

SCHOOL DISTRICT OF THE CITY OF MUSKEGON HEIGHTS

Office of the Emergency Manager

Donald B. Weatherspoon

Order 2012-9

BY THE POWER AND AUTHORITY VESTED IN THE EMERGENCY
MANAGER FOR THE SCHOOL DISTRICT OF THE CITY OF MUSKEGON
HEIGHTS, MICHIGAN ("EMERGENCY MANAGER") UNDER THE LOCAL
GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT, 2011
PA 4, MCL 141.1501 to 141.1531

THE EMERGENCY MANAGER, DONALD. B.
WEATHERSPOON, ISSUES THE FOLLOWING:

ORDER APPROVING AND AUTHORIZING THE ISSUANCE OF
A CHARTER CONTRACT TO THE MUSKEGON HEIGHTS
PUBLIC SCHOOL ACADEMY SYSTEM, APPROVING CERTAIN
LEASE AGREEMENT WITH THE SYSTEM AND NOT
DISAPPROVING ACADEMY'S MANAGEMENT AGREEMENT

WHEREAS, The Revised School Code, 1976 PA 451, MCL 380.1 to 380.1853 ("Code"), authorizes the governing board of a school district to be an authorizing body for a public school academy; and

WHEREAS, Section 503(1) of the Code provides that public school academy contracts shall be issued on a competitive basis and that an authorizing body shall consider certain factors when issuing a contract, including: (i) the resources available for the proposed public school academy; (ii) the population to be served by the proposed public school academy; (iii) the educational goals to be achieved by the proposed public school academy; (iv) the applicant's track record, if any, in organizing public school academies or other public schools; (v) the graduation rate of a school district in which the proposed public school academy is proposed to be located; (vi) the population of a county in which the proposed public school academy is proposed to be located; and (viii) the number of schools in the proximity of a proposed location of the proposed public school academy that are on the list under section 1280c(1) of the Code, MCL 380.1280c(1), of the public schools in this state that the department has determined to be among the lowest achieving 5% of all public schools in this state; and

WHEREAS, the School District for the City of Muskegon Heights ("District") is currently in receivership and under the supervision of an Emergency Manager appointed by the

Governor ("Emergency Manager") under the Local Government and School District Fiscal Accountability Act, 2011 PA 4, MCL 141.1501 to 141.1531 ("Act"); and

WHEREAS, the Emergency Manager has broad powers under the Act to rectify the District's financial emergency and to assure the District's fiscal accountability and capacity to provide or cause to be provided necessary governmental services essential to the public health, safety and welfare; and

WHEREAS, the Emergency Manager has been granted the authority under the Act to act for and in the place and stead of the Board of Education of the School District of the City of Muskegon Heights ("District Board") and the Emergency Manager has the power to exercise solely, on behalf of the District, all other authority and responsibilities affecting the District that are prescribed by law to the District Board; and

WHEREAS, as part of his financial and operating plan for the District and consistent with the Code, the Emergency Manager has determined that the issuance of a public school academy contract to an applicant to organize and operate the Muskegon Heights Public School Academy System ("System") is a viable option that will allow the Emergency Manager to provide for the delivery of public education services to residents of the District and also allow for the repayment of existing District debt obligations; and

WHEREAS, the Emergency Manager issued a public request for applications ("RFA") seeking applications from persons and entities interested in organizing and operating the System; and

WHEREAS, in accordance with the Code, the Emergency Manager reviewed the applications submitted in response to the RFA and determined that the application submitted by Gari Voss met the requirements set forth in the application and the Code; and

WHEREAS, the System has been incorporated and has held an organizational meeting to approve the contract to charter a public school academy and related documents ("Contract"), other agreements and take such other actions as are necessary to commence the operation of a public school academy; and

WHEREAS, the Emergency Manager now desires to issue a Contract to the System granting certain rights, franchises and privileges on the System to operate as a public school in this state and to approve other agreements with the System, and

NOW, THEREFORE, IT IS HEREBY ORDERED THAT, the attached Contract is approved and issued to the System; and

IT IS FURTHER ORDERED THAT, the Contract shall commence on July 9, 2012 and terminate on August 1, 2017 ("Term"), unless sooner revoked or terminated as provided in this Contract. At the end of the Term, if the System continues to operate pursuant to a contract from the District Board or an alternate authorizing body, then the Term of this Contract shall continue for additional five (5) year terms (each, an "Extension Term"), unless sooner revoked or terminated as provided in this Contract. If, at any time during an Extension Term, the District's

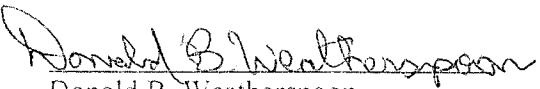
financial emergency is rectified under section 24 of the Act, or any successor statute, then this Contract shall terminate at the end of the school fiscal year in which the financial emergency is rectified without any further action of the parties. If former 1990 PA 72 is again in effect or applicable, then this Contract shall terminate at the end of the school fiscal year in which the declaration of financial emergency for the District is revoked under section 42 of former 1990 PA 72 without further action of the parties; and

IT IS FURTHER ORDERED THAT, the lease agreement, contained within Schedule 6 of the Contract, is approved; and

IT IS FURTHER ORDERED THAT, in accordance with the Code, the management agreement between the System and Mosaica Education, Inc. is not disapproved; and

FURTHERMORE, this Order may be amended, modified, repealed, or terminated by any subsequent Order issued by the Emergency Manager.

Dated: July 9, 2012

By: 
Donald B. Weatherspoon