

**EAST DETROIT PUBLIC SCHOOLS
SUPERINTENDENT'S CONTRACT OF EMPLOYMENT**

This Contract is made and entered into this 12th day of December, 2011 by and between the EAST DETROIT PUBLIC SCHOOLS BOARD OF EDUCATION, hereinafter referred to as "Board" or "District," and Joanne Lelekatch, Superintendent, hereinafter referred to as "Superintendent."

WHEREAS, the District and the Superintendent desire to extend the terms and conditions of the Superintendent's Contract of Employment between the Board and the Superintendent dated April 2, 2010, and to make certain revisions to said terms and conditions as set forth herein.

WHEREAS, the District and the Superintendent believe that a written Contract is necessary to describe their relationship and to serve as the basis for effective communication between them in the fulfillment of their governance and administration of the educational and operational programs of the District.

NOW, THEREFORE, the District and the Superintendent, in consideration of the premises and the covenants herein specified, agree as follows:

1. **TERM.** Subject to the satisfactory completion of all background checks required within the Michigan Revised School Code, the District hereby employs and the Superintendent hereby accepts employment as the Superintendent of Schools for a term commencing with the execution of this Agreement and ending June 30, 2015 thereafter (the "Term"), unless otherwise terminated under the terms and conditions stated herein. This contract may be terminated by the District with three (3) months' notice in the event of a bona-fide financial emergency that causes the District consolidate or share Superintendent services with another K-12 school district or the intermediate school district. In the event of such termination, the Superintendent shall have the option of reverting to her position of Director of Instruction at a pay rate and benefit structure outlined in this contract until expiration.

2. **QUALIFICATIONS.** At all times during the term of this Contract, the Superintendent represents that she holds all certificates and other qualifications as required by the Board, state law, the State Board of Education, and the North Central Association or will undertake to achieve said qualifications pursuant to the requirements of applicable law, including but not limited to MCLA 380.1246. If at any time the Superintendent fails to meet the applicable requirements, this Contract, without further action by either of the parties, shall thereupon be automatically terminated.

3. **TENURE EXCLUSION.** Superintendent shall not by virtue of this Contract of Employment acquire administrative tenure within the meaning of the Michigan Teachers' Tenure Act in the position of Superintendent or any other non-classroom position.

4. **PROFESSIONAL RESPONSIBILITIES OF SUPERINTENDENT.** The Superintendent shall perform the usual and necessary duties and tasks of the chief executive

officer of a school district in a competent and professional manner, subject to the satisfaction, direction and control of the Board of Education of the District, which shall be the sole judge of performance. Without limiting the generality of the preceding, such duties and tasks shall include and be subject to the following:

A. Duties. The Superintendent shall have charge of the administration of the schools under the direction of the Board of Education and shall administer the District according to Board policy and the requirements, directives, regulations and guidelines of the Board of Education. The Superintendent shall comply with the requirements and directions of the Board of Education even though such may not have been formally adopted by the Board of Education. She shall be the chief executive officer of the District; shall assign and direct teachers and other employees of the District under her supervision; shall organize, reorganize and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves the District subject to the approval of the Board; shall timely suggest regulations, rules and procedures deemed necessary for best operations of the District; and shall, in general, perform all duties incident to the Office of Superintendent of Schools and such other duties as may be prescribed by the Board. Nothing in this Contract shall preclude the Board from exercising its authority to change the duties or assignment of the Superintendent, nor shall the Superintendent be deemed entitled to any specific responsibility or title.

B. Services. This Contract is intended by the parties to be a full-time contract and the Superintendent shall devote her attention to the functions of Superintendent at all times during the term of this Contract. It is not contemplated that the Superintendent will perform services on weekends or legal holidays. However, it is intended that the Superintendent shall remain available on such days to meet the responsibilities of superintendent of schools on such occasions as are necessary.

C. Relationship to the Board. The Board of Education shall promptly refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and recommendation unless the Board determines that the welfare of the District, its students or its staff requires action inconsistent with this provision. The Superintendent shall have the obligation unless excused, to attend all board meetings and District-created citizen committee meetings, serve as an ex-officio member of all Board Committees, and provide administrative recommendations on each item of business considered by each of these groups. The Board shall have the option to meet without the Superintendent present.

D. Outside Activities. The Superintendent shall devote the necessary time, attention, and energy to the business of the District. Participation in outside activities by the Superintendent shall be subject to approval by the Board, in its sole discretion, where the time requirement for such activities is anticipated to be substantial (e.g., conferences which require the Superintendent's absence from the District for two or more regular business days). In the event the Board, in its sole discretion, determines that any outside activities interfere with the Superintendent's satisfactory performance or the time necessary for satisfactory performance of her duties, it may require the Superintendent to cease some or all of such activities.

E. Incorporation of Laws. Notwithstanding and not as a modification of any other specification or reference herein, this Contract is subject to and includes all applicable laws of the federal and state governments and all duly adopted policies, rules, and regulations of the District as are in effect or become in effect during the term of this Contract; and the District specifically reserves the right to change such policies, rules, and regulations at any time without prior notice.

5. COMPENSATION. The District shall pay the Superintendent as remuneration for her services a salary of \$138,000. As the Superintendent has been receiving salary and benefits under her prior contract, this salary shall be prorated for the remainder of the 2011-12 fiscal year by the number of days between the effective date of this Agreement and June 30, 2012. The District shall, on April 2 of each year of the Term, also make a non-elective contribution into a 403(b) account designated by the Superintendent the amount of \$5,000.00. The base salary and other components of her annual remuneration may be increased or decreased from time to time based on the economic conditions of the District by written addendum to this Contract, but shall in no case be less than the Superintendent's current salary. Payments made to the Superintendent under this Contract shall be payable consistent with the customary payroll practices of the District. All payments under this Contract shall be subject to such withholding and deductions as may be required pursuant to applicable laws, government regulation, District policy or order, or by written agreement with, or the written consent of the Superintendent.

As of the effective date of this Agreement, the District is in deficit, which deficit was reported prior to the Superintendent's hire by the Board under the Prior Contract. The Superintendent's duties hereunder include recommendation and, upon adoption, implementation of a Deficit Elimination Plan, as it may be amended from time to time, to cause the District to emerge from deficit by June 30, 2014. In the event the District emerges from the deficit by June 30, 2014, then the Superintendent shall receive a raise in the recognition of her success at an amount to be negotiated between the Board and the Superintendent at the time.

6. FRINGE BENEFITS. The Board shall provide the Superintendent with the following benefits:

A. Twenty five (25) days of paid time off ("Paid Time Off" days) which may not be accumulated and may be taken in a manner that does not interfere with her duties. The Superintendent may elect to be paid for up to five (5) unused Paid Time Off days annually. The Superintendent may carry over her current accumulated sick leave however, she will cease to accumulate sick days upon execution of this agreement.

B. The Superintendent shall receive a holiday/break with pay at the employee's current regular rate for the holidays/breaks that fall within the regular work year as indicated on the administrative calendar.

C. Superintendent shall remain eligible for Central Office Sick Bank until such time the District establishes a Short-Term Disability policy.

D. Reimbursement for business related mileage costs at the current applicable District rate.

E. Maintenance by the District of the current life insurance/AD&D policy on her with its current a death benefit level of \$226,000, with the Superintendent or her estate, as applicable, liable for any taxes upon such policy.

F. Medical, optical, dental, Insurance consistent with the benefit outlined under Board Policy and the Open Enrollment provisions of the District's health care plan, to which the Superintendent shall make a 20% contribution toward the monthly portion of the illustrative rate of such benefits as required by Public Act 152.

G. Long-term disability paid at 66.67% of the employee's current regular salary in accordance with the District's policy.

H. Funeral leave.

7. PROFESSIONAL LIABILITY.

A. **Hold Harmless.** The District agrees that, to the extent it can legally do so, it shall defend, hold harmless and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal proceedings at law or in equity (specifically excluding, however, any demands, claims, suits, actions, or legal proceedings brought against the Superintendent by or on behalf of the District, in any criminal proceedings brought against the Superintendent), in her individual capacity or in her official capacity as agent and employee of the District, provided the incident giving rise to the claim arose while the Superintendent was acting in good faith and within the scope of her employment and not willfully or wantonly, and provided further that the Superintendent was not acting contrary to Board policies, procedures or regulations. The District may at the Board's option provide a policy of insurance to meet its obligations under this Contract and the parties hereby agree that such coverage shall be in full satisfaction of the Board's obligations herein.

B. **Provision of a Defense.** The obligations of the District pursuant to this Section 7 shall be conditioned on (a) prompt notification to the District by the Superintendent of any threatened or reasonably contemplated claim; (b) full cooperation by the Superintendent with the District and legal counsel (who shall be selected in the sole discretion of the Board of Education or, in the event this defense and indemnity obligation is satisfied through provision of a policy of insurance, counsel appointed by said carrier) in defending the claim; and (c) the Superintendent not compromising, settling, negotiating, or otherwise similarly dealing with the claim without the express consent of the Board of Education.

C. **Reimbursement.** In the event the District has provided a defense pursuant to this Section 7, and a court or other decision making body having jurisdiction over the matter determines that the act or omission of the Superintendent did not occur during the performance of her duties hereunder and within the scope of her employment or that the act or omission was willful or wanton or not in good faith, the Superintendent shall reimburse the District for all costs of such defense and indemnity actually incurred by the District.

D. No Individual Liability. In no event shall individual Board members be individually or collectively liable or responsible to the Superintendent for defending or indemnifying the Superintendent against such demands, claims, suits, actions, and legal proceedings.

8. EVALUATION CRITERIA. The criteria by which the Superintendent shall be evaluated shall include the Superintendent's compliance with and implementation of the Board's policies, with specific emphasis on the Board's operating limitations and ends and subject to state and federal law. Before October 1 of each subsequent year, the Board and Superintendent will mutually establish specific objectives against which the Superintendent's performance will be evaluated. In the event mutual agreement is not reached in writing and signed by such dates, or another mutually agreed upon date, the Board will establish such objectives in its sole discretion.

9. EVALUATION. The Board shall evaluate and assess in writing the performance of the Superintendent during the term of this Contract pursuant to applicable District evaluation procedures and state law, not less than once each contract year, and more frequently at the request of the Board or Superintendent. If the Superintendent requests closed session in connection with such evaluation, the Board shall grant her request. In the event that the Board determines at any time during this Contract that there are concerns regarding the Superintendent's performance which jeopardize continued employment, the Board will so advise the Superintendent and provide an opportunity for response.

Nothing in this evaluation section, Section 8, or the implementation of these sections shall be deemed to create or to be a prerequisite to or condition of dismissal, termination, or other personnel actions taken by the Board regarding the Superintendent. A failure to evaluate in a timely manner shall not be construed as an evaluation of satisfactory performance.

10. TERMINATION OF EMPLOYMENT CONTRACT. This employment Contract may be terminated by:

A. Mutual Agreement. This Contract may be terminated by mutual agreement of the parties.

B. Absence of Superintendent. The parties acknowledge that the Superintendent's presence on the job is crucial to the success of the District. Accordingly, and subject to any applicable requirements of the Family and Medical Leave Act, and/or the Americans With Disabilities Act as amended, and the Michigan Persons With Disabilities Civil Rights Act, the District may terminate this Contract by written notice to the Superintendent at any time after the Superintendent has been absent without pay from her employment because of illness or injury for a continuous period of one hundred eighty (180) days. All obligations of the District under this Contract shall cease upon such termination.

The District may terminate this Contract at any time it is determined that the Superintendent will be absent from work indefinitely, provided that in the event of such termination the Superintendent shall be paid for all accrued but unused leave available

under this Contract. If a question exists concerning the capacity of the Superintendent to return to or perform the essential functions of the Superintendent, the District may require the Superintendent to submit to a medical examination to be performed by a medical doctor. The District and the Superintendent shall mutually agree upon the physician who shall conduct the examination. If the parties are unable to mutually agree upon a physician, a physician shall be designated by the Board President. The examination shall be done at the expense of the District. The physician shall limit her report to the issue of whether the Superintendent has a continuing physical or mental disability which prohibits her from performing her duties.

In the event that the Board determines that the Superintendent is unable to perform the essential functions of the position, it may terminate this Contract subject to the hearing procedure described in Subsection 10.D and upon payment to Superintendent of three months' pay or the amount owing to the expiration date of this Contract, whichever is less, and accrued leave benefits as specified herein, if any, as of the date of termination.

Nothing in this section shall limit the Board's exercise of its rights under Subsections 10.C or 10.E.

C. Discharge for Cause. Throughout the term of this Contract the Superintendent shall be subject to discharge for good and just cause, which shall include, but not be limited to, the failure to perform the material duties assigned to the Superintendent engaging in conduct injurious to the District; commission of one or more acts or omissions constituting misfeasance or malfeasance; conviction of a felony or other crime of moral turpitude or a circuit court misdemeanor or any offense involving (i) use of alcohol, illegal drugs, prescribed drugs contrary to prescription or (ii) students, parents or employees of the District; knowingly, negligently, or intentionally acting or failing to act in violation of any applicable law, judgment, rule, regulation, order or District policy where, in the judgment of the Board such action or inaction has an adverse effect on the District; acting or failing to act in a way which constitutes a material breach of this Contract or otherwise engaging in conduct which constitutes "cause" for dismissal under applicable legal principles; dishonesty in relation to the performance of her duties or causing detriment to the District; conduct that causes public shame, humiliation, embarrassment or is otherwise detrimental to the District; a positive drug test for prohibited or the misuse of prescribed drugs; any abuse or misuse of alcohol detrimental to the District. The parties acknowledge that the Board has adopted specific policies addressing operating limitations and ends, and agree that the Superintendent's violation of or failure to implement those policies as required by the Board may be deemed by the Board as cause for discharge.

D. Procedure. The Board shall not discharge the Superintendent for cause unless she has first been given written notice of charges and an opportunity for a hearing. If the Superintendent timely requests a hearing, the Board of Education shall hold the hearing or direct an independent hearing officer of its choice to conduct the hearing and to make findings of fact and nonbinding recommendations to the Board. If the

Superintendent chooses to be accompanied by legal counsel at the hearing, the Superintendent's legal expenses shall be paid by the Superintendent.

E. Unilateral Termination by District. The District may unilaterally terminate this Contract without cause or hearing before expiration of the term upon payment of twelve months salary as defined in Section 5. Such payments shall be made in six equal monthly installments, beginning upon resolution of any and all disputes arising out of this agreement. **Superintendent waives all provisions of law arguably in conflict with or contrary to this provision, if any, including but not limited to Section 1229 of the Michigan Revised School Code.**

F. Death of the Superintendent. This Contract shall automatically terminate upon the death of the Superintendent. In such event, the Superintendent's estate shall be paid the full monthly salary installment pursuant to Section 5 for the month during which the death occurred.

G. Unilateral Termination by Superintendent. The Superintendent may unilaterally terminate this Contract only upon six months' prior written notice to the Board, during which six months the Superintendent shall continue to perform her obligations to the District. The Superintendent waives any right pursuant to law which would allow her to terminate the Contract with less notice than required by this Paragraph. **In the event the Superintendent fails to provide the required notice and perform her duties during the notice period, she shall be obligated to pay liquidated damages to the District for each month, as applicable, equal to the full salary installment defined in Section 5.**

H. Except as expressly provided in this Contract, in the event the Superintendent's employment is terminated for any reason, all obligations of the District hereunder shall terminate.

11. SUSPENSION OF THE SUPERINTENDENT. The Board of Education may, at any time, suspend the Superintendent with pay and benefits and without prejudice for such purposes and period of time as the Board deems to be in the best interest of the District. In any case, the Superintendent shall be notified in writing of the suspension.

12. WAIVER. Waiver by either party of a breach of any provision of this Contract shall not be construed as a waiver of a breach of any other provision or of any subsequent breach.

13. SAVINGS CLAUSE. If, during the term of this Contract, it is found that a specific clause of this Contract is illegal under federal or state law, the remainder of the Contract not affected by such a ruling shall remain in full force and effect.

14. BINDING EFFECT. This Contract is one for personal services to be provided by Joanne Lelekatch only and may not be assigned. Any compensation due and payable to Joanne Lelekatch under this Contract shall be payable to her heirs and legal representatives in the event of her death.

15. **DISPUTE RESOLUTION.** This Contract, and the rights and obligations of the parties hereto, shall be interpreted and construed in accordance with the laws of the State of Michigan. It is agreed that Macomb County is the proper venue for any disputes arising under this Contract as written.

Notwithstanding the foregoing, any action or suit by the Superintendent concerning anything related to the employment relationship with the District shall be commenced within six (6) months of the occurrence of said alleged cause of action. The Superintendent hereby waives any statute of limitations granting a greater time to bring said claim. Any claim not commenced within six (6) months of the alleged cause of action shall be barred. For purposes of this subparagraph, the term "commenced" means "filing a summons and complaint with the court having jurisdiction or filing written complaint or charge with the appropriate administrative agency."

Binding Arbitration: The Superintendent and the District agree that, except as set forth in the final sentence of this paragraph, any and all claims, demands, actions and causes of action whatsoever, arising from or relating to the Superintendent's employment with the District and the negotiation, execution and interpretation of this Agreement will be submitted to final and binding arbitration before a single arbitrator according to the American Arbitration Association's National Rules for the Resolution of Employment Disputes. The Superintendent or the District may move for entry of judgment on such an arbitration award in any court of competent jurisdiction. This paragraph does not apply to a decision by the Board or the District not to renew this Agreement, which decision may not be submitted to final and binding arbitration. The parties concur that this provision shall not be construed an "employer sponsored plan".

16. **ENTIRE AGREEMENT.** This Contract sets forth the entire agreement between the parties concerning employment of the Superintendent and supersedes all prior agreements and understandings between the parties, whether written or verbal, concerning these matters. Except as otherwise stated herein, changes to this Contract, whether by way of addition, deletion or both, are not binding unless in writing and signed both parties. In signing this Contract, Superintendent does not rely upon any representation or inducement other than those set forth herein.

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SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the District has caused this Contract of Employment to be approved on its behalf by a duly authorized officer of the Board of Education and the Superintendent has approved this employment Contract effective on the day and year first above written.

By: Carol Corrie
Carol Corrie
President, Board of Education

Date: 12-19-11

ATTEST:

Margaret Podsiadlik
Margaret Podsiadlik
Secretary, Board of Education

Date: 12/19/11

Joanne C. Lelekatch
Joanne Lelekatch
Superintendent

Date: 12-19-11