

TRANSFER OF STATE APPROPRIATED FUNDS AGREEMENT

This Transfer of State Appropriated Funds Agreement (“Agreement” or “Contract”) is entered into as of the date of the final signature on this document (“Effective Date”) between Detroit Public Schools Community District, a Michigan community school district (“DPSCD” or “District”) and Detroit Public Schools Foundation doing business as Detroit Public Schools Community District Foundation, a Michigan nonprofit corporation (“Foundation” or “DPSCDF”). The purpose of this Agreement is to set forth the terms and conditions of DPSCD transferring state appropriated funds from DPSCD to the Foundation. DPSCD and Foundation are referenced herein individually as “Party” and collectively as the “Parties.”

WHEREAS, DPSCD and the Foundation are parties to a *Memorandum of Understanding between Detroit Public Schools Community District and The Detroit Public Schools Foundation* dated November 21, 2024 (“MOU”).

WHEREAS, the MOU establishes the relationship between DPSCD and the Foundation for purposes of fundraising. The MOU does not address in detail how the Foundation will manage state appropriations transferred from DPSCD to the Foundation.

WHEREAS, the explicit intention of this Agreement is to establish the parameters for DPSCD receiving, investing, managing and otherwise handling state appropriations transferred from DPSCD to the Foundation.

WHEREAS, the State of Michigan has appropriated funds for DPSCD’s use for the Cooley Athletic Complex and Davis Aerospace Relocation (collectively “Subject Appropriated Funds”).

NOW, THEREFORE, the Parties desire to enter into this Agreement for and in consideration of the promises and benefits set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto do mutually agree as follows:

SECTION I

Recitals

- 1.1 **Recitals.** The Parties agree that the foregoing recitals are true and are hereby incorporated herein by reference.

SECTION II

Term

- 2.1. **Term.** The term of this Agreement shall commence on the Effective Date and end upon conclusion of the final audit of the Subject Appropriated Funds, conducted by the State of Michigan Department of Education (“Final Audit”).

- 2.2. **Option to Terminate.** Either Party may terminate this Agreement for any reason or no reason, upon 60 days' advance written notice. If termination occurs prior to the Final Audit, DPSF shall return any remaining funds and interest earned to DPSCD by no later than 61 days after issuance of the aforementioned written termination notice.
- 2.3. **Breach.** The rights of the parties to terminate this Agreement may be exercised immediately if the other Party breaches or is in default of any of the obligations hereunder, if such default has not been cured within 21 days after receipt of written notice to the defaulting party from the party seeking to terminate. Notice will be void, if the failure is remedied within that period.

SECTION III **Appropriations**

3.1 In the 2024-2025 State of Michigan ("State") budget, the State appropriated funds to DPSCD as follows:

- a. **Athletic Complex.** Fifteen Million Dollars and 00/100 (\$15,000,000.00) to support DPSCD's construction of an athletic complex on the site of the former Cooley High School ("Cooley Athletic Complex"). Specifically, the budget states:

Sec. 12d. a) \$15,000,000.00 to Detroit Public Schools Community District to support the construction of the Cooley High School athletic complex.

The Michigan Department of Education ("MDE") issued DPSCD a grant award notification regarding the Cooley Athletic Complex, attached as **Exhibit A**. Per the award letter, the Cooley Athletic Complex \$15,000,000 appropriation must be spent by September 30, 2026.

- b. **Davis Aerospace High School.** An amount not to exceed Seven Million Dollars and 00/100 (7,000,000.00) to offset the cost of DPSCD relocating the Davis Aerospace Technical High School to the Coleman A. Young International Airport ("Davis Aerospace Relocation"). Specifically, the budget states:

Section 11. There is allocated for 2024-2025 only an Agreement not to exceed \$7,000,000.00 to Detroit Public Schools Community District to offset the cost of relocating the Davis Aerospace Technical High School to the Coleman A. Young International Airport. Notwithstanding section 18a, funds allocated under this subsection may be available for expenditure until September 30, 2027. A recipient of funding under this subsection must return any

unexpended funds to the department in a manner prescribed by the department by not later than October 30, 2027. Notwithstanding section 17b, the department shall make payments under this section on a schedule determined by the department.

MDE issued DPSCD a grant award notification regarding the Davis Aerospace Relocation, attached as **Exhibit B**. Per the award letter, the Davis Aerospace Relocation \$7,000,000 appropriation must be spent by September 30, 2027.

- 3.2 **Type & Use of Funds.** Appropriated funds are State funds and must be used in accordance with all applicable state rules and regulations including but not limited to rules regarding construction and bidding. Recipients of state appropriated funds are liable for appropriate use of the funds. Inappropriate use could result in the State recapturing appropriated funds.
- 3.3 **Audit.** MDE audits school districts to ensure that appropriated funds are used: (i) in the exact amount given; and (ii) as intended by the State.

SECTION IV **District Responsibilities**

- 4.1 Within 30 days of the Effective Date of this Agreement, DPSCD shall transfer the Subject Appropriated Funds to the Foundation.
- 4.2 Comply with all applicable laws and District policies for selection of vendors to construct and conduct other related work or activities regarding the Cooley Athletic Complex or Davis Aerospace Relocation (“Subject Vendors”).
- 4.3 Complete all tasks associated with a MDE audit of the Subject Appropriated Funds.
- 4.4 Review and approve the list of Foundation personnel that:
 - a. have access to the investment and/or bank accounts which hold the State Appropriated Funds; and
 - b. process reimbursements to the District after the District pays the Subject Vendors.
- 4.5 By January 6, 2025, provide the Foundation with an expenditure timeline/schedule for the State Appropriated Funds.

SECTION V **DPSF Responsibilities**

- 5.1 **Hold the State Appropriated Funds in a segregated, restricted account. If the funds are in a Foundation bank account, they should not remain in such bank account for more**

than 30 days but such funds should be invested into one of the allowable investment vehicles listed in paragraph 5.10.

- 5.2 Manage the Subject Appropriated Funds in accordance with the requirements of: (i) the award letter(s); (ii) applicable state laws including but not limited to MCL §380.1264 and MCL §380.1267; and (iii) applicable DPSCD policies.
- 5.3 **Develop** internal controls regarding management of the Subject Appropriated Funds. Such controls must be **provided to DPSCD** for review and approval within 30 days of the Effective Date. The internal controls must adhere to generally accepted best practices.
- 5.4 Identify the Foundation personnel that will: (i) have access to the investment and/or bank accounts which hold the Subject Appropriated Funds; and (ii) process reimbursements to the District after the District pays the Subject Vendors. Any change in the list must be reviewed and approved by the District.
- 5.5 Within 30 days of DPSCD paying a Subject Vendor, the Foundation will issue reimbursements to DPSCD.
- 5.6 Not charge/take any administrative or operational fee from the Subject Appropriated Funds.
- 5.7 Within 30 days of receiving the State Appropriated Funds, move such funds into one of the investment vehicles listed in Paragraph 5.10.

The Foundation's investment(s) schedules for the State Appropriated Funds must align with DPSCD's planned expenditure timeline in order that the funds are available to reimburse DPSCD in accordance with paragraph 5.5.

- 5.8 Ensure that no loss occurs to the Subject Appropriated Funds. Specifically, except for payment to a Subject Vendor, if a loss occurs resulting in the amount of the Subject Appropriated Funds held by the Foundation being less than the amount originally transferred to the Foundation by DPSCD, the Foundation agrees to reimburse DPSCD for any loss. Loss of the Subject Appropriated Funds is counter to state law and a breach of Section 3.2 of this Agreement.
- 5.9 Complete all tasks as requested by MDE or DPSCD related to audit of the Subject Appropriated Funds.

- 5.10 Invest the Subject Appropriated Funds in compliance with Section 1223 of Michigan Revised School Code (MCL §380.1223). Allowable investments include:

Michigan Revised School Code Section 1223: Permitted Investments			
Code	Sector	Maximum Maturity	Minimum Credit
a)	U.S. Treasuries	No Limit	Not Applicable
b)	Certificated of Deposit	No Limit	Not Applicable
c)	Commercial Paper	270 Days	Rated Prime
d)	Government Agencies or Instrumentalities	No Limit	Not Applicable
e)	Repurchase Agreements ¹	No Limit	Not Applicable
f)	Bankers' Acceptances	No Limit	Not Applicable
g)	Mutual Funds ²	No Limit	Not Applicable
h)	Investment Pools ³	No Limit	Not Applicable
i)	CDAR's – Michigan Bank	No Limit	FDIC
a)	Obligations of the State of Michigan	5 Years	Not Applicable

SECTION VI

Confidentiality & General Provisions

- 6.1 **Confidentiality.** To the extent allowed by law, both parties agree to treat any confidential information exchanged during the course of this Agreement with utmost confidentiality and to use it solely for the purpose outlined herein. This obligation shall survive the termination of this Agreement.
- 6.2 **Modification.** Modification, amendment or alteration of the provisions contained herein shall not be effective unless through mutual agreement of the Parties contained in a written document executed by all the Parties hereto.
- 6.3 **Notices.** Notices regarding this AGREEMENT shall be sent as follows:

Notices to the Foundation shall be sent to:

Kerrie M. Mitchell, President and CEO
 Detroit Public Schools Foundation
 3011 W. Grand Blvd, 10th Floor

¹ Agreements must be collateralized with U.S. Treasury or Federal Agency obligations.

² Agreements must be collateralized with U.S. Treasury or Federal Agency obligations.

³ Mutual funds and investments pools must be composed entirely of investment vehicles legal for direct investment by a school district.

Detroit, Michigan 48202

With a courtesy copy that will not constitute notice to:

Dr. Iris Taylor, Chair
594 Fiske Drive
Detroit, Michigan 48214

&

Bodman PLC
201 S. Division Street, No. 400
Ann Arbor, Michigan 48104
Attention: Jennifer M. Ortel, Esq.

Notices to the DPSCD shall be sent to:

Detroit Public Schools Community District
Office of Superintendent
3011 West Grand Blvd., 14th Floor
Detroit, Michigan 48202

With copy to:

Detroit Public Schools Community District
Office of Grant Compliance
3011 West Grand Blvd., 11th Floor
Detroit, Michigan 48202

&

Detroit Public Schools Community District
Office of Grant Compliance
3011 West Grand Blvd., 11th Floor
Detroit, Michigan 48202

&

Detroit Public Schools Community District
Office of Partnerships
3011 West Grand Blvd., 9th Floor
Detroit, Michigan 48202

&

Detroit Public Schools Community District
Office of the General Counsel
3011 West Grand Blvd., Suite 1002
Detroit, Michigan 48202

All notices required under this Agreement shall be in writing and shall be deemed to have been given on the next day by fax or other electronic means or upon personal delivery, or in 10 days upon delivery in the mail, first class, with postage prepaid.

6.4 **Third Parties.** The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement and there are no third-party beneficiaries. The Parties agree that that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement.

6.5 **Entire Agreement, Severability and Amendments.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in the Agreement. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

All rights and remedies conferred under this Agreement or by any other instrument or law shall be cumulative and may be exercised singularly or concurrently. Failure by DPSCD or DPSF to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision. In the event that any portion of this Agreement shall be held to be unenforceable, the remaining portions of this Agreement shall remain in force and effect.

Amendments to the Agreement must be made in writing and signed by the proper agents.

6.6 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

6.7 **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the United States and the State of Michigan, insofar as State law does not conflict with Federal law. Any legal action in connection with this Agreement shall be filed in the Wayne County Circuit Court or the United States District Court for the Eastern District of Michigan.

6.8 **Assignments.** Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

6.9 **Sections and Headings.** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement,

nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

6.10 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power or authority to execute this Agreement on behalf of the party for whom he or she is signing.

6.11 **No Partnership, No Joint Venture.** Nothing contained in this Agreement shall be deemed or construed for any purpose to establish, between the Parties, a partnership, joint venture, association, a principal agent relationship or other affiliation or like relationship between the parties. The Parties are independent entities. In no event shall either party be liable for the debts or obligations of the other of them, except as otherwise specifically provided in this Agreement.

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

6.13 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors or assigns.

6.14 **Indemnification.** Each Party shall assume sole responsibility and liability for the acts and omissions of its own employees or agents in connection with the performance and/or non-performance of their obligations or breach of the terms of this Agreement which are executed within the scope of their employment. Nothing in this clause shall be construed to be a waiver of governmental immunity rights held by DPSCD.

The parties agree to notify the other promptly if the other party becomes aware of any claim asserted, or expected to be asserted, by a person which may be related to the scope of this Agreement, or any activity carried out under this Agreement. The parties shall cooperate with each other (and any affected insurance carriers) in the investigation and disposal of any such claim.

6.15 **Further Assurances.** Each party promptly shall cause to be taken, executed, acknowledged or delivered all such further acts, conveyances, documents and assurances as any other party from time to time reasonably may request in order to carry out and effectuate the intent and purposes of this Agreement.

6.16 **Waiver of Breach.** Except as otherwise provided herein, this Agreement shall not be amended or modified, nor shall any waiver of any right hereunder be effective, unless set forth in a document executed by both parties.

6.17 **Periodic Review and Revision.** Periodic Reviews of this Agreement necessitated by changes and extensions of those underlying agreements may result in changes to this Agreement. These will be mutually agreed upon by both parties and executed by an addendum.

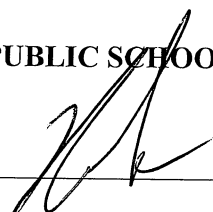
6.18 **Attached Appendices.** All of the attached appendices form an integral part of the understandings and agreements between the Parties and are as such a part of the Agreement.

6.19 **Force Majeure.** In the event and to the extent either Party is unable to perform its obligations under this Agreement because of any act of nature, civil disturbance, fire, flood, riot, war, terrorist attack, picketing, strike, lockout, work stoppage, loss of transportation facilities, oil or fuel shortage or embargo, governmental action or any condition or cause beyond such Party's control, such Party shall be excused from performance under this Agreement.

Signature Page To Follow

By signing below, the Parties represent that they have read the agreement and agree to be legally bound by its terms and conditions:

DETROIT PUBLIC SCHOOLS COMMUNITY DISTRICT

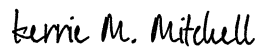


Print Name: Nikolai P. Vitti, Ed.D.

Title: Superintendent

Date: 11/13/2025

**DETROIT PUBLIC SCHOOLS FOUNDATION doing business as
Detroit Public Schools Community District Foundation**



Print Name: Kerrie M. Mitchell

Title: President & CEO

Date: November 21, 2024