

## **PUBLIC SCHOOLS OF THE CITY OF MUSKEGON**

### **Superintendent Contract**

It is hereby agreed by and between the **Board of Education of the School District of the Public Schools of the City of Muskegon**, in the State of Michigan (hereafter referred to as the “Board”), and **Matthew Cortez** (hereinafter referred to as the “Superintendent”), that the said Board in accordance with its action as found in the minutes of the meeting held on July 8, 2019, has and does hereby employ said Matthew Cortez as Superintendent of Schools for a period commencing on August 12, 2019, and ending June 30, 2022. Both parties agree that said employee shall perform the duties of Superintendent of Schools as established by the Board as prescribed by the laws of the State of Michigan and by the rules and regulations of the State Board of Education and/or the Board of Education of the Public Schools of the City of Muskegon.

#### **WITNESSETH:**

1. **Duties and Qualifications.** The Superintendent represents that he possesses, holds and will maintain all certificates, credentials and qualifications required by law, including the provisions of Sections 1246 and 1536 of the Revised School Code, the regulations of the Michigan Department of Education, and those required by the Board of Education to serve in the position assigned. The Superintendent agrees, as a condition of continued employment, to meet all certification and continuing education requirements for the position assigned, as are and may be required by law or by the Michigan Board of Education. If at any time the Superintendent fails to maintain all certificates, credentials, continuing education requirements and/or qualifications for the position assigned as required herein, this Contract shall automatically terminate and the Board shall have no further obligation hereunder.

The Superintendent agrees to devote all talents, skills, efforts and abilities toward competently and proficiently fulfilling all duties and responsibilities of the position assigned. The Superintendent agrees to faithfully perform those duties assigned by the Board of Education and to comply with the directives of the Board of Education with respect thereto. The Superintendent further agrees to comply with and fulfill all responsibilities and tasks required by state and federal law and regulations, and by the Board of Education, to carry out the educational programs and policies of the School District during the entire term of this Contract. The Superintendent agrees to devote substantially all of business time, attention and services to the diligent, faithful and competent discharge of duties on behalf of the School District to enhance the operation of the School District and agrees to use best efforts to maintain and improve the quality of the programs and services of the School District. Among other duties, the 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 members can assimilate such information prior to the meeting.

2. **Salary.** In consideration of an annual salary to be **One Hundred Fifty-Five Thousand Dollars (\$155,000)**, said Superintendent agrees to perform faithfully the duties of Superintendent of Schools. The annual salary shall be paid in twenty-six (26) installments, and will remain in effect without increase through June 30, 2020. Any increase in the Superintendent's annual salary is subject to a satisfactory annual review of the Superintendent's performance and must be approved by the Board.

3. **403b Contribution.** The Board will contribute ten percent (10%) of the Superintendent's salary as stated in Section 2 above toward a qualified 403b annuity of the Superintendent's choice.

4. **Merit Compensation.** The Superintendent shall be eligible for merit compensation based upon the rating in the annual performance evaluation as follows: Five Thousand Dollars (\$5,000) will be paid if rated Highly Effective; Two Thousand Five Hundred Dollars (\$2,500) will be paid if rated Effective; and no stipend shall be paid if rated Minimally Effective or Ineffective. The payment shall occur in the pay period after the annual evaluation is completed.

5. **Evaluations.** The Board shall evaluate the Superintendent, at least annually, using the criteria in accordance with Section 1249 of the Michigan Revised School Code, as applicable to the Superintendent. The Superintendent shall receive an overall rating of Highly Effective, Effective, Minimally Effective or Ineffective. The Board, in consultation with the Superintendent, shall determine the evaluation tool, categories, criteria timelines and processes to be utilized in evaluating the Superintendent. Criteria may include the manner, in which day-to-day operations of the School District are handled, Board/Superintendent relations, staff and community relations, district-wide student growth and the degree to which the Superintendent fulfills the responsibilities set forth in the job description and duties for that position. The evaluation process shall include but is not limited to a conference with the Superintendent, which shall be open or closed at the Superintendent's option in accordance with the Open Meetings Act. Each year, the Superintendent shall notify the Board President at the first October meeting of the upcoming evaluation timeline. At the Superintendent's request, the Board may also meet with the Superintendent on a quarterly basis to evaluate his performance. At the

Superintendent's option, such evaluations shall be open or closed as permitted by the Open Meetings Act.

6. **Extension.** This Contract may be extended either by option of the Board of Education or by operation of law, as follows:

A. *Board Option.* The Board of Education, no later than June 30 of each year during the term of this Contract, may extend the Contract for an additional one (1) year period. In exercising this option, the Board of Education also shall establish the annual salary to be paid to the Superintendent for the school year included in the extension. All other terms and conditions of this Contract shall remain unchanged. The Board of Education in its sole discretion and with or without cause may decline to extend this Contract for an additional year.

B. *Operation of Law.* Unless the Board of Education gives written notice of non-renewal of this Contract to the Superintendent at least ninety (90) days before the Contract's termination date, this Contract will, without further action, be automatically renewed for an additional one (1) year period as provided by Public Act 183 of 1979, now being MCL 380.1229. The Superintendent shall advise the Board of this obligation in December if the Contract terminates at the end of that school year, and the Board shall conduct the evaluation of the Superintendent prior to March 30 of that year.

7. **Termination.** The Superintendent shall be subject to discharge for reasons that are not arbitrary and capricious. If the Board proposes to discharge the Superintendent, it shall provide the Superintendent with a written notice of the basis for the discharge. It shall also

permit the Superintendent to have a hearing before the Board. If the Superintendent chooses to be accompanied by legal counsel at the hearing, all fees related to the Superintendent's legal counsel shall be the sole responsibility of the Superintendent.

8. **Liability Coverage.** The Board agrees to pay the premium amount for errors and omissions insurance coverage for the Superintendent while engaged in the performance of a governmental function and while the Superintendent is acting within the scope of his authority. The policy limits for this coverage shall not be less than Two and One-half Million Dollars (\$2,500,000). The terms of the errors and omissions insurance policy shall be controlling respecting defense and indemnity of the Superintendent. The sole obligation undertaken by the Board shall be limited to the payment of premium amounts for the above errors and omissions coverage. In the event that such insurance coverage cannot be purchased in the above amounts and/or at a reasonable premium rate, the Board shall have the right to discontinue said coverage and shall so notify the Superintendent. The Board agrees on a case-by-case basis to consider providing legal defense and/or indemnification to the Superintendent as is authorized under and under MCL 691.1408 and under 380.11(3) (d).

9. **Sick Days.** The Superintendent shall be entitled to twelve (12) sick leave days annually. Three (3) of the twelve (12) days may be used for personal business. The Superintendent will be awarded a one-time entitlement of five (5) sick leave days on the start of his Contract. Sick leave days may accumulate from year to year to a maximum of sixty (60) days. Upon retirement, resignation or termination, any unused sick leave will be "bought out" at the rate contained in the collective bargaining agreement with Muskegon City Teachers.

10. **Physical Examination.** Upon the Board President's request, the Superintendent agrees to have a comprehensive medical examination once every year. A statement certifying to the physical competency of the Superintendent shall be submitted to the President of the Board

and shall be treated as confidential information. The cost of said physical examination over and above insurance coverage shall be paid by the Board.

11. **Disability.** Should the Superintendent be unable to perform any or all of his duties because of disability due to illness, accident or other cause and should said disability exist for a period of more than the Superintendent's accumulated sick leave during any school year, the Board agrees to pay the salary until the long term disability (LTD) is activated.

12. **Fringe Benefits.** The Board shall provide the Superintendent with the following fringe benefits:

- A. Life Insurance coverage in the face amount of One Hundred Fifty Thousand and 00/100 Dollars (\$150,000).
- C. Health and hospitalization insurance equal to that provided to the administrative team.
- D. The Superintendent shall be reimbursed his mileage at the IRS rate for any School District related travel outside of Muskegon County.

13. **Memberships, Conferences and Hearings.** The Board shall provide professional membership up to three (3) state level associations to be agreed upon by the Board President. Subject to prior approval by the President of the Board, the Superintendent shall be authorized to attend hearings, conferences, workshops and other meetings on behalf of the School District.

14. **Vacation Days.** The Superintendent shall be entitled to four (4) weeks (20 work days) of vacation annually. Unused vacation, up to a maximum of five (5) work days per Contract year, may accumulate. Upon retirement, resignation or termination, any unused accumulated vacation days will be "bought out" at the daily rate of the Superintendent. The Superintendent may "cash in" up to ten (10) work days of his vacation time annually. Redeemed

vacation days shall not be subject to Board contributions to the Michigan Public School Employees Retirement System (MPERS) where to do so would violate MCLA 388.1764a, or its successor provision. Any unused vacation days exceeding fifteen (15) work days in a Contract year (June 30) will be forfeited and not reimbursed or carried over to the next year.

**15. Tenure Exclusion.** The Superintendent shall not acquire tenure as an administrator in the position of Superintendent or in any other non-classroom position to which the Superintendent may be assigned.

**16. Dispute Resolution.** The Superintendent agrees that any claim arising out of the Superintendent's employment with the Board must be filed no more than six (6) months after the date of the employment action that is the subject of the claim. The Superintendent understands that the statute of limitations for claims arising out of an employment action may be longer than six (6) months, but agrees to be bound by the six (6) month period of limitation set forth herein and waives any statute of limitations to the contrary. Should a court of competent jurisdiction determine that this provision allows an unreasonably short period of time to pursue a claim, it is the intent of the parties that the court will enforce this provision to the full extent possible under Michigan law.

In the event of a dispute between the parties relating to any provision of this Contract, or a dispute concerning any of the parties' rights or obligations as defined pursuant to this Contract, the parties hereby agree to submit such to binding arbitration. Selection of the arbitrator and the arbitration proceedings shall be conducted under the National Rules for the Resolution of Employment Disputes of, and administered by, the American Arbitration Association. Arbitration under this provision shall be conducted pursuant to the terms of the Michigan Arbitration Act, MCL 600.5001 *et. seq.* and MCR 3.602.

The arbitrator's fee and the costs imposed by the American Arbitration Association shall be shared equally by the Board and Superintendent. Any claim for arbitration under this provision must be filed with the American Arbitration Association, in writing, and served on the Board within six (6) months of the alleged breach of contract or employment action. The Decision and Award of the arbitrator shall be final and binding.

17. **Amendment.** This Contract constitutes the entire understanding and agreement of the parties. No individual Board member has the authority to enter into any new or different contract or to modify this Contract. No change shall be effective with respect to the terms of this Contract unless in writing and signed by both parties.

18. **Totality of Terms.** This Contract contains all of the terms agreed to by the parties with respect to the subject matter of this Contract and supersedes all prior agreements, arrangements and communications between the parties concerning such subject matter whether oral or written.

19. **Severability.** If any provision or segment of this Contract shall be determined by a court of competent jurisdiction to be unlawful and/or unenforceable, then such provision or segment shall be deemed to be severed from the remainder of the Contract and the Contract shall otherwise be in full force and effect.

20. **Governing Law.** This Contract is governed by the laws of the state of Michigan.



IN WITNESS WHEREOF, the parties hereto have executed this Contract in duplicate on the 22 day of July, 2019.

Witnesses:

Arma A. Lopez

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Arma A. Lopez

**PUBLIC SCHOOLS OF THE CITY OF MUSKEGON**

**Board of Education**

By: Cindy Larson  
Cindy Larson  
Its: President

Matthew T. Cortez  
Matthew Cortez, Superintendent

Anne Anderson 7.19.19  
ANNE ANDERSON  
Notary Public, State of Michigan  
County Of Bay  
My Comm. Expires 12-18-2023  
Acting in the County of Bay