

# CONTRACT OF EMPLOYMENT SUPERINTENDENT OF SCHOOLS

This Contract is made by and between the Board of Education of Yutan Public Schools, legally known as Saunders County School District 78-0009 (the "Board" and the "District" respectively), and Mitchell R. Hoffer (the "Superintendent"). In accordance with its action taken and recorded in its minutes, the Board offers to employ, and Mitchell R. Hoffer agrees to accept such employment as Superintendent of School subject to the terms and conditions set forth below.

**Section 1. Term of the Contract.** This Contract shall be for a period of two (2) contract years beginning on July 1, 2018 and ending on June 30, 2020. The term "contract year" shall mean the period from July 1<sup>st</sup> through June 30<sup>th</sup> of the following year. **Duty Days.** Duty days typically will not include Saturdays, Sundays, and legal holidays, but shall include all days on which the Superintendent actually and necessarily completes his/her contractual duties. The Superintendent agrees to work sufficient hours and days to satisfactorily complete the duties of this Contract. The Superintendent shall keep complete and accurate records of his/her working days and shall provide the Board with a report of the accumulated working days at least quarterly.

**Section 2. Salary.** The Superintendent shall be paid an annual salary of one hundred twenty five thousand dollars (\$125,000.00) subject to applicable deductions and federal and state withholding. The salary shall be paid in twelve (12) equal monthly payments commencing in July 2018 in accordance with the District's payment practices for professional staff members. The salary for the second and any extended contract years is subject to negotiations between the Board and the Superintendent. The Board shall not reduce the Superintendent's compensation during the Contract term except for just and sufficient cause as authorized by law, but it may increase it as an amendment to the Contract without the amendment constituting a new Contract or extending the Contract term. At the time of each contract renewal and/or amendment, the Superintendent shall be responsible for taking all necessary steps to insure that the district has complied with the Superintendent Pay Transparency Act.

**Section 3. Deductions.** This Contract shall conform to the state statutes and regulations governing deductions from compensation. The Superintendent authorizes the District to deduct or withhold from each and every period of pay any amounts necessary to offset any damages caused by him/her or the value of property or money entrusted to or owed by Superintendent to the District during the course of or as a result of the Superintendent's employment, if such property or money have not properly been returned to the District. The District shall withhold other deductions as the Superintendent and Board may agree.

**Section 4. Representations and Legal Requirements.** The Superintendent affirms that he/she is not under contract with another school board or board of education covering any part of the contract term of this Contract. Throughout the term of this Contract, Superintendent will hold a valid and appropriate certificate to act as a superintendent of schools in the State of Nebraska, which he/she will register in the central office of the District as required by law. The Board will not compensate Superintendent for any service performed prior to the date that he/she registers the certificate.

The Superintendent further warrants and represents as follows: (1) all information set forth in the Superintendent's application for employment and other information provided by the Superintendent in seeking employment are true and accurate, and if said information ceases to be true, Superintendent will advise the Board of Education immediately; (2) Superintendent 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) Superintendent 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.

**Section 5. Duties.** The Superintendent shall be responsible for the administration and operation of the instruction and business affairs of the District. The Superintendent is authorized to organize, reorganize, and arrange the administrative and supervisory staff with the concurrence of the Board and to select place and transfer personnel with the approval of the Board. Regular attendance at meetings of the Board and committees of the Board is an essential function of the Superintendent's position. The Superintendent shall be subject to such other duties as the Board may assign from time to time. The Superintendent shall devote his/her entire time, skills, and effort to the performance of his/her duties and shall undertake and perform them in an efficient and businesslike manner in accordance with Board policy and directives, the rules and regulations of the Nebraska Department of Education, and state and federal law. The Superintendent shall not engage in any other business, profession or occupation without the Board's prior written consent. With the Board's approval, Superintendent may undertake consultative work, speaking engagements, writing, lecturing, or other professional duties and obligations as long as such activities do not interfere with carrying out his/her duties and obligations to the District. The Board and its individual members shall refer all criticism, complaints, and suggestions to the Superintendent for study and recommendation.

**Section 6. Service as Consultant to the District.** The Superintendent shall be paid a consulting fee of six hundred (\$600.00) for consulting with the Board and staff of the District prior to starting on July 1. The fee shall be paid with bills to be approved at the Board's regular meeting to be held May 14, 2018. The scheduling of the consulting will be at the mutual agreement of the Superintendent and the District through current Board President. At all times prior to the July 1 start, including during any consulting days, the Superintendent shall be considered an independent contractor, not an employee of the District. The parties agree that during the aforementioned consulting, the Superintendent may consult with the District's legal counsel on legal matters affecting the District.

**Section 7. Superintendent's Residence/Domicile in the District.** The Superintendent shall throughout the term of this Contract have and maintain domicile and principal residence within the boundaries of the District as they exist on Superintendent's first duty day. Recognizing possible timing difficulties at the beginning of this Contract, the District shall, if requested by Superintendent, grant an extension of up to six months from the first duty day for Superintendent to comply with the domicile and residency requirement of this Paragraph. The purpose of requiring the Superintendent to live and maintain domicile and principal place of residence in the District is to encourage Superintendent (1) to be highly motivated and deeply committed to the District's educational system; (2) to speak to and vote on ballot issues affecting the District as a legal voter of the District; (3) to be involved in school and community activities bringing Superintendent in contact with parents and community leaders; (4) to be committed to the future of the District and its schools; (5) to be accessible to parents and students allowing parents and students to become personally acquainted with Superintendent; (6) to gain sympathy and understanding for the cultural basis of the community, and the social, economic, and environmental problems of the children of the school community.

**Section 8. Transportation.** The Board shall provide transportation or reimburse Superintendent for mileage required in the performance of official duties at the rate approved by the Board.

**Section 9. Fringe Benefits.** The Board shall provide the Superintendent with the following fringe benefits:

- a. **Health Insurance.** The District shall offer a choice of the Educators Health Alliance PPO \$900 deductible with pre-admission option, or the \$3,500 deductible HSA-eligible (Dual Choice Only) option. If Superintendent elects the PPO option, the District shall pay the full premium for family coverage. If Superintendent elects the \$3,500 deductible HSA-eligible option, the District will, on a monthly basis, contribute the difference in premium between the two plans to a Health Savings Account established for Superintendent.

Superintendent shall be responsible for compliance with all regulations concerning the Health Savings Account.

- b. Dental Insurance.** The District shall pay the full premium for family coverage under the Educators Health Alliance PPO with 100% A, 75% B, and 50% C coverage – Option 2, as set out in the EHA Renewal Rates sheet effective as of September 1, 2017.
- c. Sick and Bereavement Leave.** Twelve (12) days of sick and bereavement leave per year which shall not accumulate from year to year. If the Superintendent is absent for more than five (5) consecutive days because of illness or injury, the Board may require a doctor's certificate confirming that the absence was a reasonable and necessary consequence of his/her illness or injury as a condition of payment. The Superintendent shall not be entitled to any compensation for unused sick or bereavement leave upon the conclusion of this employment. Disability pay shall be required to be taken instead of sick leave for any period Superintendent qualifies for disability pay under the long-term disability policy.
- d. Vacation.** Twenty (20) vacation days for the 2018-19 contract year may be used at times chosen so long as the absence does not interfere with the proper performance of duties under this Contract. Any vacation period of more than two (2) days, consecutively, or connected by weekend or other holiday, while school is in session will require advance approval by the Board. The Board and Superintendent agree to cooperate to arrange vacation time so as to cause the least inconvenience under the circumstances to the normal operation of the District. After the 2018-19 contract year, the Board shall provide the Superintendent up to 20 days to restore the total accumulation to 20 days during the succeeding years. For example, if the Superintendent uses 12 days of vacation one year, the Board will provide 12 additional days the following year to bring the total to 20 days. The Superintendent shall notify the Board President when vacation days are to be used and the Superintendent shall develop a system for recording use of vacation and sick leave days and shall keep such records current and on file in the District's central office. Annually, at the Board's regularly scheduled August meeting, and at other times upon the Board's request, the Superintendent shall report to the Board on the number of vacation days used. The Board may require the Superintendent to use vacation days and shall compensate the Superintendent for unused vacation leave upon the conclusion of employment by the District under this Contract.
- e. Holidays.** The following days shall be holiday days and not working days: Good Friday, Memorial Day, July 4<sup>th</sup>, Labor Day,

Thanksgiving, the day after Thanksgiving, Christmas Eve, Christmas Day, and New Year's Day.

- f. Disability Insurance.** The District shall maintain and pay the full premium for coverage of the Superintendent under the Group Long Term Disability Coverage provided for all full-time active teachers. The Long Term Disability Policy shall provide a benefit of 66 2/3% of base pay only and have an elimination period of 30 consecutive days. Any change to the insurance carrier providing such coverage must be to a new carrier of the same quality as established in industry ratings by Moody's, Standard & Poors, or a similarly published agency.
- g. Professional Development.** The Superintendent is expected to continue professional development and to participate in relevant learning experiences. With the Board's approval, Superintendent may attend appropriate professional meetings at the local, state, regional and national level, and the Board will pay for actual, reasonable and necessary expenses for attendance at approved meetings.
- h. Professional Dues.** Upon being provided with receipts, the District will pay up to three hundred thirty-five dollars (\$335) per year toward the annual dues for the Superintendent's membership in the Nebraska Council of School Administrators.
- i. Telephone.** Upon being provided with receipts, the District will pay up to one hundred dollars (\$100.00) per month for Superintendent's cellular telephone and data service. Superintendent shall be required to maintain a cellular telephone with text and email service for emergency contact purposes.
- j. Moving Expenses.** Upon being provided with receipts, the District will reimburse the Superintendent for as much as two thousand dollars (\$2,000.00) in expenses incurred in moving the Superintendent to the District at the outset of this Contract.

**Section 10. Evaluation.** The Board shall evaluate the Superintendent twice during his/her first year of employment and at least once each year thereafter. The Board may evaluate the Superintendent more frequently when, in its sole discretion, it determines more frequent evaluations to be appropriate. The first evaluation during the first year of employment and yearly evaluations after the first year shall occur no later than the regular December meeting. The Superintendent shall remind the Board members in writing at least 45 days before the date of each upcoming

evaluation. The Board shall put its evaluations in writing and discuss them with the Superintendent. The Superintendent shall sign each evaluation to acknowledge receipt of it, and a fully signed copy of each evaluation shall become part of Superintendent's personnel file.

**Section 11. Disability.** If the Superintendent is unable to perform the duties under this Contract by reason of illness, accident or other disability beyond his/her control, and the disability continues for more than three (3) months, or if the disability is permanent, irreparable, or of such a nature as to make performance of the duties impossible, the Board may initiate action to cancel this Contract, whereupon the respective rights, duties and obligations of the parties hereunder shall terminate, with the exception of any benefits to be paid to the Superintendent under any insurance coverage furnished by the District.

**Section 12. Physical or Mental Examination.** The Board may require the Superintendent to undergo a physical or mental examination by a physician and/or psychologist of the Board's choosing. In deference to the requirements of the Americans with Disabilities Act and HIPAA, the physician's report to the Board shall address whether the Superintendent is able to perform the "essential functions" of the position.

**Section 13. Legal Actions.** The Board will support the Superintendent if there is a legal dispute caused by his/her carrying out his/her duties in good faith. If a legal action, including a professional practice complaint, is threatened or filed against the Superintendent as a result of the performance of duties required under this Contract or the position as Superintendent of the District, the Board will provide a legal defense to the maximum extent permitted by law so long as Superintendent acted in good faith and in a manner reasonably believed to be in or not opposed to the District's best interests and, with respect to any criminal action or proceeding, had no reasonable cause to believe that the conduct was unlawful.

**Section 14. Cancellation or Mid-Term Amendment.** The Board may cancel or amend this Contract during its term for any of the following reasons: (a) the cancellation, termination, revocation, or suspension of the Superintendent's certificate (Nebraska Administrative and Supervisory Certificate, or the Nebraska Professional Administrative and Supervisory Certificate) by the State Board of Education; (b) any of the reasons set forth in this Contract; (c) the breach of any of the material provisions of this Contract; (d) incompetence; (e) neglect of duty; (f) unprofessional conduct; (g) insubordination; (h) conduct involving moral turpitude; (i) physical or mental incapacity; (j) immorality; (k) conviction of a felony; (l) any conduct that substantially interferes with the Superintendent's continued performance of his/her duties; (m) any arrest, criminal charge, or criminal conviction of Superintendent or the failure to report the same; (n) any filing against the Superintendent under section 43-247 of the Nebraska statutes or any other

provision of the Nebraska Juvenile Code for child abuse and/or neglect or the failure to report the same; (o) knowingly falsifying District records or documents; (p) misrepresentation of fact to the District and its personnel in the conduct of the District's official business; (q) the use or possession of illegal drugs or controlled substances except as prescribed by a physician; or (r) being in possession, or under the influence, of illegal drugs, controlled substances, or alcohol while on school grounds, at school events, or in a vehicle owned, leased or contracted by the District except as prescribed by a physician. The procedures for cancellation or amendment shall be in accordance with state statutes. The parties agree that the Superintendent's failure to comply with the duties under Section 9 (Evaluation) shall constitute a material breach of this Contract. The nonrenewal of this Contract at the end of the two years shall be in accordance with applicable laws including Nebraska Revised Statutes 79-824 through 79-842, as may be amended from time to time.

**Section 15. No Penalty for Release or Resignation.** There shall not be a penalty for the Superintendent's release or resignation from this Contract; provided no resignation shall become effective until the expiration of the Contract unless the Board accepts it and fixes the date at which it shall take effect.

**Section 16. Compensation upon Termination.** Upon lawful termination of this Contract for any reason, 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 termination bears to the 12 months in the annual salary period in which termination occurs. The Superintendent shall refund any portion of the salary which was paid but had not earned prior to the date of termination of this Contract.

**Section 17. Governing Laws.** The parties shall be governed by all applicable state and federal laws, rules, and regulations in performance of their respective duties and obligations under this Contract.

**Section 18. Amendments to be in Writing.** This Contract may be modified or amended only by a writing duly authorized and executed by the Superintendent and the Board.

**Section 19. Severability.** 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 enforcement of the remaining provisions of this Contract.

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President, Board of Education

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Mitchell R. Hoffer, Superintendent

Dated \_\_\_\_\_, 2018.

Dated \_\_\_\_\_, 2018.