

**BOARD OF REGENTS**  
**EASTERN MICHIGAN UNIVERSITY**

SECTION: 32
DATE: 6-21-11

**RECOMMENDATION**

**ACTION REQUESTED**

It is recommended that the Board of Regents Approve the Interlocal Agreement Between the Board of Regents of Eastern Michigan University and the School District for the City of Detroit, Creating the Education Achievement Authority (A Michigan Public Body Corporate). Further, it is recommended that the Board authorize President Susan Martin to sign the Agreement on behalf of Eastern Michigan University, and also to make non-material changes to the Agreement.

**STAFF SUMMARY**

Eastern Michigan University proposes to enter into the attached Interlocal Agreement with the Detroit Public Schools to create the Education Achievement Authority, a mechanism for providing public educational services to elementary and secondary schools. The University possesses significant resources that may be of assistance to the Authority in carrying out this mission.

**FISCAL IMPLICATIONS**

None.

**ADMINISTRATIVE RECOMMENDATION**

The proposed Board action has been reviewed and is recommended for Board approval.

University Executive Officer  
Gloria A. Hage

6.21.11  
Date

**INTERLOCAL AGREEMENT**

BETWEEN

**THE BOARD OF REGENTS OF  
EASTERN MICHIGAN UNIVERSITY**

AND THE

**SCHOOL DISTRICT FOR THE CITY OF DETROIT**

CREATING THE

**EDUCATION ACHIEVEMENT AUTHORITY**  
(a Michigan public body corporate)

The following recitals are made regarding this interlocal agreement between the Board of Regents of Eastern Michigan University ("University") and the School District for the City of Detroit ("District"):

The People of the State of Michigan mandate the encouragement of schools and the means of education and require the maintenance of a system of free public elementary and secondary schools through Sections 1 and 2 of Article VIII of the State Constitution of 1963.

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

The People of the State of Michigan, through Section 28 of Article VII of the State Constitution of 1963, have required the Michigan Legislature to authorize two or more counties, townships, cities, villages, or districts to, among other things: (1) enter into contracts, including with the State, for the joint administration of functions or powers; (2) share costs and responsibilities; (3) transfer functions or responsibilities; (4) cooperate; and (5) lend their credit in connection with any publicly owned undertaking.

The Michigan Legislature has implemented Section 5 of Article III of the State Constitution of 1963 and Section 28 of Article VII of the State Constitution of 1963 by enacting the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512 ("Act"). Under the Act, a public agency may jointly exercise with any other public agency any power, privilege, or authority that the agencies share in common and that each might exercise separately. An agreement between one or more public agencies under the Act may provide for a separate legal or administrative entity, which must be a public body corporate or politic, to administer or execute the agreement.

The University and the District are both a "public agency" as that term is defined under the Act. The University and the District both possess the power, privilege, and authority under State law to perform various public educational services related to the establishment, control, and operation of public elementary and secondary schools. Each seeks to cooperate with the other to further coordinate, enhance, and improve the delivery of public educational services by entering into this interlocal agreement.

The Governor of the State of Michigan has recently delivered a special message to the Michigan Legislature under Section 17 of Article V of the State Constitution of 1963 indicating that one of Michigan's most pressing responsibilities is ensuring that students are prepared to enter the work force and to take advantage of new opportunities as our economy grows. Because schools must position children to compete globally in a knowledge-based economy, Michigan's public education system must be reshaped so that students learn at high levels, think and act at high levels, demonstrate high performance, meet the highest expectations, and are fully prepared to enter the work force or attend college.

Because innovation, flexibility, transparency, and intergovernmental cooperation in the delivery of public educational services can maximize the encouragement of schools and the

means of education, it is the intent of the University and the District, at the request of the Governor, to utilize existing constitutional and statutory law to establish a mechanism for providing improved public educational services more efficiently and effectively and in a transparent manner. The University and the District intend to achieve their goal by creating a separate legal entity named the Education Achievement Authority ("Authority"). Under this interlocal agreement, the University and the District agree that the Authority will administer or execute the joint powers, duties, functions, responsibilities, and authority possessed by the District and the University as necessary to provide innovative, flexible, transparent, safe, efficient, and effective public educational services.

Accordingly, the University and the District agree to the following terms and conditions:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** As used in this interlocal agreement:

- (a). “Act” means the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.
- (b). “Agreement” means this interlocal agreement between Eastern Michigan University and the School District for the City of Detroit.
- (c). “Authority” means the Education Achievement Authority, a separate legal entity and public body corporate created under Article III.
- (d). “Authority Board” means the board of the Authority created under Article IV.
- (e). “Chancellor” means the chief executive officer of the Authority selected under Section 4.10.
- (f). “Effective Date” means the later of July 1, 2011 or the date on which all of the following are satisfied:
  - (i). The Agreement is approved and entered into by the Board of Regents of the University.
  - (ii). The Agreement is approved and entered into by the District.
  - (iii). The Agreement is approved by the Governor under Section 10 of the Act.
  - (iv). The Agreement is filed with the county clerk of Washtenaw County, Michigan.
  - (v). The Agreement is filed with the county clerk of Wayne County, Michigan.
  - (vi). The Agreement is filed with the Secretary of State of the State.
- (g). “Executive Committee” means the executive committee of the Authority created under Article IV.
- (h). “Fiscal Year” means the fiscal year of the Authority, which shall begin on July 1 of each calendar year and end on June 30 of the following calendar year.
- (i). “OMA” means the Open Meetings Act, 1976 PA 267, MCL 15.261 to 15.275.
- (j). “District” means the School District for the City of Detroit, a public school district authorized to operate within the City of Detroit, County of Wayne, State of Michigan, under The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853.

(k). “University” means the Board of Regents of Eastern Michigan University, a constitutional body corporate established under Article VIII of the State Constitution of 1963 and 1963 (2nd Ex Sess) PA 48, MCL 390.551 to 390.562.

(l). “Party” means a party to this Agreement.

(m). “Person” means an individual, authority, corporation, limited liability company, partnership, limited partnership, firm, organization, association, joint venture, trust, governmental entity, Public Agency, or other legal entity.

(n). “Protected Person” means a board, official, officer, regent, board member, employee, contractor, or agent of the University or the District.

(o). “Public Agency” means that term as defined under Section 2(e) of the Act.

(p). “State” means the State of Michigan.

(q). “Superintendent of Public Instruction” means the principal executive of the State Department of Education and staff advisor to the Governor appointed under Section 3 of Article VIII of the State Constitution of 1963.

**Section 1.02. Captions and Headings.** The captions, headings, and titles in this Agreement are a convenience and not intended to have any substantive meaning or be interpreted as part of this Agreement.

**Section 1.03. Plural Terms.** A term or phrase in this Agreement importing the singular number only may extend to and embrace the plural number and every term or phrase importing the plural number may be applied and limited to the singular number.

## ARTICLE II

### PURPOSE

**Section 2.01. Purpose.** The purpose of this Agreement is to create and empower the Authority to implement the powers, privileges, and authority of each of the Parties consistent with this Agreement to provide innovative, flexible, transparent, safe, efficient, and effective public educational services throughout the State, including, but not limited to, all of the following objectives:

- (a). Design of quality public elementary and secondary education programs.
- (b). Improvement of public learning environments and student achievement for all students, including, but not limited to, educationally disadvantaged students.
- (c). Preparation of public school students to compete globally in a knowledge-based economy.
- (d). Developing a system of higher expectations for public schools, students, and educators.
- (e). Expansion of flexibility and adaptability for public student learning models and styles.
- (f). Stimulation of innovative public school teaching methods.
- (g). Creation of new professional opportunities for teachers within a public school structure and educational programs innovatively designed and managed by teachers directly engaged in the provision of educational services.
- (h). Providing parents and students with greater public educational choices both within and outside existing school districts, including, but not limited to, the ability to select globally-competitive public schools.
- (i). Facilitating the extension of technology and online learning.
- (j). Encouraging public and private commitment to the innovative, flexible, transparent, safe, efficient, and effective provision of public educational services throughout the State and fostering public-private partnerships.
- (k). Renovating, repurposing, and constructing public educational buildings or buildings used for public educational services.
- (l). Remodeling public educational buildings or buildings used for public educational services, including energy conservation, safety, and security improvements.
- (m). Acquiring, improving, and developing sites, including athletic and recreational facilities.

- (n). Furnishing, refurbishing, equipping, and reequipping public educational facilities or facilities used for public educational purposes.
- (o). Acquiring, installing, and upgrading technology access and equipment in and connecting public educational facilities and facilities used for public educational services.
- (p). Providing for the safety and security of facilities, personnel, and students.

**ARTICLE III**  
**CREATION OF**  
**EDUCATION ACHIEVEMENT AUTHORITY**

**Section 3.01. Creation and Legal Status of Authority.** The Education Achievement Authority is established as a separate legal entity for the purpose of administering and executing this Agreement. The Authority shall be a public body corporate and special authority having the powers granted under this Agreement, the Act, and other applicable law.

**Section 3.02. Principal Office.** The principal office of the Authority shall be at a location in the State determined by the Authority.

**Section 3.03. Title to Authority Assets.** All property owned by the Authority is owned by the Authority as a separate legal entity and public body corporate, and no Party has any ownership interest in Authority property.

**Section 3.04. Tax-Exempt Status.** The Parties intend the activities of the Authority to be tax-exempt as governmental functions carried out by an instrumentality or political subdivision of government under Section 115 of the Internal Revenue Code of 1986, 26 USC 115, or any corresponding provisions of any future federal tax code. The Parties also intend the activities of the Authority to be governmental functions carried out by a political subdivision of the State, exempt to the extent provided under State law from taxation by this State, including, but not limited to, business tax under the Michigan Business Tax Act, 2007 PA 36, MCL 208.1101 to 208.1601, income tax under the Income Tax Act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and property tax under The General Property Tax Act, 1893 PA 206, MCL 211.1 to 211.157, and any successor State tax laws.

**Section 3.05. Compliance with Law.** The Authority shall comply with all federal and State laws, rules, and regulations applicable to the Authority.

**Section 3.06. Relationship of the Parties.** The Parties agree that no Party shall be responsible for the acts of the Authority or of the employees, agents, and servants of any other Party, whether acting separately or in conjunction with the implementation of this Agreement. The Parties shall only be bound and obligated under this Agreement as expressly agreed to by each Party and no Party may otherwise obligate any other Party.

**Section 3.07. No Third-Party Beneficiaries.** Except as expressly provided in this Agreement, the Agreement does not create in any Person, and is not intended to create by implication or otherwise, any direct or indirect obligation, duty, promise, benefit, right to be indemnified (such as contractually, legally, equitably, or by implication), right to be subrogated to any Party's rights in this Agreement, or any other right.

**Section 3.08. District Litigation Costs.** In the event of a legal proceeding challenging the validity of this Agreement or action or activity under this Agreement where the District or a Protected Person of the District is named as a defendant, to the extent permitted by law, including, but not limited to, Section 28 of Article VII of the State Constitution of 1963 and

Section 5 of the Act, and from funds lawfully available to the Authority, the cost of legal representation of the District or the Protected Person shall be the responsibility of the Authority, not the Parties. To the extent permitted by law, and from funds lawfully available to the Authority, the Authority shall defend, hold harmless, and reimburse the District or a Protected Person of the District from and against any and all costs, losses, claims, liabilities, actions, suits, proceedings, fines, expenses, payments, penalties, damages, and injuries, of whatever kind or nature, including attorneys' fees and settlement costs, arising out of, resulting from, caused by, or associated with, or alleged to have arisen out of, resulted from, been caused by, or associated with, in whole or in part, directly or indirectly, the execution or performance of this Agreement, or any acts or omissions of any Party or any Person taken in connection with this Agreement or its performance. The Parties intend that the District and Protected Persons of the District shall have no liabilities or costs of any nature in connection with this Agreement other than those specifically agreed to or assumed in writing by the District. To the extent permitted by law and from funds lawfully available to the Authority, if any suit, action, or proceeding is brought against the District or any Protected Person of the District, that suit, action, or proceeding shall be defended by counsel as each Party shall determine. If the defense is by counsel to the District, the Authority shall pay all reasonable and necessary costs of the defense, including reasonable counsel fees, to the extent permitted by law and from funds lawfully available to the Authority. If the District determines that the Authority shall defend the District or Protected Person of the District, the Authority shall immediately assume the defense at its own reasonable and necessary cost, to the extent permitted by law and from funds lawfully available to the Authority. Notwithstanding another provision of this section, if the Authority refuses to defend a Party or a Protected Person under this section, or a conflict under applicable law or rules prohibits the Authority from defending a Party or a Protected Person, the Party or Protected Person may retain counsel and the Authority shall be responsible for the reasonable and necessary costs and expenses of the Party or Protected Person, to the extent permitted by law and from funds lawfully available to the Authority.

**Section 3.09. University Litigation Costs.** In the event of a legal proceeding challenging the validity of this Agreement or action or activity under this Agreement where the University or a Protected Person of the University is named as a defendant, to the extent permitted by law, including, but not limited to, Section 28 of Article VII of the State Constitution of 1963 and Section 5 of the Act, and from funds lawfully available to the Authority, the cost of legal representation of the University or the Protected Person shall be the responsibility of the Authority, not the Parties. To the extent permitted by law, and from funds lawfully available to the Authority, the Authority shall defend, hold harmless, and reimburse the University or a Protected Person of the University from and against any and all costs, losses, claims, liabilities, actions, suits, proceedings, fines, expenses, payments, penalties, damages, and injuries, of whatever kind or nature, including attorneys' fees and settlement costs, arising out of, resulting from, caused by, or associated with, or alleged to have arisen out of, resulted from, been caused by, or associated with, in whole or in part, directly or indirectly, the execution or performance of this Agreement, or any acts or omissions of any Party or any Person taken in connection with this Agreement or its performance. The Parties intend that the University and Protected Persons of the University shall have no liabilities or costs of any nature in connection with this Agreement other than those specifically agreed to or assumed in writing by the University. To the extent permitted by law and from funds lawfully available to the Authority, if any suit, action, or proceeding is brought against the University or any Protected Person of the University, that suit,

action, or proceeding shall be defended by counsel as each Party shall determine. If the defense is by counsel to the University, the Authority shall pay all reasonable and necessary costs of the defense, including reasonable counsel fees, to the extent permitted by law and from funds lawfully available to the Authority. If the University determines that the Authority shall defend the University or Protected Person of the University, the Authority shall immediately assume the defense at its own reasonable and necessary cost, to the extent permitted by law and from funds lawfully available to the Authority. Notwithstanding another provision of this section, if the Authority refuses to defend a Party or a Protected Person under this section, or a conflict under applicable law or rules prohibits the Authority from defending a Party or a Protected Person, the Party or Protected Person may retain counsel and the Authority shall be responsible for the reasonable and necessary costs and expenses of the Party or Protected Person, to the extent permitted by law and from funds lawfully available to the Authority.

**Section 3.10. Legal Settlements.** The Authority shall not be liable for any settlement of any proceeding made without its consent, and the Authority shall not unreasonably withhold consent.

**Section 3.11. Action by Attorney General.** Nothing in Section 3.08 or Section 3.09 shall be interpreted to restrict or inhibit the Attorney General of the State from exercising statutory authority or fulfilling a statutory obligation to represent a state officer or agency, defend a state law, or intervene in the legal proceeding, consistent with applicable law.

**Section 3.12. Nonprofit Status.** As a governmental instrumentality within this State, the Authority may not be operated for profit. No part of any earnings of the Authority may inure to the benefit of a Person other than the Parties. It is the intent of the Parties that the Authority maintain its nonprofit status.

## ARTICLE IV

### **AUTHORITY BOARD, EXECUTIVE COMMITTEE, AND CHANCELLOR**

**Section 4.01. Authority Board Composition.** The governing body of the District shall appoint 2 residents of the State as members of the Authority Board to serve at the will of the governing body. The governing body of the University shall appoint 2 residents of the State as members of the Authority Board to serve at the will of the governing body. The Governor of the State shall appoint 7 residents of the State as members of the Authority Board to serve at the pleasure of the Governor. The Governor shall designate an Authority Board member to serve as Chairperson of the Authority Board at the pleasure of the Governor.

**Section 4.02. Authority Board Power.** The Authority Board shall authorize and approve the annual audit of the Authority, evaluate the performance of the Authority, and shall, if required by law, review acts of the Executive Committee.

**Section 4.03. Authority Board Meetings.** The Authority Board may hold an annual meeting and other special meetings at a time, date, and place determined by the Authority Board. Meetings of the Authority Board shall comply with the OMA. Public notice of the time, date, and place of Authority Board meetings shall be given in the manner required by the OMA. Members of the Authority Board may participate in meetings by electronic means of communication to the fullest extent permitted by law.

**Section 4.04. Authority Board Quorum and Voting.** A majority of the members serving on the Authority Board shall constitute a quorum for the transaction of business. The Authority Board shall act by a majority vote of the members serving at the time of the vote. Members of the Authority Board shall not engage in proxy voting.

**Section 4.05. Executive Committee.** The Authority shall have an Executive Committee consisting of 5 members of the Authority Board appointed by the Governor of the State. The members of the Executive Committee appointed by the Governor shall include not less than 1 Authority Board member appointed under Section 4.01 by the District and not less than 1 Authority Board member appointed under Section 4.01 by the University. The Governor shall designate an Executive Committee member to serve as Chairperson of the Executive Committee at the pleasure of the Governor. After the initial terms of office, members of the Executive Committee shall be appointed for a term of 4 years. The initial terms of office of the members of the Executive Committee shall be designated by the Governor as follows:

- (a). One member appointed for a term of 4 years.
- (b). Two members appointed for a term of 3 years.
- (c). One member appointed for a term of 2 years.
- (d). One member appointed for a term of 1 year.

**Section 4.06. Executive Committee Powers.** Except as otherwise provided in this Agreement, the Executive Committee shall exercise the powers of the Authority. The Executive Committee shall appoint the Chancellor under Section 4.10. The Executive Committee may make inquiries, conduct studies or investigations, hold hearings, and receive comments from the public. The Executive Committee also may consult with outside experts in order to perform its duties including, but not limited to, experts in the field of education, the private sector, government agencies, nonprofit entities, and experts at institutions of higher education.

**Section 4.07. Executive Committee Meetings.** The Executive Committee shall meet regularly at the time, date, and place as the Executive Committee determines, but not less than quarterly. Meetings of the Executive Committee shall comply with the OMA. Public notice of the time, date, and place of Executive Committee meetings shall be given in the manner required by the OMA. Members of the Executive Committee may participate in meetings by electronic means of communication to the fullest extent permitted by law. Meetings of the Executive Committee shall be transmitted live on an internet website accessible to the public. Documents distributed to Executive Committee members at a meeting shall be posted by the Authority on an internet website accessible to the public, unless prohibited by law.

**Section 4.08. Executive Committee Quorum and Voting.** A majority of the members of the Executive Committee shall constitute a quorum for the transaction of business. The Executive Committee shall act by a majority vote of its members serving at the time of the vote. Members of the Executive Committee may not engage in proxy voting.

**Section 4.09. Ethics and Conflicts of Interest.** The Authority Board shall adopt ethics policies governing the conduct of Authority Board members, the Executive Committee, and the officers and employees of the Authority. The policies shall be no less stringent than those provided for public officers and employees under 1973 PA 196, MCL 15.341 to 15.348. Members of the Authority Board, the Executive Committee, and the officers and employees of the Authority shall be deemed to be public servants under 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable laws with respect to conflicts of interest. The Executive Committee shall establish policies and procedures requiring disclosure of relationships that may give rise to conflicts of interest.

**Section 4.10. Chancellor.** The Executive Committee shall appoint a Chancellor to administer all programs, funds, personnel, facilities, contracts, and all other administrative and academic functions of the Authority, subject to oversight by the Executive Committee and in compliance with Section 4.11. The Chancellor shall receive compensation as determined by the Executive Committee. All terms and conditions of the Chancellor's employment, including length of service, shall be specified in a written contract between the Chancellor and the Executive Committee, provided that the Chancellor shall serve at the pleasure of the Executive Committee, and the Executive Committee may remove or discharge the Chancellor by a vote of not less than the majority of the members of the Executive Committee. The Chancellor shall report to the Executive Committee at meetings of the Executive Committee and to the Chairperson of the Executive Committee between meetings of the Executive Committee.

**Section 4.11. Fiduciary Duty.** The members of the Authority Board and the Executive Committee are under a fiduciary duty to conduct business in the best interests of the Authority,

including the safekeeping and use of all Authority monies and assets for the benefit of the Authority. The members of the Authority Board and the Executive Committee shall discharge their duties in good faith, with the care an ordinarily prudent individual in a like position would exercise under similar circumstances.

**Section 4.12. Compensation.** The members of the Authority Board and the Executive Committee shall receive no compensation for the performance of their duties. A member of the Authority Board or the Executive Committee may engage in private or public employment, or in any profession or business. Members of the Authority Board and the Executive Committee may be reimbursed by the Authority for actual and necessary expenses incurred in the discharge of their official duties.

**Section 4.13. Oath of Office.** Members of the Authority Board, the Executive Committee, and the Chancellor, prior to entering upon the duties of office, shall take and subscribe to the constitutional oath of office under Section 1 of Article XI of the State Constitution of 1963. The oath of office shall be filed with the Secretary of State.

## ARTICLE V

### POWERS OF THE AUTHORITY

**Section 5.01. Common and Shared Powers.** The enumeration of a power, privilege, or authority in this Agreement shall not be construed as limiting the powers, privileges, or authorities of the Authority. In carrying out its purposes, the Authority may perform, or perform with any Person, as applicable, any power, privilege, or authority that the Parties share in common and that each might exercise separately to the fullest extent permitted by the Act, including, but not limited to the provision of innovative, flexible, transparent, safe, efficient, and effective public educational services and all of the following:

- (a). Controlling and operating public elementary and secondary schools.
- (b). Using schools and school property as schools of observation and practice and furnishing of equipment, teachers, and administrators deemed necessary to provide the observation and facilities.
- (c). Operating an instructional program in grades K-5, 6-8, 9-12, or any combination of those grades.
- (d). Functioning as an authorizing body for a public school academy, a school of excellence, a strict discipline academy, or other public school as authorized under The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853.
- (e). Providing other educational services, including, but not limited to, educating students in grades K-12, operating preschool, lifelong education, adult education, community education, training, enrichment, and recreation programs.
- (f). Providing for the safety and welfare of students while at school or a school-sponsored activity or while en route to, or from, school or a school-sponsored activity.
- (g). Acquiring, constructing, maintaining, repairing, renovating, disposing of, or conveying school property, facilities, equipment, technology, or furnishings.
- (h). Hiring, contracting for, scheduling, supervising, or terminating employees, independent contractors, and others to carry out Authority privileges, powers, and authorities.
- (i). Receiving, accounting for, investing, or expending money; borrowing money and pledging money for repayment; and qualifying for state school aid and other public or private money from local, regional, State, or federal sources, including, but not limited to, money appropriated under The State School Aid Act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896, or any successor State law.
- (j). Maintaining eligibility for all applicable State categorical and federal aid.
- (k). Making claims for federal or state aid payable to a Party on account of the execution of this Agreement, with the consent of the Party.

- (l). Operating a library, museum, or recreational facility.
- (m). Employing legal, accounting, financial and technical experts, other officers, agents, or employees, and accepting voluntary provision of such services and functions from donor individuals and entities.
- (n). Providing for the safety and security of facilities, personnel, and students.

**Section 5.02. Powers Under the Act.** In addition to other powers of the Authority, the Authority shall, consistent with Section 7 of the Act, have the power to do all of the following:

- (a). Make or enter into contracts.
- (b). Employ agencies or employees.
- (c). Acquire, construct, manage, maintain, or operate buildings, works, or improvements.
- (d). Acquire, hold, or dispose of property.
- (e). Incur debts, liabilities, or obligations that, except as expressly authorized by the Parties, do not constitute the debts, liabilities, or obligations of any of the Parties.
- (f). Cooperate with a Public Agency, an agency or instrumentality of the Public Agency, or another legal or administrative entity created by the Public Agency under the Act.
- (g). Make loans from the proceeds of gifts, grants, assistance funds, or bequests in order to further the purposes of the Authority.
- (h). Form other entities necessary to further the purposes of this Agreement.
- (i). Sue and be sued in the name of the Authority.

**Section 5.03. Additional Powers Under the Act.** The Authority also shall have the power, consistent with Section 5 of the Act, to do all of the following:

- (a). Fix and collect charges, rates, rents, fees, loan repayments, loan interest rates, or other charges on loans.
- (b). Promulgate necessary rules and provide for their enforcement by or with the assistance of the Parties to accomplish the purposes of this Agreement.
- (c). Determine the manner in which purchases shall be made and contracts entered into by the Authority.
- (d). Acquire, own, hold, operate, maintain, lease, or sell real or personal property.
- (e). Accept gifts, grants, assistance funds, or bequests and use the same for the purposes of this Agreement. The Authority may apply for and accept grants, assistance funds,

loans, or contributions from any source. Gifts, grants, assistance funds, or bequests accepted by the Authority shall become the property of the Authority upon acceptance, except as otherwise agreed by the Authority and the grantor. The Authority may do anything within its power to secure the grants, loans, or other contributions, including, but not limited to, maintaining separate segregated funds for gifts, grants, assistance funds, or bequests.

(f). Make claims for federal or state aid payable to a Party on account of the execution of this Agreement, with the written consent of the Party.

(g). Determine the manner of responding for any liabilities that might be incurred through performance of the Agreement and insure against any such liability.

(h). Adjudicate disputes or disagreements, the effects of failure of the Parties to pay their shares of the costs and expenses agreed to by the Parties, and the rights of the other Party in such cases.

(i). Engage auditors to perform independent audits of the financial statements of the Authority.

(j). Invest surplus funds or proceeds of grants, gifts, assistance funds, or bequests, consistent with an investment policy adopted by the Authority Board.

**Section 5.04. Bonds or Notes; Limitation.** The Authority may borrow money and issue bonds or notes in its name for purposes authorized by law. The Authority may not issue any type of bond in its own name, except as provided in this section, or in any way indebted a Party except as expressly authorized by the Party in writing. The Authority may not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the Authority, exceeds 2 mills of the taxable value of the taxable property within the Parties as determined under section 27a of The General Property Tax Act, 1893 PA 206, MCL 211.27a, unless otherwise authorized by the Act. Bonds or notes issued by the Authority are the debt of the Authority and not of the Parties. Bonds or notes issued by the Authority are for an essential public and governmental purpose. Pursuant to Section 7(7) of the Act, bonds or notes, together with the interest on the bonds or notes and income from the bonds or notes, are exempt from all taxes. Bonds or notes issued by the Authority are subject to the Revised Municipal Finance Act, 2001 PA 34, MCL 141.2101 to 141.2821 as required by Section 7(8) of the Act.

**Section 5.05. Transfer Contracts.** The Authority shall be a special authority and a political subdivision for purposes of 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536. The Authority may enter into a contract providing for the transfer of functions or responsibilities to the Authority under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

**Section 5.06. Tax Limitation.** The Authority shall not levy any type of tax within the boundaries of any Party. Nothing contained in this Agreement, however, prevents the District from levying taxes and assigning the revenue from the taxes to the Authority, as agreed by the Parties and to the extent provided by law.

**Section 5.07. Limitation on Binding Parties.** The Authority shall not have the power to bind a Party or to create debts, liabilities, or obligations of a Party, unless otherwise specifically agreed to by the Party.

**Section 5.08. No Waiver of Governmental Immunity.** The Parties agree that no provision of the Agreement is intended, nor shall it be construed, as a waiver by any Party of any governmental immunity provided under the Act or other law.

## ARTICLE VI

### **MANNER AND METHOD FOR EXERCISE OF COMMON POWER**

**Section 6.01. District.** The District and the Authority may enter into 1 or more agreements or execute documents necessary to detail assets, liabilities, employees, money, or revenue to be provided by the District to the Authority to support the exercise of common power under this Agreement by the Authority. The District may advance money to the Authority to pay for costs associated with implementation of this Agreement.

**Section 6.02. University.** The University and the Authority may enter into 1 or more agreements or execute documents necessary to detail assets, liabilities, employees, money, or revenue, if any, to be provided by the University to the Authority to support the exercise of common power under this Agreement by the Authority. While the University may, at its discretion, make a contribution to the Authority under this paragraph, the University is not required to make a contribution without the express authorization of the Board of Regents of the University. The Parties understand that the University will continue to operate as a state institution of higher education and may have contracts or agreements with the Authority, the District, or other school districts and public schools in addition to its participation in this Agreement. The Parties agree that the University possesses significant resources, experience, and staff that may be of assistance to the Authority in carrying out its mission regarding the provision of public educational services. Accordingly, the University and the Chancellor may identify services or programs that the University will provide to or on behalf of the Authority. The costs or expenses of any services or programs provided by the University under this section shall be paid by the Authority or through other sources as agreed by the Authority and the University prior to the provision of the services or programs. Nothing in this section limits the power of the University to take any other action that the University is otherwise authorized to take. The services or programs provided by the University under this section may include, but are not limited to, all of the following:

- (a). Organizing and operating a laboratory or university school at the site of a school operated, controlled, or authorized by the District or the Authority.
- (b). Sponsoring, hosting, or participating in conferences, seminars, or other meetings concerning public education reform.
- (c). Assigning faculty or other staff of the University, on limited term appointments, to assist the Authority.
- (d). Providing technical assistance to public schools authorized or operated by the Authority.
- (e). Providing other educational services, including, but not limited to, lifelong education, adult education, community education, training, online courses, enrichment, and recreation programs for the Authority or public schools authorized or operated by the Authority.

**Section 6.03. Cooperation.** When exercising power, privileges, or authority under this Agreement, the Authority shall endeavor to actively consult and cooperate with all of the following:

(a). Other public schools, including, but not limited to: (i) a public elementary or secondary educational entity or agency that is established under The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853, has as its primary mission the teaching and learning of academic and vocational-technical skills and knowledge, and is operated by a school district, local act school district, special act school district, intermediate school district, school of excellence, public school academy corporation, strict discipline academy corporation, urban high school academy corporation, or by the State Department of Education or the State Board of Education; or (ii) a laboratory school or other elementary or secondary school that is controlled and operated by an institution of higher education described in Sections 4, 5, or 6 of Article VIII of the State Constitution of 1963.

- (b). Institutions of higher education.
- (c). Nonprofit entities and foundations.
- (d). Parental groups and organizations.
- (e). Community groups and organizations.

**Section 6.04. Assumption of Liabilities.** Except as provided in Sections 3.08 and 3.09, the Authority does not assume any liabilities or commitments of the District or the University.

**Section 6.05. Acts and Omissions.** Except as provided in Sections 3.08 and 3.09, it is the intent of the Parties that liability for acts or omissions of a Party prior to the Effective Date shall remain with a Party and not be transferred, assigned, or assumed by the Authority. The Authority shall only be liable for its own acts or omissions that occur after the Effective Date and the Parties shall not be liable for any acts or omissions of the Authority.

## ARTICLE VII

### **BOOKS, RECORDS, AND FINANCES**

**Section 7.01. Authority Records.** The Authority shall keep and maintain at the principal office of the Authority all documents and records of the Authority. The records of the Authority, which shall be available to the Parties, shall include a copy of this Agreement, any amendments to the Agreement, and any agreements under Article VI. The records and documents shall be maintained until termination of this Agreement and shall be returned to any successor entity or, if none, to the Superintendent of Public Instruction.

**Section 7.02. Financial Statements and Reports.** The Authority shall prepare, or cause to be prepared, at its own expense, audited financial statements (balance sheet, statement of revenue and expense, statement of cash flows, and changes in fund balance) on an annual basis. The financial statements shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by a written opinion of an independent certified public accounting firm. A copy of the annual financial statement and report shall be filed with the State Department of Treasury, made available to each of the Parties, and posted on a publicly accessible internet website.

**Section. 7.03. Financial Transparency.** The Authority shall develop, maintain, and make publicly available a single, searchable financial data internet website. The website shall contain only information that is a public record or that is not confidential or otherwise protected from public disclosure under State or federal law. The Authority shall, to the extent practicable, update the financial data contained on the website not less than monthly and provide the data in a structured format that may be downloaded. The website shall include a method by which a user of the website may provide feedback concerning the organization or utility of the website. The Authority shall archive the financial data, which shall remain accessible and searchable for not less than 5 years. The website shall allow the public to search financial data included on the website at no cost and shall aggregate all of the following information:

- (a). The amount and source of moneys received by the Authority.
- (b). The moneys expended by the Authority, including both of the following:
  - (i). The name and principal location or address of the Person receiving moneys; except that information concerning a payment to an employee of the Authority shall identify the individual employee by position and business address only.
  - (ii). The amount of expended moneys.
- (c). The funding source of the expended moneys.
- (d). The name of the budget program or activity receiving the moneys.
- (e). A description of the planned use of the moneys.

**Section 7.04. Audits.** The Executive Committee shall establish a dedicated audit committee of the Executive Committee for the purpose of overseeing the accounting and financial reporting processes of the Authority and audits of its financial statements. The Chairperson of the Executive Committee shall serve as a member of the dedicated audit committee. The Executive Committee shall establish specific duties and obligations of the audit committee and standards and qualifications for membership. The Executive Committee may require at least 1 member to be specifically knowledgeable about financial reports. Upon completion of the annual financial audit, the Executive Committee shall transmit the audit to the Authority Board for approval.

**Section 7.05. Freedom of Information Act.** The Authority shall be subject to and comply with the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246.

**Section 7.06. Uniform Budgeting and Accounting Act.** The Authority shall be subject to and comply with the Uniform Budgeting and Accounting Act, 1968 PA 2, MCL 141.421 to 141.440a. Unless otherwise designated by the Executive Committee, the Chancellor shall serve as the Chief Administrative Officer of the Authority. The Chancellor shall prepare all budgets and budget amendments and the Executive Committee shall approve all budgets and budget amendments for the Authority for each Fiscal Year.

**Section 7.07. Budget and Performance Standards.** Each Fiscal Year, the Chancellor shall prepare performance standards for review and approval by the Executive Committee. The Authority shall produce a citizen's guide to Authority finances and a performance dashboard. The citizen's guide to Authority finances and performance dashboard shall be made available for public viewing in the principal office of the Authority and posted on a publicly accessible internet website. The citizen's guide to Authority finances shall provide a detailed description of the Authority's finances, including recognition of any unfunded liabilities, along with any other information deemed relevant by the Executive Committee. The performance dashboard shall include measures related to student outcomes, academic achievement, school accountability, culture of learning, value for money, and any other measures deemed relevant by the Executive Committee.

**Section 7.08. Deposits and Investments.** The Authority shall deposit and invest money of the Authority, not otherwise employed in carrying out the purposes of the Authority, in accordance with an investment policy established by the Executive Committee consistent with laws and regulations regarding investment of public funds.

**Section 7.09. Disbursements.** Disbursements of money by the Authority shall be in accordance with the annual budget adopted by the Executive Committee, consistent with any guidelines recommended by the Chancellor and approved by the Executive Committee, and also shall be in accordance with applicable law.

**Section 7.10. Adoption of Rules and Procedures.** Before promulgating a rule or adopting a procedure, policy, or statement of policy, the Authority shall provide advance notice in a manner intended to inform the public and afford the public an opportunity to comment on the proposed rule, procedure, policy, or statement of policy.

**Section 7.11. Transparency.** The powers, duties, rights, obligations, functions, and responsibilities of the Authority shall be administered by the Authority in a transparent and open manner that encourages public oversight, civic participation, and citizen engagement. The Authority shall adopt policies and procedures consistent with each of the following transparency principles:

(a). On-line, on-time, and free public access shall be a priority for the conduct of Authority business, except when specifically prohibited by applicable law.

(b). Dissemination of information regarding the activities and operations of the Authority should be (i) posted on-line promptly in a contemporaneous manner; (ii) complete and accurate, (iii) searchable and manipulable; and (iv) permanently preserved and accessible, except where specifically prohibited by applicable law.

(c). Information pertaining to influence, potential corruption, and oversight should take special public priority over other types of information.

(d). Public records pertaining to governmental oversight should be centrally available, including, but not limited to, reports from auditors or government-sponsored investigations, planning and strategic vision documents, budgets, performance data, and academic plans.

(e). Use of the internet, social media, performance dashboards, and other digital communications technology should be integrated into the operations of the Authority and be a basic method used in pursuing the goals and objectives of the Authority.

## ARTICLE VIII

### TERM AND TERMINATION

**Section 8.01. Term.** This Agreement and the Authority shall commence on the Effective Date and continue for an initial term of 15 years. After the initial term, the Agreement is extended in 5-year increments unless not extended by joint action of all of the Parties.

**Section 8.02. University Withdrawal.** The University may withdraw from the Agreement prior to the expiration of the term of this Agreement if any of the following apply:

(a). This Agreement is amended and another state public university is a Party to the Agreement.

(b). After December 30, 2014, the University provides notice of its intent to withdraw on the first June 30th at least 180 days after the notice. A withdrawal under this paragraph is effective on the first June 30th at least 180 days after the notice.

(c). If the reimbursement of the costs and expenses of the University related to its participation as a Party is prohibited by law, or after determining that, in the University's judgment, the University has not been reimbursed for costs and expenses as provided in this Agreement, and the University provides notice of withdrawal on the next June 30th at least 180 days after the notice. A withdrawal under this paragraph is effective on the first June 30th at least 180 days after the notice.

**Section 8.03. District Withdrawal.** The District may withdraw from the Agreement prior to the expiration of the term of the Agreement with the consent of the Executive Committee.

**Section 8.04. Effect of Withdrawal.** The withdrawal of the District or the University, shall neither terminate nor have any effect upon the provisions of the Agreement as long as this Agreement is amended to allow for the participation of another school district or state public university.

**Section 8.05. Disposition upon Termination.** As soon as possible after termination of this Agreement, the Authority shall wind up its affairs as follows:

- (a). All of the Authority's debts, liabilities, and obligations to its creditors and all expenses incurred in connection with the termination of the Authority and distribution of its assets shall be paid first.
- (b). Title to all property owned by the Authority then shall be distributed by the Executive Committee to the District and the University and vested in the District and the University.

## ARTICLE IX

### MISCELLANEOUS

**Section 9.01. Due Execution of this Agreement.** Each Party shall duly execute not less than 4 copies of this Agreement, each of which, taken together, is an original but all of which constitute 1 instrument.

**Section 9.02. Emergency Manager.** If an emergency manager is in place for the District, under the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531, the emergency manager may act for and in the place and stead of the governing body and chief administrative officer of the school district. Entry into this Agreement by a school district in which an emergency manager has been appointed under the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531, constitutes the exercise of broad powers by the emergency manager to rectify a financial emergency and to assure the fiscal accountability of the school district's capacity to provide or cause to be provided necessary governmental services essential to the public health, safety, and welfare, including, but not limited to, the provision of educational services. Entry into this Agreement by a school district in receivership also constitutes the entry into an agreement with another local government, public body, or entity, for the provision of services, joint exercise of powers, or the administration of functions and responsibilities. Nothing in this Agreement shall be construed to diminish or restrict the authority of an emergency manager under the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531.

**Section 9.03. Public School Functions.** The powers, duties, rights, obligations, functions, and responsibilities of the Authority under this Agreement are intended to encourage the means of education and be governmental and public school functions within the system of free public elementary and secondary schools maintained and supported by the State Legislature. A school operated by the Authority is a public school under, and shall comply with, Section 2 of Article VIII of the State Constitution of 1963.

**Section 9.04. Non-Discrimination.** The Authority shall provide for the education of pupils without discrimination as to religion, creed, race, color, sex, or national origin as mandated by Section 2 of Article VIII of the State Constitution of 1963. The Authority also shall comply with the Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 to 37.2804, the Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 to 37.1607, Title IX of the Education Amendments of 1972, and other applicable civil rights laws.

**Section 9.05. Public Purpose and Governmental Function.** As both the District and the University are bodies corporate and governmental agencies, the powers, duties, rights, obligations, functions, and responsibilities of the Authority constitute essential public purposes and governmental functions.

**Section 9.06. State Board of Education.** Nothing in this Agreement shall be construed to diminish or restrict the constitutional authority of the State Board of Education under Section 3 of Article VIII of the State Constitution of 1963.

**Section 9.07. Institution of Higher Education.** Nothing in this Agreement shall be construed to diminish or restrict the constitutional authority of the University under Sections 4 and 6 of Article VIII of the State Constitution of 1963 or alter the constitutional authority of the governing body of the University to have general supervision of the University and the control and direction of all expenditures from the University funds.

**Section 9.08. Non-impairment.** Nothing in this Agreement authorizes the impairment of a bond, note, security, or uncontested legal obligation of the District or the University.

**Section 9.09. Legislative Oversight.** Nothing in this Agreement shall be construed to diminish or restrict the constitutional authority of the State Legislature to maintain and support a system of free public elementary and secondary schools as defined by law under Section 2 of Article VIII of the State Constitution of 1963 or to exercise the legislative power of the State vested in the State Senate and the State House of Representatives under Section 1 of Article IV of the State Constitution of 1963. The Authority is subject to oversight hearings regarding the activities of the Authority conducted by a duly constituted and authorized legislative committee and, if requested, an officer of the Authority shall attend the oversight hearing and provide live testimony at the oversight hearing without a subpoena.

**Section 9.10. Notices.** Any and all correspondence or notices required, permitted, or provided for under this Agreement to be delivered to any Party shall be sent to that Party by first class mail. All such written notices shall be sent to each other Party's signatory to this Agreement. All correspondence shall be considered delivered to a Party as of the date that the notice is deposited with sufficient postage with the United States Postal Service. A notice of withdrawal shall be sent via certified mail to the address included with each Party's signature to this Agreement.

**Section 9.11. Entire Agreement.** This Agreement sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter of this Agreement. It is further understood and agreed that the terms and conditions of this Agreement are contractual and are not a mere recital and that there are no other agreements, understandings, contracts, or representations between the Parties in any way related to the subject matter of this Agreement, except as expressly stated in this Agreement.

**Section 9.12. Severability of Provisions.** If any provision of this Agreement, or its application to any Person, Party, or circumstance, is invalid or unenforceable, the remainder of this Agreement and the application of that provision to other Persons or circumstances and to the remaining Parties is not affected but will be enforced to the extent permitted by law, it being the intent of the remaining Parties to continue to agree to the substantive provisions of this Agreement and to implement the Agreement.

**Section 9.13. Governing Law.** This Agreement is made and entered into in this State and shall in all respects be interpreted, enforced, and governed under State law without regard to the doctrines of conflict of laws. The language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning and not construed strictly for or against any Party.

**Section 9.14. Jurisdiction and Venue.** In the event of any disputes between the Parties over the meaning, interpretation, or implementation of the terms, covenants, or conditions of this Agreement, the matter under dispute, unless resolved between the Parties, shall be submitted to the courts of the State.

**Section 9.15. Amendment.** This Agreement may be amended or an alternative form of this Agreement adopted only upon written agreement of all Parties. Any agreement or contract among the Parties that is inconsistent with this Agreement shall be adopted as an amendment to the Agreement and be approved as provided in the Act by the governing bodies of the Parties and by the Governor prior to becoming effective. Any amendment to allow the participation in the Authority by another Public Agency as a Party will be completed in a manner consistent with the Act.

**Section 9.16. Effective Date.** This Agreement is effective on the Effective Date.

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

**THE BOARD OF REGENTS OF EASTERN  
MICHIGAN UNIVERSITY**

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

By: \_\_\_\_\_  
Susan Work Martin, Ph.D.,  
President

Address: 202 Welch Hall  
Ypsilanti, MI 48197

**SCHOOL DISTRICT FOR THE CITY OF  
DETROIT,**

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

By: \_\_\_\_\_  
Roy S. Roberts, Emergency Manager

Address: 3011 W. Grand Blvd.  
Fisher Building, 14th Floor  
Detroit, MI 48202-3096

Pursuant to Section 10 of the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.510, I find that this agreement meets the conditions set forth in the Urban Cooperation Act of 1967, is in proper form, and is compatible with the laws of the State of Michigan.

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

\_\_\_\_\_  
**RICHARD D. SNYDER**  
Governor