

**Agreement Between**  
**The Shelby County Board of Education**  
**and**

**The Board of Education of the Memphis City Schools**

**THIS AGREEMENT** is made and entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2011 by and between THE SHELBY COUNTY BOARD OF EDUCATION (hereinafter referred to as “SCBE”) and THE BOARD OF EDUCATION OF THE MEMPHIS CITY SCHOOLS (hereinafter referred to as “MCS”).

**WITNESSETH:**

**WHEREAS**, SCBE and MCS both receive local funding from Shelby County, and

**WHEREAS**, the parties wish to enter into an agreement to preserve the status quo regarding school districts in Shelby County, Tennessee, and to prevent (i) SCBE from exercising any option it may come to have to become a special school district (“Special District Efforts”) and/or (ii) MCS to surrender its charter or otherwise cause the consolidation of MCS and SCBE (“Surrender Efforts”) during the term of this Agreement, and

**WHEREAS**, MCS and SCBE are dependent on local funds in order to qualify for State Basic Education Program funds, and

**WHEREAS**, MCS is current involved in litigation with the City of Memphis, and

**WHEREAS**, the parties hereby agree that the taking of either Special District Efforts or Surrender Efforts may have unintended consequences on the maintenance and operation of the Shelby County Schools and the Memphis City Schools without the benefit of adequate study and analysis by the parties, their respective consultants and attorneys, and will interfere with the maintenance and operation of all such schools, and

**NOW, THEREFORE**, in consideration of the promises and covenants set forth herein and for good and valuable consideration, the sufficiency of which is hereby acknowledged, SCBE and MCS agree as follows:

**1. *Special District Efforts.*** Contingent upon MCS's rescission of its vote to surrender its charter and contingent upon there being no referendum pertaining to the transfer of administration of MCS to SCBE during the term of this Agreement, SCBE agrees that in the event that the General Assembly enacts any legislation which lifts the 1982 prohibition against the formation of new special school districts, or by way of Private Act, enacts a law permitting the Shelby County Schools to proceed to and establish a Special School District, SCBE will refrain during the term of this Agreement from acting pursuant to said law.

**2. *Surrender Efforts.*** MCS agrees that it will rescind its vote to surrender its charter. MCS agrees that neither it, its lobbyists, nor any of its employees or agents will seek to move the legislature, the public or any governmental body to take action to surrender its charter, call for a

referendum for that purpose, support the transfer of administration of MCS to SCBE, support or otherwise cause the consolidation of MCS and SCBE, or otherwise engage in Surrender Efforts during the term of this Agreement.

**3. Injunction.** The parties hereby agree and stipulate that in the event of any breach of violation, either threatened or actual, by a party (the “Breaching Party”), the other party, in addition to any and all other rights available to such other party at law or in equity, shall have the right to seek and obtain any and all injunctive relief or restraining orders available to it in courts of proper jurisdiction, so as to prohibit, bar, and restrain any and all such breaches or violations by the breaching party. The parties further agree that no bond need be filed in connection with any request for a temporary restraining order or for temporary or preliminary injunctive relief.

**4. Selection of School District Governance and Funding Expert/s.** The parties agree to solicit through a Joint Request for Proposal (“RFP”) a school district governance and funding expert/s to study issues relating to school governance and funding. The issues to be studied by the expert/s shall include but not be limited to: (1) maintaining MCS and the SCBE as they currently operate; (2) allowing the SCBE and/or MCS to become a traditional Special School District; (3) allowing SCBE to convert to a Special School District followed by MCS converting to a County School District; (4) consolidating MCS and the SCBE and (5) allowing for an alternative form of school governance and funding. The expert/s shall additionally be responsible for facilitating the School District Governance and Funding Study Team (hereinafter “the Team”), as more fully described herein. By March 1, 2011, the parties shall complete the RFP process and select the expert/s. The Superintendents of both school districts must agree upon the language of the RFP and the selection of the expert/s. The expert/s selected shall, within 60 days of being awarded the RFP, make an initial study of school district governance and funding issues as they presently exist in MCS and the SCBE.

5. ***School District Governance and Funding Study Team.*** By no later than March 1, 2011 the governing body of MCS shall present the SCBE with a list of four (4) members of the “Team” and the governing body of the SCBE shall present MCS with a list of four (4) members of the “Team”. The “Team” should be comprised one (1) parent of a student currently attending an MCS school and one (1) parent of a student currently attending an SCBE school, one (1) current employee of MCS and one (1) current employee of the SCBE, the current Superintendents of MCS and the SCBE or their designees, one (1) member of the governing body of MCS and one (1) member of the governing body of the SCBE (no other elected officials may serve on the “Team”) and (2) members of the Shelby County business community to be decided by a majority vote of the “Team” members that are appointed by the governing bodies of MCS and the SCBE. The purpose of the “Team” shall be to work in conjunction with the expert/s described in numbered paragraph 4 of this Agreement to make a recommendation about the method for governing and funding MCS and the SCBE. With input from the “Team” it shall be the responsibility of the expert/s to prepare the schedule of meetings of the “Team”, prepare the agenda of the meetings, and provide the “Team” with research necessary for the “Team” to properly study the issue of school governance and funding of both school districts. The “Team” shall by June 1, 2012, by majority vote of the entire “Team”, recommend to the governing bodies of MCS and the SCBE the method of governance and funding MCS and the SCBE which would serve the best interests of all students, parents and residents in MCS and the SCBE. The expert/s shall not be a voting member of the “Team”. The recommendation of the “Team” shall include: (1) the administrative organization of the school systems, (2) a method to ensure no diminution in the level of the educational service in the school systems, (3) appropriate means for the transfer of assets and liabilities of the school systems if that would be necessary to institute the “Team’s” recommendation for governance and funding, (4) a plan for disposing of existing bonded indebtedness that shall not impair the right of any bondholder if that would be necessary to institute the “Team’s” recommendation for governance and funding, (5) plans for preserving the existing pension rights of all teachers and nonteaching personnel in the respective systems, (6) plans for preserving the existing tenure rights, sick leave rights and salary schedule rights of all teachers and nonteaching personnel in the respective school systems, (7) appropriate plans for reapportionment of the districts for election of members of the school boards or school board, if the recommendation is to transfer the administration of MCS to the SCBE or to

consolidate the school systems, (8) a date upon which any change in governance and/or funding, if any, would become effective, (9) the costs associated with the adoption of the “Team’s” recommendation, and (10) any other matters deemed by the “Team” to be pertinent. The “Team’s” recommendation shall be made to the MCS and SCBE Boards at the conclusion of the “Team’s” review.

**6. Board Resolutions Approving the “Team’s” Recommendation.** After the “Team” reports its recommendation to the governing bodies of the MCS and the SCBE the respective governing bodies shall convene at least one joint public meeting to review the “Team’s” recommendation with the public. After reviewing the “Team’s” recommendation with the public, but by no later than July 1, 2012, the governing bodies of the MCS and the SCBE shall adopt resolutions adopting the “Team’s” recommendation. Any recommendation which would result in the transfer of administration of MCS to the SCBE or the consolidation of the two school districts shall require a referendum election of voters residing and qualified to vote in Shelby County, Tennessee. The recommendation shall be deemed ratified and adopted if the recommendation is approved by a majority of those voting in the countywide election.

**7. Reasonableness.** Each party acknowledges and agrees that it has carefully read this Agreement and has given careful consideration to the restraints imposed upon it by this Agreement, and each party is in full accord as to their necessity for the reasonable and proper protection of each party hereto. Each party expressly acknowledges and agrees that each and every restraint imposed by this Agreement is reasonable with respect to subject matter and time period.

**8. Term.** The parties agree that all obligations under this Agreement shall expire on the third (3<sup>rd</sup>) anniversary of the date of this Agreement, unless both parties mutually agree, in writing, that the term shall be modified.

9. ***Enforceability.*** In establishing the enforceability of this Agreement, the parties rely on their respective charters, common law, statutory law, and specifically the terms of T.C.A. § 49-2-203.

10. ***Miscellaneous.***

(a) **Amendments.** No modification, amendment, or waiver of any of the provisions of this Agreement shall be effective or binding unless set forth in a writing signed by the parties hereto and specifically referring to this Agreement.

(b) **Construction.** The various titles of the sections herein are used solely for convenience and shall not be used for interpreting or construing any word, clause, section, paragraph, subsection or subparagraph of this Agreement. The parties agree that no ambiguities contained herein shall be construed against the drafter of this Agreement.

(c) **Governing Law.** The terms and provisions of this Agreement shall be interpreted in accordance with and governed by the laws of the State of Tennessee. Any cause or action relating in any manner to this Agreement shall be brought and tried exclusively in the state or federal court whose jurisdiction includes Shelby County, Tennessee.

(d) **Counterparts.** This Agreement may be executed in separate counterparts (including by means of telecopied or electronically transmitted signature pages), each of which is deemed to be an original and all of which taken together constitute one and the same Agreement.

(e) **Complete Agreement.** This Agreement embodies the complete agreement and understanding among the parties and supersedes and preempts any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way.

(f) **Remedies.** The rights and remedies granted to any party pursuant to this Agreement are in addition to, and not in lieu of, any other rights and remedies available to such at law or in equity or contained in any other agreement among the parties.

**MEMPHIS CITY SCHOOLS**

**SHELBY COUNTY SCHOOLS**

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Dr. Kriner Cash, Superintendent

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John S. Aitken, Superintendent

Memphis City Schools

Shelby County Board of Education

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Freda G. Williams, Ed. D., President

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David A. Pickler, Chairman

Board of Education Memphis City Schools

Shelby County Board of Education