

## CONTRACT OF EMPLOYMENT WITH ESU ADMINISTRATOR

THIS CONTRACT is made by and between the Board of Education of Educational Service Unit No. 5, hereinafter referred to as the "Board", and Brenda McNiff, hereinafter referred to as the "ESU Administrator".

WITNESSETH: That ESU 5 agrees to employ the Administrator, and the Administrator agrees to accept such employment, subject to the terms and conditions contained in this Contract and subject to the approval of this Agreement by the governing board of ESU 5.

### Section 1. Term of Contract.

**(a) Initial Term and Duty Days.** The ESU Administrator shall be employed for a period of three (3) contract years beginning on the 1st day of July 2020 and ending on the 30th day of June 2023 ("initial term"). References in this Contract to "contract year" shall mean the period of July 1 to June 30 which shall include 240 contract days.

**(b) Non-Renewal or Extension of Agreement.** The President of the Board may, not later than the 15<sup>th</sup> day of April during the second contract year and each contract year thereafter, notify the Administrator in writing of the Board's intention not to renew this contract. Failure to so notify the Administrator shall result in a one year extension of the term of this contract from the then existing expiration date. The governing board's issuance of a notice of non-renewal shall not be effective until the 30<sup>th</sup> day of June of the contract year following the Administrator's receipt of such notice.

### Section 2. Salary.

**(a) Annual Salary.** The annual salary for the 2022-2023 contract year shall be ONE HUNDRED NINETY THOUSAND DOLLARS (\$190,000.00).

**(b) Payment of Salary and Adjustments.** The annual salary shall be paid in twelve equal installments in accordance with the policy of the Board governing payment of other professional staff employees. Salary payments shall be subject to state and federal withholding required by law, including without limitation retirement contributions, FICA, FUTA, Medicare, and state or federal unemployment contributions.

**(c) Salary Adjustments.** The Board reserves the right to adjust the annual salary during the term of any contract year; provided that any such salary adjustment shall not reduce the annual salary for the then existing contract year. Any adjustment in salary shall be in the form of an amendment and shall become a part of this Contract. Any such salary adjustment shall not extend the term of this Contract. In the event the ESU Administrator is elected or appointed to any Board office or assigned additional duties, the ESU Administrator shall perform the duties of such other offices or duties without remuneration other than that as provided in this Contract, in the absence of a written agreement.

**(d) Payment of Salary Upon Cancellation or Final Term.** Upon lawful cancellation of this Contract, the ESU Administrator shall be paid an amount equal to the annual salary for the contract year in which the cancellation is effective, multiplied by the following fraction: (1) a numerator equal to the number of days which have expired in the contract year in which such cancellation is effective, over (2) a denominator of 240 days. Upon the contract ending for any reason, any portion of the salary paid, but not earned, prior to the date of termination of this Contract, and any sums owing to the Unit by the ESU Administrator, shall be set off from sums due to the ESU Administrator and, if the sums owing to the Unit are in excess of the sums due the ESU Administrator, the amount owing shall be immediately refunded by the ESU Administrator. Compensation for any unused leave which is payable upon the contract ending for any reason shall be paid at the salary rate effective during the contract year in which the leave was earned. Any unused vacation leave days shall be computed at the rate of 1/240 of the ESU Administrator's annual salary during the contract year in which the leave was earned, subject to the limits specified in Section 3 (a) 1.

### **Section 3. Leaves and Other Fringe Benefits.**

#### **(a) Leaves.**

(1) **Vacation:** The ESU Administrator shall be allowed twenty (20) working days of vacation leave from her contract days during each contract year, exclusive of legal holidays. Vacations days are to be used in a manner and at times selected by the ESU Administrator; provided that the ESU Administrator make reasonable efforts to not schedule vacations which would cause the ESU Administrator to not be able to attend regular scheduled meetings of the Unit Board or important Unit or school functions and the ESU Administrator shall provide information such that the ESU Administrator may be contacted when necessary. The ESU Administrator shall maintain a vacation log which shall be available to the Board for review on request and shall be filed at least annually with the Board President. The Board and the ESU Administrator agree that periodic vacation is beneficial to “recharge” the ESU Administrator. As such, the ESU Administrator is encouraged to use all days of vacation each year. At the end of the term of the contract, the ESU Administrator will be reimbursed for up to five (5) days of any remaining unused vacation days at the effective daily rate of pay in such contract year.

(2) **Legal Holidays:** The ESU Administrator shall be allowed leave for the following legal holidays: July 4<sup>th</sup>, Labor Day, Thanksgiving and the day thereafter, Christmas and the day thereafter, New Years and the day thereafter, Good Friday and Memorial Day.

(3) **Sick Leave:** The ESU Administrator shall be allowed thirteen (13) working days of sick leave during each contract year. Any unused sick leave may be carried over from one contract year to the next, subject to a maximum accumulation of forty-five (45) days of sick leave. The ESU Administrator shall maintain a sick leave log which shall be available to the Board for review on request and shall be filed at least annually with the Board President. There shall be no pay for any unused sick leave days upon termination or otherwise ending employment for any reason.

**(b) Benefit Package.** The ESU Board shall contribute \$650 per month to the Administrator’s 403(b) account for the 2022-23 contract year. Except as specifically provided in this paragraph, the ESU Administrator shall have such other fringe benefits as are granted to other supervisory certificated employees under the policies of ESU 5. In addition to said fringe benefits, ESU 5 shall pay upon Board pre-approval, the annual membership dues of the Administrator for a service club of the Administrator’s choice and the Nebraska Association of School Administrators or another professional association of the Administrator’s choice.

**(c) Transportation Expenses.** The ESU Administrator shall be reimbursed for the use of her personal vehicle in the performance of her official duties while traveling within the boundaries of ESU 5 and at other locations upon Board approval at the mileage rate established by the governing board.

**(d) Health Examinations.** The ESU Administrator shall be provided a comprehensive medical examination in each contract year at the cost of the Board. To be reimbursed for such medical examination, the ESU Administrator shall provide the Secretary of the Board with a statement from the physician certifying to the physical competency of the ESU Administrator to perform the essential functions of the ESU Administrator's position. Such statement and health examination documents shall be placed in a separate medical personnel file, and remain confidential as and to the extent permitted by law.

**(e) Professional Meetings and Organizations.** The ESU Administrator may attend, with Board approval, appropriate professional meetings at the local, state, and national level, and such attendance shall not be taken against the ESU Administrator's allowable leave days. Such attendance shall be scheduled so as to not interfere with the proper performance of the ESU Administrator's duties as ESU Administrator. The expenses of attendance shall be paid by the

Board, as and to the extent permitted by law and Board policy.

- (f) Legal Actions.** In the event of any legal actions threatened or filed against the ESU Administrator as a result of the performance of duties under this Contract, or the ESU Administrator's position as ESU Administrator for ESU 5, including professional practice complaints against the ESU Administrator, the Board shall provide a legal defense to the ESU Administrator, to the maximum extent permitted by law. This section shall not apply to legal actions or professional practice complaints initiated by the Board against the ESU Administrator or those initiated by the ESU Administrator against the Board or ESU 5.

**Section 4. Legal Requirements and Representations.** The ESU Administrator affirms that: (1) the ESU Administrator holds or will hold a valid and appropriate certificate to act as an ESU Administrator in the State of Nebraska throughout the term of this Contract and any extended terms of this Contract; (2) the required certificate to act as an ESU Administrator in the State of Nebraska shall be registered and filed as required by law; and (3) the ESU Administrator is not under Contract with another ESU or board of education of a School District within the State of Nebraska covering any part of or all of the same time of performance as provided for in this Contract. It is further agreed that there shall be no penalty for release or resignation by the ESU Administrator from this Contract; provided no resignation shall become effective until expiration of the remaining term of the Contract unless the Board fixes an earlier effective date. This Contract is subject to the provisions of the Nebraska School Employees Retirement Act.

The ESU Administrator represents as follows: (1) all information in application for employment and other information provided at the time of hire is true and accurate, and if said information ceases to be true, ESU Administrator will advise immediately; (2) ESU Administrator has never been convicted or plead no contest or otherwise been adjudicated for a felony, or any other offense involving moral turpitude, abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NAC 27; and (3) ESU Administrator has not suffered suspension or revocation of any educational professional license or certificate.

**Section 5. Performance of Duties.**

**(a) Use of Time.** The ESU Administrator shall faithfully perform the duties of the ESU Administrator in and for the Unit as prescribed by the laws of the State of Nebraska, the rules and regulations of the Nebraska Department of Education, and by the rules and regulations promulgated by the Board. Such duties shall include those duties specified in Section 5(b) of this Contract. Regular, dependable attendance is an essential function of the ESU Administrator's duties.

**(b) Specification of Duties.** The ESU Administrator shall be responsible for the management and leadership of ESU 5. The ESU Administrator shall carry out the policies adopted by the governing board of ESU 5. The ESU Administrator shall have the responsibility for the selection, placement, transfer, and assignment of duties for all personnel. The ESU Administrator shall be responsible for initiating all personnel matters which require action by the governing board of ESU 5, which shall include making recommendations to the governing board concerning the termination or discharge of any personnel. The ESU Administrator agrees to devote her fulltime skill, labor and attention to her duties as ESU Administrator throughout the term of this Contract; provided, however, the ESU Administrator, with the consent of the governing board, may undertake consulting work, engage in speaking, writing, or lecturing, or enter into other engagements, so long as such engagements do not interfere with the ESU Administrator's performance of her professional duties and obligations required pursuant to this Contract and ESU 5 policies, practices and procedures. It is further agreed, and specifically acknowledged by the parties hereto, that the duties of the ESU Administrator as set forth herein may be further defined by policies adopted from time to time by the governing board of ESU 5.

**(c) Board-ESU Administrator Relationship.** The governing board shall have the primary responsibility for formulating and adopting the policies of ESU 5. The ESU Administrator shall be the chief administrative officer for ESU 5 and shall have primary responsibility for the implementation of the policies of

ESU 5. The parties agree, individually and collectively, to promptly refer all criticism, complaints, and suggestions called to their attention to the ESU Administrator for action, study, and/or recommendation, as appropriate. Annual evaluations of the ESU Administrator may be conducted as agreed by the parties.

**Section 6. Discharge.** The Contract of the ESU Administrator may be cancelled or amended by a majority of the members of the Unit Board during the term of the Contract for any of the following reasons: (a) upon cancellation, termination, revocation, or suspension of the ESU Administrator's certificate (Nebraska Administrative and Supervisory Certificate, or Nebraska Professional Administrative and Supervisory Certificate), by the State Board of Education; (b) breach of any of the material provisions of this Contract; (c) for any of the reasons set forth in this employment contract, including financial exigency or a change in circumstances necessitating a reduction in force; (d) incompetency; (e) neglect of duty; (f) unprofessional conduct; (g) insubordination; (h) immorality; (i) physical or mental incapacity; (j) intemperance; or (k) conviction of a felony. The procedures for cancellation or amendment during the term of the contract shall be in accordance with the applicable *Nebraska Revised Statutes*. This Contract shall also automatically end by mutual agreement of the parties without further action by either at the end of the initial term or any extended term, whichever is later.

**Section 7. Contract Enforceability.**


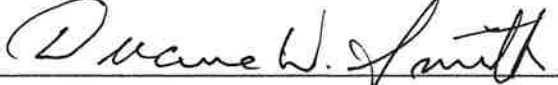
**(a) Applicable Law.** The parties shall be governed by all applicable state and federal laws, rules, and regulations in performance of their respective duties and obligations under this Contract. This Contract shall be interpreted under the laws of the State of Nebraska.

**(b) Amendments.** This Contract may be modified or amended only by a writing duly authorized and executed by the ESU Administrator and the Board. This Contract is subject to the following Addendum: None.

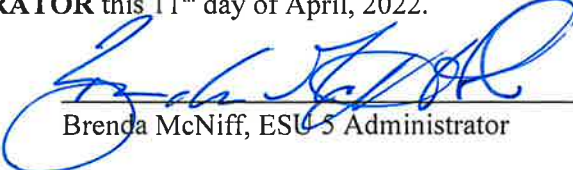
**(c) Severability.** If any portion of this Contract shall be declared invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the validity or enforceability of the remaining provisions of this Contract.

**IN WITNESS WHEREOF**, the parties have executed this Contract on the dates indicated below.

**EXECUTED BY THE BOARD** this 11<sup>th</sup> day of April, 2022.

Board of Education of Educational Service Unit No. 5  
By:   
Roger Smidt  
President, Board of Education  
  
Duane W. Smith  
Secretary, Board of Education

**EXECUTED BY THE ESU ADMINISTRATOR** this 11<sup>th</sup> day of April, 2022.

  
Brenda McNiff, ESU 5 Administrator