

PORTLAND PUBLIC SCHOOLS

SUPERINTENDENT'S EMPLOYMENT AGREEMENT

It is hereby agreed by and between the Portland Board of Public Education (hereinafter called the "Board") and Xavier Botana (hereinafter called the "Superintendent") that the said Board in accordance with its action found in the minutes of the meetings held on the 24th day of May, 2016, does employ the said Xavier Botana as Superintendent of Schools for a period commencing July 1, 2016, and ending June 30, 2019, subject to the following terms and conditions:

1. Certification: The Superintendent shall at all times as a condition of his employment under this contract hold a valid and appropriate certificate authorizing him to act as Superintendent of Schools in the State of Maine.

2. Duties: Both parties agree that said employee shall perform the duties of the Superintendent in and for the public schools under jurisdiction of the Board as prescribed by the statutes of the State of Maine and the policies established by the Board as modified from time to time. The duties of the Superintendent shall also include those duties as described in the Superintendent Job Description as prepared and modified by the Board from time to time, and provided to the Superintendent. During the term of the this Agreement, the Superintendent shall devote his full time, skills, labor and attention to the performance and discharge of his duties and responsibilities.

3. Salary: The Superintendent's annual base salary rate for the period of this agreement shall be \$148,000 for the period from July 1, 2016 to June 30, 2017 payable in equal installments in accordance with the policies of the Board. In the event that per diem pay must be calculated, it shall be equal to 1/260th of the annualized salary.

4. Evaluation: The Board and the Superintendent shall meet quarterly in executive session (such session to be scheduled by the Superintendent) to discuss Superintendent performance, goals and Board expectations. The Board shall formally evaluate the Superintendent at least annually at a meeting scheduled by the Superintendent in consultation with the Board Chair during the month of November.

5. Termination:

A. Unless otherwise terminated, this contract shall terminate automatically on June 30, 2019, without the requirement of any action by either party, at which time all obligations of the Board to the Superintendent hereunder shall cease. The parties acknowledge that no cause is required for either party to permit this contract to terminate automatically by expiration of its term and to not enter into a new contract with the Superintendent, provided that the Board may extend the contract or offer a new contract at any time based on the Superintendent's performance.

B. The parties agree that if a majority of the full Board notifies the Superintendent at a quarterly evaluation conference that he is not meeting expectations, the Board will give the Superintendent 90 days to improve his performance. If at the next quarterly meeting, the Board determines that the Superintendent's performance

has not improved sufficiently, the Board may, after at least 10 days' prior written notice to the Superintendent, vote to request that the Superintendent resign from his employment. The Superintendent agrees that, upon receiving notice of a request for resignation, he shall resign from his employment effective immediately. Within ten business days of such vote, the Board shall cause the Superintendent to be paid any unpaid salary and benefits earned, including any unused vacation time, accrued before the effective date of resignation. Within 45 calendar days following the of resignation, the Board shall cause the Superintendent to be paid a lump sum severance pay equal to six months of his base salary and the cost of continuation of the health insurance benefits provided by this contract for six months, as full and complete payment and satisfaction of any claims of the Superintendent of whatsoever nature arising out of this Agreement, its termination, his employment or otherwise. As consideration for such payment, the Superintendent shall, prior to receipt thereof, execute and deliver to the Board a general release of the City of Portland, its School Department, its Board of Public Education and their officer, agents, and employees for all acts and actions (whether accrued or subsequently accruing from the beginning of time until the date of release).

- C. **Resignation:** The Superintendent shall not resign his employment hereunder without at least 90 days' prior written notice to the Board. The Superintendent may not use vacation days in the period between the notice of resignation and the final date of employment. If the Superintendent gives fewer than 90 days' notice of resignation, he shall reimburse the Board for all moving expenses paid by the Board. Additionally, if the Superintendent resigns before the end of the original contract expiration date of June 30, 2019 he shall reimburse the Board for moving expenses prorated by the number of years served (<1=100%, <2=67%, <3=33%)
- D. **Discharge:** Throughout the term of this contract, notwithstanding any other provision of this contract, the Superintendent shall be subject to discharge in accordance with the laws of Maine, and in the event of such discharge, this contract shall terminate and all obligations of the Board to the Superintendent hereunder shall cease.

6. Performance Compensation

The Board and the Superintendent shall develop a plan under which the Superintendent may, in the Board's sole discretion, be awarded performance-based compensation up to 5% of his annual salary upon achievement of goals established by the Board after consultation with the Superintendent. The plan shall be completed by October 1, 2016 and shall be included in this Agreement as an amendment hereto.

7. Benefits

A. **Vacation.** The Superintendent shall receive 25 days of vacation annually, exclusive of legal holidays, to be taken in such a manner as to ensure that the school system is to run in an orderly and efficient manner. The Superintendent shall notify the Board Chair in advance of taking vacation and shall ensure that the Director of Human

Resources maintains a complete and accurate record of vacation days taken. Up to 10 unused vacation days be carried over into the subsequent contract year.

B. Flexible Benefits Plan. The Superintendent shall be entitled to participate in the Flexible Benefits Plan as provided in Exhibit A to this Agreement.

C. Sick Leave. The Superintendent shall accumulate sick leave at the rate of 18.5 days per calendar year. Unused sick leave days shall accumulate from year to year. . If the Superintendent is unable to work due to non-work-related disability or illness and exhausts all of his available sick leave, his compensation shall be continued for a period up to six months from the date his period of sick leave began.

D. Personal Leave. The Superintendent shall be entitled to up to three days leave for non-recreational personal business which cannot be accomplished outside of normal work hours. Unused personal days do not carry over to the next contract year.

E. Bereavement Leave. In case of the death of a spouse, domestic partner or child, the Superintendent may take up to ten days leave with pay either immediately following the death or at such other time as may be necessary to handle estate related matters. In the case of the death of a parent, grandparent, parent-in-law, grandchild, brother, sister, or any relative residing in the household, the Superintendent may take up to five days leave with pay. In the case of a niece, nephew, aunt, uncle, cousin, sister-in-law or brother-in-law, the Superintendent may take up to three days leave with pay.

F. Automobile expense. The Superintendent shall be reimbursed for work-related travel (excluding commuting) in his personal automobile at the current IRS rate per mile, as may be adjusted from time to time, after submission of written mileage statements.

G. Retirement Benefits.

1. Maine Public Employee Retirement System. The Superintendent shall participate in the Maine Public Employee Retirement System as provided by State law and regulations.

2. Retirement Contribution. The Board shall make, to the maximum extent permitted by applicable Federal law, an employer contribution in the amount of \$12,000 towards the purchase of a tax-sheltered annuity for the Superintendent pursuant to Section 403(b) of the Internal Revenue Code of 1986, as amended, prior to June 30, 2016. All premiums for the annuity contract shall be paid by the Board to an annuity provider of the Superintendent's choice, which provider may be changed from time to time by the Superintendent by written notice to the Board. The Board shall make appropriate tax and other withholdings from this amount. The Superintendent may also elect to defer compensation to a 403(b) plan to the maximum extent permitted by law.

H. Life Insurance. The Board will pay the premiums for MainePERS basic and supplemental life insurance coverage providing benefits up two times the

Superintendent's annual gross compensation and MainePERS dependent life insurance coverage (\$10,000 for spouse/\$5,000 for each child).

I. Professional Development. The Board encourages, subject to the availability of budgeted funds as set forth below, the continuing professional growth of the Superintendent through his participation in:

- i. the operations, programs, and other activities conducted or sponsored by local, state, and national school administrator and school boards associations;
- ii. seminars and courses offered by public or private educational institutions;
- iii. informational meetings with other persons whose skills or backgrounds would serve to improve the capacity of the Superintendent to perform his professional responsibilities;
- iv. visits to other institutions.

The Board will, subject to prior Board approval, reimburse the Superintendent annually for professional conferences, professional membership dues, and similar expenses related to professional development. The Superintendent shall notify the Board Chair prior to attending any out-of-state or multi-day conference.

J. Other Professional Activities. The Superintendent may undertake speaking engagements, writing, lecturing or other professional duties, obligations and activities, with or without remuneration, with the prior written consent of the Board, so long as such activities do not materially affect the performance and/or discharge of the Superintendent's duties and/or responsibilities under this Agreement. The Superintendent will be granted up to five paid professional days to meet his responsibilities on the National Research Council/National Academies for Sciences Committee on Best Practices for Dual Language Learners during the first year of this Agreement. For any additional professional activities outside the Portland Public Schools, the Superintendent may utilize personal or vacation days provided to him under the terms of this Agreement, or may be granted administrative leave without pay, not to exceed seven days annually, for such purposes.

K. Technological devices. The Board will furnish a mobile telephone with voice and data service and laptop computer for the Superintendent's use for work-related purposes, which shall be returned to the School Department upon termination of employment.

L. Relocation expenses. The Board shall reimburse the Superintendent for the reasonable expenses incurred in relocating from his current residence to Portland in an amount not to exceed \$10,000.

9. Entire Agreement: This agreement represents the entire agreement between the parties and supersedes any and all prior agreements between or representations made by the parties. This contract may be amended only by an agreement in writing executed by both parties thereto.

Date:

Xavier Botana, Superintendent

PORTLAND BOARD OF PUBLIC EDUCATION

Date:

Marnie Morrione, Chair

EXHIBIT A

FLEXIBLE BENEFITS PLAN

[Subject to review and updating by Human Resources]

A. Benefit Dollars

The Superintendent is entitled to receive total benefit dollars equal to the premium for the MEA Blue Cross/Blue Shield Full Family Choice Plus health insurance plan.

B. BENEFIT OPTIONS

The Superintendent is eligible to participate in, and may apply Benefit Dollars toward the cost of, any of the benefit options described below. Benefit elections must be made annually during an election period selected by the Board (the "Election Period"). During the Election Period, the Superintendent may add, drop or change the level of dental insurance, change medical insurance plans, and change the amount of contributions to medical and dependent care reimbursement accounts. Other than during the Election Period, benefit elections may not be changed unless the Superintendent has a change of family status or other event, which permits an election change under the Internal Revenue Code.

1. Health Insurance

The Superintendent may enroll in the MEA Benefits Trust Blue Cross/Blue Shield Standard Plan or Choice Plus Plan and select full family coverage, dependent coverage, single coverage or no coverage. Premiums will be deducted from Benefit Dollars, to the extent available. Any premiums not paid out of Benefit Dollars will be deducted from the Superintendent's pay on a pre-tax basis, unless the Superintendent elects to have such amounts deducted on an after-tax basis.

2. Dental Insurance

The Superintendent is eligible to receive Dental Insurance under the plan selected by the Board. The Superintendent may elect to receive full family coverage, dependent coverage, single coverage or no coverage. Premiums will be deducted from Benefit Dollars, to the extent available. Any premiums not paid out of Benefit Dollars will be deducted from the Superintendent's pay on a pre-tax basis, unless the Superintendent elects to have such amounts deducted on an after-tax basis.

3. Medical Reimbursement Accounts

The Superintendent may elect to establish and make semi-monthly contributions to a medical reimbursement account. Annual contributions to a medical reimbursement account may not exceed \$2,500 and \$104.17 semi-monthly. Contributions will be deducted from Benefit Dollars, to the extent available. Any contributions not made out of Benefit Dollars will be deducted from the Superintendent's pay on a pre-tax basis. Medical reimbursement accounts will be

managed by MSMA. Reimbursements from medical reimbursement accounts will be governed by the Internal Revenue Code and the Portland School Department Medical Care Reimbursement Plan.

4. Dependent Care Reimbursement Account

The Superintendent may elect to establish and make semi-monthly contributions to a dependent care reimbursement account. Such semi-monthly contributions may be no less than \$30 (\$720 annually) and no more than \$208.33 (\$4,999.92 annually). Contributions will be deducted from Benefit Dollars, to the extent available. Any contributions not made out of Benefit Dollars will be deducted from the Superintendent's pay on a pre-tax basis. Dependent care reimbursement accounts will be managed by MSMA. Reimbursements from dependent care reimbursement accounts will be governed by the Internal Revenue Code and the Portland School Department Care Assistance Plan.

C. Should any part of this flexible benefits plan be out of compliance with applicable law, the parties will negotiate to revise the plan to comply with the law, with the intent being to provide a benefit of substantially the same value as the benefit provided herein.