

CONTRACT OF EMPLOYMENT

Superintendent

It is hereby agreed by and between the Board of Education of the North Branch Area Schools School District (hereinafter "Board") and James David Fish (hereinafter "Administrator") that pursuant to Section 1229(2) of the Revised School Code of the State of Michigan, the Board in accordance with its action found in the minutes of its meeting held on the 11th day of June, 2018, has and does hereby employ the said Administrator for a three year period commencing on July 1, 2018 and ending on June 30, 2021, according to the terms and conditions as described and set forth herein as follows:

1. Administrator shall perform the duties of Superintendent as prescribed by the Board and as may be established, modified and/or amended from time to time by the Board and under the supervision and direction of the Superintendent of Schools. Administrator acknowledges the ultimate authority of the Board and Superintendent with respect to his/her responsibilities and directions related thereto. Administrator is subject to assignment and transfer to another position of administrative employment in the School District at the discretion of the Board or its Superintendent of Schools.

2. Administrator represents that he/she 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, including the regulations of the Michigan Department of Education, and those required by the Board to serve in the position assigned. Administrator agrees, as a condition of his/her continued employment, to meet and maintain all certification and continuing education requirements for the position assigned, as may be required by law and/or by the Michigan Department of Education. If at any time Administrator fails to maintain all certificates, credentials, continuing education requirements and/or qualifications for the position of assigned as required herein, this Contract shall automatically terminate and the Board shall have no further obligation hereunder.

3. Administrator agrees to devote his/her talents, skills, efforts and abilities toward competently and proficiently fulfilling all duties and responsibilities of the position assigned. Administrator agrees to faithfully perform those duties assigned by the Board and Superintendent and to comply with the directives of the Board and Superintendent with respect thereto. Further, Administrator agrees to comply with and fulfill all responsibilities and tasks required by state and federal law and regulations and by the Board and Superintendent to carry out the educational programs and policies of the School District for which he/she is responsible during the entire term of this Agreement. Administrator agrees that he/she will diligently and competently discharge his/her duties on behalf of the School District to enhance the operation of the School District and will use his/her best efforts to maintain and improve the quality of the programs and services of the School District.

4. Administrator shall be paid at an annual salary rate of not less than One Hundred Twenty Thousand Dollars (\$120,000.00) for 2018-2019, and as outlined in the NBEA Master Contract Agreement for 2019-2020 (1% increase) and 2020-2021 (1/2% increase); One Hundred Twenty One Thousand Two Hundred Dollars (\$121,200.00) for 2019-2020, and One Hundred Twenty One Thousand Eight Hundred Six Dollars (\$121,806.00) for 2020-2021 in consideration of his performance of the duties and responsibilities of the position assigned in conformance with the requirements and expectations of the Board,

In addition, Administrator shall receive the following:

- (1) Administrator shall receive an annual Board paid annuity equal to five percent (5%) of his annual base salary.
- (2) If eligible, Administrator may be entitled to Longevity pay in accordance with Article 17 of the Master Contract Agreement.
- (3) If eligible, Administrator may be entitled to an Early Retirement Incentive in accordance with Article 25 of the NBEA Master Contract Agreement.

Should Administrator be assigned or transferred to another Administrative position, the salary paid shall be as established by the Board for that position.

The annual salary shall be paid in twenty-four (24) equal installments beginning with the commencement of the employee's actual work time (July 1-June 30). If less than a full year is worked, the salary shall be prorated. The Administrator's salary shall be reviewed annually.

The Board hereby retains the right to increase the annual salary of Administrator during the term of this Contract. Consistent with the provisions of Section 1250 of the Revised School Code, Administrator's job performance and job accomplishments will be significant factors in determining any adjustment to Administrator's compensation. Any increase in salary made during the term of this Contract shall be in the form of a written amendment and, when executed by Administrator and the Board, shall become part of this Contract.

5. Administrator is employed on the basis of fifty-two (52) weeks of work per fiscal year (July 1 through June 30) as scheduled by the Board. Administrator shall be granted vacation time of twenty (20) days per fiscal year, plus holidays as enumerated in paragraph 14. Vacation days must be used within the fiscal year for which they are made available. Administrator shall schedule use of vacation days in a manner to minimize interference with the orderly operation and conduct of business of the School District, and shall schedule vacation in advance with the Board if he uses ten (10) or more days consecutively. All scheduling of vacation is subject to the approval of the Board.

6. Administrator's performance shall be evaluated by the Board at least annually using multiple rating categories that take into account data on student growth as required by Section 1249 of the Revised School Code (or its successor provision), and using criteria and the School ADvance (or other state approved) evaluation process mutually agreed upon between the Board and Administrator.

7. The Board shall be entitled to terminate the Administrator's employment at any time during the term of this Contract when it determines that Administrator has engaged in acts of moral turpitude, misconduct, dishonesty, fraud, insubordination, incompetency, inefficiency, if Administrator materially breaches the terms and conditions of this Contract, or for other causes that are not arbitrary or capricious.

The foregoing standards for termination of this Contract during its term shall not be applicable to non-renewal of this Contract at the expiration of its term, which decision is discretionary with the Board.

In the event that the Board undertakes to dismiss Administrator during the term of this Contract, he/she shall be entitled to written notice of charges and an opportunity for a hearing before the Board. In the event of termination of employment during the term of this Contract, this Contract shall automatically terminate and the Board shall have no further obligation hereunder.

8. Additionally, this Contract may be terminated during its term pursuant to a reduction in administrative personnel, as determined by the Board. The Administrator shall be given at least thirty (30) days' notice of termination prior to the effective date of layoff. In the event of layoff, the Board shall have no further obligation under this Contract.

9. In the event of Administrator's mental and/or physical incapacity to perform the duties of his/her office, he/she shall be granted an initial leave of sixty (60) work days for purpose of recovery. The Administrator shall first exhaust any accumulated sick leave and accrued vacation time, with the balance of the sixty (60) work day period to be unpaid. Upon utilizing leave under this provision, Administrator shall furnish medical certification to the Board (or its designee) respecting the necessity for the leave.

If the Board (or designee) has reason to doubt the validity of the medical certification supplied by Administrator, it may require a second opinion, at Board expense.

Administrator may request a ninety (90) work day unpaid leave extension in the event of his/her physical and/or mental inability to return to work at the expiration of the initial leave interval, as described above, provided that there is reasonable likelihood that Administrator will be able to resume his/her duties at the end of the extended leave interval. Medical certification shall be supplied by Administrator as a condition to any leave extension. Any extensions of leave for this purpose shall be at the discretion of the Board.

If the Administrator is unable to or does not resume work at the conclusion of a leave taken under this paragraph (or any extension thereof), his/her employment and this Contract may be terminated at the option of the Board. However, no such termination shall occur where restoration after leave is required by the Family and Medical Leave Act.

Prior to resumption of duty after an unpaid leave of absence for a serious health condition, Administrator shall provide to the Board a fitness for duty certification from Administrator's health care provider. A second opinion may be required by the Board, at its expense, unless the securing of the second opinion in this context is precluded by the Family and Medical Leave Act.

10. Administrator agrees that he/she shall not be deemed to be granted continuing tenure in the position initially assigned or to which he/she may be assigned or transferred or in any capacity other than that of a classroom teacher, should the probationary period required for tenure as a teacher be fulfilled, by virtue of this Contract or any employment assignment (requiring certification) with the School District. Nor shall the decision of the Board not to continue or renew the employment of Administrator for any subsequent period in any capacity, other than as a classroom teacher, as may be required by the Teachers' Tenure Act, be deemed a breach of this Contract or a discharge or demotion within the provisions of the Michigan Teachers' Tenure Act.

11. Administrator shall submit to such medical examinations, supply such information and execute such documents as may be required by any underwriter, policyholder or third party administrator providing insurance programs specified under this Contract. Additionally, upon request of the Board or Superintendent, Administrator shall authorize the release of medical information necessary to determine if Administrator is capable of performing the essential job functions required by his/her assignment, with or without job accommodation(s). Any physical or mental examination or disclosure of such information required of Administrator by the Board or Superintendent shall be job related and consistent with business necessity. Any medical or psychological examination under this section shall be at Board expense. Any information obtained from medical or psychological examinations or inquiries shall be considered and treated as confidential.

12. Upon proper application and acceptance for enrollment by the appropriate insurance underwriter, policyholder and/or third party administrator, the Board shall make premium payments on behalf of Administrator and his eligible dependents, up to the state established annual hard cap (for the health-related and prescription premium costs, taxes and fees, with the Administrator paying all costs over the cap through payroll deduction) for the following insurance plans or comparable plans:

- a. Full Family Health Insurance/Health Savings Account;
- b. Long Term Disability Insurance: 66-2/3% of covered monthly earnings to a maximum monthly benefit of \$6,000; 90-day elimination period or expiration of accrued sick leave, whichever interval is greater; 24 months own occupation; \$1,200 per month COBRA benefit/maximum 29 months;
- c. Dental Insurance;
- d. Vision Insurance;
- e. Term Life Insurance – \$150,000 term life.

In the event that Administrator elects not to enroll in the health insurance/health savings account under subparagraph (a) above, and waives that coverage, he will receive the amount of \$150.00 per month provided the Administrator first presents recorded evidence that he otherwise receives insurance that meets the coverage and affordability standards of the Affordable Care Act.

13. The Board reserves the right to change the identity of the insurance carrier, policyholder or third party administrator for any of the above coverages, provided that comparable coverage, as determined by the Board, is maintained during the term of this Contract. Additionally, the Board reserves the right to self-fund any of the above benefits. The Board shall not be required to remit premiums for any insurance coverages for Administrator and his/her eligible dependents if enrollment or coverage is denied by the insurance underwriter, policyholder or third-party administrator. The terms of any contract or policy issued by any insurance company or third-party administrator shall be controlling as to all matters concerning benefits, eligibility, coverage, termination of coverage, and other related matters. Administrator is responsible for assuring completion of all forms and documents needed to receive the above-described insurance coverage. The Board, by payment of the premium amounts required to provide the above-described insurance coverage(s), shall be relieved from all liability with respect to insurance benefits.

14. Administrator is entitled to the following holidays for which no service to the School District is required:

- Fourth of July
- Labor Day
- Thanksgiving and Friday after
- Christmas Eve and Christmas Day
- New Year's Eve and New Year's Day
- Good Friday
- Memorial Day

15. If Administrator is absent from duty on account of personal illness or disability, he shall be allowed full pay for a total of twelve (12) days per contract year, prorated based upon actual days worked (July 1 through June 30). Unused paid leave days hereunder shall accumulate for absence due to personal illness or disability of Administrator. Accumulated sick days will be paid off in accordance to the schedule and eligibility in Article 10 of the North Branch Education Association ("NBEA") contract.

16. Administrator shall be eligible to be reimbursed for meals and lodging in accordance with per diem expense and reimbursement procedures established by the Board. Any expense to be incurred by Administrator for out-of-district travel shall be submitted in advance for review and approval by the Board or its designee. Administrator shall be required to present an itemized account of his/her reasonable and necessary expenses in accordance with direction of the Board or its designee.

17. The District shall pay the Administrator the following stipends:

- (1) \$100 per month for cell phone usage
- (2) \$500 per month mileage allowance for use of privately owned vehicle for school related travel; no additional mileage reimbursement will be paid unless specifically approved by the Board

18. The Board agrees to pay the premium amount for errors and omissions insurance coverage for Administrator while engaged in the performance of a governmental function and while the Administrator is acting within the scope of his/her authority. The policy limits for this coverage shall be not less than \$1,000,000.00. The terms of the errors and omissions insurance policy shall be controlling respecting defense and indemnity of Administrator. 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 the right to discontinue said coverage and shall so notify Administrator. In that event, the Board agrees on a case-by-case basis to consider providing legal defense and/or indemnification to Administrator as is authorized under MCL 691.1408 and MCL 380.11a(3)(d).

19. This Contract contains the entire agreement and understanding by and between the Board and Administrator with respect to the employment of Administrator and no prior or concurrent representations, promises, contracts or understandings, written or oral, not contained herein, shall be of any force or effect. All prior contracts or other agreements (written or oral) pertaining to the terms of this contract are cancelled and are superseded by the terms of this contract. Provided, that this Contract is voidable pursuant to the provisions of the Revised School Code pertaining to criminal records and criminal history checks.

No amendment to or modification of this Contract shall be valid or binding unless it is in writing, approved by official action of the Board reflected in its minutes, and signed by Administrator and the President and Secretary of the Board. No valid waiver of any provision of this Contract, at any time, shall be deemed a waiver of any other provision of this Contract at such time or at any other time.

20. In the event of any dispute between the parties relating to discharge of Administrator during the term of 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 691.1681 *et seq* and MCR 3.602.

The parties intend that this process of dispute resolution shall be inclusive of all contract and statutory claims advanced by Administrator arising from Administrator's discharge during the term of this Contract, including (but not limited to) claims of unlawful discrimination and all claims for damages or other relief. However, this agreement to arbitrate does not restrict

Administrator from filing a claim or charge with any state or federal agency (such as the Equal Employment Opportunity Commission or the Michigan Department of Civil Rights), and does not apply to any claims for unemployment compensation or workers' compensation which may be brought by Administrator. Instead, this agreement to arbitrate claims applies to those matters which would otherwise be subject to state or federal court proceedings.

This agreement to arbitrate means that Administrator is waiving his/her right to adjudicate discrimination claims in a judicial forum and is instead opting to arbitrate those claims. In any such arbitration proceeding, Administrator shall have the right to representation by counsel of his/her choice, the right to appointment of a neutral arbitrator, the right to reasonable discovery and the right to a fair hearing. However, Administrator, through this agreement to arbitrate such claims, does not waive any statutory rights or remedies in the context of such arbitration proceedings.

The arbitrator's fee and the costs imposed by the American Arbitration Association shall be shared equally by the Board and Administrator, subject to the right of Administrator to seek to tax such fees as costs against the Board.

Any claim for arbitration under this provision must be filed with the American Arbitration Association, in writing, and served on the Board within one hundred eighty (180) days of the effective date of Administrator's discharge during the term of this Contract. The Decision and Award of the arbitrator shall be final and binding and judgment thereon may be entered in the Circuit Court for the 30th Judicial Court of Michigan (Ingham County), MCL 691.1681 *et seq.*

21. If any provision of this Contract becomes or is declared by a Court of competent jurisdiction to be illegal, unenforceable or void, this Contract shall continue in full force and effect without said provision(s).

22. Administrator agrees that any claim or suit arising out of Administrator'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 or suit. Administrator 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 commence a law suit, it is the intent of the parties that the court enforce this provision to the extent possible and declare the law suit barred unless it was brought within the minimum reasonable time within which the suit should have been commenced.

23. This Contract is executed on behalf of the North Branch Area Schools Board of Education and approved on June 11, 2018.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year first above written.

Date: June 11, 2018

James D. Fish
JAMES DAVID FISH, ADMINISTRATOR

NORTH BRANCH AREA SCHOOLS
BOARD OF EDUCATION

Date: 6/11/18

By Cory Mabery
Cory Mabery, Board President

Date: 6/11/18

By Melissa Schank
Melissa Schank, Secretary