

**SUPERINTENDENT'S CONTRACT OF EMPLOYMENT
FOR 2008-2011**

THIS CONTRACT is made at Dearborn, Michigan, this ____ day of May, 2008, between Dearborn Public Schools, a Michigan general powers school district (Dearborn), and Brian J. Whiston (Whiston), and is effective July 1, 2008 through June 30, 2011.

In consideration of the parties' mutual promises and obligations, the parties agree as follows:

1. **EMPLOYMENT**

Dearborn employs Whiston as Superintendent of Schools and Whiston agrees to work for Dearborn in the capacity of Superintendent.

2. **TERM**

The School District hereby employs the Superintendent, and the Superintendent agrees to work for the School District for a three (3) year term commencing on July 1, 2008, through June 30, 2011, such contract being renewable annually in accordance with the covenants and conditions contained herein including extension of the terms as specified in paragraph 20. It is understood and agreed that Superintendent is employed in the capacity of Superintendent, as defined in the Michigan School Code of 1976.

3. **DUTIES**

Whiston will serve Dearborn and perform the duties of Superintendent as directed by the Board of Education of Dearborn and as required by the laws of the State of Michigan. Whiston will act in a competent and professional manner and will obey and fulfill the policies, rules and regulations as established by the Dearborn Board of Education and will carry out its programs and policies during the term of this Contract. Whiston will devote his time, skill, labor and attention to this employment and will faithfully perform the duties of Superintendent for Dearborn as directed by the Board of Education or as required by law or the dictates of prudent judgment as an educator and administrator. Whiston shall consult the Board before undertaking any activity which would significantly limit the performance of the duties set forth here and in Paragraph 8. The Superintendent's goals for each school year, shall be adopted by the Board of Education, and are incorporated in this Agreement.

The Superintendent shall serve as chief executive officer of the Dearborn Public Schools and chief administrative officer to the Board of Education. He shall be entitled to: (A) Present his recommendations to the Board of Education on any subject under consideration by said Board; (B) Serve as an ex officio member of each committee established by the Board of Education excluding any committee established to evaluate the performance of the Superintendent or alleged conflict of interest or misconduct of the Superintendent.

The Superintendent shall have the responsibility to organize, reorganize or arrange the administrative and supervisory staff, including instruction and business affairs, which in his judgment best serves the interests of the District. This responsibility for selection, placement and transfer of personnel shall be vested in the Superintendent subject to approval of the Board of Education.

4. **SALARY**

Dearborn will pay Whiston a salary of \$170,000 for the period July 1, 2008 through June 30, 2009. Whiston's salary for subsequent years of this agreement will be negotiated by the parties as necessary. Dearborn shall pay Whiston's salary by installments in the same intervals available to other employees.

The Superintendent's base salary for the remaining years of this Agreement is subject to re-negotiation but, in the absence of mutual agreement, will not be less than his salary for the 2008-2009 school year.

Further, Dearborn will pay up to \$10,000 to move Whiston from his present home in Waterford, Michigan to a home he purchases, leases or rents located in Dearborn, Michigan.

Whiston has agreed to forego the medical, dental and vision portions of the health benefit package offered by the Dearborn Public Schools. Should he decide at a later date to accept the medical, dental and vision portions of the health benefit package, his salary will be reduced by an amount equal to the cost of the reinstated portions of the health benefits.

§ 403b and § 457 PLANS

In addition to the salary set forth in above, for each year of this contract Dearborn will provide Whiston as part of his base salary an additional \$10,500 to be used for his § 403b tax sheltered annuity and/or, if available, his § 457 deferred compensation plan, as he directs.

5. **WORK YEAR**

Whiston will perform his duties over the full twelve (12) months of Dearborn's fiscal year, being July 1 through June 30, less applicable vacation, leave and holidays. Whiston will attend meetings of the Board of Education and its Committees, as requested by the Board of Education, and will attend activities related to the School District's interests inside and outside the community serviced by the School District. The time expended in attending such meetings, activities and functions has been taken into account in setting Whiston's salary so that no additional compensation will be paid for such activities.

Whiston is further entitled to 1.5 sick days per month and 3 personal business days annually.

6. **TENURE**

This Contract does not confer tenure upon Whiston in the position of Superintendent or any other administrative position in the School District.

7. **EVALUATION**

Annually, but no later than June 30 of each year, the Board of Education will review and evaluate Whiston's employment performance. The results of such evaluation may be considered by the Board of Education in connection with any employment-related issues. The Board of Education, in its discretion, will endeavor to set goals and objectives with Whiston at the beginning of each school year.

8. **CONFLICT OF INTEREST**

Whiston will faithfully serve Dearborn and its best interests to the extent required by this Contract and by law. Whiston will not, directly or indirectly, act, acquire or otherwise possess any interest adverse to Dearborn. In the event a given act or interest appears to conflict with the interests of Dearborn, Whiston shall make full disclosure to the Board of Education for its review and disposition, which disposition shall be controlling and complied with by Whiston.

9. **PROFESSIONAL ACTIVITIES**

Whiston is encouraged to attend and participate in appropriate professional activities at the local, state and national levels. Within budget constraints, as approved by the Board of Education, the costs of attendance shall be paid by Dearborn. In addition, Whiston may attend a continuing education course or professional growth program regarding management or education issues one week each year or two weeks every other year. The Board shall pay Whiston's salary and all reasonable expenses associated with his attendance.

10. **MEDICAL EXAMINATION**

At least once a year, during the term of this Contract, Whiston shall have a medical examination and Dearborn shall pay for the portion not covered by insurance. Whiston shall provide to the President of the Board of Education the results of the examination and shall inform the Board of any health issues which he believes would affect his satisfactory performance of this agreement.

11. **BOARD MEETINGS**

Among his other duties, Whiston shall prepare the agendas for each Board of Education meeting, in consultation with the President of the Board or the President's designee. He shall forward copies to each member of the Board, along with his recommendations and supporting documentation on each agenda item, sufficiently in advance of the meeting, so that each member can review such information, when possible, prior to the meeting.

12. **AUTOMOBILE AND RELATED EXPENSES**

Dearborn shall lease an automobile for the exclusive use of Whiston during the term of this Contract costing up to \$500 per month. Dearborn shall pay the cost for the gas, license and mechanical maintenance of such vehicle and shall maintain in force customary insurance. Periodic cleaning shall be the responsibility of the Superintendent. When possible, all mechanical maintenance shall be performed at the School District's service facility. The vehicle may be used by Whiston for both business and personal travel, subject to Whiston's making appropriate reports for tax purposes to the Business Office of the School District and declaring the value of personal use on his Michigan and U.S. Income Tax returns. Upon termination of this Contract, Whiston shall promptly return the vehicle to the School District's service facility.

13. **LIFE INSURANCE**

Dearborn shall provide Whiston with term life insurance in an amount equal to three times his current annual base salary. .

14. **LIABILITY INSURANCE**

Dearborn represents that it currently maintains School Board Legal Liability Errors and Omissions Insurance which covers employees, including the Superintendent, subject to the policy's terms, exclusions and limits which are all subject to modification from time to time. Dearborn also represents that it currently maintains general liability insurance which covers all employees, including the Superintendent, subject to the policy's terms, exclusions and limits, which are subject to modification from time to time.

Notwithstanding the above statement of coverage, the Board shall indemnify and hold harmless the Superintendent in the event he becomes a party or is threatened to be made a party to any threatened or pending suit or proceeding, notwithstanding that said claim(s) may be asserted at any time following the termination or conclusion of this contract, for acts or omissions within the scope of his authority as the Superintendent of the Dearborn Public Schools against expenses (including reasonable attorneys fees), judgments and amounts paid in settlement actually and reasonably incurred if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Dearborn Public Schools.

15. **ADDITIONAL FRINGE BENEFITS**

Unless he declines, Whiston will annually be provided with the following benefits, subject to the policy limits and other constraints in negotiated group plans or other restrictions in the benefit at the time it is due:

Whiston has informed Dearborn that he declines the Hospitalization, Dental and Vision Insurance (A, B and C below).

- A. Hospitalization Insurance
- B. Dental Insurance
- C. Vision Care
- D. Personal Leave Days
- E. Holidays
- F. Bereavement Leave

16. **DISABILITY PAY**

During the term of this Contract, Whiston's salary will be continued by the School district for any period of temporary incapacity due to illness or other disability, but not beyond any continuous period of 180 days. If Whiston qualifies for, and is eligible to receive long term disability insurance benefits following the 180 day waiting period, Long Term Disability will provide coverage for 70% of his normal monthly earnings.

17. **VACATION DAYS**

The Superintendent is granted 25 vacation days per year. Vacation days must be used in the Contract year in which they are earned except that a maximum 5 days may be carried over from one year to the next. Whiston shall obtain the approval of the President of the Board of Education before taking a vacation of more than two (2) weeks. Such approval shall not be unreasonably withheld.

18. **TERMINATION OF CONTRACT**

A. Should Whiston be unable to perform the duties and obligations of this Contract by reason of illness, accident or other cause for a period of more than 120 calendar days, the Board of Education, at its option, may terminate this Contract, and the respective rights, duties and obligations of the parties shall terminate except for the disability benefits provided in this Contract. Likewise, if it is determinable in less than 120 days that such illness, injury or other cause is permanent, irreparable, or of such nature as to make Whiston's continued performance of the Superintendent's duties improbable, the Board, at its option, may terminate this Contract and the respective rights, duties and obligations of the parties shall terminate except for the disability benefits provided in this Contract.

B. In addition to any other rights Dearborn may have, by law or under this Contract, this Contract may be terminated at any time during its term by Dearborn for just cause, including but not limited to acts of misconduct, or if Whiston violates any laws of the United States or the State of Michigan or any of the terms or covenants of this Contract or if he is convicted of a crime. Upon such termination, the respective rights, duties and obligations of the parties shall terminate, except for the disability benefits provided in this Contract for disabilities arising prior to termination of this Contract.

19. **RETIREMENT BONUS OR BUYOUT**

Except as otherwise agreed by the parties in writing, Whiston shall not be eligible to accept early retirement bonuses or buyouts extended by the district to other Dearborn employees during the term of this Contract.

20. **NON-RENEWAL OF CONTRACT**

The decision whether or not to renew or extend this Contract is solely within the discretion of the Board of Education of Dearborn. Whiston acknowledges that he has no expectation of employment by Dearborn beyond the expiration date established in this Contract. However, in the event the Board of Education shall decide not to renew this Contract, prior written notice of such non-renewal shall be given to Whiston. In the absence of such notice, the contract is automatically extended by one year so as to maintain a continuous three year agreement. Whiston shall remind the Board of this duty 30 days before such notice is due.

21. **BREACH OF CONTRACT AND ARBITRATION**

The parties waive the statutory six year statute of limitations for breach of contract and must raise any such claim by written notification to the other within one year of the parties learning of the breach of this Contract or within one year of the termination of this Contract, whichever is later. The parties shall submit to final and binding arbitration any and all claims, demands, suits or causes of action arising from or relating to Whiston's employment or the termination of his employment with Dearborn including any claim for breach of this Contract. The arbitrator shall be selected and the arbitration proceeding shall be conducted in accordance with the American Arbitration Association Rules for Voluntary Labor Arbitration. The parties shall equally share the costs and expenses of the arbitration proceeding, except that the parties shall bear all of their own costs for witnesses, attorneys and the like. The arbitrator's decision and award shall be final, binding and not subject to appeal. Either party may take appropriate action for entry of judgment on the award in the Wayne County Circuit Court. Any statutory modifications to the arbitration rules not incorporated in writing within this agreement are understood to be incorporated if applicable.

22. **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 prior agreements, arrangements and communications between the parties concerning such subject matter whether oral or written.

23. **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.

DEARBORN PUBLIC SCHOOLS

Date

Sharon Dulmage, President

Date

Aimee Blackburn, Secretary

Date

Brian J. Whiston, Superintendent

Witnesses:

