

CONTRACT OF EMPLOYMENT WITH ADMINISTRATOR

THIS CONTRACT is made by and between the Board of Education of Educational Service Unit Number 16, hereinafter referred to as “the Board,” and **James McGown**, hereinafter referred to as “the Administrator.”

WITNESSETH: That in accordance with action taken by the Board, as recorded in the minutes of the Board meeting held on the 23rd day of January, 2023, the Board agrees to employ the Administrator, and the Administrator agrees to accept such employment, subject to the following terms and conditions:

1. Term of Contract. This Contract is for a term of one (1) year beginning on the 1st day of July, 2023, and expiring on the 30th day of June, 2024. A “contract year,” for purposes of this Contract, shall be from July 1st to June 30th.

2. Renewal and Rollover. This Contract may be extended in one (1) year increments under the terms of this Paragraph. An extension will extend the Contract for one additional contract year (July 1st through June 30th), unless otherwise agreed to in writing by both parties. Neither party is obligated to extend this Contract. Any extension under this Contract must occur as follows:

a. Administrator's Request to Extend. In each contract year, the Administrator shall, by December 31st of such contract year, notify the Board President in writing if the Administrator desires to extend this Contract for one additional year. If Administrator does not notify the Board President in writing by December 31st, then this Contract shall not be extended and shall end on the final day of the existing Contract, unless both Parties otherwise mutually agree in writing.

b. Board Action on Request to Extend. If the Administrator timely submits a request to extend this Contract for one additional year, then the Board shall, in each contract year, have until February 16th of such contract year to decide whether to extend the Contract. If the Board votes to extend the Contract for one year, or if the Board takes no action by February 16th, then this Contract shall automatically be extended by one contract year. If the Board decides against extending the Contract, then the Contract will not extend and will automatically end on the last day of the existing Contract.

c. Notice of Non-Renewal. The parties agree that this Paragraph takes the place of and foregoes the need for the Board to deliver a notice of non-renewal of the Contract. Further, the Administrator affirmatively waives the April 15th non-renewal deadline and acknowledges that this Paragraph shall have the same force and effect of a formal notice of non-renewal, if the Board votes against extending this Contract.

3. Salary. The annual salary shall be: **One hundred fifty-five thousand** Dollars (\$155,000.00). Said annual salary shall be paid in equal installments in accordance with the practices of the Board governing payment of certificated employees of the ESU.

In the event that the Administrator is elected to any other office or offices of the Board of Education or in connection with the ESU, the Administrator shall perform the duties of such other office or offices without remuneration other than that as provided in this Contract.

The ESU, acting by and through its Board of Education, reserves the right to adjust the annual salary during the term of this Contract, said salary adjustment, however, shall not reduce the annual salary to any lesser amount than that as above stated. Any adjustment in salary made during the term of this Contract shall be in the form of an amendment or complete restatement and shall become a part of this Contract; provided, however, that in making any such salary adjustment, it shall not be considered that the ESU has entered into a new Contract, nor shall the ending date of this Contract be thereby extended unless the Board of Education, by specific action, shall expressly extend such end date. In no event shall any such extension, together with the unexpired term of this Contract or any prior extension, be for a period in excess of three (3) years.

This Contract shall conform to the regulations governing deductions with reference to Mandatory Withholdings, Internal Revenue Service and Nebraska Department of Revenue Tax regulations, Social Security, and the Nebraska School Employees' Retirement Act. Other deductions may be withheld as required or otherwise agreed to by the parties to this Contract.

4. Benefits. As further consideration for the services to be performed by the Administrator, it is agreed as follows:

A. Leave Benefits. Paid leave is available to the Administrator when the following specific conditions are met: (1) the Administrator is currently employed by the ESU; and (2) the paid leave day is taken on a day Administrator would otherwise be expected to be at work.

1. Vacation. The Administrator shall be allowed 20 working days of vacation leave during each contract year. Vacation shall not be taken at times that would interfere with the Administrator's attendance at regularly scheduled Board meetings or at times when the Administrator's duties require the Administrator's attendance at the ESU or a member School District (e.g., beginning and end periods of the school year).

2. Carry-over and Accumulation of Vacation Days.

Vacation is to be used during each contract year. Any unused vacation days remaining from a prior contract year shall be subtracted from the number of vacation days the Administrator has for the following contract year, such that the total vacation days at the beginning of each contract year be twenty (20) days. Upon ending employment, unused vacation days available in the final contract year will be paid at the Administrator's current effective daily rate of pay; provided that there shall be no pay for unused vacation days in the event the Board determines that the Administrator has engaged in misconduct which provides just cause for cancellation of this Contract.

3. Sick and Bereavement Leave. The Administrator shall be allowed sick and bereavement leave as provided in ESU policy.

4. Carry-over and Accumulation of Sick Days.

Unused sick leave may be carried over from one contract year to the next succeeding contract year to a maximum of 70 sick leave days. Once the maximum is accumulated, no further sick leave days will be available or granted for the ensuing contract year or years until the accumulated number of days is less than 70, and then only to the extent necessary to restore the total number of available sick leave days to the maximum of 70 days. There shall be no pay for unused sick leave either during or upon ending of employment.

5. Holidays. The following days shall ordinarily be considered holidays and not working days: (12 Total) July 4th, Labor Day, (2)Thanksgiving, (2)Christmas, (2)New Year's Day, (1)Spring Break, (2)Easter and Memorial Day. However, there may be times where pressing business requires the Administrator to work on such holidays and, in the event of such pressing business, the Administrator will be expected to attend to such pressing business on such holiday.

6. Log. The Administrator shall maintain a current log of used leave days and shall present such log, upon request, to the Board President.

B. Health and Dental Insurance. The ESU shall pay for health and dental insurance for which the Administrator is qualified under the ESU's group insurance plan.

C. Disability Insurance. The Administrator may elect to enroll in the ESU's group long term disability insurance program at the Administrator's expense.

D. Retirement Plan. The Administrator may elect to designate part of the Administrator's annual salary to be invested in a tax-exempt deferred income retirement plan of the Administrator's choice.

E. Meetings and Dues. The Administrator shall attend appropriate professional meetings at the local, state and national levels, provided that such attendance does not interfere with the proper performance of Administrator's duties. The reasonable and necessary expenses of such meetings shall be reimbursed by the ESU consistent with Board policies. In addition, the ESU shall pay the Administrator's annual dues to the Nebraska Council of School Administrators and may pay dues to other professional organizations suitable for the Administrator's position upon the Administrator's request.

F. Transportation Expenses. The reasonable and necessary expenses of transportation required in the performance of Administrator's official duties shall be reimbursed at the rate set annually by the Board for ESU travel or in

accordance with the Internal Revenue Service's standard mileage rates, or the Board shall provide the Administrator with transportation.

- G. Indemnification. The ESU shall, to the extent permitted by law, defend, hold harmless, and indemnify the Administrator from any and all demands, claims, suits, actions, and legal proceedings brought against the Administrator in the Administrator's individual capacity or the Administrator's official capacity as an agent or employee of the ESU, provided that the incident arose while the Administrator was acting (or, in good faith, reasonably believed that the Administrator was acting) within the scope of the Administrator's employment with the ESU and the ESU is not in an adverse position in the legal proceedings.
- H. Avoidance of Fines or Penalties. The Board may elect to not provide any benefit set forth in the Contract in the event the Board determines, in its discretion, that the provision of the benefit would result in a fine, penalty, or would otherwise be deemed unlawful or contrary to the best interests of the ESU. In the event that the Board makes such an election, then the Board shall negotiate with the Administrator to obtain a like-benefit that would not result in a fine, penalty, or the like, and in the event such is not available, then the Administrator's salary shall be grossed up in an amount equal to the cost savings from not providing the benefit (excluding the costs of fines and penalties).
- I. Relocation. The Board shall reimburse the Administrator for the reasonable and necessary relocation and moving expenses incurred, as a direct result of acceptance of this Contract, in an amount not to exceed \$5,000.00. The Administrator shall provide to the Board President the written invoice(s) and statement(s) from the moving company or other entity employed to accomplish the Administrator's move, and the Administrator will be entitled to reimbursement only for the actual amounts paid by the Administrator for the move.

5. Duties. The Administrator is employed as the Chief Executive Officer of the ESU. The Administrator shall perform the duties of such position as are regularly and customarily expected for such positions and such duties and responsibilities as are set forth in Board Policy or Regulation for such position. The Administrator shall be subject to such other duties as the Board may assign. The Administrator agrees to devote full time to the assigned duties, provided that, with the advance agreement of the Board of Education, the Administrator may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties outside of employment with the ESU.

In performing the assigned duties, the Administrator shall be governed by the policies, regulations, directions, and expectations of the Board of Education. The Administrator shall, in all respects, diligently and faithfully perform the assigned duties to the best of the Administrator's professional ability. Regular, dependable, in-person attendance at meetings of the Board and committees of the Board, and other assigned duties, is an essential function of the Administrator's position.

6. **Board-Administrator Relationship.** The Board shall have primary responsibility for formulating and adopting Board policy. The Administrator shall have primary responsibility for implementation of Board policy. The Administrator shall be responsible for development of policies for adoption by the Board and for development of regulations and rules consistent with Board policy. In the absence of Board policy on matters which require prompt action, the Administrator shall have the authority to act using the Administrator's professional judgment and consistent with legal requirements; provided that the Administrator shall report the nature of the matter and the action taken to the Board no later than the next regularly scheduled Board meeting. The parties agree, individually and collectively, to promptly refer all criticism, complaints, and suggestions called to their attention to the Administrator for action, study or recommendation, as appropriate. The parties further agree that a good and positive working relationship between the Board and the Administrator is an essential function of the Administrator's position and a material term of this Contract.

7. **Evaluation of the Administrator.** The Administrator shall be evaluated twice during the first contract year and once during each subsequent contract year, unless the Board deems additional evaluations are appropriate. The Administrator shall receive a copy of the evaluation and shall have the right to submit a response to the evaluation, which response shall be placed in the Administrator's personnel file. It shall be the Administrator's responsibility to remind the Board by November and March of the first contract year that the Board must evaluate the Administrator in a timely manner. By November 1st of each contract year thereafter, the Administrator shall remind the Board President of the need to evaluate the Administrator. Nothing in this Paragraph prevents the Board, or individual Board members, from providing additional feedback to the Administrator outside of a formal evaluation.

8. **Contract Cancellation.** In the event the Administrator violates any of the provisions of this Contract, or performs any act, or does anything which is materially harmful to the ESU, or which substantially inhibits the Administrator's ability to discharge the duties as set forth herein, including, but not limited to: (1) becoming legally disqualified to perform as a Administrator in the State of Nebraska; (2) participation in any fraud; (3) causing any intentional damage to property; (4) engaging in any unlawful act; (5) any representations in this Contract being determined to be false or incorrect; (6) failure to indicate in writing, upon request by the Board President, whether the Administrator desires to remain employed by the ESU and extend this Contract beyond the Contract's current end date; (7) failing to establish and maintain a good and positive working relationship with the Board; (8) lying or making a material misrepresentation or omission during the job application process; and/or (9) just cause, including: (a) incompetency, which includes, but is not limited to, demonstrated deficiencies or shortcomings in knowledge of subject matter or administrative skills; (b) neglect of duty; (c) unprofessional conduct; (d) insubordination; (e) immorality; (f) physical or mental incapacity; (g) failure to give evidence of professional growth as required by law; or (h) other conduct which interferes substantially with the continued performance of duties; then the Administrator may be discharged in accordance with applicable law. Suspension or other disciplinary action may be implemented by the Board President and enforced in accordance with applicable law. Upon lawful cancellation or the ending of this Contract, the compensation to be paid hereunder shall be an amount which bears the same ratio to the annual salary specified as the number of months or

fraction thereof to the date of such ending bears to the twelve months in the annual salary period in which ending occurs. Any portion of the salary paid, but not earned, prior to the date of the ending of this Contract, and any sums owing to the ESU by the Administrator, shall be set off from sums due to the Administrator and, if the sums owing to the ESU are in excess of the sums due the Administrator, the amount owing shall be immediately refunded by the Administrator.

The Board of Education may require a certificate of health and physical fitness of Administrator, in accordance with applicable law, at any time while this Contract is in force. Should the Administrator be unable to perform the Administrator's duties by reason of mental or physical incapacity, or any reason beyond the Administrator's control, and said disability exists for a period exceeding the Administrator's sick leave allowance, the Board of Education may, in its discretion, make a proportionate reduction from the salary and benefits, and if such disability continues or is permanent, or of such nature as to make the Administrator unable to perform essential functions of the position for which the Administrator is employed, the Board of Education may cancel this Contract whereupon the respective duties, rights and obligations hereof shall end.

9. Residency. The Administrator shall reside within the ESU's boundaries during the term of this Contract. In the event the Administrator is unable to find suitable housing within the ESU's boundaries, then the Administrator shall continue looking for suitable housing and keep the Board President apprised, at least monthly, of the housing availability and opportunities within the ESU's boundaries. If the Administrator does not reside within the ESU's boundaries by January 1, 2024, then the parties agree to revisit this Paragraph to determine the Administrator's residency requirements.

10. Representations and Legal Requirements. The Administrator affirms that: (1) the Administrator holds or will hold a valid and appropriate certificate to act as a certificated employee in the State of Nebraska to perform the assigned duties throughout the term of this Contract and any extensions of this Contract; (2) the required certificate to perform the assigned duties shall be registered as required by law; it being understood and agreed to that this Contract is not valid until the required certificate is registered in accordance with law and that the Administrator shall not be compensated for any services performed prior to the date of registration of this certificate; and (3) the Administrator is not under contract with another board of education within the State of Nebraska covering any part of or all of the same time of performance as provided for in this Contract.

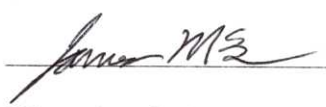
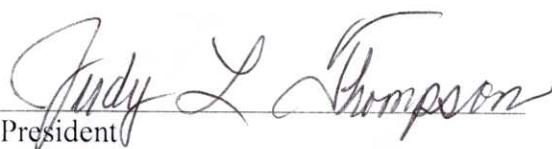
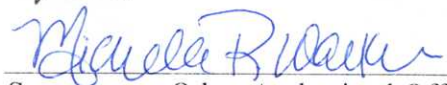
The Administrator further warrants and represents as follows: (1) all information set forth in the Administrator's application for employment and other information provided by the Administrator in seeking employment is true and accurate, and if said information ceases to be true, Administrator will advise the Board of Education immediately; (2) Administrator has never been convicted or plead no contest or otherwise been adjudicated as having committed a felony, any other offense involving moral turpitude, or any other offense involving abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 21; and (3) Administrator has not suffered suspension or revocation of any educational professional license or certificate, nor voluntarily surrendered such a license or certificate where charges or potential charges were pending or imminent.

11. Release of Contract. There shall be no penalty for release by the Administrator from this Contract so long as the resignation becomes effective at the end of the remaining term of the Contract.

12. Governing Laws. The parties shall be governed by all applicable Nebraska and federal laws, rules, and regulations in performance of their respective duties and obligations under this Contract.

13. Amendments and Severability. This Contract may be modified or amended only in writing, duly authorized and executed by the Administrator and the Board. If any portion of this Contract shall be declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforceability of the remaining provisions of this Contract.

The failure to return a signed copy of this Contract to the President or Secretary of the Board of Education on or before Feb 1, 2023 shall constitute a rejection by the Administrator of the offer of employment.

Executed this <u>28th</u> day of <u>January</u> , 2023.  [Name], Administrator	Executed this <u>28</u> day of <u>January</u> , 2023 Board of Education of Educational Service Unit Number 16 By:  President Attest:  Secretary or Other Authorized Officer
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------