

**SEPARATION AGREEMENT BETWEEN SUPERINTENDENT BRENNAN ASPLEN  
AND SCHOOL BOARD OF SARASOTA COUNTY**

This Separation Agreement ("Agreement") is made between the School Board of Sarasota County ("School Board"), and Brennan Asplen ("Superintendent") (collectively, the "Parties"), intending to be legally bound, and in consideration of the mutual covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Terms of Separation. Superintendent's term as superintendent with the School Board is hereby ended effective on the latter date of expiration of the Revocation Period (defined below) and approval of this Agreement at a noticed public meeting ("Superintendent End Date"). Superintendent will remain employed for a set term that begins the next day following the Superintendent End Date and that ends March 10, 2023 ("Consultant Transition Period"). During the Consultant Transition Period, Superintendent shall be employed as an employee consultant subject to the terms described in (c), below.

Upon full execution of this Agreement and the occurrence of the Superintendent End Date, the Parties stipulate that the Amended and Restated Employment Contract Between Brennan Asplen, III and the School Board of Sarasota County, FL executed June 21, 2022 ("Employment Contract") shall terminate with nothing further owed pursuant to it, except for the provisions expressly included herein. A fully executed copy of the Employment Contract is attached as Exhibit "A".

The School Board shall further:

- (a) Characterize the end of Superintendent's employment with the School Board as a resignation;
- (b) Pay Superintendent at his regular rate of pay, minus regular taxes and withholdings, through the Superintendent End Date;
- (c) Pay Superintendent to be available during the Consultant Transition Period as an employee consultant in a non-superintendent role at the rate of his ending rate of pay at the Superintendent End Date plus any retroactive pay increase percentage approved thereafter by the School Board for cabinet-level School Board employees (if such an increase is approved by the School Board), minus regular taxes and withholdings along with continuation of health insurance benefits. During the Consultant Transition Period, Superintendent will not report but will be available to and will answer any work-related questions from the interim superintendent, permanent superintendent, chairperson of the School Board, or any of their designees by return phone call as promptly as possible, but no later than the end of the same business day in good faith to the best of his abilities between 9 am and 5 pm. Superintendent shall maintain a cell phone until March 10, 2023 and ensure any School Board interim superintendent, permanent

superintendent, and the chairperson of the School Board has the phone number;

- (d) Immediately upon the occurrence of the Superintendent End Date deactivate all email accounts, security access, and other conditions or access available to Superintendent. Superintendent will be responsible for promptly returning any School Board-issued equipment. The School Board shall permit Superintendent to pack his office one time in a private and respectful manner with supervised access to do so after hours at a time agreed upon by the Parties within 72 hours of the Superintendent End Date. The supervised access shall be overseen by a cabinet-level employee of Superintendent's choosing. Superintendent shall coordinate office packing with legal counsel for the School Board.
- (e) Pay Superintendent severance pay in the amount equivalent to twenty (20) weeks' pay at his regular rate of pay at the time of the Superintendent End Date plus any retroactive pay increase percentage approved by the School Board for cabinet-level School Board employees, minus regular taxes and withholdings, in a lump sum to be issued during the next payroll period after the Superintendent End date. To the extent a retroactive pay increase has not been ratified by the School Board as of the Superintendent End Date, it is agreed that any such increase shall be separately paid out to Superintendent within thirty (30) days of Board approval;
- (f) Pay Superintendent for any accrued but unused vacation leave, annual leave, and sick leave that would have accrued through the end of the Consultant Transition Period, at his regular rate of pay at the time of the end of the Consultant Transition Period, minus regular taxes and withholdings in one lump sum payment within thirty (30) days of the end of the Consultant Transition Period;
- (g) Pay Superintendent, subject to any School Board imposed limitations, retroactive to July 1, 2022 through the Superintendent End Date a lump sum, minus regular taxes and withholdings, in an amount equal to the percentage received by other cabinet-level School Board administrators in an award by the School Board, if such an award by the School Board to cabinet level School Board administrators is thereafter approved by the School Board at a publicly-noticed meeting. In the event such a lump sum award is authorized by the School Board, the School Board shall pay it to Superintendent within thirty (30 days) of such award by the School Board;
- (h) Continue to pay Superintendent's deferred compensation benefit as outlined in Superintendent's Employment Contract through the end of the Consultant Transition Period pursuant to the School Board's normal payroll practices;
- (i) Pay Superintendent's attorney directly in the amount of up to twelve thousand five hundred dollars (\$12,500) to compensate said attorney for legal expenses related to Superintendent's separation from the School Board. Superintendent's attorney shall submit an invoice reflecting the cost for legal services incurred for representation of Superintendent pursuant to this Agreement within ten (10) days of expiration of the Superintendent End

Date. The School Board shall pay the amount outlined in the submitted invoice up to an amount of \$12,500 within thirty (30) days of receipt of said invoice.

- (j) Pay Superintendent in the amount of up to twelve thousand five hundred dollars (\$12,500) for the cost of moving expenses to pack, load, ship, unload, and unpack the Superintendent's belongings located at his current residence for one move to another community outside Sarasota County in the event Superintendent decides to so move from his current residence through December 31, 2023. Superintendent shall submit an invoice reflecting the cost for such moving expenses incurred by Superintendent pursuant to this Agreement within ten (10) days of moving. The School Board shall pay the amount outlined in the submitted invoice up to an amount of \$12,500 within thirty (30) days of receipt of said invoice.

The Parties acknowledge that all compensation paid by School Board to Superintendent pursuant to this Agreement shall count for Florida Retirement System (FRS) purposes to the extent permitted by law.

2. Superintendent Acknowledgement: Superintendent acknowledges that Superintendent is not entitled and shall not receive or otherwise be compensated in any form for any benefit, payment, or other remuneration whatsoever that is not expressly enumerated in Section 1., above.

3. Acknowledgement of Resignation of Superintendent's Spouse: The Parties acknowledge that performance of the terms and obligations of this Agreement are contingent upon and require the resignation of Superintendent's spouse Mari Ellen Asplen's employment with School Board in writing and her execution of a mutually agreeable separate separation agreement prior or simultaneous to the full execution of this Agreement.

4. Mutual Non-Disparagement. Superintendent agrees not to disparage the School Board and its currently elected School Board members. The School Board and each of its elected School Board members agree not to disparage Superintendent.

5. No Admissions. This Agreement is not and shall not in any way be construed as an admission by either Party of any wrongful act or omission, or any liability due and owing, or any violation of any federal, state or local law or regulation or the common law.

6. Release by Superintendent. That the undersigned, Brennan Asplen, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound, hereby releases and forever discharges the School Board of Sarasota County, and all of its past and present Board members, students, parents, agents, representatives, principals, attorneys, affiliates, administrators, vendors, contractors, owners, corporations, subsidiaries, officers, directors, employees, assigns and successors, and all other persons, firms or corporations connected or

affiliated therewith (collectively "Releasees"), of and from any and all legal, equitable or other claims, demands, setoffs, defenses, contracts, accounts, suits, debts, agreements, actions, causes of action, sums of money, judgments, findings, controversies, disputes, or past, present and future duties, responsibilities, obligations, or suits at law and/or equity of whatsoever kind, from the beginning of the world to the date hereof, in addition, without limitation, any and all actions, causes of action, claims, counterclaims, third party claims, and any and all other federal, state, local and/or municipality statutes, laws and/or regulations and any ordinance and/or common law pertaining to employment and otherwise and any and all other claims which have been or which could have been asserted against any party in any forum.

By signing this Release, Superintendent knowingly and voluntarily fully releases and forever discharges Releasees of and from all claims, demands and liability of any kind arising under any statute, law or ordinance, including, without limitation, Title VII of the Civil Rights Act of 1964, the Fair Labor Standards Act, the Family & Medical Leave Act, the National Labor Relations Act, the Americans with Disabilities Act, any retaliation statute, any whistleblower statute, any state Human Rights Act, Fla. Stat. 448, or any facts or claims arising under the Age Discrimination in Employment Act ("ADEA"). This Release is intended to cover all actions, causes of action, claims and demands for damages, loss or injury arising from the beginning of time until the date of this Release, whether presently known or unknown to Superintendent. However, Superintendent does not waive his rights to claims which may arise after this Release becomes effective.

Superintendent is also not waiving any rights he may have to: (a) his own vested accrued employee benefits under health, welfare, or retirement benefit plans; (b) benefits and/or the right to seek benefits under applicable workers' compensation and/or unemployment compensation statutes; (c) enforce this Agreement; and/or (e) challenge the validity of this Agreement.

In addition, Superintendent is hereby advised to consult with an attorney prior to executing this Release. Superintendent agrees that he has been given a reasonable time in which to consider the Release and seek such consultation. Superintendent further warrants that he has consulted with knowledgeable persons concerning the effect of this Release and all rights which he might have under any and all state and federal laws relating to employment and otherwise. Superintendent fully understands these rights and that by signing this Release Superintendent forfeits all rights to sue Releasees for matters relating to or arising out of his employment, his separation, or otherwise. Supervisor may preserve his legal right to sue by refusing to sign this Release, in which case he will not receive the benefit of the additional consideration beyond what he is otherwise owed that is outlined herein.

In accordance with provisions of the ADEA, as amended, 29 U.S.C. §§601-634, Superintendent is hereby provided a period of twenty-one (21) days from the date he receives this Release to review the waiver of his rights under the ADEA and sign this Release. Furthermore, Superintendent has seven (7) days after the date he signs the Release ("Revocation Period") to revoke his consent. This Release

shall not become effective or enforceable until the Revocation Period has expired. If Superintendent does not deliver a written revocation to Bridget Ziegler, Board chair for the School Board via certified mail, return receipt with a copy provided simultaneously via e-mail to [bridget.ziegler@sarasotacountyschools.net](mailto:bridget.ziegler@sarasotacountyschools.net) before the Revocation Period expires, this Release will become effective.

7. Release by School Board: The School Board of Sarasota County, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound, hereby releases and forever discharges Brennan Asplen, of and from any and all legal, equitable or other claims, demands, setoffs, defenses, contracts, accounts, suits, debts, agreements, actions, causes of action, sums of money, judgments, findings, controversies, disputes, or past, present and future duties, responsibilities, obligations, or suits at law and/or equity of whatsoever kind, from the beginning of the world to the date hereof, in addition, without limitation, any and all actions, causes of action, claims, counterclaims, third party claims, and any and all other federal, state, local and/or municipality statutes, laws and/or regulations and any ordinance and/or common law pertaining to employment and otherwise and any and all other claims which have been or which could have been asserted against any party in any forum.

8. Governmental Agencies. Nothing in this Agreement prohibits or prevents Superintendent from filing a charge with or participating, testifying, or assisting in any investigation, hearing, or other proceeding before the U.S. Equal Employment Opportunity Commission, the National Labor Relations Board or a similar agency enforcing federal, state, or local anti-discrimination laws. However, to the maximum extent permitted by law, Superintendent agrees that if such an administrative claim is made to such an anti-discrimination agency, he shall not be entitled to recover any individual monetary relief or other individual remedies. In addition, nothing in this Agreement, including but not limited to the release of claims nor the non-disparagement clauses, prohibits Superintendent from: (1) reporting possible violations of federal law or regulations, including any possible securities laws violations, to any governmental agency or entity, including but not limited to the U.S. Department of Justice, the U.S. Securities and Exchange Commission, the U.S. Congress, or any agency Inspector General; (2) making any other disclosures that are protected under the whistleblower provisions of federal law or regulations; or (3) otherwise fully participating in any federal whistleblower programs, including but not limited to any such programs managed by the U.S. Securities and Exchange Commission and/or the Occupational Safety and Health Administration.

9. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof, and supersedes all prior negotiations, agreements and understandings, oral and written, among the Parties hereto with respect to the subject matter hereof.

10. Amendments and Modifications. This Agreement may not be amended or modified except in writing signed by Superintendent and School Board at the time of the

amendment or modification, specifically stating that it is an Amendment to this Agreement.

11. Drafting. The Parties acknowledge that this Agreement is a product of joint drafting efforts and shall not be construed against any one party as the drafter.

12. Governing Law and Venue. This Agreement and all of the terms and conditions hereof, shall be construed and interpreted in accordance with the laws of Florida. Should it become necessary for either party to bring action to enforce this Agreement, such action shall be brought in the Circuit Court in Sarasota, Florida.

13. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereto and this Agreement shall be construed in all respects as though such invalid or unenforceable provisions were omitted.

14. Waiver. The waiver by any Party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.

15. Counterparts and Duplicates. If this Agreement is executed in counterparts, each counterpart shall be deemed an original and all counterparts so executed shall constitute one Agreement, binding on all of the parties hereto, notwithstanding that all of the Parties are not signatory to the same counterpart. This original Agreement or a duplicate copy of the original Agreement shall suffice in an action to enforce any of the terms and conditions herein. The parties agree that electronic signatures will suffice and bind the parties accordingly.

(SIGNATURE PAGE TO FOLLOW)

IN WITNESS THEREOF, the Parties hereto acknowledge, understand and agree to this Agreement. The Parties understand and intend to be bound by all of the clauses contained in this document.

BRENNAN ASPLEN

SCHOOL BOARD OF SARASOTA  
COUNTY

BY: Board Chair

Brennan Asplen

\_\_\_\_\_  
Bridget Ziegler, Chair Person  
School Board of Sarasota County

December 5, 2022

\_\_\_\_\_  
Dated

Approved as to Form and Content  
Pat O'Connell  
Signature  
12/6/22  
Date

**AMENDED AND RESTATED EMPLOYMENT CONTRACT  
BETWEEN BRENNAN ASPLEN, III AND THE  
SCHOOL BOARD OF SARASOTA COUNTY, FLORIDA**

THIS EMPLOYMENT CONTRACT, made and entered into this 21<sup>st</sup> day of June, 2022, by and between the School Board of Sarasota County, Florida, hereinafter referred to as "Board" and Brennan Asplen, III, hereinafter referred to as "Superintendent".

**WITNESSETH:**

WHEREAS, the Superintendent has been employed as Superintendent by the Board since August 10, 2020; and

WHEREAS, the Superintendent's current contract with the Board provides options for the parties to consider on or before June 30, 2022.

NOW THEREFORE, pursuant to Sections 1001.461 and 1001.50, Florida Statutes, the Board and the Superintendent, for the consideration herein specified, agree:

1. Superintendent shall continue to serve as Superintendent of Schools for Sarasota County, Florida, subject to the terms and conditions of this Contract.

2. TERM. The term of this Contract shall be from July 1, 2022 through and including June 30, 2025, unless terminated earlier as provided in Section 10 (Termination) below. If this Agreement is not extended upon mutual agreement of the parties, or not terminated earlier as provided in Section 10, then it shall expire at 11:59 p.m., June 30, 2025. The anniversary date of this Contract shall be July 1 of any year. Each time period from July 1 to June 30 shall be deemed a "Contract Year".

RENEWAL OPTION. On or before June 30, 2024, the Superintendent and the Board shall have the right to exercise one of the following options:

- A. The Board may, by majority vote, extend the Contract for an additional year or through June 30, 2026.
- B. The Board may omit taking any action on the Contract renewal and the Contract will expire by its own terms on June 30, 2025.
- C. The Superintendent may request that the Board not consider extending the Contract. In such case, the Contract will expire by its own terms on June 30, 2025.

In the event the Contract is extended pursuant to subsection A above in 2024 or any succeeding year, the renewal options shall be repeated on or before June 30<sup>th</sup> of the next year.

3. RESPONSIBILITIES OF SUPERINTENDENT.



A. Duties. The Superintendent shall perform his duties in accordance with Federal law, Florida Statutes, State Board of Education Rules and Board policy, and in strict accordance with any applicable ethical standards. The Superintendent shall attend Board meetings, shall make recommendations to the Board as appropriate, and shall serve as Chief Executive Officer for the Board. The Superintendent shall assign the administrative and supervisory staff in a manner which, in his judgment, best serves the public schools of Sarasota County, Florida. The responsibility for selection or promotion of personnel shall be vested in the Superintendent and his staff, subject to the approval of the Board as provided in Section 1012.22, Florida Statutes.

B. Outside Activities. The Superintendent shall devote his time, attention and energies to the affairs of the school district. The Superintendent may engage in professional activities which do not impair the performance of his duties as stated above. The Superintendent shall receive up to five (5) days of professional leave per year for such activities.

C. Absence from the District. The Superintendent shall advise the Board of any time when the Superintendent will be absent from the school district for a period of more than two (2) working days.

4. RESPONSIBILITIES OF THE BOARD. The Board shall perform its duties in accordance with Federal law, Florida Statutes, State Board of Education Rules and Board policy. The Board, as well as individual Board members, shall refer concerns and complaints to the Superintendent. Individual Board members have no authority to take action or direct the Superintendent except with express authorization by majority vote of the Board taken during a duly-constituted public meeting. To the extent the Superintendent has any concerns or complaints involving any individual Board member(s), the Superintendent shall report the same to the Board Chair and Board counsel, after which the Board shall review and address, if necessary, any such concerns or complaints.

#### 5. PROFESSIONAL GROWTH OF SUPERINTENDENT.

A. Seminars and Conferences. The Board encourages the continuing professional growth of the Superintendent through participation in:

- (1) Activities conducted or sponsored by local, state and national school administrator and school board associations, including but not limited to Florida School Boards Association (FSBA), Florida Association of District School Superintendents (FADSS), and the Florida School Board Insurance Trust (FSBIT);
- (2) Seminars and courses offered by public or private educational institutions; and
- (3) Conferences which may improve the Superintendent's capacity to perform his professional responsibilities.

B. Meeting Attendance: Line-of-duty Leave and Travel Expense Reimbursement. The Superintendent may take up to ten (10) paid work days per year of line-of-duty leave to attend such meetings, and the Superintendent shall be eligible for travel expense reimbursement outside of the Sarasota County in accordance with Section 112.061, Florida Statutes. The Board, in its discretion, shall approve the Superintendent's leave request for said professional growth activities which exceed three (3) consecutive work days in length. The Superintendent may take additional paid line-of-duty leave days if said leave is taken for the purpose of conducting business for the Board.

C. Membership Fees. The Board shall pay, on behalf of the Superintendent, the annual membership dues for the American Association of School Administrators, the Florida Association of School Administrators, Florida Association of District School Superintendents, appropriate community organizations, and similar organizations, as approved by the Board, membership in which will contribute to the performance of his duties.

D. Reimbursement. The Board shall pay, on behalf of the Superintendent, all sums eligible for reimbursement under Section 112.061, Florida Statutes.

6. COMPENSATION. Retroactive to July 1, 2021, for all services rendered by the Superintendent under this Contract, the Board shall pay the Superintendent a base salary of Two Hundred Twenty-Seven Thousand and 00/100 Dollars (\$227,000.00) per year ("Base Salary").

A. Pay Increases. For the fiscal year commencing July 1, 2022, the Superintendent shall receive a pay increase equal to the increase of cabinet level District Administrators. Said increase shall be made retroactive to July 1<sup>st</sup> of the fiscal year in which the bargaining process is commenced and shall be calculated in accordance with past practices.

The Board may, at its sole discretion, grant additional pay increases at any time due to the Board's assessment of current conditions or any other factors bearing on the Superintendent's performance and compensation.

B. Automobile Expense. The Board will pay to the Superintendent a supplement of Five Hundred and 00/100 Dollars (\$500.00) per month which the Superintendent will use to provide himself with the use of an automobile and all expenses relating thereto. The Superintendent will not receive any reimbursement/mileage for in county travel. Out of county travel will be reimbursed in the same manner as any other employee.

C. Miscellaneous Business Expense. In recognition that the Superintendent is required, in the performance of his duties to travel extensively, attend meetings and conferences, fulfill speaking engagements and otherwise perform functions that involve unreimbursed expenses, the Board shall pay to the Superintendent a supplement of Four Hundred and 00/100 Dollars (\$400.00) per month in recognition of unreimbursed expenses incurred by him in the performance of his duties.

D. Performance Pay/Annual Performance Goals. In addition to the Base Salary provided in Section 6 above, beginning in the Contract Year starting on July 1, 2022 and in each subsequent Contract Year this Contract is in effect, the Board shall commit an additional \$15,000.00 which the Superintendent shall be eligible to receive as Performance Pay. On or before June 30, 2022, the Board shall set goal(s) for the Superintendent and/or Board to complete or perform during the 2022-2023 Contract Year and follow the same process for each subsequent Contract Year thereafter ("Performance Pay Process"). The Board shall consult with the Superintendent about the establishment of these goals but will retain the absolute discretion to establish both the goals and the amount or percentage of the Performance Pay that the Superintendent may earn by the achieving of a particular goal. The goal(s) and the amount of Performance Pay for the achieving of any particular goal shall be established by a majority vote of the members of the Board. This procedure for goal setting shall be completed by the Board on or before June 30<sup>th</sup> of each Contract Year to establish Performance Pay goals for the next Contract Year. The process for evaluating the Superintendent's performance and the final Board decision on the Performance Pay to be awarded to Superintendent for the Contract Year that ended on June 30<sup>th</sup> of the prior Contract Year shall be completed by October 1<sup>st</sup> (i.e., within ninety (90) days of the end of the prior Contract Year). Any failure by the Board to commence this Performance Pay Process for any Contract Year shall not be deemed a waiver of the Superintendent's right to this process and any Performance Pay. Any Performance Pay received by the Superintendent will not become part of the Superintendent's Base Salary.

E. Deferred Benefit. During each year that this Contract is in effect, the Board shall contribute the sum of the maximum amount allowed by the IRS, currently \$20,500.00, on behalf of the Superintendent to a retirement plan qualified under Section 403-B of the IRS code selected by the Superintendent.

F. Florida Retirement System. The Superintendent shall be entitled to participate in the Senior Management Category of the Florida Retirement System subject to then applicable laws and rules of the category and system.

G. Furlough Days. In the event that the Board or Superintendent imposes one or more mandatory furlough days on Board administrative staff on 251-day employment contracts, the Superintendent shall also be subject to such imposition for a like number of days.

H. Statutory Compensation. Superintendent shall be entitled to receive any and all compensation for which he is eligible under Florida Statutes, including but not limited to certification-related incentive pay.

## 7. EMPLOYEE BENEFITS.

A. Vacations. As of the effective date, the Superintendent shall be entitled to two (2) days of vacation for each month of service under this Contract. If the aggregate number

of days exceeds sixty (60), the cash value of all such excess days may, at the Superintendent's option be paid to the Superintendent on June 30<sup>th</sup> of each fiscal year. The Superintendent shall be entitled, at his election, to use or be paid for all previously accrued vacation leave upon resignation or termination at his pay rate at the time of termination.

B. Sick Leave. As of the effective date, the Superintendent shall be entitled to one (1) day of sick leave per each full month of employment. The Superintendent shall be entitled to become a member of the District sick leave pool. The Superintendent, at his discretion, may use any or all previously accrued sick leave days as he sees fit. Upon resignation or termination, any unused days shall be paid out in full at the rate of pay in effect on that date.

C. Personal leave. The Superintendent shall be granted up to eight (8) personal leave days each year. These personal leave days shall not be counted as, nor deducted from, the Superintendent's available sick leave.

D. Health Insurance. The Superintendent shall have the option of participating in any health insurance plan offered to the employees of the school district, provided he pays the premium for any health insurance plan selected less any Board contributions or credits available to school district employees. Except as provided by law, the Superintendent shall be treated as any other district employee for the purposes of any preexisting condition requirements. Upon retirement, the Superintendent and his spouse shall receive the same Board contribution toward insurance premiums as provided to District employees until each are respectively of Medicare eligible age. The Superintendent must elect such participation within thirty (30) days after his official date of retirement.

E. Life Insurance. The Board shall provide term life insurance coverage at its sole expense for the Superintendent in the amount of Fifty Thousand and 00/100 Dollars (\$50,000.00).

F. Disability Insurance. The Superintendent shall be entitled to the same disability insurance coverage provided to school district employees at the Board's sole expense.

G. Medical Examination. The Superintendent agrees to have a comprehensive medical examination once annually, if requested by the Board. The cost of such medical report and examination being borne by the Board. The Superintendent shall furnish to each member of the Board a statement from the physician who rendered such physical examination, in substantially the following words:

"I have conducted a complete physical examination of Brennan Asplen, III on \_\_\_\_\_. In my opinion, he is capable of carrying out the duties of Superintendent of Schools of Sarasota County.

\_\_\_\_\_. M.D."

The Superintendent need not furnish to the Board members or Board a copy of the medical examination report made by the physician and furnished to the Superintendent, the above statement being sufficient compliance with the Board's objective in understanding the physical well-being of the Superintendent to perform his duties. Further, the Board shall have the right at anytime during the term of this Contract to require that the Superintendent submit to a psychiatric examination by at least two (2) qualified psychiatrists selected by the Board, and the Superintendent agrees to submit to such examination and to allow the reports of said psychiatrists to be furnished to the Board. The cost of such examination shall be borne by the Board.

H. Death. If the Superintendent dies during the term of his employment, the Board shall pay to the spouse of the Superintendent if she survives him, or the estate of the Superintendent, as the case may be, the compensation which would otherwise be payable to the Superintendent for a period of one month, plus any severance and accrued but unused sick leave and vacation/annual leave. Such payments shall be in addition to any and all other death benefits for which the Superintendent is qualified and entitled to receive.

## 8. PROFESSIONAL LIABILITY.

A. Defense and Hold Harmless. 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 Board, provided the incident arose while the Superintendent was acting within the scope of his employment and excluding any matters resulting from criminal acts or willful and wanton misconduct of the Superintendent. Notwithstanding the foregoing, individual Board members shall in no event be personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings. If conflict exists concerning the defense to such a claim between the legal position of the Board, the Superintendent may engage independent counsel, in which event the Board shall reimburse the Superintendent for the reasonable costs of legal representation.

B. Adverse Matters. The Board may, but is not required to pay any costs of the Superintendent's legal representation in the event the Board and the Superintendent are adverse parties in any termination proceedings.

## 9. PERFORMANCE ASSESSMENT.

A. Term. The Board shall assess the performance of the Superintendent annually.

B. Criteria. The criteria for the assessment shall be based on the Superintendent's performance metrics agreed upon by both the Board and the Superintendent, as per the attached Exhibit "A". The criteria shall include assessment of the performance of the duties of the Superintendent as referenced in this Contract, the Superintendent's personal goals, and the goals set forth in the school district strategic plan. For subsequent contract years, any additional criteria shall be established by June 30th and with any such additional criteria being appended to this Contract as Amended Exhibit A.

C. Reporting. The Superintendent shall be responsible for reporting to the Board any school district strategic plan goals for which satisfactory progress was not made, in addition to documentation of District achievement.

10. TERMINATION OF CONTRACT. This Contract may be terminated by:

A. Retirement of the Superintendent pursuant to Florida law.

B. Resignation of the Superintendent. The Superintendent may resign his position by providing at least thirty (30) days advance written notice of resignation to the Board.

C. Disability of the Superintendent. Should the Superintendent be unable to perform the essential functions of this position due to physical or mental disability and said disability exists for a period of more than six (6) months, the Board may, at its sole discretion, cease making periodic salary payments hereunder, or make partial salary payments after such period. If such disability continues for more than six (6) months, or if such disability is permanent, irreparable or of such a nature as to make performance of the Superintendent's duties impossible, the Board, at its option, taking into account all relevant factors including the medical likelihood of the Superintendent's recovery, may leave this Contract in place or terminate this Contract and, in that event, the respective duties, rights and obligations of each party shall terminate, provided the Superintendent has received not less than six (6) months salary pursuant to this provision. If a question exists concerning the capacity of the Superintendent to perform the essential functions of his position, the Board may require the Superintendent to submit to a physical or mental examination by a physician selected by the Board. The examination shall be done at the expense of the Board. The Superintendent shall be entitled to receive a full, confidential report from the examining physician or other qualified medical professional. The physician shall report to the Board only whether the Superintendent has a continuing disability which prohibits or impairs him from performing one or more of the essential functions of his position, said functions defined pursuant to Section 1001.51, Florida Statutes.

D. Termination Without Cause. Notwithstanding any other provision of this Contract, the Board may remove the Superintendent from his position during the term of this Contract, without cause, upon an affirmative vote of the Board, so long as at least thirty (30) days advance written notice of an intention to terminate without cause is provided to the Superintendent. Superintendent expressly waives any right he might otherwise have to object to

the reasons for his termination, or to a hearing in connection with such termination of his employment.

E. Termination by Mutual Agreement. Both the Superintendent and Board may agree to terminate this Contract upon mutual agreement during a duly-noticed public meeting.

F. Severance Compensation. In the event the Board exercises its discretion to terminate Superintendent's employment without cause pursuant to Section 10(D) above, the Board agrees to pay Superintendent a lump sum equivalent to the Superintendent's Base Salary and benefits for twenty (20) weeks at the rate then in effect or the maximum allowed by Section 215.425, Florida Statutes, whichever is less. Superintendent will also be entitled to receive payment for any accrued vacation leave, annual leave and sick leave to which he is due as of the date of his termination. Superintendent agrees that the payments described in this Section shall be the only compensation to which he is entitled as a result of his employment being terminated without cause.

G. Termination for Cause. Superintendent may be dismissed for cause from his employment for conduct which is prejudicial to the Board or the School District including, without limitation, willful neglect of duty, material breach of this Contract, violation of the Code of Ethics applicable to members of the teaching profession in Florida, violation of the Code of Ethics prescribed by Chapter 112, Florida Statutes (as amended), conduct precluded by Rules 6B-1.001, 6B-1.006 and 6B-4.009, Florida Administrative Code (as amended), or for "just cause" as determined by Section 1012.33, Florida Statutes (as amended). Notice of termination for cause shall be given in writing and Superintendent shall be entitled to request a hearing to contest his termination. The Superintendent must request a hearing within ten (10) calendar days of the notice of termination or the right to a hearing is waived. Any such hearing will proceed in accordance with Chapter 120, Florida Statutes. If terminated for cause, Superintendent shall only be entitled to payment for any earned, accrued and unused vacation leave, annual leave and accrued and unused sick leave and shall be ineligible for any other compensation or benefits including but not limited to any severance compensation. If it is determined pursuant to the Chapter 120 hearing described above that the termination was without cause, then the provisions of Sections 10(D) and 10(F) shall apply.

11. WAIVER. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Contract and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Contract shall not be deemed a waiver of such provision or a modification of this Contract. A waiver of any breach of a provision of this Contract shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Contract.

12. LAWS OF FLORIDA. This Contract shall be applied and in all respects interpreted according to the laws of the State of Florida. Sole and exclusive jurisdiction for any action arising out of this Contract shall be in the County or Circuit Court for the Twelfth Judicial Circuit in and for Sarasota County, or the United States District Court, Middle District of Florida, Tampa Division, which encompasses Sarasota County.

13. NOTICES. When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain until it is changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving notice:

To the Board: School Board of Sarasota County, Florida  
Attn: School Board Chair  
1960 Landings Blvd.  
Sarasota, FL 34231

With a copy to: Daniel DeLeo, Esq., General Counsel  
Shumaker, Loop & Kendrick, LLP  
240 S. Pineapple Ave., 10<sup>th</sup> Floor  
Sarasota, FL 34236

To Superintendent: Dr. Brennan Asplen, Superintendent of Schools  
1960 Landings Blvd.  
Sarasota, FL 34231

14. CONTRACT PREPARATION. The parties acknowledge that they have been advised and have had the opportunity to obtain whatever advice and counsel as was necessary for each of them to form a full and complete understanding of all rights and obligations herein. Shumaker, Loop & Kendrick, LLP is legal counsel representing the School Board and has initially drafted this Contract. As each party has had the opportunity to review and negotiate this Contract, the parties agree that the preparation of this Contract has been their joint effort. This Contract contains the parties' mutual expressions and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

15. ENTIRE AGREEMENT. This instrument contains the entire Contract between the parties. Except as otherwise indicated above, it may not be modified other than by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

16. SAVINGS CLAUSE. If during the term of the Contract it is found that a specific clause is illegal under Federal or State law, the remainder of the contract shall not be affected, but shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Contract upon the date indicated.

THE SCHOOL BOARD OF SARASOTA,  
FLORIDA

By: Jane Goodwin  
Jane Goodwin, Chair

Brennan Asplen, III  
Brennan Asplen, III, Superintendent

APPROVED AS TO FORM:

By: Daniel J. DeLeo  
DANIEL J. DELEO, ESQ.  
School Board Attorney