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**AGENDA ITEM:** Consent Agreement for the Voluntary Surrender and Termination of the Charter Contract for D.W. Higgins Institute

**Background Information**

D.W. Higgins Institute, an Arizona non-profit corporation, operates D.W. Higgins Institute in Tempe, Arizona, and served approximately 60 students in grades K-8 during the 2009-2010 school year. The Board entered into a contract with D.W. Higgins Institute on August 3, 1998.

On July 12, 2010, staff received the Voluntary Surrender and Termination of the Charter Contract for D.W. Higgins Institute to be effective June 30, 2010. The Charter Holder provided minutes approving the terms of the Consent Agreement for the Voluntary Surrender and Termination of the Charter.

**Board Options**

1. Accept the terms of the Consent Agreement for the Voluntary Surrender and Termination of the Charter Contract for D.W. Higgins Institute;
2. Reject the terms of the Consent Agreement for the Voluntary Surrender and Termination of the Charter Contract for D.W. Higgins Institute.

**Staff Recommendation:**

Option 1: Accept the terms of the Consent Agreement for the Voluntary Surrender and Termination of the Charter Contract for D.W. Higgins Institute.

**BEFORE THE ARIZONA STATE BOARD  
FOR CHARTER SCHOOLS**

In the matter of:

**D.W. HIGGINS INSTITUTE**  
(a non-profit corporation)

and

**D.W. HIGGINS INSTITUTE**  
(a charter school)

**CONSENT AGREEMENT FOR  
VOLUNTARY SURRENDER AND  
TERMINATION OF THE  
CHARTER CONTRACT**

This Agreement is entered into by D.W. Higgins Institute by and through its authorized agent, and the Arizona State Board for Charter Schools, by and through its authorized representatives, and provides the following terms and agreement:

1. D.W. Higgins Institute ("School") is a charter school established pursuant to Arizona Revised Statutes ("A.R.S.") § 15-181 *et seq.*
2. The Charter for the School is held by D.W. Higgins Institute ("Charter Operator"), a non-profit corporation, organized under the laws of the state of Arizona. The Arizona State Board for Charter Schools ("Board") is the Charter Operator's sponsor.
3. The charter contract was signed by Martha E. Wallace, as the person authorized to sign for the Charter Operator.
4. Pursuant to A.R.S. § 15-183 and the Charter Contract, the Board sponsors the Charter Operator to operate one School site to serve students in grades kindergarten through eight.
5. The Charter Contract was executed on August 3, 1998.
6. The Charter Operator voluntarily tenders and surrenders its Charter Contract to its sponsor, the Board, with the intent to voluntarily terminate its Charter Contract effective June 30, 2010 for the purpose of further performance.
7. The Charter Operator shall mail a complete copy of each student's educational record to the student's parent or legal guardian.

8. The Charter Operator shall notify the Board of the location of the student records of the School no later than July 16, 2010.
9. The Charter Operator agrees that all necessary student level data has been submitted to the Arizona Department of Education through the Student Accountability Information System ("SAIS").
10. The Charter Operator is entitled to receive state equalization assistance funds for the 2009-2010 school year to which it is entitled under the school funding formula provided in Arizona law, but no more.
11. The Charter Operator is entitled to receive Classroom Site Funds for the 2009-2010 school year to which it is entitled under the provisions of Arizona law, but no more.
12. The Charter Operator agrees to refund any overpayment of state equalization assistance funds in the amount determined by the Arizona Department of Education in the manner directed by the Arizona Department of Education.
13. The Charter Operator agrees to refund any overpayment of Classroom Site Funds monies in the amount determined by the Arizona Department of Education in the manner directed by the Arizona Department of Education.
14. The Charter Operator agrees to submit any outstanding grant reports and to refund any outstanding grant monies or allocation of education funds to the Arizona Department of Education in the manner directed by the Arizona Department of Education.
15. The Charter Operator shall expend the Classroom Site Funds in a manner consistent with its intent as specified in A.R.S. § 15-977.
16. The Charter Operator shall expend the Instructional Improvement Funds in a manner consistent with its intent as specified in A.R.S. § 15-979.
17. The Board accepts the surrender of the Charter Contract of D.W. Higgins Institute for the operation of D.W. Higgins Institute.
18. The Charter Contract between the Board and D.W. Higgins Institute for the operation of D.W. Higgins Institute is terminated effective June 30, 2010 for the purposes of further performance.
19. This Agreement is not binding on either party until both the Board and the Charter Operator's Governing Board accept it by a majority vote at a public meeting. This Agreement is effective immediately upon its approval and execution by the authorized representatives of the Board for D.W. Higgins Institute and the Board.

20. If the Board rejects this Agreement or any part of it, then this Agreement is null and void, and not binding on the Charter Operator or the Board.

21. D.W. Higgins Institute understands that it has the legal right to consult with an attorney prior to entering into this Agreement.

22. Each party shall be responsible for its own attorneys' fees and costs in this matter.

**D.W. Higgins Institute**

Executed this 29<sup>th</sup> day of June 2010.

By Martha E. Wallace  
Martha E. Wallace, as Charter Representative and authorized signer for D.W. Higgins Institute

**The Arizona State Board for Charter Schools**

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

By \_\_\_\_\_  
Norm Butler, President of the Arizona State Board for Charter Schools

**D. W. Higgins Institute  
Public Hearing and Governing Board Meeting  
June 29, 2010  
2150 E. Southern Ave.  
Tempe, AZ 85282**

**4:30 PM Regular Meeting**

At any time during the meeting, if authorized by the majority of the Governing Board, an Executive Session will be held immediately after the vote and will not be open to the public. Reference: A.R.S. § 38-431.03(A) (1-9). It is recommended that the Governing Board take action on the following items with the exception of items noted as presentations for information only. Action items will be listed with an asterisk. The Governing Board Chairman/President may change agenda and will be considered as a group by the Governing Board Policy. All items on the consent agenda will be considered as a group by the Governing Board and will be approved with one motion. There will be no separate discussion of these items unless a Governing Board Member or citizen so requests, in which case the item will be removed from the consent agenda and considered as a separate item.

**Regular Board Meeting**

**Call to Order:**

Pledge

Moment of Silence

Approval of Agenda

Approval of the Minutes May and June 2010 meetings

**Director's Report:**

**Action Item:**

Acceptance of Consent Agreement for Voluntary Surrender and Termination of the Charter Contract because of lack of enrollment for fiscal year 2010-2011.

**Adjournment:**

Posted: 6/28/2010

**D.W. Higgins Institute  
Minutes of Board Meeting  
June 28, 2010**

The meeting was called to order at 4:35 p.m. on June 28, 2010

**Members Present:** Martha Wallace  
Louise Moskowitz  
Natalie Winger

**Others Present:** Jen Accra, Mary Schodt

**Members Absent:**

The pledge of allegiance was performed and a moment of silence was observed.

A motion to accept the Agenda was made by Martha Wallace and seconded by Natalie Winger. **Motion Passed.**

A motion to accept the May 17, 2010 minutes was made by Natalie Winger and seconded by Louise Moskowitz. **Motion Passed.**

**Director's Report:**  
NA

**Action Item:** The motion was made by Louise Moskowitz and a second by Natalie Winger to accept the Consent Agreement for Voluntary Surrender and Termination of The Charter Contract as of June 30, 2010. **Motion Passed.**

**Adjournment:**

At 5:00 p.m., Natalie Winger made a motion to adjourn the meeting; Louise Moskowitz seconded. **Motion Passed.**

*Martha E. Wallace*

Respectfully submitted:  
Martha Wallace

**D.W. Higgins Institute  
Minutes of Board Meeting  
May 17, 2010**

The meeting was called to order at 4:35 p.m. on May 17, 2010

**Members Present:** Martha Wallace  
Louise Moskowitz  
Natalie Winger

**Others Present:**

**Members Absent:** Jen Accra

The pledge of allegiance was performed and a moment of silence was observed.

A motion to accept the Agenda with the addition of Budget item was made by Martha Wallace and seconded by Natalie Winger. **Motion Passed.**

A motion to accept the April 22, 2010 minutes was made by Natalie Winger and seconded by Louise Moskowitz. **Motion Passed.**

**Director's Report:**

- Encourage all to vote. Reports show that it will pass.
- Budget- FSO is nonexistent. They will give the money to the school. It will be used for the 8<sup>th</sup> grade Field trip and remodeling for this summer. Pizza next year will not happen unless there is an alternative approach.
- New start times and dismissal times were discussed. K-5 will start at later and get out later, and the MS will start early and get out at 2:15 so that we can use the gym for the Sports Program.

**Action Item:** The motion was made by Louise Moskowitz and a second by Natalie Winger to accept the Calendar for Fiscal Year 2010-2011. **Motion Passed.**

**Adjournment:**

At 5:00 p.m., Natalie Winger made a motion to adjourn the meeting; Louise Moskowitz seconded. **Motion Passed.**

Next meetings were scheduled for Thursday, June 10, 2010 and July 9, 2010 at 4:30 p.m.

Respectfully submitted:

Martha Wallace 