

EMPLOYMENT AGREEMENT

This agreement is between BENTON HARBOR AREA SCHOOLS, a Michigan public body corporate (the "District") and DONALD WEATHERSPOON, PH.D., an individual (the "Employee").

The District entered into a consent agreement with the Michigan Department of Treasury (the "Department") dated September 24, 2014 (the "Consent Agreement").

Consistent with the Consent Agreement, the District has created and established within the District the position of consent agreement consultant required under the Consent Agreement to also be an assistant superintendent and officer of the District (the "Consultant").

Under the Consent Agreement, the District must appoint and retain an individual recommended by the Treasurer of the state of Michigan (the "Treasurer") and enter into a contract with that individual, retaining that individual as the Consultant.

The Treasurer has recommended that the Employee be appointed by the District as the Consultant, the District wants to employ the Employee as the Consultant, and the Employee wants to serve the District as the Consultant.

The parties therefore agree as follows:

1. **Employment.** (a) The District shall employ the Employee as the Consultant for a period beginning on February 22, 2016 and ending on June 30, 2018, unless terminated earlier under section 3 (the "Employment Period").

(b) The Employee states that the Employee has no, and will not acquire a, personal or financial interest that would conflict with the performance of this agreement. The Employee states that the Employee is not subject to a non-disclosure, non-competition, or similar agreement with a prior employer that would interfere with the performance of this agreement.

2. **Duties.** (a) During the Employment Period, the Employee shall perform the powers, duties, functions, and responsibilities vested in the Consultant under the Consent Agreement to assist the District in achieving the goals and objectives of the Consent Agreement. The Employee also shall do all of the following:

- (1) provide the board of education of the District (the "Board") with monthly written updates on the progress of the District in implementing the financial and operating plan under section 5 of the Consent Agreement (the "Plan") and the District's compliance with the Plan during the previous calendar month, consistent with section 5(e) of the Consent Agreement;
- (2) provide the District with monthly reports on actions taken to implement the Consent Agreement and advise the Board on the District's compliance with the Consent Agreement, consistent with section 8(e) of the Consent Agreement; and
- (3) coordinate communications with the Treasurer under the Consent Agreement on behalf of the District.

(b) The Employee shall devote the efforts to the discharge of the duties of Consultant that a reasonable person in the Employee's position would use to discharge the duties as promptly as possible.

(c) The parties acknowledge that the position of Consultant will require the Employee to devote time outside of normal business hours to District business. The Employee may establish a work schedule appropriate to the needs of the District and consistent with the standard under section 2(b). The Employee may: (i) serve on industry, trade, civic, or charitable boards or committees; (ii) engage in charitable activities and community affairs; (iii) manage personal investments; and (iv) devote time to personal and family matters, if the activities do not interfere with the Employee's performance of duties consistent with the standard under section 2(b).

(d) The Employee shall comply with applicable laws, including 1968 PA 317, MCL 15.321 to 15.330 (relating to contracts of public servants with public entities), and applicable bylaws, policies, and practices of the District not inconsistent with this agreement or the Consent Agreement.

(e) The Employee shall maintain any certificate, credential, or qualifications required by law and meet and maintain any certification or continuing education requirements required by law.

(f) As requested by the District, the Employee shall provide the District with assistance and perform the lawful acts that the District deems necessary or advisable relating to any litigation involving the District or an officer of the District not inconsistent with this agreement or the Consent Agreement. The requirements of this section 2(f) will continue to apply after the Employment Period.

3. **Termination.** (a) The Employment Period will terminate before June 30, 2018 upon the occurrence of any of the following events:

- (1) the death of the Employee;
- (2) the Employee is Permanently Disabled;
- (3) the District discharges the Employee under section 3(b); or
- (4) the Employee resigns employment by the District under section 3(c).

(b) The Employee shall serve at the pleasure of the District, but the Employee may not be terminated without the approval of the Treasurer. If the Employee violates the Consent Agreement or takes action inconsistent with the Financial and Operating Plan under Section 5 of the Consent Agreement, the District shall terminate the Employee as requested by the Treasurer. If the District believes that the Employee has engaged in acts of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetency, inefficiency, or if the Employee materially breaches this agreement, the District shall notify the Treasurer but may not terminate the Employee without the consent of the Treasurer.

(c) The Employee shall provide notice to the District at least 30 days before resigning employment with the District under section 3(a)(4). Upon termination under section 3(a)(4),

the District is released from any obligations under this agreement other than the obligation to pay the Employee salary and reimbursable expenses owed to the Employee through the date of termination.

(d) The Employee acknowledges that the Employee has no continuing tenure in the position of Employee.

(e) As used in this section 3, "**Permanently Disabled**" means a physical or mental disability or infirmity restricting the Employee from performing the duties under this agreement for a period of 90 days in the aggregate over a 12-month period. A determination that the Employee is permanently disabled shall be made by a medical board certified physician mutually acceptable to the District and the Employee, or the Employee's legal representative. The Employee shall submit medical evidence regarding a disability or potential disability as reasonably requested by the District.

4. **Compensation.** (a) During the Employment Period, the District shall pay the Employee a salary at an annualized rate of \$95,000.00 per year, payable in equal periodic installments consistent with the payroll dates used by the District for its employees. The parties believe that the Michigan Department of Treasury will reimburse the District for the Employee's salary and expenses under section 5.

(b) The Employee may observe and shall receive pay for each day observed as a holiday by the District.

(c) After the end of the Employment Period, the District shall pay the salary and expense reimbursements owed to the Employee (or to the Employee's estate in the event of the Employee's death) at the end of the Employment Period. The Employee's estate is not entitled to any other compensation.

(d) Compensation under this agreement is subject to any withholdings or deductions required by law and regulations. If the District fails to withhold or deduct required amounts, the Employee shall remit to the District sufficient money to satisfy applicable withholding or deduction requirements when requested by the District.

5. **Expense Reimbursement.** In addition to compensation under section 4, the Employee may be reimbursed for all reasonable travel expenses and other expenses related to the performance of duties under this contracts, including lodging and meals based on the standardized travel regulations most recently approved by the Michigan Civil Service Commission, and vehicle mileage at Internal Revenue Service rates.

6. **Benefits.** The Employee may participate in benefit programs offered by the District to District administrators. The District shall notify the Employee of the amount for which the Employee is responsible in excess of the District paid benefit plan costs contributions. The Employee acknowledges that the amount of benefit plan costs contributions designated by the District as the Employee's responsibility will be payroll deducted from the Employee's compensation.

7. **Office Space.** The District shall provide the Employee with office facilities sufficient to perform the duties of the Consultant under this agreement and in close proximity to the offices of the District's superintendent.

8. **Non-Assignment.** This agreement is personal to the Employee. The Employee shall not assign any of the Employee's rights or delegate any of the Employee's obligations under this agreement to any other person other than by will or intestate succession.

9. **Modification; Waiver.** No amendment of this agreement will be effective unless it is in writing and signed by the parties. No waiver of satisfaction of a condition or failure to comply with an obligation under this agreement will be effective unless it is in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or failure to comply with any other obligation. To be valid, any document signed by the District under this section 9 must be signed by an officer of the District authorized to do so by the District.

10. **Notices.** (a) For a notice or other communication under this agreement to be valid, it must be in writing and delivered (1) by hand, (2) by a national transportation company with all fees prepaid, or (3) by registered or certified mail, return receipt requested and postage prepaid.

(b) Subject to section 10(d), a valid notice or other communication under this agreement will be effective when received by the party to which it is addressed. It will be deemed to have been received as follows:

- (1) if it is delivered by hand, delivered by a national transportation company with all fees prepaid, or delivered by registered or certified mail, return receipt requested and postage prepaid, upon receipt as indicated by the date on the signed receipt; and
- (2) if the party to which it is addressed rejects or otherwise refused to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to deliver.

(c) For a notice or communication to a party under this agreement to be valid, it must be addressed using the information specified below for that party or any other information specified by that party in a notice in accordance with this section 10.

To the District: Shelly Mills Walker, Ph.D.
Benton Harbor Area Schools
636 Pipestone Rd.
Benton Harbor, MI 49022

To the Employee: Donald Weatherspoon, Ph.D.
[REDACTED]
[REDACTED]

(d) If a notice or other communication addressed to a party is received after 5:00 p.m. on a business day at the location specified in the address for that party, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.

11. **Severability.** The parties intend as follows:

(1) that if any provision of this agreement is held to be unenforceable, that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;

(2) that if an unenforceable provision is modified or disregarded in accordance with this section 11, then the rest of the agreement will remain in effect as written; and

(3) that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.

12. **Counterparts.** If the parties sign this agreement in several counterparts, each will be deemed an original but all counterparts together will constitute one instrument.

13. **Governing Law.** The laws of the state of Michigan, without giving effect to its principles of conflicts of law, govern all adversarial proceedings arising out of this agreement, or the termination of the Employee's employment with the District.

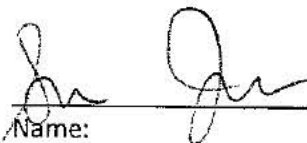
14. **Entire Understanding.** This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties.

15. **Effectiveness; Date.** This agreement will become effective when all the parties have signed it and it is approved by the Treasurer. The date this agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) and approved by the Treasurer will be deemed the date of this agreement. If a party signs but fails to date a signature, the date that the other party receives the signing party's signature will be deemed to be the date that the signing party signed this agreement, and the other party may inscribe that date as the date associated with the signing party's signature.

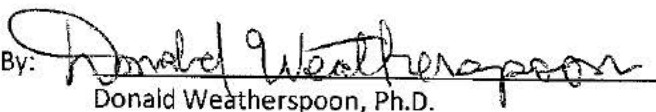
Each party is signing this agreement on the date stated opposite that party's signature.

BENTON HARBOR AREA SCHOOLS

Date: Feb 23, 2016, 2016

By: 
Name: _____
Its: _____

Date: February 17, 2016

By: 
Donald Weatherspoon, Ph.D.

This agreement is approved as provided under Section 8(d) of the Consent Agreement.

Date: 2/22/16, 2016

for Thomas F. Soffe, Chief Deputy
N.A. Khouri
State Treasurer

4824-3194-9358.2