

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
AGREEMENT FOR EMPLOYMENT OF SUPERINTENDENT**

This Agreement is made and entered into between the members of the Governing Board of the San José Unified School District (herein after referred to as “BOARD”) and NANCY ALBARRÁN (herein after referred to as “SUPERINTENDENT”).

1. Term of Employment

The BOARD hereby employs the SUPERINTENDENT and the SUPERINTENDENT hereby accepts such employment as SUPERINTENDENT of the San José Unified School District (“DISTRICT”) for a term commencing July 1, 2019, and ending June 30, 2022, subject to the terms and conditions as set forth below.

Subject to an overall meets standard evaluation, pursuant to this Agreement, this Agreement shall be extended for an additional year, so long as the term of this Agreement does not at any time exceed three years and so long as there is no automatic increase in the level of compensation, pursuant to this Agreement, that exceeds a cost-of-living adjustment in accordance with the Government Code section 3511.2.

2. Salary

The annual salary of the SUPERINTENDENT for the 2019-2020 fiscal year shall be two hundred seventy-four thousand, eight hundred eighty-eight dollars (\$274,888), payable in twelve (12) equal installments issued on the last business day of each month, defined as any day other than a Saturday, Sunday, or legal holiday as recognized by the Internal Revenue Service (IRS) and the State of California.

In accordance with salary adjustments available to management employees, the annual salary of the SUPERINTENDENT shall be increased by one-half of one percent (0.5%) for each year in which the SUPERINTENDENT completes a professional growth cycle, receives an overall meets standard evaluation, or has an incomplete evaluation.

Other than that which is stated above, any salary increases during the life of this Agreement shall be equivalent to those awarded to management employees, with any increase in salary made during the term of this Agreement in the form of a written addendum and in so doing it shall not be considered that a new Agreement has been entered into nor that the termination date has been extended without written changes, additions, modifications so expressly stating.

3. Duties and Responsibilities of Superintendent

A. The SUPERINTENDENT shall perform the duties of District Superintendent as prescribed by the laws of the State of California. The SUPERINTENDENT shall act as Secretary to the Board in accordance with Education Code section 35025. In addition to

- the powers and duties set forth in Education Code sections 35035 and 35250, the SUPERINTENDENT shall have such powers and duties as delegated to her by the BOARD. The SUPERINTENDENT shall execute all powers and duties in accordance with the policies adopted by the BOARD and the rules and regulations of the State Board of Education.
- B. The SUPERINTENDENT shall serve as the chief executive officer of the DISTRICT, and administer the instructional services, business affairs, personnel, and property management with the assistance of the DISTRICT's staff, which shall include, but not be limited to the nomination for employment and the assignment of all employees in accordance with the laws of the State of California and the appropriate rules and regulations of said State agencies and those of the BOARD of the DISTRICT.
 - C. The SUPERINTENDENT shall be entitled to attend all regular, special and closed sessions (except for closed session meetings agendaized for the purpose of the BOARD's preparation of the SUPERINTENDENT's evaluation) meetings of the BOARD, and shall serve as an ex-officio member on any and all DISTRICT committees and subcommittees, and shall be entitled to submit recommendations on any item of business considered by the BOARD or any committee or subcommittee of the DISTRICT.
 - D. The SUPERINTENDENT shall be responsible for organizing, reorganizing, and arranging the administrative and supervisory staff, including instruction and business affairs, which in her professional judgment would best serve the DISTRICT.
 - E. The SUPERINTENDENT shall have responsibility for all personnel matters, including selection, assignment, and transfer of employees, subject to the approval of the BOARD. In personnel matters, the SUPERINTENDENT shall present her recommendation to the BOARD. In the event the BOARD does not approve said recommendation, the SUPERINTENDENT shall submit another recommendation to the BOARD within a reasonable time.
 - F. The SUPERINTENDENT shall: (1) review all policies adopted by the BOARD and make appropriate recommendations to the BOARD; (2) periodically evaluate employees as provided for by California law and BOARD policy; (3) advise the BOARD of all possible funding sources that might be available to implement present or contemplated DISTRICT programs; (4) endeavor to maintain and improve her professional competence by all available means, including subscriptions to and reading of appropriate periodicals, and joining and participating in appropriate professional associations, and their activities when financially feasible; (5) establish and maintain an appropriate community relations program; (6) serve as a liaison between the BOARD and BOARD's representative with respect to all employer-employee matters and make recommendations to the BOARD concerning those matters; (7) act as Secretary to the BOARD; and (8) promote the success of all DISTRICT students, staff, and schools.

4. Duties and Responsibilities of Board

- A. The BOARD, individually and collectively, shall promptly refer all criticisms, complaints, and/or suggestions called to their attention to the SUPERINTENDENT for study and recommendation, and shall refrain from individual interference with the administration of school policies, except through BOARD action.
- B. In addition to directing all complaints, criticisms, and/or suggestions concerning the DISTRICT or any of its personnel directly to the SUPERINTENDENT as set forth above, the BOARD agrees to work with the SUPERINTENDENT in a spirit of cooperation and teamwork, and shall provide SUPERINTENDENT with periodic opportunities to discuss BOARD/SUPERINTENDENT relationships. Whenever it is deemed desirable by either a majority of the BOARD or SUPERINTENDENT, an outside advisor will be mutually selected by the BOARD and SUPERINTENDENT, and shall be paid for by the DISTRICT, to facilitate discussion of the relationship of the BOARD and the SUPERINTENDENT, in advancement of the best interests of the DISTRICT.
- C. The BOARD shall provide SUPERINTENDENT with such facilities, equipment, supplies, and clerical assistance as appropriate and financially feasible for the adequate performance of SUPERINTENDENT duties. The BOARD shall also provide SUPERINTENDENT with the appropriate technology that will assist SUPERINTENDENT in the performance of her job duties and responsibilities.

5. Goals and Objectives

No later than September 30 of each school year the parties shall meet to mutually establish the SUPERINTENDENT's performance objectives for the school year. The agreed upon performance objectives shall be in writing and shall be based on the duties and responsibilities set forth in this Agreement, and any other criteria mutually agreed upon by the parties.

BOARD and SUPERINTENDENT shall annually discuss SUPERINTENDENT/BOARD relationships. The parties shall meet to establish DISTRICT goals and objectives for the ensuing year. The BOARD shall annually review the performance of SUPERINTENDENT as it relates to the goals mutually established for the SUPERINTENDENT.

6. Evaluation

The BOARD shall evaluate the SUPERINTENDENT annually in writing by August 31 for the period from July 1 through June 30 of the preceding school year. In addition, the BOARD and SUPERINTENDENT will meet quarterly to discuss her progress on goals and objectives. During the month of August, the SUPERINTENDENT shall place the subject of her evaluation on the BOARD's agenda to ensure timely completion of her evaluation.

As soon as possible after establishing performance objectives, per section 5 of this agreement, but not later than August 31, the SUPERINTENDENT shall submit to the BOARD a recommended evaluation document that is consistent with the evaluation system already implemented for certificated employees, both teachers and administrators.

The BOARD shall conduct its evaluation of the SUPERINTENDENT in closed session meetings of the BOARD. The BOARD shall then meet with and provide a copy of the evaluation report to the SUPERINTENDENT in a closed session BOARD meeting.

Based upon findings specified in the evaluation report, the BOARD may require the SUPERINTENDENT to prepare an action plan, in collaboration with the BOARD, which will address areas identified as needing clarification, emphasis or improvement. Any action plan will be included as an addendum to the evaluation report. If a collaborative action plan cannot be agreed upon, the BOARD in its sole discretion shall issue the action plan. The SUPERINTENDENT and the BOARD shall sign the evaluation report and action plan. The SUPERINTENDENT shall have ten (10) days from receipt of any evaluation to respond in writing to the evaluation. Evaluations and action plans relating to the SUPERINTENDENT and any written comments in response shall be placed in the SUPERINTENDENT's personnel file.

7. Work Year

The SUPERINTENDENT's total work year shall be two hundred sixty (260) days consisting of two hundred twenty-five (225) work days, twenty-four (24) vacation days, and eleven (11) holidays, all prorated for less than a complete work year. Each year in July the SUPERINTENDENT shall provide her annual calendar to the BOARD President. With prior approval of the BOARD, the SUPERINTENDENT may work any or all of the twenty-four (24) vacation days to meet the needs of the DISTRICT each year of this Agreement and be paid at the current daily work rate with all necessary contributions deducted.

8. Outside Professional Activities

The SUPERINTENDENT shall notify the BOARD President when she undertakes paid outside professional activities, including consulting, speaking, and writing. The SUPERINTENDENT's outside professional paid activities shall not occur during regular work hours. In no event will the DISTRICT be responsible for any expenses attendant to the performance of such outside activities, nor shall such outside activities interfere or conflict with SUPERINTENDENT's duties set forth herein.

The SUPERINTENDENT shall inform the BOARD of unpaid speaking engagements on behalf of public school organizations, including but not limited to ACSA and CSBA, and these events may occur during regular work hours.

The DISTRICT will pay the ACSA membership fee for the SUPERINTENDENT, and other mutually agreed upon organizations.

9. Fringe Benefits

A. Health and Welfare Benefits

Health and welfare benefits, including leaves and absences, shall be the same as those granted to the DISTRICT's management employees.

B. Professional Dues

The DISTRICT shall pay one hundred percent (100%) of the SUPERINTENDENT's membership fees to belong to the Association of California School Administrators (ACSA), and other mutually agreed upon organizations.

C. Stipend for Local Business Expenses

The SUPERINTENDENT shall receive an annual stipend of six thousand, five hundred dollars (\$6,500) for local business expenses, payable in twelve (12) equal installments.

Any stipend increases during the life of this Agreement shall be equivalent to those awarded to management employees, with any increase in stipend made during the term of this Agreement in the form of a written addendum and in so doing it shall not be considered that a new Agreement has been entered into nor that the termination date has been extended without written changes, additions, modifications so expressly stating.

D. Professional Development

The BOARD supports the concept of lifelong learning and the continuing professional growth of the SUPERINTENDENT through her participation in professional meetings and other professional development.

The SUPERINTENDENT is expected to attend appropriate professional meetings at local and state levels. She shall obtain the prior approval of the BOARD President when she attends a function outside of the state. To the extent authorized by law, the DISTRICT shall pay expenses related to attendance at all such meetings, including mileage or other travel expenses if financially feasible. When necessary, the SUPERINTENDENT shall submit an expense claim in writing supported by appropriate written documentation and shall be reimbursed per the DISTRICT's reimbursement policies.

10. Medical Examination

The SUPERINTENDENT agrees to undergo a comprehensive medical examination every year of this Agreement. Said examination shall be performed by a licensed physician selected by the SUPERINTENDENT. A statement regarding the SUPERINTENDENT's physical ability to perform her regular duties, shall be obtained from the physician and provided to the BOARD, and the BOARD shall keep confidential the information therein.

The costs of the said medical examination and report shall be paid by the DISTRICT to the extent that such expenses are not covered by SUPERINTENDENT's medical plan. Nothing herein shall be deemed to waive the physician/patient privilege which the SUPERINTENDENT shall have with any physician with whom she consults for the purposes of this section and this Agreement.

11. Termination of Agreement

A. Mutual Consent

This Agreement may be terminated at any time by mutual consent of the BOARD and the SUPERINTENDENT.

B. Retirement or Death of the SUPERINTENDENT

The retirement or death of the SUPERINTENDENT immediately terminates this Agreement and any and all responsibility of the BOARD pursuant to the terms of the Agreement.

C. Disability of the SUPERINTENDENT

Upon written evaluation by a licensed physician designated by the DISTRICT indicating the inability of the SUPERINTENDENT to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be terminated by the BOARD upon written notice to the SUPERINTENDENT and after providing a reasonable opportunity to respond. The DISTRICT may allow the SUPERINTENDENT to continue in employment until the expiration of current and accumulated sick leave and differential leave, but upon receipt of the written evaluation specified above, may immediately assign another employee the duties of SUPERINTENDENT.

D. Non-Renewal of Agreement by the DISTRICT (Notice of Non-Reelection at the end of the Contract or any Extension Thereof)

In the event the BOARD determines not to reelect or reemploy the SUPERINTENDENT as a SUPERINTENDENT at the end of the Employment Agreement or any extension thereof, the BOARD shall give written notice to the SUPERINTENDENT at least forty-five (45) calendar days prior to the expiration of this Agreement or any extension thereof. The BOARD and SUPERINTENDENT agree that this is intended to implement the notice requirement in Education Code section 35031. It shall be the duty of the SUPERINTENDENT to notify each member of the BOARD in writing of this non-renewal provision of the Agreement no later than December 1 immediately prior to the expiration of this contract or any extension thereof. If the SUPERINTENDENT fails to provide this notice to the BOARD, she shall be deemed to have waived the requirements and automatic renewal provisions of section 35031, and shall further be deemed to have

received notice of her non-renewal by the BOARD as if she had received actual timely notice of non-renewal.

E. Termination for Cause

The BOARD may terminate the SUPERINTENDENT for: (1) acts done in bad faith to the detriment of the DISTRICT; (2) refusals or failures to act in accordance with specific provisions of this Agreement or BOARD directives; (3) breach of this Agreement; (4) unsatisfactory performance; (5) any of the grounds enumerated in Education Code section 44932 et seq.; (6) misconduct or dishonest behavior; or (7) conviction of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement. If such cause exists, the BOARD shall give to the SUPERINTENDENT a written statement of the grounds for termination and copies of written documents the BOARD believes support the termination. If the SUPERINTENDENT disputes the charges, the SUPERINTENDENT shall then be entitled to a conference with the BOARD in closed session. The SUPERINTENDENT and BOARD shall each have the right to be represented by counsel at their own expense. The SUPERINTENDENT shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the BOARD shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the BOARD, after considering all evidence presented, decides to terminate this Agreement, it shall provide the SUPERINTENDENT with a written decision. The decision of the BOARD shall be final. The SUPERINTENDENT's conference with the BOARD shall be deemed to satisfy the SUPERINTENDENT's entitlement to due process of law and shall be the SUPERINTENDENT's exclusive right to any conference or hearing otherwise required by law. The SUPERINTENDENT waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the SUPERINTENDENT's administrative remedies and then authorizes the SUPERINTENDENT to contest the BOARD's determination in a court of competent jurisdiction.

F. Termination Without Cause

The BOARD may, for any reason, without cause or a hearing, terminate this Agreement at any time. In consideration for the exercise of this right, the DISTRICT shall pay to the SUPERINTENDENT the remainder of any salary due under this Agreement, not to exceed twelve (12) months. Payment shall be made in one lump sum unless the parties agree otherwise.

For the purposes of this Agreement, the term "salary" shall include only the SUPERINTENDENT's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement except as described in Section 9-A. Payment made pursuant to this termination without cause provision may be subject to applicable payroll deductions and treated as compensation



for state and federal purposes. Payment made pursuant to this termination without cause provision shall be considered as final settlement pay and shall not count for any retirement purposes; accordingly, no deductions shall be made for retirement purposes.

The SUPERINTENDENT shall also be entitled to DISTRICT-paid health and welfare benefits set forth in Section 9-A as those benefits may change from time-to-time, until expiration of this Agreement, a period of twelve (12) months, or until the SUPERINTENDENT obtains other employment, whichever occurs first.

The parties agree that any damages to the SUPERINTENDENT that may result from the BOARD's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the payment made pursuant to this termination without cause provision, along with the DISTRICT's agreement to provide health benefits, constitutes reasonable liquidated damages for the SUPERINTENDENT, fully compensates the SUPERINTENDENT 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 SUPERINTENDENT'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.

Notwithstanding any other provision of this Agreement to the contrary, if the BOARD believes, and subsequently confirms through an independent audit, that the SUPERINTENDENT has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the BOARD may terminate the SUPERINTENDENT and the SUPERINTENDENT shall not be entitled to the cash, salary payment, health benefits or other non-cash settlement as set forth above. The provision is intended to implement the requirements of Government Code section 53260(b). The provisions of Government Code section 53260 are incorporated into this Agreement by this reference.

Pursuant to Government Code section 53243.2, the SUPERINTENDENT shall fully reimburse to the DISTRICT any funds which she receives pursuant to this section of the Agreement, resulting from the BOARD's decision to terminate the SUPERINTENDENT without cause, if the SUPERINTENDENT is convicted of a crime involving the abuse of her powers of office. If the DISTRICT funds the criminal defense of the SUPERINTENDENT against charges involving the abuse of her office or position, and the SUPERINTENDENT is then convicted of those charges, the SUPERINTENDENT shall fully reimburse the DISTRICT for all DISTRICT funds paid for her criminal defense.

G. Termination by SUPERINTENDENT

The SUPERINTENDENT may terminate her obligations under this Agreement by giving the DISTRICT at least ninety (90) days written notice.

12. Notice of Candidacy/Finalist

In all cases, the SUPERINTENDENT shall notify the BOARD, within 48 hours, should she become a candidate in the selection process for another position (e.g., interview by recruiting company) with any other school district, educational agency or other potential employer. The SUPERINTENDENT will also notify the BOARD if she becomes a finalist.

13. Waiver

No waiver of any breach of any term or provision of this Agreement shall be construed to be, nor shall it be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing and signed by the party waiving the breach.

14. Complete Agreement

This Agreement constitutes and contains the entire agreement and understanding between the parties concerning the SUPERINTENDENT's employment with the DISTRICT. This instrument supersedes and replaces all prior negotiations and all agreements proposed or otherwise, whether written or oral, concerning the subject matter hereof. This is an integrated document.

15. Governing Law

This Agreement has been executed and delivered within the State of California and rights and obligations of the parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

16. Construction

Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this Agreement, the same shall not be construed against any party on the basis that the party was the drafter. The captions of this Agreement are not part of the provisions of this Agreement and shall have no force or effect.

17. Execution

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

18. No Assignment

The SUPERINTENDENT may not assign or transfer any rights granted or obligations assumed under this Agreement.

19. Modification

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

20. Exclusivity

To the extent permitted by law, the parties agree that the employment relationship between the DISTRICT and the SUPERINTENDENT shall be governed exclusively by the provisions of this Agreement.

21. Independent Representation

The SUPERINTENDENT and the BOARD each recognize that in entering into this Agreement, the parties have relied upon the advice of their own attorneys or other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys or representatives, and that those terms are fully understood and voluntarily accepted. The SUPERINTENDENT acknowledges and agrees that legal counsel for the BOARD represents the BOARD's interest exclusively and that no attorney-client relationship exists between SUPERINTENDENT and legal counsel to the BOARD.

22. Savings Clause

If any provision of this Agreement or its application is held invalid, the invalidity shall not affect the other provisions or applications of the Agreement that can be given effect without the invalid provisions or applications and the provisions of this Agreement are declared to be severable.

23. Board Approval

The effectiveness of this Agreement shall be contingent upon approval by DISTRICT's BOARD as required by law.

24. Binding Effect

This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs, and assigns.

25. 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.

Approved in a regular open session meeting of the Governing Board on June 27, 2019.

Kimberly Meek
President, Board of Education
San José Unified School District

Nancy Albarrán
Superintendent
San José Unified School District

Dated: _____

Dated: _____