

## BIRMINGHAM PUBLIC SCHOOLS SUPERINTENDENT'S CONTRACT OF EMPLOYMENT

THIS CONTRACT, is made and entered into in Birmingham, Michigan, on this 18<sup>th</sup> day of December, 2018, by and between the Birmingham Public Schools, a Michigan general powers school district (hereinafter the "School District") and Mark Dziatczak (hereinafter the "Superintendent"). The effective date of this Contract is January 21, 2019.

### IT IS AGREED:

**1. Employment** – The School District hereby employs Superintendent and Superintendent agrees to work for the School District for three and one half (3½) consecutive school fiscal years commencing January 21, 2019 and ending on June 30, 2022. Superintendent shall advise the Board of Education twelve (12) months in advance of his intention to terminate his employment within the term of this Contract as originally agreed to or as extended by later agreement. It is understood and agreed that Superintendent is employed in the capacity of Superintendent, as defined in the Michigan Revised School Code.

**2. Duties** – The Superintendent shall be the chief executive officer of the School District and agrees to serve the School District and perform the duties of Superintendent as directed by the Board of Education for the School District, as set forth within any applicable policies of the School District, and as required by the laws and regulations of the State of Michigan. Superintendent further agrees to obey and fulfill the bylaws, policies, rules and regulations as established by the Board of Education of the School District from time-to-time and to carry out its programs and policies during the entire term of this Contract.

**3. Salary** – The School District shall pay the Superintendent a salary of Eighty Eight Thousand and Nineteen Dollars (\$88,019), pro-rated from \$199,000 based on start date for the 2018-2019 school fiscal year (January 21, 2019 through June 30, 2019). Salary for the 2019-2020 school fiscal year (July 1 2019 through June 30, 2020) shall be One Hundred Ninety-Nine Thousand Dollars (\$199,000.00). The salary to be paid the Superintendent should he work less than a full school fiscal year (including 2018-2019), shall be that pro rata portion of the full school fiscal year that the Superintendent actually renders service. Salary for school fiscal year(s) subsequent to 2019-2020 shall be determined by the Board of Education of the School District, but in no event, excepting an across-the-board administrative wage reduction, shall such salary be less than that pertaining for the prior school year. A significant factor determining compensation and additional compensation shall be the job performance and accomplishments of the Superintendent pursuant to Section 1250 of the Revised School Code.

**4. Residence of Superintendent** – Due to the fact that the duties of Superintendent require significant interaction with the residents of the School District, it is the preference of the Board of Education that Superintendent reside within the boundaries of the School District and the parties agree that the Superintendent shall strive to reside within the boundaries of the School District prior to the expiration of this Contract.

**5. Work Year** – Superintendent shall perform his duties over the full twelve (12) months of the School District's fiscal year (July 1 to June 30), less applicable vacation, leave and holidays. Superintendent shall be expected to attend meetings of the Board of Education and committees and to attend and participate in School District functions, and on occasion, other civic activities having relation to the School District's interests within the community serviced by the School District. The time expended in attending such meetings and activities has been taken into account in setting salary and, thus, no additional compensation shall be forthcoming for such activity.

**6. Tenure** – It is expressly agreed that Superintendent shall not be deemed to be granted continuing tenure in the capacity as Superintendent or in any other administrative capacity by virtue of this Contract of Employment.

**7. Evaluation** – The Board of Education shall, no later than December 15, annually review and evaluate Superintendent's progress toward established goals and working relationships with the Board, the staff and the community. Such evaluation shall be consistent and in compliance with Sections 1249 and 1250 of the Revised School Code and any other applicable statutes or regulations. No later than September 1 of each year, the Superintendent shall inform the members of the Board of Education, verbally and in writing, of its obligation under this paragraph. Failure to so advise the Board of Education shall relieve the Board of any obligations within this paragraph.

**8. Certificate** – Superintendent represents that he has and will continuously maintain the educational qualifications, administrator certification(s) and continuing education required by the Michigan Revised School Code, including Sections 1246 and 1536 thereof, and any applicable rule or regulation of the Department of Education or any successors thereto, relative to the position of superintendent of schools throughout the life of this Contract.

**9. Conflict of Interest** – Superintendent will faithfully serve the School District and be regardful of its interest during the term of this Contract, to the extent required by this Contract and by law. Superintendent will not directly or indirectly acquire or otherwise possess any interest adverse to that of the School District. In the event that a question may reasonably exist as to whether a given interest or potential interest of the Superintendent is in conflict with the interests of the School District, Superintendent shall make full disclosure of same to the Board of Education for its review and disposition, which disposition shall be controlling and complied with by Superintendent.

**10. Other Work** – Superintendent may not undertake consultative work, speaking engagements, writing, lecturing or other professional duties and obligations when such activities would in any manner impinge upon time and effort required to be exerted by Superintendent in the discharge of his responsibilities under this Contract, unless the Board of Education gives its prior consent to such activities.

**11. Expenses** – Superintendent is encouraged to attend and participate in appropriate professional activities and conferences at the local, state and national levels. Subject to approval in advance of such activity or conference by the President of the Board of Education, Superintendent shall be reimbursed, consistent with Board policy and subject to the exception of automobile and related expenses as separately reimbursed pursuant to Paragraph 18 herein, for the reasonable costs of long-distance travel and lodging in connection with such attendances and participations. Superintendent shall be reimbursed, consistent with Board policy and subject to the exception of automobile and related expenses as separately reimbursed pursuant to Paragraph 18 herein, for the reasonable costs incurred in attending and participating in local professional activities and conferences as he may deem to be appropriate on behalf of the School District. Superintendent may be required to provide to the School District an itemized account and substantiation of the above reimbursed expenses in accordance with Board policy for federal and state income tax reporting purposes.

**12. Membership Dues** – During the term of this Contract, the School District shall pay the Superintendent's membership charges and regular dues for membership in the customary national, state and local professional organizations to which school district superintendents regularly belong, as reviewed and approved in advance by the President of the Board. During this Contract, the Board shall further pay the Superintendent's membership charges for membership in up to three (3) civic organizations/clubs subject to advance approval of the President of the Board, excluding non-business related dining charges, donations and other extra expenses related to such memberships. The Superintendent shall provide annually to the Board President a list of the memberships maintained and the cost for each.

**13. Board Meetings** – Among his other duties, Superintendent shall prepare the agenda for each Board of Education meeting in consultation with the President of the Board or the President's delegate and forward same to each member of the Board of Education, along with his recommendations and supporting documentation on each agenda item, sufficiently in advance of the meeting so that each member can assimilate such information prior to the meeting.

**14. Disability** – Should Superintendent be unable to perform the duties and obligations of this Contract by reason of illness, accident or other causes, and such disability exists for a period of more than one hundred eighty (180) calendar days, the Board of Education, at its option, may terminate this Contract, whereupon the respective rights, duties and obligations of the parties shall thereby terminate. Likewise, if it becomes determinable within the one hundred eighty (180) calendar days that such disability is permanent, irreparable or of such nature as to make the continued performance of Superintendent's duties improbable, the Board, at its option, may forthwith terminate this Contract, whereupon the respective rights, duties and obligations of the parties shall thereby terminate. This provision shall not in any way derogate from any long term disability benefits that apply by operation of other provisions of this Contract.

**15. Retirement** – The School District shall assume full costs of the Employer and the Employee contributions to the Michigan Public School Employees Retirement System (“MPSERS”) on behalf of Superintendent, as may be required and/or permitted by law.

**16. Retirement Allowance** – Superintendent shall be eligible for the tax sheltered annuity payment that is present or may later be applicable to Central Office Administrators. Eligibility is determined as set forth in the fringe benefit provisions applicable to Central Office Administrators as may be authorized from time-to-time by the Board of Education.

**17. Tax Deferred Annuity** – Superintendent shall annually be provided a tax deferred annuity of Ten Thousand Dollars (\$10,000.00) as set forth in the fringe benefits provisions applicable to Central Office Administrators.

**18. Automobile and Related Expenses** – Superintendent shall be required to own or lease and operate an automobile for the purposes attendant to his duties under this Contract and for which the School District shall annually provide Seven Thousand Five Hundred Dollars (\$7,500.00). Additionally, for travel mileage outside the School District's boundaries the Superintendent shall receive reimbursements as provided within Policy 6430 Business and Travel Expense. Superintendent shall be required to provide to the School District an itemized account and substantiation of the above reimbursed expenses in accordance with Board policy for federal income tax reporting purposes.

**19. Vacation and Personal Days** – Superintendent shall receive the vacation day and personal day allocation as set forth in the fringe benefit provisions applicable to Central Office Administrators, approved from time-to-time by the Board of Education. Superintendent shall also receive up to two additional personal obligation days annually.

**20. Insurance** – The School District shall provide Superintendent with the same health and other insurance benefits as set forth in the fringe benefit provisions authorized to Central Office Administrators, as approved from time-to-time by the Board of Education.

**21. Mid Term Changes** – Some of the provisions of this Contract are derived or determined by reference to employment terms and conditions (i.e., collective bargaining agreements or other group wide terms and conditions) applicable to employee group(s) employed within the School District which may change from time-to-time during the term of this Contract. It is the intent of the parties that such changes will immediately become applicable to Superintendent upon such changes occurring or being implemented for such employee group(s). Accordingly, Superintendent acknowledges that such mid-term changes may either increase or diminish/decrease the rights, obligations or fringe benefit entitlements to which he is entitled at the inception of this Contract, without the need for further amendments to this Contract.

**22. Termination of Contract** – In addition to any other rights the School District may have, by law or under this Contract, this Contract may be terminated at any time during its term by the School District for just cause, including but not limited to, acts of moral

turpitude, misconduct, conviction of a felony, conviction of a misdemeanor involving sexual misconduct or child abuse, or if Superintendent violates any of the substantive terms or covenants of this Contract. In such event, Superintendent shall be advised, in advance, of the Board of Education's intention to consider effecting such a midterm termination and provided an opportunity for a meeting before the Board, or a committee thereof as determined by the Board, in regard to the prospect of such termination, which meeting may be open to the public or closed, at Superintendent's option. In the event Superintendent elects to contest the Board of Education's disposition in regard to such termination following such meeting, he shall have the right, exclusive of any other rights or remedies available to him at common law or by statute, to request arbitration.

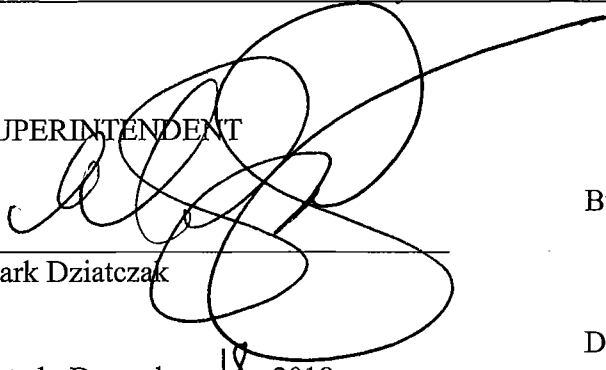
The parties agree that any dispute regarding the Board's proposed termination for just cause, or any other claim arising from the employment relationship between the School District and the Superintendent, must be brought and exclusively adjudicated within the arbitration forum and pursuant to the American Arbitration Association National Rules for the Resolution of Employment Disputes (or if superseded, by the rules then applicable). The parties acknowledge that this agreement to arbitrate is authorized by the Michigan Arbitration Act, MCL 600.5001 *et seq.*, and constitutes a clear knowing waiver of the right to otherwise adjudicate the Board's proposed termination for just cause or any other claims arising from the employment of the Superintendent. The courts of the State of Michigan shall have jurisdiction to enforce this arbitration agreement and to render judgment on an award entered pursuant thereto. The arbitrator shall be selected through the mutual cooperation between the representatives or counsel for the respective parties, failing agreement on which may be referred by either party to the Detroit Regional Office of the American Arbitration Association, or other Association office having jurisdiction, for appointment of an arbitrator and processing under its applicable rules.

**24. Nonrenewal of Contract** – As recited in Paragraph 1 herein, this Contract shall terminate on June 30, 2022. Superintendent acknowledges that he has no expectation of employment by the School District beyond that date. The decision whether to renew or not to renew the contractual relationship is solely within the discretion of the Board of Education for the School District.

**25. Totality of Terms** – This Contract contains all of the terms agreed by the parties with respect to the subject matter of this Contract and supersedes all administrative salary schedules, prior contracts, arrangements and communications between or pertaining to the parties concerning such subject matter, whether oral or written.

**IN WITNESS WHEREOF**, the parties hereto have signed this Agreement the day and year first above written.

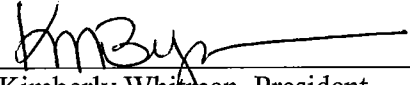
SUPERINTENDENT

  
\_\_\_\_\_  
Mark Dziatczak

Dated: December 18, 2018

BIRMINGHAM PUBLIC SCHOOLS

By:

  
\_\_\_\_\_  
Kimberly Whitman, President  
Board of Education

Dated: December 18, 2018