

**AMENDED AND RESTATED
EMPLOYMENT AGREEMENT**



between

**BLANE McCANN
SUPERINTENDENT OF SCHOOLS**

and the

**BOARD OF EDUCATION
OF
SCHOOL DISTRICT NO. 66 OF
DOUGLAS COUNTY, NEBRASKA
AKA
WESTSIDE COMMUNITY SCHOOLS**



2018 - 2019

AMENDED AND RESTATED EMPLOYMENT AGREEMENT

This Amended and Restated Agreement ("Agreement") is made and entered into by and between the BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 66 OF DOUGLAS COUNTY, NEBRASKA (the "Board") and BLANE MCCANN (the "Superintendent") pursuant to action of the Board taken at its meeting on May 14, 2018. This Agreement hereby amends, restates, supersedes, and renders void the Employment Agreement entered into by the Parties signed on July 17, 2017. This Agreement has been created pursuant to the Superintendent's intention to resign prior to the end of the term established under the prior Employment Agreement.

1. **Term of Employment.** The Board hereby employs the Superintendent as the Superintendent of Schools for School District Number 66 of Douglas County, Nebraska (the "District") for a term commencing upon execution of this Agreement and ending July 9, 2019 (the "Term"). At the end of the Term, the Superintendent's employment with the District shall cease.

The Superintendent hereby accepts such employment on the terms herein set forth and as prescribed by the laws of the State of Nebraska and by the rules and regulations made thereunder by the Board. As used in this Agreement, school year shall mean from September 1 through August 31 of the respective year.

2. **Compensation and Benefits.** For his services hereunder, the Superintendent shall be paid an annual salary of Two Hundred Fourteen Thousand, Two Hundred Forty Dollars (\$214,240.00) until July 9, 2018, at which point the Superintendent's salary will increase to Two Hundred Twenty-One Thousand, Seven Hundred Forty Dollars (\$221,740.00) per year. The Superintendent's salary shall be payable in equal installments in accordance with the policy of the Board governing the payment of other professional staff members in the District. Additionally, during the Term:

- a. The District will pay 100% of the cost of one (1) annual medical examination of the Superintendent which is required of or requested by the Superintendent, up to a maximum amount of \$500.00;
- b. The District will pay the cost for term life insurance for the Superintendent with no less than \$150,000.00 limits, long-term disability insurance and family dental insurance;
- c. The Superintendent will be provided an allowance for cellular telephone expenses at the rate of \$100.00 per month;
- d. The District will provide a transportation allowance of \$875.00 per month which shall serve to compensate the Superintendent for all motor vehicle transportation costs, including lease or purchase costs, maintenance (repairs, insurance etc.) and fuel, to assist with motor vehicles expenses

incurred in appropriately carrying out his responsibilities during the Term of this Agreement, payable in equal, monthly installments, less applicable withholding;

- e. The Superintendent shall receive thirty (30) days of paid vacation per school year. Unused vacation days may not be carried over from school year to school year. At the conclusion of employment, the Superintendent will be paid for all vacation days received but unused during the then-current school year.

3. **Performance Bonus.** So long as (1) the Superintendent performs the duties specified in Section 5 below; (2) this Agreement has not been cancelled for "Just Cause" (as defined below) prior to receiving the bonus; or (3) the Superintendent has not chosen to resign prior to receiving the bonus: the Board shall pay an annual performance bonus for the 2017-2018 school year in the amount of Fifteen Thousand Dollars (\$15,000.00) and another annual performance bonus for the 2018-2019 school year in the amount of Fifteen Thousand Dollars (\$15,000.00). Such payments shall be made in July of 2018 and July of 2019, respectively.

4. **Retirement Plan Payment.** During the Term of this Agreement, and subject to the Superintendent's continued employment through the applicable school year, the District shall contribute the gross sum of Twenty Thousand Dollars (\$20,000.00) per school year towards one or more retirement plans now in existence or hereafter established (the "Retirement Plan Payment"). The Retirement Plan Payment will be paid over regular District pay periods throughout the respective school year. Such payments shall be pro-rated if the Superintendent's employment ends prior to the end of the Term.

5. **Employment Duties.** The Superintendent shall be responsible for administration of the schools under the direction of the Board. He shall be the chief executive officer of the District; and shall direct and assign teachers and other employees of the schools under his supervision; shall organize, reorganize, and arrange the administrative and supervisory staff, including instruction and business affairs, as best serves the District, subject to the approval of the Board. The Superintendent shall not have assigned hours of responsibility, but shall substantially devote normal business hours to his employment obligations to the District. The Board shall set forth clear initiatives it desires the Superintendent to address during the Term of this Agreement.

The Superintendent agrees to report periodically to the Board matters relating to the administration of the District, its personnel, business, or curriculum. The Superintendent or his designee shall select all personnel subject to the approval of the Board; shall from time to time suggest regulations, rules, and procedures deemed necessary for the good order of the District; and, in general, perform all duties incident to the office of the Superintendent and such other duties as may be prescribed by the Board from time to time.

The Board shall comply with Board policy in regard to referring all matters coming to its attention in connection with operation of the District. The Superintendent shall have the right to attend all Board meetings and all Board and citizen committee meetings, serve as ex officio member of all School Board committees, and provide administrative recommendations on each item of business considered by each of these groups; provided, however, that the Board may meet without the Superintendent in attendance regarding matters relating to the Superintendent's employment or relating to other matters where it is not appropriate for the Superintendent to be present.

6. **Performance Initiatives.** The Board shall meet with the Superintendent in the summer of 2018 to set forth clear initiatives the Board desires the Superintendent to address during the Term. The Board shall also engage in informal and ongoing meetings and discussions throughout the Term to discuss the Superintendent's progress toward the assigned initiatives.

7. **Appointment of Acting Superintendent.** Should the Superintendent be unable to perform his essential functions as Superintendent, with or without reasonable accommodation, by reason of illness, temporary disability, accident, or any other medical-related cause, the Board shall have the right to place the Superintendent on a paid medical leave of absence and appoint an acting Superintendent for the District to serve until the Superintendent is able to resume the duties of Superintendent.

8. **Certification.** The Superintendent warrants and represents that he is, at the date of this Agreement or at such time reasonably needed hereafter to be, and will continue to be during the term of this Agreement, legally qualified to hold the position of Superintendent of a Class III school district under the laws of the State of Nebraska now in force and as from time to time amended, and that he is not under contract with any other school district.

9. **Other Professional Engagements.** The Superintendent shall devote his full time, skill, labor, and attention to his employment responsibilities to the District during the Term of this Agreement. However, the Superintendent may engage and participate in writing, lecturing, professional organizations, and community betterment and charitable boards and organizations, provided that the employment responsibilities to the District take precedence over any such activities and that any such activities do not interfere with the complete and competent discharge of the Superintendent's duties and obligations or otherwise conflict with Board Policy 4360.

10. **Business Expenses.** The Board will provide expense reimbursement for the Superintendent's business expenses incurred during the Term of this Agreement. Further, during the Term, the Board will also pay for the Superintendent's memberships in all job-related professional organizations. The expense reimbursement and membership fee payments may be paid to or on behalf of the Superintendent in such amounts, for such purposes, and in such manner as the Superintendent deems reasonable and proper without further authorization of the Board, provided all such

expenses shall be reported and documented in the manner consistent with and as required by the Board and its accountants.

11. **Indemnification.** To the extent permitted by law, the Board agrees that it shall defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against the Superintendent in his individual capacity, or in his official capacity as agent and employee of the District, provided the incident arose while the Superintendent was acting within the scope of his employment.

If, in the good faith opinion of the Superintendent, concurred in by legal counsel for the District, a conflict exists as regards the defense to such claim between the legal position of the Superintendent and the legal position of the District, the Superintendent may engage counsel, in which event the District shall indemnify the Superintendent for the costs of legal defense to the extent permitted by law and provided the Board is notified in advance of such engagement.

12. **Cancellation by the Board.** Notwithstanding Section 1 above, this Agreement may be canceled pursuant Neb. Rev. Stat. 79824 et seq. at any time during the Term, by a majority of the members of the Board, for "Just Cause". "Just Cause" shall mean:

- a. Incompetency;
- b. Neglect of duty;
- c. Unprofessional conduct;
- d. Insubordination in not enforcing Board actions and/or policies;
- e. Immorality;
- f. Physical or mental incapacity, which shall mean the inability to perform the duties of Superintendent of Schools by reason of mental or physical illness, accident, or other cause beyond the Superintendent's control, which inability in fact continues for at least 180 calendar days or which inability is determined by two (2) physicians selected by the Board to be permanent;
- g. Cancellation, termination, revocation, or suspension of any certification required to act as Superintendent;
- h. Other conduct which interferes substantially with the continued performance of duties; and
- i. Any breach of material terms of this Agreement by the Superintendent.

The Superintendent shall be notified in writing of the Board's intent to cancel this Agreement and of the alleged grounds for cancellation. In the event of such cancellation, the Superintendent shall receive a final salary payment prorated up through the Superintendent's last day of employment. No other payments shall be due

or owing to the Superintendent. All benefits shall end upon the Superintendent's last day of employment unless otherwise provided by the applicable plan.

13. **District Residency.** During his employment with the District, it is required that the Superintendent reside within the boundaries of the District.

14. **Resignation by the Superintendent.** If the Superintendent chooses to resign prior to July 9, 2019, the Superintendent shall be released from this Agreement and there shall be no penalty against the Superintendent, though the Superintendent shall not be entitled to the full Appreciation of Service Payment described in the following paragraph if the Superintendent resigns before January 1, 2019. In the event of a resignation, the Superintendent shall receive a final salary payment prorated up through the Superintendent's last day of employment and the Appreciation of Service Payment, which shall be prorated if such resignation occurs before January 1, 2019. No other payments shall be due or owing to the Superintendent. All benefits shall end upon the Superintendent's last day of employment, unless otherwise provided by the applicable plan.

15. **Appreciation of Service.** In appreciation of the Superintendent's service and on the conditions that (1) the Superintendent executes a release of claims, if requested by the Board, and (2) this Agreement has not been cancelled for Just Cause, the Superintendent shall receive a payment of \$75,000.00 ("Appreciation of Service Payment"), payable within 30 days of the end of the Superintendent's employment with the District. Such amount shall be pro-rated if the Superintendent resigns prior to January 1, 2019, but shall be paid in full if the Superintendent resigns on or after January 1, 2019. This payment shall be made with funds provided to the District by the Westside Community Schools Foundation.

16. **Entire Agreement.** This agreement is the final, complete, and exclusive statement of the parties' agreement on the matters contained in this Agreement and supersedes all previous negotiations and agreements with respect to the subject matter herein, whether oral or written.

17. **Modification and Waiver.** No supplement, modification, termination or amendment of this Agreement shall be binding unless executed in writing by both parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

IN WITNESS WHEREOF, this Agreement is executed this _____ day of _____, 2018.
SUPERINTENDENT BOARD OF EDUCATION OF SCHOOL DISTRICT NO. 66 OF DOUGLAS COUNTY, NEBRASKA

Blane McCann, Superintendent

By: _____
President, For the Board of Education