

MUSKEGON HEIGHTS PUBLIC SCHOOLS

CONTRACT FOR SERVICES-FISCAL CONTROL MANAGER

This Service Agreement (the "Agreement") is entered into on this _____ day of December, 2012, ("Effective date") by and between the Muskegon Heights Public School District (MHPS) located at 2603 Leahy Street, Muskegon Heights, MI 49444, and the School District of the City of Highland Park ("Customer") located at 15900 Woodward Avenue, Highland Park, MI 48203. Collectively MHPS and Customer will be known as the "Parties" and individually as a "Party."

WHEREAS, MHPS employs a Fiscal Control Manager to assist the Emergency Financial Manager in managing the District's payables and receivables, and providing reports to various State Agencies involved in the District's deficit recovery efforts.

Customer is in need of the services provided by a Fiscal Control Manager as it also is under the authority of the same Emergency Financial Manager that presently manages the fiscal operations of MHPS.

It is the desire of the parties that the MHPS Fiscal Control Manager, John Lewis, provide fiscal control management for Customer and in consideration of the mutual covenants and promises set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1) Services: During the term of this Agreement, MHPS shall provide the services of its Fiscal Control Manager for the School District of the City of Highland Park on an "as needed" basis up to and including 50 percent of Fiscal Control Manager's available time.

2) Customer Responsibility: During the term of this Agreement, Customer agrees to timely furnish materials, information, resources, feedback and approvals as reasonably requested by MHPS in order to complete the services in a timely manner. Customer has designated the following individual as the approving official on its behalf: Donald B. Weatherspoon, Emergency Financial Manager.

3) Compensation: Muskegon Heights Public School District's fees for the services during initial term shall be one-half (50%) of the Fiscal Control Manager's salary and benefits as outlined in his Contract for employment with MHPS dated December 15, 2011, which is attached hereto and incorporated herein by reference. MHPS shall invoice customer monthly for its share of the costs of the Fiscal Control Manager which shall include an itemized breakdown of the monthly costs.

4) Term: The term of this Agreement shall be for the remainder of the 2012-2013 fiscal year and the 2013-2014 fiscal year. Thereafter the Agreement will be extended automatically unless either party elects to terminate the Agreement by providing 30 days written notice.

5) Termination: The parties agree that this Contract may be terminated by either side for cause after having given the non-breaching party 30 days to cure any claims of breach of the agreement and also in terminable upon either party no longer being under the purview of the Emergency Financial Manager's statute.

6) Relationship of the Parties: The parties are independent contractors and no other relationship is intended, including without limitation a partnership, franchise, joint venture, agency, employer/employee, fiduciary, master/servant or other special relationship. Neither Party shall act in a manner which binds the other party or expresses or implies a relationship other than that of independent contractor.

7) Confidentiality:

(a) The Parties may receive or have already received Confidential Information from one another in connection with this Agreement.

(b) "Confidential Information" means any information that is valuable to disclosing Party and its business and is not generally known by the public, including without limitation, any technical or non-technical information, without regard to form, which derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. The term "Confidential Information" as used herein does not include any information that is (i) already known to the public or the receiving Party prior to disclosure by the disclosing Party, or (ii) subsequently made known to the public without any violation of this Agreement, or (iii) rightfully received by the receiving Party from a third party without similar restriction and without breach of this Agreement, or (iv) independently developed by the receiving Party without breach of this Agreement.

(c) The receiving Party agrees that during the term of this Agreement and for a period of three (3) years thereafter, the receiving Party will hold the disclosing Party's Confidential Information in strict confidence and shall not disclose such information, in whole or in part, to any person other than its partners, agents, employees and other authorized representatives (collectively, the "Representatives") who need to know such information in connection with the receiving Party's provision of Services or other obligations under this Agreement, without the prior written consent of the disclosing Party. The receiving Party agrees to inform their Representatives of the nature of the Confidential Information and to require the Representatives to keep such information confidential. The receiving Party may also disclose the disclosing Party's Confidential Information as required by law.

8) Compliance with Laws: Each Party agrees to comply with all applicable laws in the performance of this Agreement.

9) Warranties and Warranty Disclaimer:

(a) MHPS warrants that the Services will be performed in a professional and workmanlike manner in accordance with industry standards.

(b) MHPS DISCLAIMS ALL WARRANTIES OTHER THAN THOSE PROVIDED IN THIS AGREEMENT AND DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

10) Limitation of Liability: NEITHER PARTY SHALL BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, MHPS' LIABILITY FOR DAMAGES OF ANY KIND, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY, SHALL NOT EXCEED THE AMOUNT EQUAL TO SIX MONTHS WORTH OF FEES PAID UNDER THIS AGREEMENT.

11) Miscellaneous:

(a) This Agreement shall be governed by the laws of the State of Michigan. The parties agree that the Muskegon County Circuit Court shall have exclusive jurisdiction over any dispute arising out of or relating to this Agreement.

(b) Notices: All notices, requests and demands given to or made upon the Parties shall be in writing and shall be mailed properly addressed, postage prepaid, registered or certified, or personally delivered to either Party at the address listed below or to such other addresses as either Party may designate in writing. Such notice shall be deemed received by the close of business on the date shown on the certified or registered mail receipt, or when it is actually received, whichever is sooner.

To MHPS: MHPS
2603 Leahy Street
Muskegon Heights, MI 49444

Copy to: MHPS
2603 Leahy Street
Muskegon Heights, MI 49444
Attn. John Lewis, Fiscal Control Manager

To Customer: 15900 Woodward Avenue
Highland Park, MI 48203
Attn. Donald B. Weatherspoon, Emergency Manager

(c) Severability: If any provision of the Agreement shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of the Agreement shall remain in full force and effect.

(d) Waiver: No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented.

(e) Counterparts: Delivery by Facsimile or E-Mail: This Agreement may be executed in one or more counterparts, all of which, taken together, will constitute one instrument. Any signature page delivered via facsimile or e-mail shall be binding to the same extent as an original signature page.

(f) Integration Clause: This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties hereto, pertaining to such subject matter. No amendment, supplements, modification or waiver of this Agreement shall be binding unless it is set forth in a written document signed by the Parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in a written document signed by the Parties hereto.

(g) Force Majeure: No Party hereto shall be required to perform any obligation hereunder that is directly or indirectly prevented by delays of vendors or suppliers, strikes, lockouts, fires, labor disputes, floods, accidents, war, orders or decrees of any court or other governmental authority, or any other causes whatsoever beyond the reasonable control of such Party, and the time for performance thereof shall be extended by the number of days such performance is so prevented; provided, however, that the Party so prevented from performing shall use its reasonable best efforts to remedy the cause or causes preventing it from performing.

12) The Emergency Financial Manager for the parties has authorized the issues of this Contract by Orders dated MHPS _____, HPPS _____.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their undersigned duly authorized representatives as of the date first set forth above.

Muskegon Heights Public School District
(MHPS)

School District of the City of
Highland Park (Customer)

Signature

Signature

Printed name

Printed Name

Title

Title

Date

Date