

## CONTRACT OF EMPLOYMENT WITH SUPERINTENDENT

This Contract of Employment With Superintendent (the "Contract") is made and entered into by and between the Board of Education of Dakota County School District No. 31R, a/k/a the Homer Community School District (hereinafter referred to as the "Board"), and Gregg Cruickshank (hereinafter referred to as the "Superintendent").

### WITNESSETH

In accordance with action duly taken by the Board and recorded in the Minutes of the Board Meeting held on the **April 12<sup>th</sup>, 2021** the Board hereby agrees to employ the Superintendent, and the Superintendent hereby agrees to accept employment as the Superintendent of the Dakota County School District No. 31R (the "District"), upon and subject to the following terms and conditions:

#### I. Term of Contract

A. Term. This Contract shall be for a term of three (3) years, beginning on the 1<sup>st</sup> day of July, 2021, and ending on the 30<sup>th</sup> day of June, 2024 (the "Term"). Continued employment following the Term shall require that a new written contract be entered into between the Superintendent and the Board. References in this Contract to "Contract Year" shall mean the period of July 1 to June 30.

#### II. Qualifications and Duties

A. Qualifications. Throughout the Term of this Contract, the Superintendent shall be considered a Probationary Certificated Employee as defined in Nebraska revised Statute Section 79-824; shall hold a valid certificate to act as a Superintendent of Schools in the State of Nebraska which shall be duly registered and filed as required by law; and shall not be under contract with another board of education within the State of Nebraska.

B. Duties. The duties to be performed by the Superintendent hereunder shall be those usually and customarily performed by an individual who is employed as the Superintendent of a school district that is comparable in size and composition to the District, and shall include the following: (i) responsibility for the day to day administration of the instructional and business affairs of the District; (ii) responsibility for the implementation of Board Policy; (iii) initiating all personnel actions that require Board action, including recommendations concerning termination, cancellation or non-renewals; organizing, administering and supervising the District's supervisory staff; and, subject to Board approval, (iv) the selection, placement and transfer of personnel. The Superintendent shall report to the Board. The Board shall have primary responsibility for formulating and adopting Board policy. The Superintendent shall be the chief administrative officer for the District, and shall have primary responsibility for implementation of Board policy. In cases of no Board policy or an emergency, the Superintendent is authorized to take action as

necessary or appropriate to the situation. The Board agrees, individually and collectively, to promptly refer all criticism, complaints, and suggestions concerning operations of the School District, including without limitation matters relating to personnel and students, to the Superintendent for action, study or recommendation, as appropriate, and to not comment or take action on such matters except upon recommendation of the Superintendent or upon the Superintendent having been permitted sufficient opportunity to respond to the matter.

The exact nature and extent of the Superintendent's duties set forth above and any necessary additional duties may be as defined from time to time by the Board, in its sole discretion. Without limiting the generality of the foregoing, the parties agree as follows:

1. The Superintendent will perform his/her duties in compliance with his/her written Job Description, if any; all rules, regulations, policies and procedures of the District as duly adopted from time to time by the Board; the terms of all applicable third party contracts; and all federal, state or local laws, statutes or ordinances and any rules or regulations promulgated thereunder.
2. The Superintendent will devote substantially all of his/her available working time, skill and energy to performing the duties required by his/her position as Superintendent and will not engage in any other business or occupation except to the extent the same is expressly approved in advance and in writing by the Board; provided, however, that nothing herein shall be deemed or construed to limit or restrict the ability of the Superintendent to engage in activities that are incident to the ownership or management of personal investments or to participate in professional activities such as consulting, speaking, writing or lecturing, so long as such activities do not interfere with the ability of the Superintendent to perform his/her duties hereunder or conflict with the interests of the District. For purposes of this paragraph, "working time" shall not include established breaks during the academic year (between the first day of the first quarter and the last day of the fourth quarter) during which students and teachers are not present within the District's school facilities; provided however, Superintendent may from time to time be required to perform such duties during these breaks as are usually and customarily performed by an individual who is employed as the Superintendent of a school district.

### III. Salary

A. Annual Salary. The Board shall pay the Superintendent total compensation (salary, district contribution to FICA/NPERS, and health/dental insurance) the following amount.

2021 – 22	\$195,000
2022 – 23	\$200,000
2023 – 24	\$205,000

B. Payment of Salary and Adjustments. The annual salary shall be paid in equal monthly installments in accordance with the usual and customary payroll practices of the District that apply to its professional staff. All salary payments shall be subject to authorized deductions

and all local, state and federal withholding as required by law, including without limitation, retirement contributions, FICA, FUTA, Medicare and state or federal unemployment contributions.

#### **IV. Leaves, Benefits and Other Terms**

A. Nature of Paid Leave. Paid leave from the Superintendent's professional duties is available to the Superintendent when the following specific conditions are met: (1) the Superintendent is currently employed by the District; (2) the leave day is taken on a day the Superintendent would otherwise be expected to be at work; and (3) the Superintendent has met the conditions for such leave to be taken as applicable to each specified form of paid leave. All paid leave is subject to the following:

1. Leave Year. The leave year is the Superintendent Contract Year.
2. Unused Leave. There shall be no payment to the Superintendent for the value of paid leave available, but unused, either during his/her term of employment or upon the ending of his/her employment, except as may be specifically set forth herein.

B. Vacation and Personal Leave

1. Amount and Use. Subject to subparagraph 2 following, the Superintendent shall be allowed a maximum of twenty (20) working days of vacation leave, and three (3) days of personal leave each contract year exclusive of Saturdays, Sundays, and legal holidays. It is understood, however, that the Superintendent may from time to time be required to perform duties on Saturdays, Sundays, and legal holidays, and no provision of this Contract shall be read to excuse the Superintendent from performance of said duties. Vacation days are to be used in a manner and at times selected by the Superintendent and scheduled as far in advance as is reasonably possible, and in a way that does not unreasonably interfere with the performance of the Superintendent duties. The Superintendent shall make reasonable efforts to avoid scheduling leaves which would cause the Superintendent to be unavailable to attend regularly scheduled meetings of the Board of Education or important district or school functions, and the Superintendent shall provide necessary contact information so that if an urgent situation arises, the Superintendent may be contacted when necessary while on vacation.
2. Vacation Accumulation. The Board and the Superintendent agree that periodic vacation is necessary to enable the Superintendent to properly perform required duties. As such, the Superintendent shall use and is expected to use all of the maximum twenty (20) days of vacation available to his/her each year. The total number of vacation days the Superintendent is awarded for each contract year shall be reduced by the number of unused vacation days from the prior contract year, so that the total vacation days available in each contract year shall be in no case more than twenty (20) days. Upon ending employment, unused vacation days remaining available during the final contract year will not be paid at out.

C. Sick Leave

1. Amount and Use. The Superintendent shall be allowed ten (10) working days of paid sick leave each contract year, exclusive of Saturdays, Sundays, and legal holidays.
2. Availability. Paid sick leave is available when the Superintendent may be absent from duties on a workday. Sick days are only available when the Superintendent is currently employed by the District and the Superintendent is unable to perform assigned duties due to the illness or temporary disability of the Superintendent or due to the Superintendent needing to care for a member of the immediate family who is ill or who has a serious health condition. Immediate family shall mean the Superintendent's spouse, children, or parent.
3. Carry-over and Accumulation. Unused sick leave may be carried over from one contract year to the next succeeding contract year or years. The maximum that may be accumulated is 90 days. Once the maximum is accumulated, no further sick leave days will be available or granted until the accumulated number of days is less than 90, and then accrual should only occur to the extent necessary to restore the total number of available sick leave days to the maximum of 90 days.
4. Unused Days. There shall be no pay for unused sick leave either during or upon ending of employment.

D. Leave Log. The Superintendent shall maintain a vacation and sick leave log which shall be available to the Board for review and he/she shall communicate monthly, in writing, with the Board President regarding the dates and total hours of paid leave taken in the preceding month. For the purpose of this section of the term "working days" shall not include Saturdays, Sundays, or legal holidays.

E. Fringe Benefits. The Superintendent shall be eligible to participate in the District's Flexible Benefits Plan and to elect to participate in the District's group health insurance plan and any other benefit plans offered through the Flexible Benefits Plan. The Superintendent may make elective employee contributions in such amount as he or she elects, subject to the terms and conditions of the Flexible Benefits Plan. The District will not make non-elective contributions on behalf of the Superintendent toward the cost of benefits or coverage offered through the Flexible Benefits Plan.

The Superintendent may also be eligible to participate in any other benefit policy, plan or program, including, but not limited to, nonqualified deferred compensation plans that the District may from time to time maintain and make generally available to members of its professional staff. Anything herein to the contrary notwithstanding, the Superintendent eligibility, participation and benefit entitlement under or pursuant to any such benefit policy, plan or program shall be subject to all of the terms and conditions of each such policy, plan or program and any third party contracts, agreements or policies of insurance which may be related thereto. Further, the Board hereby expressly reserves the right, either with or without notice, to terminate, curtail or

otherwise modify, change or amend any such policy, plan or program in whole or in part, at any time. This Contract is subject to the provisions of the Nebraska School Employees Retirement Act.

F. Transportation. The Board shall reimburse the Superintendent at the maximum rate permitted by law for all mileage that he/she may reasonably and necessarily incur in connection with the performance of his/her official duties.

G. Professional Meetings. The Superintendent shall be entitled to attend appropriate professional meetings at the local and state level. Subject to prior Board approval, which approval will not be unreasonably withheld, the Superintendent shall be entitled to attend appropriate professional meetings at the national level. Such attendance shall not be counted as vacation or sick leave but shall be scheduled so as not to interfere with the proper performance of the Superintendent's duties. The reasonable and necessary expenses incurred by the Superintendent in connection with his/her attendance at such approved meetings shall be paid by the Board, as and to the extent permitted by law and Board policy.

H. Professional Association Dues. The Superintendent's membership in the Nebraska Association of School Administrators shall be paid by the Board. The Superintendent's membership in other professional associations may be paid by the District subject to prior Board approval.

I. Legal Actions. In the event of any legal actions threatened or filed against the Superintendent as a result of the performance of duties under this Contract, or the Superintendent's position as Superintendent for the School District, including professional practice complaints against the Superintendent, the Board shall provide a legal defense to the Superintendent, 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 Superintendent or those initiated by the Superintendent against the Board or the School District.

J. Residence. The Superintendent is expected to establish a residence within the District during the Term of this Contract and failure to do so will be grounds for non-renewal.

## **V. Representations and Warranties of the Superintendent**

### **A. Representations and Warranties of the Superintendent**

As an express condition precedent and a material inducement to the Board to enter into this Contract and observe and perform the obligations and undertakings to be observed and performed by it hereunder, the Superintendent represents and warrants to the Board as follows:

1. That all information set forth in the Superintendent application of employment and all other information provided to the Board by the Superintendent in connection therewith is true, correct and complete in all material respects and does not omit any facts necessary in order to make the statements and information contained therein not misleading;

2. The Superintendent has never been convicted of, entered a plea of no contest or *nolo contendere* to, or otherwise been charged with or convicted of a felony or any other lesser offense involving willful and wanton misconduct, moral turpitude, abuse, neglect, or sexual misconduct as defined in Sections 003.12 through 003.14 of 92 NCA 27; and
3. The Superintendent has not suffered suspension or revocation of any educational professional license or certificate.
4. The Superintendent holds or will hold a valid and appropriate certificate to act as a Superintendent of Schools in the State of Nebraska throughout the term of this Contract; the required certificate to act shall be registered and filed as required by law; and the Superintendent 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.

## **VI. Cancellation, Termination, and Amendment**

- A. Cancellation, Termination, and Amendment. This Contract may be cancelled, terminated, or amended as follows:
  1. Termination Due to Death. This Contract shall immediately terminate in the event of the Superintendent's death.
  2. Termination Due to Disability. This Contract shall immediately terminate in the event the Superintendent is continuously disabled for a period of one hundred twenty (120) consecutive days, has exhausted all available leave and is unable to return to work on a full-time basis and perform the essential functions of his/her job with or without reasonable accommodation.
  3. Cancellation or Amendment by Board During a Contract Year. Subject to the procedures set forth in Neb. Rev. Stat. §§79-824 through 79-842, this Contract may be canceled or amended by the Board at any time during a Contract Year for any of the following reasons: (i) cancellation, termination, revocation or suspension of the Superintendent's certificate (Nebraska Administrative and Supervisory Certificate or Nebraska Professional Administrative and Supervisory Certificate) by the State Board of Education; (ii) breach of any of the material provisions of this Contract; (iii) for any of the reasons set forth in this Contract of Employment; (iv) incompetency; (v) neglect of duty; (vi) unprofessional conduct; (vii) insubordination; (viii) immorality; or (ix) physical or mental incapacity.
  4. Non-Renewal at the End of a Contract Year. The Board may elect to amend or not renew this Contract at the expiration of a Contract Year for any reason it deems sufficient if such nonrenewal is not for constitutionally impermissible reasons, and such nonrenewal shall be in accordance with Nebraska Revised Statute Sections 79-824 to 79-842.

5. Release or Resignation. It is further agreed that there shall be no penalty for release or resignation by the Superintendent 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.

B. Entitlement to Compensation and Benefits in the Event of Cancellation or Termination. In the event this Contract is terminated or cancelled, except as set forth above, the Board shall have no further obligation of any kind to continue to pay or provide any further compensation or benefits to the Superintendent from and after the date on which such termination or cancellation takes effect.

## **VII. Miscellaneous**

A. No Third Party Beneficiaries. This Contract shall be for the sole benefit of the parties hereto and their respective heirs, successors, permitted assigns, and legal representatives and is not intended, nor shall it be construed, to give any person, other than the parties hereto and their respective heirs, successors, permitted assigns and legal representatives, any legal or equitable right, remedy or claim hereunder.

B. Choice of Law. This Contract shall be governed by, and construed in accordance with, the internal laws of the State of Nebraska. Any legal action or proceeding with respect to this Contract or any document related hereto shall be brought only in the district courts of Nebraska, or the United States District Court for the District of Nebraska, and, by execution and delivery of this Contract, each party hereto hereby accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the aforesaid courts. The parties hereto hereby irrevocably waive any objection, including, without limitation, any *forum non conveniens*, which any of them may now or hereafter have to the bringing of such action or proceeding in such respective jurisdictions.

C. Entire Agreement. This Contract, together with all exhibits and schedules hereto, constitutes the entire agreement among the Parties pertaining to the subject matter hereof and supersedes all prior contracts, agreements, understandings, negotiations and discussions, whether oral or written, of the Parties.

D. Amendment. No amendment, supplement or modification of this Contract shall be binding unless executed in writing by the party to be bound thereby.

E. Waiver. No waiver of any of the provisions of this Contract or any breach of any provision of this Contract shall be deemed or shall constitute a waiver of any other provision or breach hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in writing.

F. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Contract, but shall

be interpreted according to the application of rules of interpretation of contracts generally. The headings and table of contents (if any) used in this Contract are inserted for convenience and reference only and are not intended to be an integral part of or to affect the meaning or interpretation of this Contract.

G. Time is of the Essence, Computation of Time. Time is of the essence with respect to every covenant, condition to be satisfied, and action to be taken hereunder, and the parties shall proceed accordingly with respect to every action necessary, proper or advisable to make effective the transactions contemplated by this Contract. Whenever the last day for the exercise of any privilege or the discharge of any duty hereunder shall fall upon any day which is not a business day, the party having such privilege or duty may exercise such privilege or discharge such duty on the next succeeding business day.

H. Survival. All representations and warranties; all of the rights, remedies, obligations, and all of the covenants and agreements set forth in this Contract which, by their terms, require or contemplate performance which is to extend beyond or occur after the date hereof, shall survive the execution and delivery of this Contract and shall remain in full force and effect and be enforceable as between the parties hereto in accordance with their terms for the statute of limitations period applicable thereto.

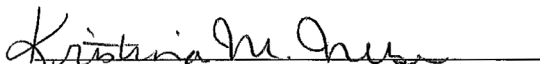
IN WITNESS WHEREOF, this Contract has been executed and entered into as of this 12th day of April 2021 by the parties hereto, fully intending the same to be binding upon themselves and their respective heirs, personal representatives, trustees, successors and assigns.

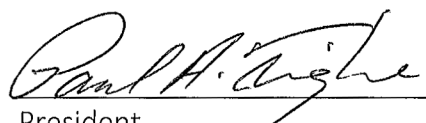
Gregg Cruickshank, Superintendent



ATTEST:

Board of Education of Dakota County School District  
No. 31R

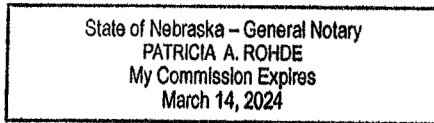
  
Secretary

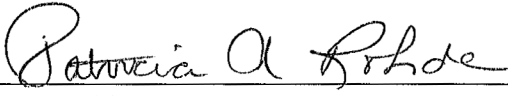
By:   
President



STATE OF NEBRASKA   )  
  ) ss.  
COUNTY OF DAKOTA   )

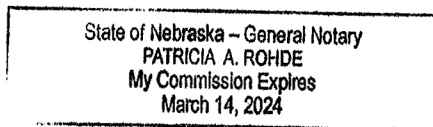
SUBSCRIBED AND SWORN to before me this 2nd day of May 2019, by Gregg Cruickshank.

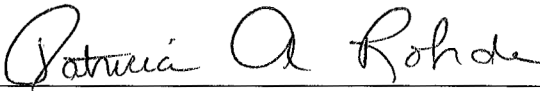


  
\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA                               )  
  ) ss.  
COUNTY OF DAKOTA                               )

SUBSCRIBED AND SWORN to before me this 12th day of April 2021 by Paul Tighe and Kristina Nelsen, known to me to be the President and Secretary, respectively, of the Board of Education of Dakota County School District Number 31R.



  
\_\_\_\_\_  
Notary Public