day notice of cancellation provision.</p>	
<p><i>Automobile Liability/Statutory No-Fault</i> This coverage must be provided on all licensed vehicles owned, leased, or rented by the PSA.</p>	\$500,000
<p><i>Umbrella Excess Liability</i> This coverage must provide a minimum of follow form excess liability coverage.</p>	\$2,000,000
<p><i>Workers Compensation</i> Statutory benefits for the State of Michigan. This coverage must provide wage and medical benefits of work-related injuries and employer's liability coverage.</p>	As required by Michigan law Employer's Liability coverages of \$500,000
<p><i>Employee Fidelity Bond or Equivalent</i> This policy must include, but not be limited to, employee theft, forgery, burglary, and robbery both on and off premises.</p>	\$250,000/\$500,000
<p><i>PSA Board Directors Liability</i> This policy should cover the PSA Board, executive staff, and employees for "wrongful acts" errors or omissions not typically covered by general liability policies.</p>	\$1,000,000 (Suggested but not required)

(c) Insurance certificates documenting the purchase of the required insurance are attached as **Attachment O**. Updated insurance certificates shall be provided to DPS, as soon as possible and in any event no later than within seven (7) days of the expiration or replacement of such insurance policies.

(d) The PSA shall name DPS as an additional insured on each insurance policy that permits it.

Section 11.06 *Indemnification.* The PSA agrees to indemnify, hold harmless and defend DPS and DPS' officers, employees, agents, attorneys and those acting on behalf of their officers, employees, attorneys and agents from any and all claims, actions, expenses, damages, and liabilities, including costs and attorney's fees for the defense of any of them, incurred as a result of or in connection with issuing or performance under this Contract, including but not limited to claims arising out of, connected with, or resulting from the following:

(a) The negligence, intentional wrongful act, misconduct or culpability of the PSA's officers, employees, management company, management company staff, contractors, lessors, or other agents in connection with and arising directly or incidentally from the operations of the PSA;

(b) The PSA's material breach of this Contract or any law, regulation, or ordinance;

(c) Any failure by the PSA to pay employees, suppliers, lenders, creditors, or other contractors;

(d) The hiring, supervision, or discipline of any officer, employee, or agent of the PSA or the management company;

(e) The obligations of the PSA under State or Federal law;

(f) Damages to any person or property in and around the PSA's premises; and

(g) The infringement of patent or other proprietary rights in any material, process, machine, or appliance used in the operation of the PSA.

Section 11.07 *Terms of Insurance and Indemnification.* The PSA agrees that the insurance described in Section 11.06 and the duty to indemnify described in Section 11.07 shall continue in force and effect notwithstanding the expiration of this contract or any renewal term.

Section 11.08 *Notice of Claims.* The PSA and DPS will make a good faith effort to advise the other of any actual or potential claims subject to the indemnification provision in Section 11.07 above, but failure to do so shall not invalidate the indemnification provision. Neither the PSA nor DPS shall settle or compromise any claim or suit subject to the indemnification provision without notice to the other.

ARTICLE XII
COMPLIANCE WITH LAW

Section 12.01 *Generally.* The PSA shall comply with the Constitution of the State of Michigan; all federal and state laws and constitutional provisions that prohibit discrimination, including, but not limited to, on the following bases: age, disability, race, color gender, national origin, religion, or ancestry, and the regulations adopted pursuant to those laws; the Code, the state statutes specified in Section 503(7) of the Code, and the State School Aid Act of 1979, as amended from time to time, and the rules and guidelines adopted pursuant to those statutes; and any other federal, state or municipal law applicable to public bodies, public school academies, or school districts, and shall ensure that all PSA directors, officers, management company, contractors, teachers, administrators, staff, parents, and pupils are advised of and agree to comply with all relevant provisions of the Code and other applicable law, including without limitation, the statutes and laws identified on **Attachment P**, attached hereto.

Section 12.02 *Specific Assurances.* The PSA specifically acknowledges its obligations to abide by each of the following, including implementing rules and regulations, as they may be amended from time to time:

- (a) The nondiscrimination requirements applicable to recipients of federal funds in Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972;
- (b) Title VII of the Civil Rights Act of 1964;
- (c) The Family and Medical Leave Act of 1993;
- (d) The Age Discrimination Act of 1975 and the Age Discrimination in Employment Act of 1967;
- (e) The Individuals with Disabilities Education Act of 1990;
- (f) Title II of the Americans with Disabilities Education Act of 1990;
- (g) Section 504 of the Rehabilitation Act of 1973;
- (h) The State School Aid Act of 1979;
- (i) Section 1751 of the Code regarding special education programs and services;
- (j) The ESEA and its implementing regulations (incl. EDGAR);

1232g; (k) The Family Educational Rights and Privacy Act, 20 U.S.C. §

(l) 1947 PA 336;

(m) 1965 PA 166; and

(n) the Code.

Section 12.03 *Open Meetings Act.* Pursuant to Section 503(7)(a) of the code, the PSA Board shall conduct all of its meetings in accordance with the Michigan Open Meetings Act, Act No. 267 of the Public Acts of 1976, being Sections 15.261 to 15.275 of the Michigan Compiled Laws.

Section 12.04 *Freedom of Information Act.* Pursuant to Section 503(7)(b) of the Code, the records of the PSA shall be records subject to the provisions of the Michigan Freedom of Information Act, Act No. 442 of the Public Acts of 1976, being Sections 15.231 to 15.246 of the Michigan Compiled laws. The PSA shall ensure that any ESP engaged by it agrees that such management company's records, as they relate to the PSA, shall also be subject to the Freedom of Information Act and shall be maintained on the premises of the PSA.

Section 12.05 *Competitive Bidding.* The PSA shall comply with Sections 1267 and 1274 of the Code and any other statute requiring competitive bidding by public school academies. The PSA shall ensure that any management company it engages complies with all competitive bidding requirements imposed on public school academies districts for purchases of items on behalf of or for use at the PSA. The PSA shall maintain all records of competitive bidding for at least two years and provide DPS with copies of any such records upon request.

Section 12.06 *Other Statutes Specified in Section 503(7).* The PSA shall comply with the requirements of the other state statutes listed in Section 503(7), including, but not limited to Sections 1134, 1135, 1146, 1153, 1263(3) of the Code.

Section 12.07 *Notice of Judicial or Administrative Proceedings.* The PSA shall notify DPS' legal counsel within five (5) business days of being named as a party in any court proceeding or arbitration or as the subject of any administrative enforcement proceeding alleging any of violation of law arising from the operation of the PSA.

Section 12.08 *Transparency Reporting.* The Academy shall collect, maintain, and make information concerning its operation and management available to the public and as is required by state law for a public school district, including at least the following:

(a) a copy of this Contract and all attachments, schedules and amendments;

(b) a list of all currently serving members of the Academy Board of Directors, including their names, addresses, and terms of office;

(c) copies of all policies approved by the Academy Board of Directors;

(d) all board materials, agendas, formal resolutions and minutes (excluding minutes kept of closed sessions maintained according to the Open Meetings Act) of all regular and special meetings of the Board of Directors of the Academy;

(e) a copy of the budget, and any amendments thereto, approved by the Academy Board of Directors;

(f) copies of all bills paid for amounts of \$10,000.00 or more in the form that they are submitted to the Academy Board;

(g) quarterly financial reports submitted to the DPS Designee;

(h) a current list of all teachers and school administrators working at the Academy, including their individual salaries (as submitted to the registry of educational personnel), copies of their teaching or school administrator's certificates or permits (as applicable), evidence of compliance with the criminal background and unprofessional conduct checks required by the Code;

(i) copies of all leases for facilities and equipment used at the Academy;

(j) copies of all deeds relating to real property owned by the Academy

(k) copies of all management or service contracts approved by the Academy Board of Directors;

(l) all health and safety reports and certificates, including those relating to fire safety, environmental matters, asbestos inspections, boiler inspection and food service;

(m) any management letters issued as part of the Academy's annual audit;

(n) within 20 days after the board or board of directors is informed by the appropriate authority of the adequate yearly progress status of its schools for the purposes of the No Child Left Behind Act of 2001, Public Law 107-110, for the most recent school year for which it is available, post a notice of the adequate yearly progress status of each school it operates on the homepage of its website;

(o) within 20 days after the board or board of directors is informed by the department of the accreditation status of its schools for the purposes of Section 1280 of the Code for the most recent school year for which it is available, post a notice of the accreditation status of each school it operates on the homepage of its website; and

(p) all other information required by applicable law.

For purposes of this Section of this Agreement, availability to the public shall mean that, unless required to be posted elsewhere on the Academy's website or elsewhere by applicable law, the Academy shall post all documents required by this Section in the locations recommended by that certain memorandum of the Michigan Department of Education to Public School Academies dated February 29, 2012, as updated and attached hereto as **Attachment Q**.

Section 12.09 *Maintenance of Records*. The PSA shall maintain all documents and records to the extent and for the duration required by applicable law.

Section 12.10 *Facility Signage*. The PSA shall conspicuously display signage at the Academy facility and on all letterhead stating that the PSA is authorized by DPS. The wording upon such signage and letterhead shall read: "A Detroit Public Schools-authorized charter school."

Section 12.11 *Certified Staff*. The Academy shall use only certified staff, including teachers, business officials and administrators, unless permitted to use staff without certifications, and then only in accordance with applicable law.

Section 12.12 *Reports to MDE*. The Academy shall submit timely any and all reports required to be submitted to the Michigan Department of Education, including, but not limited to, reports relating to online or distance learning.

ARTICLE XIII OVERSIGHT OF THE PUBLIC SCHOOL ACADEMY

Section 13.01 *PSA Responsibilities*. The PSA and any ESP engaged pursuant to Section 9.02 must provide to DPS, in the manner and pursuant to the timing specified by DPS, any and all documentation necessary to demonstrate the PSA's compliance with the terms of the Contract and all applicable State and Federal law, including, but not limited to, the documentation specifically required in this Contract, as well as any additional documentation that DPS may hereafter in its sole discretion deem necessary for DPS to perform its statutory oversight duties.

Section 13.02 *DPS Responsibilities*. DPS shall take such actions as it deems necessary to provide the oversight required of an authorizing body or fiscal agent under

the Code. DPS may, at its discretion, periodically direct its office of internal audit, or other designee, to conduct a review of the records and/or operations of the PSA to determine compliance with all applicable regulations, terms and conditions of this Contract, the Code, and any other applicable laws, and regulations. Such actions may, but are not required to include one or more of the following: a probationary period and a corresponding corrective action plan, acceptable to DPS, the establishment of an Academy Dissolution Account as described and referenced in Section 14.07, and/or requirements for additional or more detailed or more frequent reports from the Academy. DPS may, at its discretion, designate agents or employees to enter the premises of the PSA during normal business hours or other agreed upon time, on a scheduled or unscheduled basis, to determine whether the PSA is operating in compliance with law and the terms of this Contract. The PSA agrees to cooperate with, and shall ensure that any ESP, contractors, agents or employees working at or for the PSA shall cooperate with the DPS in carrying out its responsibilities as an authorizing body or in furtherance of its rights under this Contract or applicable law.

Section 13.03 *Administrative Fee.* The PSA agrees that DPS may deduct an annual oversight and auditing expense of three percent (3%) of the per-pupil allocation funds that the PSA is entitled to receive pursuant to the State School Aid Act of 1976, as amended.

ARTICLE XIV TERM, MODIFICATION, AND TERMINATION/REVOCAION OF THE CONTRACT

Section 14.01 *Term and Renewal.* This Contract is effective as of the date first written above and will terminate on **June 30, 2020**, unless terminated earlier as provided herein. This Contract may be renewed for an additional period of time, as agreed between the parties, by mutual written agreement of DPS and the PSA, following an assessment of the Academy's progress in meeting the objectives of its academic program and educational goals, including those standards set forth in Section 6.03 of this Contract. The PSA must provide a written request for a renewal of this Contract no later than September 30th of the final year of this Contract. DPS shall, in its sole discretion, determine whether a renewal shall be granted. DPS reserves the right to not renew this Contract for any reason or for no reason. The most important factors that DPS will consider when making its renewal decision will be (a) increases in academic achievement for all groups of pupils as measured by assessments and other objective criteria, (b) a record of timely annual compliance with DPS, state and federal reporting requirements, (c) financial stability and viability, (d) facilities satisfactory to the DPS Office of Charter Schools, and (e) enrollment sufficient to sustain a quality program, as determined by DPS in its sole reasonable discretion.

Section 14.02 *Amendments.* This Contract may only be amended by the express written and duly authorized agreement of DPS and the PSA. DPS may request amendment of this Agreement at any time, which the Academy Board shall adopt at its next regularly scheduled Board meeting or the expiration of 30 days, whichever occurs

first.

Section 14.03 *Termination by Agreement.* The parties may at any time agree in writing, upon approval by the PSA Board and the Director of DPS Office of Charter Schools, to terminate the Contract prior to expiration of the Contract term.

Section 14.04 *Grounds for Termination or Revocation.* DPS may terminate or revoke this Contract upon a determination, pursuant to the procedures set forth in Section 14.05 below, that one or more of the following has occurred:

(a) Failure of the PSA to abide by and meet the educational goals set forth in this Contract; including the requirements of Article VI, Section 6.03, including failure to demonstrate improved pupil academic achievement for all groups of pupils;

(b) Failure of the PSA to comply with all applicable law;

(c) Failure of the PSA to meet generally accepted public sector accounting principles;

(d) Insolvency or bankruptcy of the PSA or the failure of the PSA to pay its debts as they become due;

(e) Insufficiency of the PSA's enrollment to support the PSA's successful operation;

(f) Any material changes in state funding for the PSA such that, in DPS' sole discretion, continuation of the PSA's operation would be infeasible, uneconomical, or impractical;

(g) The PSA's default in the payment of fees under any other agreement or contract for services provided to the PSA, which default remains uncured for a period of thirty (30) business days;

(h) Failure of the PSA to cure a material breach of this Contract;

(i) Provision by the PSA of false or inaccurate information on the Application, this Contract, or other materials submitted to DPS;

(j) Refusal by the PSA to provide information and documents required under this Contract or to provide access to the PSA facility, documents or records;

(k) Any other reason permitted by law; and

(l) Any academic reason deemed appropriate by DPS, in its sole discretion, including placement on the Michigan Department of Education's persistently

low achieving list and operation in its second year of restructuring as provided in MCLA 380.1280c.

Section 14.05 *Procedures for Termination or Revocation.* DPS shall not revoke this Contract unless all of the following procedures have been followed:

(a) Notice of Charges. The Director shall advise the PSA Board in writing of a preliminary review by a DPS Designee that grounds for revocation may exist.

(i) The notice shall provide the names and addresses of individuals charging the PSA with failure to comply with this Contract and shall set forth the alleged grounds in sufficient detail for the PSA to respond.

(ii) The PSA shall have ten (10) business days to respond in writing to the Director of DPS Office of Charter Schools specifically addressing the charges set forth in the notice.

(b) Investigating of Charges and Report. The Director of DPS Office of Charter Schools shall conduct an investigation to determine whether grounds for revocation or termination of the Contract exist. A final report with recommendation for termination or revocation, if applicable, will be filed with the School Board or its Designee and delivered to the PSA.

(c) Decision by the School Board or its Designee. After receiving the report of the Director of DPS Office of Charter Schools, DPS or its Designee shall determine whether the Contract shall be revoked or terminated and shall provide written notification of his/her decision to the PSA.

Section 14.06 *Authority and Finality of DPS' Decisions.* A decision by DPS to terminate, revoke or not to renew this Contract is solely within DPS' discretion and is final. DPS' termination, revocation or decision not to renew this Contract is not subject to review by a court or any state agency. DPS is not liable to any party for its action in terminating, revoking or not renewing this Contract to the PSA, a pupil of the PSA, the parent or guardian of any pupil of the PSA, or any other person, including any ESP, contractor or agent of the PSA.

Section 14.07 *PSA's Responsibilities upon Termination, Revocation or Non-Renewal.*

(a) If the Contract is terminated, revoked or not renewed, the PSA shall be solely responsible for any and all debts, loans, and obligations incurred at any time by the PSA in connection with the operation of the PSA. In the event of a termination, revocation or non-renewal, within thirty (30) days of notice of such termination, revocation or non-renewal, the Academy shall deposit into a separate Academy account (the "Academy Dissolution Account") the sum of Ten Thousand Dollars (\$10,000) per month,

for total not to exceed Thirty Thousand Dollars (\$30,000), to be used exclusively for the costs associated with the wind-up and dissolution responsibilities of the Academy. If the Academy has any state aid payments scheduled to be received after notice of termination, revocation or non-renewal, the Academy immediately shall provide DPS, in the form and manner determined by the DPS, with such account detail information and authorization to enable DPS to direct such funds to the Academy Dissolution Account. If the event that the Academy fails to establish the required account, DPS, as fiscal agent, is hereby authorized to establish an Academy Dissolution Account out of any remaining Academy state aid in its possession or to be received on behalf of the Academy, to satisfy the provisions of this section.

(b) As required by Section 1618b of the State School Aid Act, if this Contract is terminated, revoked or not renewed, or if the PSA has been otherwise ineligible to receive state school aid funds for a period of at least three (3) consecutive months, the PSA must transfer to the State all property that was substantially acquired using state school aid funds.

(i) Property required to be transferred includes title to all real and personal property, interests in real or personal property, and other assets owned by the PSA that were substantially acquired through state school aid funds.

(ii) Transfer of property as required by Section 1618b does not impose any liability on the State of Michigan, any State agency, or DPS for any debt incurred by the PSA. Termination, revocation or non-renewal of this Contract shall not relieve the PSA from any of its duties to prepare a final audit or comply with any statute, law or applicable regulation.

Section 14.08 *Notification by State.* If the Academy is notified by the State that the Academy will be placed in the State School Reform/ Redesign School District pursuant to Section 1280c of the Code, then the Authorizing Body may terminate this Contract at the end of the current school year.

Section 14.09 *Notification by Superintendent of Public Instruction.* If DPS is notified by the Superintendent of Public Instruction that the Academy is subject to closure under Part 6a of the Code (“State’s Automatic Closure Notice”), then this Contract shall automatically terminate at the end of the current school year in which the notice is received without any further action of DPS or the Academy. Following receipt of the State’s Automatic Closure Notice, DPS shall forward a copy of the State’s Automatic Closure Notice to the Academy Board and request a meeting with Academy Board representatives to discuss the Academy’s plans and procedures for wind-up and dissolution of the Academy corporation at the end of the current school year. Immediately upon receipt of the State’s Automatic Closure Notice, the Academy shall establish the Academy Dissolution Account referenced in Section 14.07.

Section 14.10 *Issuance of Order.* The issuance of an order by the Superintendent of Public Instruction, pursuant to section 1280c of the Code, placing the Academy under the supervision of the State School Reform/Redesign Officer, shall constitute a material breach of this Contract. Following the issuance of the order, DPS shall notify the Academy of the material breach and request a meeting with Academy Board representatives to discuss the matter. To remedy the material breach, the Academy shall work toward the development of a corrective action plan that is acceptable to DPS. In addition to other matters, the corrective action plan shall include the Academy's redesign plan prepared pursuant to section 1280c of the Code. The development of a corrective action plan under this Section shall not in any way limit the rights of DPS to terminate, suspend or revoke this Contract.

Section 14.11 *Corrective Action by Order of Reconstitution.* In addition to, or in lieu of, any provisions herein, DPS, in its sole discretion, may issue an Order of Reconstitution requiring the Academy to undertake a plan of corrective action in order to avoid revocation of its Contract ("Corrective Action"). The plan of Corrective Action may include cancellation of the Academy's contract with its ESP, withdrawal of DPS' approval of the ESP Agreement, termination of one or more Academy Directors' service, appointment of a new member or members to the Academy Board of Directors, or designation of a trustee or receiver to take over the operation of the Academy. In the event a Corrective Action plan is undertaken, the following steps will be observed:

- (a) DPS will notify the Academy, in writing, of the specific educational performance or operational issues that it deems failing at the Academy and its intent to revoke the Academy's Contract if the issues are not corrected by a date certain, which will be no earlier than 120 days (absent exigent circumstances) after the date of the notice;
- (b) within thirty days after receipt of the notice described above, the Academy shall respond to DPS with any information that the Academy Board of Directors deems relevant to the issues and a plan of correction;
- (c) if DPS approves of the plan of correction, it shall be implemented and the Contract shall be amended accordingly; if DPS disapproves the plan of correction, it may implement corrective action in a manner that it, in its sole discretion, deems appropriate to the situation or continue with the revocation of the Contract as it sees fit.

For good cause, DPS may extend the deadlines set forth above. The issuance of the termination letter shall automatically terminate this Contract without any further action by either party. Upon issuance of the termination letter, DPS shall notify the Superintendent of Public Instruction, the Michigan Department of Education, the Michigan Finance Authority (if applicable) or the successors that the Contract has been terminated.

**ARTICLE XV
GENERAL TERMS**

Section 15.01 *Notices.* Any and all notices permitted or required to be given hereunder shall be deemed duly given: (i) upon actual delivery, if delivery is by hand; or (ii) upon receipt by the transmitting party of confirmation or answer back if delivery is by telex, telegram, or facsimile; (iii) upon delivery into United States mail if delivery is by postage-paid registered or certified mail, with return receipt requested; or (iv) upon delivery by a nationally recognized overnight delivery service. Each such notice shall be sent to the respective party at the address indicated below or at any other address the party may designate by notice delivered pursuant hereto:

(a) If to DPS Designee:

Detroit Public Schools
Office of Charter Schools
Fisher Building, 9th Floor
3011 West Grand Boulevard
Detroit, Michigan 48202
Attn: Director - Office of Charter Schools

Copy to: Detroit Public Schools
Fisher Building, 10th Floor
3011 West Grand Boulevard
Detroit, Michigan 48202
Attn: Office of the General Counsel

(b) If to Academy:

David Ellis Academy
18977 Schaefer Highway
Detroit, Michigan 48235
Attn: Board President

Section 15.02 *Interpretation, Enforcement, Validity, Construction and Effect.* This Contract shall be governed and controlled by the laws of the State of Michigan as to its interpretation, enforcement, validity, construction, and effect, and in all other respects.

Section 15.03 *Captions.* The captions and headings used in this Contract are for convenience only and shall not be used in construing the provisions of this Contract.

Section 15.04 *Non-Waiver.* Except as provided herein, no term or provision of the Contract shall be deemed waived and no breach or default shall be deemed excused,

unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. No consent by any party to or waiver of, a breach or default by the other, whether expressed or implied, shall constitute a consent to, waiver of, or excuse for any different or subsequent breach or default.

Section 15.05 *Force Majeure.* If any circumstances occur that are beyond the control of the parties and that delay or render impossible performance of the obligations of one or both of the parties, the parties' obligations to perform such services shall be postponed for an equivalent period of time or, if such performance has been rendered permanently impossible by such circumstances, shall be canceled.

Section 15.06 *Severability.* If any provision in this Contract is held to be invalid or unenforceable, it shall be ineffective only to the extent of the invalidity, without affecting or impairing the validity and enforceability of the remainder of the provision or the remaining provisions of this Contract.

Section 15.07 *Counterparts.* This Contract may be executed in any number of counterparts. Each counterpart so executed shall be deemed an original, but all such counterparts shall together constitute one and the same instrument.

Section 15.08 *Access to Copies of the Contract.* The PSA agrees to make copies of this Contract available for public inspection at its administrative offices during normal business hours.

Section 15.09 *DPS Immunity.* Pursuant to Section 380.503(7) of the Code, DPS and its agents are immune from liability in connection with any acts or omissions in connection with DPS' authorization of this Contract, provided that such actions were within the scope of DPS' or its agent's authority or were undertaken in the reasonable belief that the actions were within the scope of that authority.

Section 15.10 *Schedules and Attachments.* All schedules and attachments to this Contract that are executed by DPS and the PSA shall be incorporated in, and made part of, this Contract.

Section 15.11 *Entire Contract.* This Contract, along with all documentation referenced herein or attached hereto, sets forth the entire agreement between DPS and the PSA with respect to the subject matter of this Contract.

Section 15.12 *Contract Submission to MDE.* This Contract shall be submitted to the Michigan Department of Education within ten days of issuance

**ARTICLE XVI
RESERVED**

**ARTICLE XVII
EFFECTIVENESS CONTINGENCIES**

Section 17.01 Effectiveness Contingencies. This Contract will not become effective if the following does not occur:

- (a) No later than the date of execution of this Contract by DPS, the Academy shall provide to DPS a legal opinion on the charter from the academy's counsel.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their respective and duly authorized officers as of the day and year indicated herein.

DAVID ELLIS ACADEMY

By: 

Its: President, Board of Directors

Dated: June 29, 2015

SCHOOL DISTRICT OF THE CITY OF DETROIT

By: 

Its: Emergency Manager

Dated: June 30, 2015

**DPS Approved as to Form:
Office of the General Counsel**

By: 

Name:

Title:

In accordance with MCL 380.503 (6) (i), I certify that David Ellis Academy (Public School Academy Name) will comply with all federal and state laws, rules, and the terms of this Contract.

By: 

Board President

Date: 06/29/2015

ATTACHMENT A
APPLICATION

ATTACHMENT B
INITIAL BOARD MEMBERS

Brain Logan

President

Term: July 1, 2014 to June 30, 2017

Dannis White

Secretary

Term: July 1, 2013 to June 30, 2016

Patsy Johnson

Treasurer

Term: July 1, 2013 to June 30, 2016

Lawrence Crawford

Director

Term: April 28, 2015 to June 30, 2018

Linda Tripp

Director

Term: July 1, 2015 to June 30, 2018

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ATTACHMENT C
ARTICLES OF INCORPORATION

ATTACHMENT D
BYLAWS

ATTACHMENT E

CONFLICT OF INTEREST POLICY AND FORM

Policy: It is the policy of the Academy to strictly comply with the provisions of Act 317 of 1968 (MCL 15.321, *et seq.*), a copy of which is attached. Each Academy Board member and each Academy employee working at least 25 hours per week shall execute annually the Conflict of Interest Form set forth below. It is also the policy of the Academy to require any management company that it engages to execute the same policy and require such company's board members and employees working at least 25 hour per week to execute the Conflict of Interest Form annually.

CONFLICT OF INTEREST FORM

_____, A _____
[board member/employee] of _____ Academy (the "Academy"), being first duly sworn, depose and say that I have read the Academy's Conflict of Interest Policy and the provisions of Act 317 of 1968 (MCL 15.321, *et seq.*) ("Act 317"), attached hereto, and other Michigan ethics or conflict of interest statutes, which may be applicable to my performance as a board member/employee of the Academy, and understand the terms of the Policy and Act 317 and further say that: 1) I am not in violation of the Policy, Act 317 or any such applicable ethics or conflict of interest statutes; 2) I agree to fully comply with such terms; and 3) I will notify the Chairman of the Academy Board and Secretary if at any time that I fail to comply with the provisions of the Policy, Act 317 or any such applicable ethics or conflict of interest statutes.

[signature]

Name of Academy Board Member or Employee

Notary

Subscribed and sworn to before me

this ____ day of _____, 20____.

Notary Public

My Commission Expires: _____

ACT 317 of 1968
(MCL 15.321, *et seq.*)

This abstract is provided for convenience – parties should reference the actual statute.

15.321 Public servants, contracts with public entities; definitions.

Sec. 1.

As used in this act:

(a) “Public servant” includes all persons serving any public entity, except members of the legislature and state officers who are within the provision of Section 10 of Article 4 of the state constitution as implemented by legislative act.

(b) “Public entity” means the state including all agencies thereof, any public body corporate within the state, including all agencies thereof, or any non-incorporated public body within the state of whatever nature, including all agencies thereof.

15.322 Public servant; soliciting, negotiating, renegotiating, approving, or representing a party to a contract with public entity prohibited.

Sec. 2.

(1) Except as provided in Sections 3 and 3a, a public servant shall not be a party, directly or indirectly, to any contract between himself or herself and the public entity of which he or she is an officer or employee.

(2) Except as provided in Section 3, a public servant shall not directly or indirectly solicit any contract between the public entity of which he or she is an officer or employee and any of the following:

- (a) Him or herself;
- (b) Any firm, meaning a co-partnership or other unincorporated association, of which he or she is a partner, member, or employee.
- (c) Any private corporation in which he or she is a stockholder owning more than 1% of the total

outstanding stock of any class if the stock is not listed on a stock exchange, or stock with a present total market value in excess of \$25,000.00 if the stock is listed on a stock exchange or of which he or she is a director, officer, or employee.

- (d) Any trust of which he or she is a beneficiary or trustee.
- (3) In regard to a contract described in subsection (2), a public servant shall not do either of the following:
 - (a) Take any part in the negotiations for such a contract or the renegotiation or amendment of the contract, or in the approval of the contract.
 - (b) Represent either party in the transaction.

15.323 Applicability of § 15.322 to public servants; requirements of contract; making or participating in governmental decision; counting members for purposes of quorum; voting; affidavit; “governmental decision” defined.

Sec. 3.

- (1) Section 2 does not apply to either of the following:
 - (a) A public servant who is paid for working an average of 25 hours per week or less for a public entity.
 - (b) A public servant who is an employee of a public community college, junior college, or state college or university.
- (2) A contract as defined in and limited by Section 2 involving a public entity and a public servant described in subsection (1) shall meet all of the following requirements:
 - (a) The public servant promptly discloses any pecuniary interest in the contract to the official body that has power to approve the contract, which disclosure shall be made a matter of record in its official proceedings. Unless the public servant making the disclosure will directly benefit from the contract in an amount less than \$250.00 and less than 5% of the public cost of the contract and the public servant files a sworn affidavit to that effect with

the official body or the contract is for emergency repairs or services, the disclosure shall be made in either of the following manners:

- (i) The public servant promptly discloses in writing to the presiding officer, or if the presiding officer is the public servant who is a party to the contract, to the clerk, the pecuniary interest in the contract at least 7 days prior to the meeting at which a vote will be taken. The disclosure shall be made public in the same manner as a public meeting notice.
 - (ii) The public servant discloses the pecuniary interest at a public meeting of the official body. The vote shall be taken at a meeting of the official body held at least 7 days after the meeting at which the disclosure is made. If the amount of the direct benefit to the public servant is more than \$5,000.00, disclosure must be made as provided under this subparagraph.
- (b) The contract is approved by a vote of not less than 2/3 of the full membership of the approving body in open session without the vote of the public servant making the disclosure.
- (c) The official body discloses the following summary information in its official minutes:
- (i) The name of each party involved in the contract.
 - (ii) The terms of the contract, including duration, financial consideration between parties, facilities or services of the public entity included in the contract, and the nature and degree of assignment of employees of the public entity for fulfillment of the contract.
 - (iii) The nature of any pecuniary interest.
- (3) This section and section 2 do not prevent a public servant from making or participating in making a governmental decision to the extent that the public servant's participation is required by law. If 2/3 of the members are not eligible under this act to vote

on a contract or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member will directly benefit from the contract in an amount less than \$250.00 and less than 5% of the public cost of the contract and the member files a sworn affidavit to that effect with the official body. The affidavit shall be made a part of the public record of the official proceedings. As used in this subsection, "governmental decision" means a determination, action, vote, or disposition under a motion, proposal, recommendation, resolution, ordinance, order, or measure on which a vote by members of a local legislative or governing body of a public entity is required and by which a public body effectuates or formulates public policy.

15.323a Construction of § 15.322.

Sec. 3a.

Section 2 shall not be construed to do any of the following:

- (a) Prohibit public servants of a city, village, township, or county with a population of less than 25,000 from serving, with or without compensation, as emergency medical services personnel as defined in Section 20904 of the public health code, Act No. 368 of the Public Acts of 1978, being Section 333.20904 of the Michigan Compiled Laws.
- (b) Prohibit public servants of a city, village, township, or county with a population of less than 25,000 from serving, with or without compensation, as a firefighter in that city, village, township, or county if that firefighter is not any of the following:
 - (i) A full-time firefighter.
 - (ii) A fire chief.
 - (iii) A person who negotiates with the city, village, township, or county on behalf of the firefighters.
- (c) Limit the authority of the governing body of a city, village, township, or county with a population of less than 25,000 to authorize a public servant to perform, with or without compensation, other additional services for the unit of local government.

- (d) Prohibit public servants of this state from purchasing at a tax sale lands returned as delinquent for taxes under the general property tax act, Act No. 206 of the Public Acts of 1893, being Sections 211.1 to 211.157 of the Michigan Compiled Laws, unless otherwise prohibited by the rules of the Michigan civil service commission or the department or agency of which that public servant is an employee.

15.324 Public servants, contracts excepted.

Sec. 4.

The prohibitions of Section 2 of this act shall not apply to:

- (a) Contracts between public entities;
- (b) Contracts awarded to the lowest qualified bidder, other than a public servant, upon receipt of sealed bids pursuant to a published notice therefor provided such notice does not bar, except as authorized by law, any qualified person, firm, corporation or trust from bidding. This subsection shall not apply to amendments or renegotiations of a contract nor to additional payments thereunder which were not authorized by the contract at the time of award; and
- (c) Contracts for public utility services where the rates therefor are regulated by the state or federal government.

15.325 Public servants, voidability of contracts; procedure, knowledge, limitation, reimbursement, settlements, evidences of indebtedness.

Sec. 5.

- (1) This act is aimed to prevent public servants from engaging in certain activities and is not intended to penalize innocent persons. Therefore, no contract shall be absolutely void by reason of this act. Contracts involving prohibited activities on the part of public servants shall be voidable only by decree of a court of proper jurisdiction in an action by the public entity, which is a party thereto, as to any person, firm, corporation or trust that entered into the contract or took any assignment thereof, with actual knowledge of the prohibited activity. In the case of the corporation, the actual knowledge must be that of a person or body finally approving the contract for the corporation. All actions to avoid any contract hereunder shall

be brought within 1 year after discovery of circumstances suggesting a violation of this act. In order to meet the ends of justice any such decree shall provide for the reimbursement of any person, firm, corporation or trust for the reasonable value of all moneys, goods, materials, labor or services furnished under the contract, to the extent that the public entity has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

- (2) Negotiable and nonnegotiable bonds, notes or evidences of indebtedness, whether heretofore or hereafter issued, in the hands of purchasers for value, shall not be void or voidable by reason of this act or any previous statute, charter or rule of law.

15.326 Public servants, validity of existing contracts.

Sec. 6.

If any public entity has, prior to the effective date of this act, entered into any contract under which moneys, goods, materials, labor or services have been actually received by the public entity, which was void or voidable under any act, charter or rule of law because of a conflict of interest on the part of a public servant at the time of the execution thereof, such contract shall be fully enforceable notwithstanding such conflict of interest, by any party thereto other than such public servant.

15.327 Penalty for violation.

Sec. 7.

Any person violating the provisions of this act is guilty of a misdemeanor.

15.328 Other laws superseded; local ordinances.

Section 8.

It is the intention that this act shall constitute the sole law in this state and shall supersede all other acts in respect to conflicts of interest relative to public contracts, involving public servants other than members of the legislature and state officers, including, but not limited to, Section 30 of 1851 PA 156, MCL 46.30. This act does not prohibit a unit of local government from adopting an ordinance or enforcing an existing ordinance relating to conflict of interest in subjects other than

public contracts involving public servants.

ATTACHMENT F
CURRICULUM

ATTACHMENT G
ASSESSMENTS

ATTACHMENT H
EDUCATIONAL GOALS

ATTACHMENT I
EDUCATIONAL PROGRAM

ATTACHMENT J
SCHOOL CALENDAR AND SCHOOL DAY

ATTACHMENT K
MANAGEMENT CONTRACTS

ATTACHMENT L
PHYSICAL PLANT OCCUPANCY DOCUMENTS

ATTACHMENT M
OCCUPANCY AND USE LICENSES

ATTACHMENT N
FIRE MARSHALL APPROVALS

ATTACHMENT O
INSURANCE CERTIFICATES

ATTACHMENT P

APPLICABLE LAWS

Michigan Law:

1. Revised School Code, Act No. 451, Public Acts of Michigan, 1976, as amended, including, without limitation, Part 6A, governing public school academies, and Sections 1134, 1135, 1146, 1153, 1263(3), 1267, and 1274.
2. The Open Meetings Act, Act No. 267, Public Acts of Michigan, 1976, as amended.
3. The Freedom of Information Act, Act No. 442, Public Acts of Michigan, 1976, as amended.
4. Public Employee Relations, Act No. 3365, Public Acts of Michigan, 1947, as amended.
5. Prevailing Wages on State Projects, Act No. 166, Public Acts of Michigan, 1865, as amended.
6. State School Aid Act, Act No. 94, Public Acts of Michigan, 1979, as amended.
7. Public School Employees Retirement Act of 1979, Act No. 300, Public Acts of Michigan, 1980, as amended.
8. Uniform Budgeting and Accounting Act, Act No. 2, Public Acts of Michigan, 1968, as amended.
9. Persons With Disabilities Civil Rights Act, Act No. 220, Public Acts of Michigan, 1976, as amended.
10. Elliot-Larsen Civil Rights Act, Act No. 453, Public Acts of Michigan, 1976, as amended.
11. Public Employment Relations, Act No. 336, Public Acts of Michigan, 1947, as amended.
12. Incompatible Public Offices, Act No. 566, Public Acts of Michigan, 1978, as amended.
13. Contracts of Public Servants with Public Entities, Act No. 317, Public Acts of Michigan, 1968, as amended.
14. The Michigan Occupational Safety and Health Act, Act No. 154, Public Acts of Michigan, 1974, as amended.
15. Examination of Township or School District Records, Act No. 52, Public Acts of Michigan, 1929, as amended.
16. Political Activities by Public Employees, Act No. 169, Public Acts of Michigan, 1976, as amended.
17. Intergovernmental Contracts Between Municipal Corporations, Act No. 35, Public Acts of Michigan, 1951, as amended.
18. Intergovernmental Transfers of Functions and Responsibilities, Act No. 8, Public Acts of Michigan, 1967, as amended.

Federal Law:

1. Americans With Disabilities Act, 42 U.S.C. 12101, as amended.
2. Age Discrimination in Employment Act, 29 U.S.C. 621, as amended.
3. Fair Labor Standards Act, 29 U.S.C. 201, as amended.
4. Family and Medical Leave Act, 29 U.S.C. 2601, as amended.
5. Occupational Safety and Health Act, 29 U.S.C. 651, as amended.
6. Civil Rights Act of 1964, 42 U.S.C. 1981, as amended.
7. Drug-Free Workplace Act, 41 U.S.C. 701, as amended.
8. Child Nutrition Act, 42 U.S.C. 1771, as amended.

9. Gun-Free School Zones Act of 1990, 18 U.S.C. 921, as amended.
10. National School Lunch Act, 42 U.S.C. 1751, as amended.
11. Individuals With Disabilities Education Act, 20 U.S.C. 1400, as amended.
12. No Child Left Behind Act of 2001 (Pub. L. No. 107-110, 115 Stat. 1425) (Jan. 8, 2002).

ATTACHMENT Q
POSTING REQUIREMENTS