

NATOMAS UNIFIED SCHOOL DISTRICT
Executive Director of Facilities Employment Agreement

This Employment Agreement ("Agreement") is made and entered into on September 14, 2011 by and between the Governing Board of the Natomas Unified School District ("District" or "Board") and Michael Cannon, Executive Director of Facilities ("Executive Director").

1. **Term.** Pursuant to Education Code section 35031, the District hereby employs Executive Director for a period of two years, commencing on July 1, 2011 and terminating on June 30, 2013, subject to the terms and conditions set forth below.
2. **Senior Level Management.** Executive Director is declared to be senior management of the classified service. Executive Director accepts this position fully aware that as senior management of the classified service that he shall be afforded all rights, benefits, and burdens of other classified employees, except that he shall be exempt from all provisions relating to obtaining permanent status in a senior management position and that Executive Director has not obtained permanent status in the District. Notice of reassignment or dismissal from a position in the senior management of the classified service shall be provided in accordance with the provisions of this Agreement and Education Code section 35031.
3. **Salary.**
 - a. **Initial Base Salary.** Executive Director shall be placed on Range V, Step 5 of the attached salary schedule and shall accordingly receive an annual salary of \$114,665. Said salary shall be reduced at the percentage rate equal to the highest percentage rate of other District administrators as the result of employee concessions.
 - b. The salary shall be payable in twelve (12) equal monthly payments. When only a portion of any year or month is served, the Executive Director's salary shall be prorated to reflect such service. The Governing Board reserves the right to increase the Executive Director's contract, with mutual consent of the Executive Director and ratification of the Governing Board. It is further provided, however, that by doing so, it shall not be considered that a new contract has been entered into or that the termination date of the existing contract has been extended.
4. **Retention Incentive [Auto Allowance/Contribution to Tax Shelter Annuity].** The parties recognize that the direct costs of searching for a executive director and indirect costs in lack of continuity and stability justify employment incentives for the Executive Director. Accordingly, the parties agree that an annual allowance of \$7,000 be provided to Executive Director.
5. **Fringe Benefits.**
 - a. **Fringe Benefits.** The Executive Director shall receive District-paid health, dental, vision, and other fringe benefits in the same manner and subject to the same limitations as other District administrative employees. Said insurance may include the option of providing health insurance for dependent family members. Upon retirement from Natomas Unified School District, with the Executive Director providing proof of receipt of retirement benefits from the Public Employment Retirement System (PERS), the District shall pay the health insurance premium for the Executive Director at the level of coverage provided prior to his retirement. Upon reaching the age of 65, the Executive Director has the option, at his expense, to maintain the health insurance plan or its equivalent.

b. Necessary Expenses. The District shall reimburse the Executive Director for actual and necessary expenses incurred by the Executive Director within the scope of his employment (except mileage reimbursement for automobile travel expenses outside Sacramento County) so long as such expenses are permitted by the District's policies or incurred with prior approval of the Superintendent. For reimbursement, the Executive Director shall submit and complete expense claims, in writing, in accordance with the District's policies, rules and regulations. The Executive Director expense claims shall be supported by appropriate written documentation verifying the contents of the report prior to authorization for reimbursement.

c. Membership and Dues. The District shall pay the annual membership dues for Executive Director's membership in the Association of California School Administrators, and one other professional organization, selected by the Executive Director's, during each year of this Agreement.

6. Duties. The Executive Director shall perform all duties prescribed by law, applicable policies and regulations of the District, all duties specified in the Executive Director's job description, and such other duties as may be directed by the Superintendent.

7. Outside Professional Activities. By prior approval of the Superintendent, the Executive Director may undertake for consideration outside professional activities, including consulting, speaking and writing. The Executive Director's outside professional activities shall not interfere with Executive Director's ability to satisfactorily perform the duties of the position, as solely and exclusively determined by the Superintendent. The Executive Director agrees that he will not utilize District staff or property in performing these outside activities without prior written approval by the Superintendent. In no case will the District be responsible for any expenses related to the performance of such outside activities unless prior approval is obtained.

8. Evaluation. The Superintendent shall evaluate the performance of the Executive Director. The evaluation shall be in writing, include a personal conference, and encompass the duties, goals and expectations for the position. The evaluation procedures shall be set forth exclusively by the Superintendent and shall be the exclusive means by which the Executive Director is evaluated and are intended to supersede any other provisions concerning the evaluation which might exist in applicable law or by virtue of any District rules, regulations, policies or other agreements. Any failure on the part of the Superintendent to meet the requirements or deadlines set forth in this Agreement shall not release the Executive Director from fully and faithfully performing the services required to be performed under this Agreement or constitute a default by District of its obligations under this Agreement.

9. Termination of Agreement.

a. Mutual Consent. This Agreement may be terminated at any time by mutual consent of the Board and the Executive Director.

b. Retirement or Death. This Agreement will be terminated upon the Executive Director's retirement or death.

c. Non-Renewal of Agreement by the District. The Board may elect not to renew this Agreement by providing written notice to the Executive Director in accordance with Education Code section 35031 (currently 45 days' prior notice) in advance of the expiration date of the term as stated in paragraph 1, Term, above. The Executive Director shall notify the Superintendent and the President of the Board, in writing, at least ninety (90) days before expiration of the term of this Agreement that the Agreement will renew for an additional term if

a notice is not given forty-five (45) days before expiration of this Agreement. The Executive Director's failure to provide the above-mentioned notice shall be a material breach of a condition of this Agreement and shall constitute grounds for dismissal, independent of any other grounds.

d. Termination for Cause. The Executive Director may be terminated by the Board at any time for, but not limited to, breach of this Agreement, any ground enumerated in the Education Code, the Executive Director's unsatisfactory performance, the Executive Director's failure to perform his responsibilities, or for other conduct which is seriously prejudicial to the District. The Board shall not terminate this Agreement pursuant to this paragraph until a written statement of the charges has first been served upon the Executive Director and the Executive Director provided thirty (30) days to demonstrate the required changes in performance. The Executive Director shall then be entitled to a conference with the Board in closed session, at which time the Executive Director shall be given a reasonable opportunity to address the Board's concerns. The conference shall not be conducted as an administrative evidentiary hearing and there shall be no use of witnesses. The Executive Director shall have the right to be represented by counsel of the Executive Director's choice at the Executive Director's expense. The Executive Director shall have a reasonable opportunity to fully respond to all matters raised in the statement of charges, and shall have the opportunity to introduce documentary evidence. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the Executive Director with a written decision. The decision of the Board shall be final. The Executive Director's conference with the Board shall be the Executive Director's exclusive right to any conference or hearing otherwise required by law. The Executive Director knowingly waives any other rights that may be applicable to his termination.

e. Early Termination. The Board may, for any reason, without cause or a hearing, terminate this Agreement at any time. In consideration for exercise of this right, the District shall pay to Executive Director for the remainder of the unexpired term of this Agreement, or six (6) months, whichever is less, a sum equal to the difference between Executive Director's gross monthly base salary at the salary rate in effect during the Executive Director's last month of service and the amount which Executive Director earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

If the District elects to exercise the option of Early Termination, the District shall provide a seven (7) calendar day grace period to the Executive Director to provide him with the option to submit his resignation for professional reasons. The District will provide a neutral employment reference and, when asked for a reference response, Board members will respond by stating that the Executive Director was a dedicated and hard-working employee who was supervised by the Superintendent. If details are requested, the Board will refer the individual to the Superintendent, who was the direct supervisor of Executive Director.

The payments made pursuant to this early termination provision may be made in a lump sum or on a monthly basis, at the District's sole election. The Executive Director shall also be entitled to District-paid health benefits, as those benefits may change from time-to-time, for a period of six (6) months or until the Executive Director obtains other employment, whichever occurs first. All payments made pursuant to this early termination provision shall be subject to all of District's regular payroll deductions and shall be treated as salary payments.

As a condition of payment hereunder, the Executive Director shall be obligated to seek other employment and shall notify the District immediately if he earns income from any employment-related activity. The Executive Director's failure to notify the District of earned income from any employment-related activity shall constitute a waiver and release of the District for an equal amount in a subsequent month.

The parties agree that damages to the Executive Director which may result from the Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the damage payments made pursuant to this early termination provision, along with the District's agreement to provide paid health benefits, constitute reasonable liquidated damages for the Executive Director, fully compensates the Executive Director for all tort, contract and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Executive Director's sole remedy to the fullest extent provided by law. Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code sections 53260, et seq.

f. **Disability.** Upon written evaluation by a licensed physician designated by the District indicating the inability of the Executive Director to perform the essential functions of his position with or without reasonable accommodation as a result of a physical or mental disability, this Agreement may be immediately terminated by the Board upon written notice to the Executive Director.

10. **Sick Leave.** The Executive Director shall be allocated twelve (12) days of sick leave annually. This sick leave may be accumulated indefinitely but in no event shall the District make a cash payment to the Executive Director for accumulated and unused sick leave.

11. **Holidays.** The Executive Director shall receive all paid holidays granted to the District's certificated employees.

12. **Work Year.** The Executive Director shall be required to work two hundred and eighteen (218) days during each annual period covered by this Agreement. The Executive Director shall not receive paid vacation.

13. **Notification of Absence.** If the Executive Director plans on being absent from the District more than five (5) continuous workdays, the Executive Director shall notify and receive the approval of the Superintendent.

14. **Annual Reporting Requirements.** The Executive Director shall report to the Superintendent, in writing, on an annual basis, and receive the approval of the Superintendent, for the Executive Director's use of sick leave and the total number of days worked.

15. **Professional Meetings and Memberships.** The Executive Director is expected to attend appropriate professional meetings at local, state and national levels. Prior approval of the Superintendent shall be obtained when the Executive Director attends a function outside of the State of California. The Executive Director shall endeavor to maintain and improve his professional competence, including subscriptions to, and readings of, appropriate periodicals, maintenance of membership in appropriate professional organizations, attendance in education programs, and attendance at professional meetings at the local, state, and national level. The expense of said subscriptions, memberships and attendance shall be paid by the District, upon approval of the Superintendent.

16. **General Provisions.**

a. **Governing Law.** This Agreement, and the rights and obligations of the parties, shall be construed and enforced in accordance with the laws of the State of California. The venue for such enforcement shall be in Sacramento County, California.

b. **Entire Agreement.** This Agreement contains the entire agreement and understanding between the parties. There are no oral understandings, terms or conditions, and

neither party has relied upon any representation, express or implied, not contained in this Agreement.

c. No Assignment. The Executive Director may not assign or transfer any rights granted or obligations assumed under this Agreement.

d. Modification. This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

e. Exclusivity. To the extent permitted by law, the parties intend and agree that the employment relationship between the District and the Executive Director shall be governed exclusively by the provisions of this Agreement.

f. Management Hours. The parties recognize that the demands of the position will require Executive Director to work during non-school hours, evenings, and on weekends and, as such, the parties agree that Executive Director shall not be entitled to overtime compensation.

g. Construction. This Agreement has been jointly negotiated and drafted. The rule of construction that ambiguities are to be construed against the preparer shall not apply.

h. Board Approval. The effectiveness of this Agreement shall be contingent upon approval by the District's Board in open session as required by law.

i. Execution of Other Documents. The parties shall cooperate fully in the execution of any other documents and in the completion of any other acts that may be necessary or appropriate to give full force and effect to this Agreement.

ACCEPTANCE OF OFFER

I accept the above offer of employment and agree to the terms and conditions thereof and will report for duty as directed above.

I have not entered into an agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this Agreement.

DATED: September 14, 2011

Michael Cannon
Executive Director of Facilities

DISTRICT APPROVAL:

DATED: September 14, 2011

Walt L. Hanline, Ed.D., Superintendent

DATE OF GOVERNING BOARD APPROVAL: September 14, 2011