

EMPLOYMENT AGREEMENT

This Agreement between the Desert Sands Unified School District ("District"), Riverside County, California ("District") and Scott Bailey ("Bailey" or "Superintendent") is entered into subject to the following terms and conditions:

1. Employment

The District hereby employs Bailey and Bailey agrees to accept employment as Superintendent of the Desert Sands Unified School District, Riverside County, California. By accepting employment as Superintendent, Bailey agrees to devote his full-time best efforts and abilities to performing the duties and responsibilities referred to herein.

2. Term of Agreement and Work Year

- a. The term of this Agreement shall be from July 1, 2018, through midnight June 30, 2021.
- b. Except as provided herein, the Superintendent shall be required to render twelve (12) months of full and regular service to the District during each annual period covered by this Agreement, exclusive of holidays as defined by the Education Code and applicable District policy.
- c. The Governing Board of the Desert Sands Unified School District ("Board") and Superintendent may at any time agree to a renewal of the Agreement for an additional one-year term, provided the term of the Agreement at no time exceeds four (4) years. A "year" as defined in this Agreement means July 1 through June 30.

3. Powers and Duties

The Superintendent shall perform all of his powers and duties in accordance with applicable laws, rules, and regulations including, but not limited to, the provisions of Education Code section 35035, the policies adopted by the Board. All powers and duties legally delegated to the Superintendent are to be executed in accordance with the policies adopted by the Board.

The Superintendent's duties and functions shall include the following:

- a. Serve as the Chief Executive Officer of the District as described by District policy. The Superintendent shall be delegated all powers and duties

necessary to the efficient management and administration of the District to the full extent permitted by law. The Superintendent shall have the authority to organize and arrange the administrative and supervisory staff, including instruction, business and operation affairs, which in his judgment best serve the District. The responsibility for selection, placement and transfer of existing personnel shall also be vested in the Superintendent. Organization and transfer of personnel, and employment of new personnel, shall be recommended by the Superintendent subject to Board approval.

- b. Working with the Board, District personnel, parents and the public, the Superintendent shall develop short- and long-range goals with clear criteria for determining effect, achievement and evaluating outcomes.
- c. Represent the interests of the Board and the District in day-to-day contact with parents, other citizens, community and governmental agencies.
- d. Provide leadership, guidelines and directions to ensure that policies related to curriculum, instruction, pupil personnel services, personnel, budget and business affairs are implemented.
- e. Report at least annually to the Board, information regarding student learning and analysis of student learning and an analysis of student achievement and test scores.
- f. Review all policies adopted by the Board and make appropriate recommendations to the Board for additions, deletions or modifications.
- g. Evaluate employees directly accountable to the Superintendent and oversee the evaluation of other employees as defined by California law and Board policy.
- h. Provide leadership and direction in planning and financing school facilities to meet program, demographic and enrollment needs.
- i. Advise the Board and make recommendations regarding possible sources of funds which may be available to implement present or contemplated District programs.
- j. Endeavor to maintain or improve his professional competency by all available means, including reading appropriate periodicals and joining and/or participating in all appropriate professional associations and their activities.

- k. Establish and maintain an effective community relations program, including effective relationships with the media.
- l. Communicate openly, systematically and in a timely manner to the Board, staff and community, and promptly inform the Board of significant issues or incidents.
- m. Provide educational leadership to ensure quality teaching and learning.
- n. Perform other duties and functions as assigned or required by the Board.

4. Salary

- a. **Base Salary.** Effective July 1, 2018, the Superintendent's base salary shall be two hundred sixty-five thousand dollars (\$265,000) payable in twelve (12) equal monthly installments. Pursuant to Education Code section 35032, the Board may, in subsequent years, provide for an increase in annual salary following discussions with the Superintendent and in light of performance evaluations, District finances, the state economy, the CPI, and bargaining unit settlements. Under no circumstances shall this Agreement be interpreted or applied as contemplating a reduction in annual salary in subsequent years.
- b. **Tax Sheltered Annuity ("TSA").** Beginning July 1, 2018, and on each successive year of this Agreement, the District shall deposit two thousand dollars (\$2,000) into a TSA of the Superintendent's choice. The Superintendent shall designate the beneficiaries of the TSA.
- c. **Longevity.** The Superintendent shall be paid for longevity earned in the District according to the terms and conditions of the Management/Supervisory Salary Schedule (20 years \$1,800; 25 years \$2,400; 30 years \$3,000).
- d. **Employer Contribution Based on Pensionable Compensation**
 - (1) In addition to all other compensation and contributions required by contract or law, the District shall make employer contribution(s) to the Superintendent's 403(b) defined contribution plan in an amount equal to the difference between the employer contribution the District is currently obligated to make on the Superintendent's behalf under the CalSTRS system, and the amount the District would have been obligated to contribute to CalSTRS if the Superintendent's pensionable compensation (as defined in Government Code § 7522.34) was not

limited by the California Public Employees' Pension Reform Act of 2013 ("PEPRA") (Gov. Code § 7522 et seq.). As set forth below, for the period July 1, 2018, through June 30, 2019, that amount is \$19,335.76.

- (2) Said employer contributions shall be made on the same schedule as would have applied to CalSTRS employer contributions if the Superintendent was not subject to PEPRA, and shall be subject to all requirements and limits of applicable law, including, but not limited to Government Code §§ 7522.10 and 7522.42, and shall be calculated as set forth below:
- (a) The District shall make employer contribution based only on the Superintendent's pensionable compensation in excess of the limit specified by Education Code § 26139.5. That amount, effective July 1, 2018, through June 30, 2019, is \$146,230.
 - (b) The District shall not make an employer contribution based on the Superintendent's pensionable compensation in excess of the limit specified in Government Code § 7522.42(c) and 26 U.S.C. 401(a)(17). That amount, effective July 1, 2018, through June 30, 2019, is \$275,000.
 - (c) The District employer contribution provided by this paragraph shall be made on a percentage basis, in an amount equal to the otherwise-applicable CalSTRS employer contribution obligation for CalSTRS 2% at 62 Members, which is as follows:

Effective July 1, 2018: 16.28%
 - (d) The District employer contribution provided by this paragraph, combined with all other employer contributions to the Superintendent's 403(b) defined contribution plan, shall not exceed the IRS annual addition limit applicable to 403(b) plans (currently \$55,000).
- (3) Based on the foregoing, the District employer contribution to the Superintendent's 403(b) defined contribution plan, as provided by this paragraph, shall be calculated as follows for the annual period from

July 1, 2018, through June 30, 2019: 16.28% of difference between current salary (\$265,000) and salary limit per Education Code § 26139.5 (\$146,230), which equates to 16.28% of \$118,770, which equates to \$19,335.76.

- (4) On or before July 1 of each subsequent year, or sooner in the event of any change in the requirements and limits of applicable law or which otherwise impacts the calculation of the employer contribution required under this paragraph, the parties agree to negotiate a further amendment to this Agreement specifying the then-current employer contribution under this paragraph.

5. Fringe Benefits

- a. The Superintendent and his eligible dependents may enroll in his choice of the District-sponsored medical, dental, and vision programs under the terms and conditions provided to other certificated management employees.
- b. The District shall provide a \$250,000 term life insurance policy, which, upon retirement, may be maintained at the Superintendent's expense.
- c. Desert Sands Unified School District shall make the ordinarily required contributions and deductions for STRS, Unemployment Insurance, Worker's Compensation, etc.

6. Vacation and Sick Leaves

- a. The Superintendent shall be entitled to twenty-four (24) days paid vacation per year, exclusive of holidays. The Superintendent shall be allowed to carry over a maximum of forty (40) vacation days to the following year. In the event such carryover is not substantially used by the following January, the Board may direct the Superintendent to schedule and/or take such vacation. The Board may elect to pay off unused carryover vacation. In the event the Superintendent's employment terminates, the District shall pay him for his accrued but unused vacation at his then current salary rate, not to exceed forty (40) vacation days.
- b. Effective July 1, 2018, and for each successive year of this Agreement, the Superintendent may, at his election, convert up to ten (10) days accrued vacation to cash, payable either in one lump sum or as a monthly addition to

salary, as the Superintendent elects, at his then current salary rate.

- c. The Superintendent shall be entitled to earn twelve (12) working days of sick leave during each year of this Agreement. Such sick leave shall be accumulated and utilized as provided by State law and Board rules and regulations governing certificated management employee use of sick leave.

7. Expenses

- a. The District shall allocate up to five thousand dollars (\$5,000.00) per year to provide a coach for the Superintendent during his first two years of employment. Said coach shall be identified by the Superintendent with concurrence by the Board.
- b. The District shall reimburse the Superintendent for all actual and necessary travel outside District boundaries and other business-related expenses incurred and paid by the Superintendent in the conduct of his duties on behalf of the District; the Superintendent will submit an itemized claim for such expenses and such items claimed must be a proper use of District funds.

8. Professional Activities

The District encourages the Superintendent to participate in professional organizations and activities, provided that such participation is consistent with his overall responsibilities to the District and, provided further, that such participation does not interfere with the satisfactory performance of his duties and obligations to the District. The District will pay the annual dues for the Superintendent's membership in three state and/or national professional organizations of his choice.

9. Performance Evaluation

Prior to the end of each school year, the Superintendent and Board shall meet to establish performance objectives for the next school year. The Board shall evaluate the performance of the Superintendent on an annual basis. The evaluation shall be in writing, shall include at least one personal conference, and shall relate objectively to the duties, goals, and expectations for the position. The evaluation shall be completed by June 30 of each school year. The evaluation shall not, however, be a condition precedent for any of the notices called for under this Agreement or required by law.

10. Termination of Agreement

- a. Termination by Mutual Consent. The District and Superintendent may, by mutual agreement expressed in writing, terminate this Agreement at any time.
- b. Termination by the Board. The Board may terminate this Agreement without cause. In consideration of the Board's right to terminate this Agreement without cause, and subject to section 11 below, the Board shall pay the Superintendent's then current salary for the remainder of the Agreement or one (1) year, whichever is less, consistent with Government Code sections 53260 and 53261. Upon termination of this Agreement pursuant to this provision, the Superintendent shall continue to receive the health benefits to which he was previously entitled for the remainder of this Agreement, but not to exceed one (1) year, or until the Superintendent finds other employment, whichever occurs first in accordance with Government Code section 53261.
- c. Termination by the Superintendent. Notwithstanding any other provision of this Agreement, the Superintendent shall have the option to terminate this Agreement by providing the Board with written notice of intent to terminate. This notice shall be provided no less than sixty (60) calendar days prior to said termination date. The Superintendent and Board may mutually agree to a termination date of less than sixty (60) calendar days. During the sixty-day period, the Superintendent may not take any accrued vacation days without the express consent of the Board.
- d. Termination for Cause. This Agreement and the services of the Superintendent may be terminated by the Board at any time for a material or substantial breach of this Agreement, or for any other good cause. The Board shall not terminate this Agreement under this section until a written statement of the grounds for termination has first been served upon the Superintendent. In lieu of any other hearing, the Superintendent shall then be entitled to a conference with the Board within ten (10) working days at which time the Superintendent shall be given a reasonable opportunity to address the Board's concerns. The Superintendent shall have the right, at his own expense, to have a representative of his choice at the conference with the Board. The conference with the Board shall be the Superintendent's exclusive right to any hearing otherwise required by law. After the

conference, the Board shall deliberate and determine whether to take final action of termination.

- e. **Non-Renewal of Agreement.** Notwithstanding any other provision of this Agreement or the policies and regulations of the Board, the Board may elect not to renew this Agreement, and/or not to re-employ the Superintendent upon expiration of this Agreement pursuant to Education Code section 35031. In such event, the Board shall provide the Superintendent with ninety (90) days' written notice in advance of the expiration of his term of employment. If such written notice is not provided, the Superintendent is deemed reemployed for an additional one (1) year term under the same terms and conditions as set forth in this Agreement. The Superintendent shall provide the Board with written notice of this provision at least one hundred twenty (120) days in advance of the termination of this Agreement. The Superintendent's failure to do so shall constitute a material breach of this Agreement.

11. Abuse of Power

Notwithstanding any other provision of this Agreement, and as mandated by Government Code section 53243 et seq., in the event the Superintendent is convicted of a crime constituting "abuse of office," the Superintendent shall reimburse the District to the fullest extent mandated by Government Code section 53243 et seq. (i.e. for paid leave time, criminal defense expenditures, or any cash settlement). In the event of such conviction, the District shall make no payments barred by Government Code section 53243 et seq.

12. Notice of Finalist in Search

In all cases the Superintendent shall immediately notify the Board should he become a finalist in the selection process for a position with any other district or employer.

13. Professional Liability

The Board agrees that it shall defend, hold harmless, and indemnify the Superintendent from any demands, claims, actions, suits, or legal proceedings brought against the Superintendent for any incident arising out of the course and scope of his employment. This does not apply in any willful or wanton conduct by

the Superintendent giving rise to civil or criminal liability, or any violation of federal, state, county, or local laws or regulations.

14. Governing Law

This Agreement is subject to all applicable laws of the State of California and the lawful rules and regulations of the Governing Board of the Desert Sands Unified School District as well as those of the California State Board of Education. Such laws, rules and regulations are to be considered part of the terms and conditions of this Agreement. Said laws, rules, policies, and regulations may be amended from time to time with or without notice.

15. Savings

If any provisions of this Agreement are held to be contrary to law by final legislative act or a court of competent jurisdiction inclusive of appeals, if any, such provisions will not be deemed valid and subsisting except to the extent permitted by law, but all other provisions will continue in full force and effect.

In the event any such provision is invalidated as described above, the parties shall, upon request, meet no later than fifteen (15) days after such request to discuss the impact of such a holding and to negotiate possible alternative provisions.

16. Complete Agreement

This Agreement is the full and complete agreement between the parties hereto. Any amendments, modifications, or variations from the terms of this Agreement shall be in writing and shall be effective only upon approval of such amendment, modification, or variation by the Board and the Superintendent.

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WHEREFORE, the parties to this Agreement enter into said Agreement effective as of _____, 2018, and subject to approval by the Governing Board of the Desert Sands Unified School District at its _____, 2018 Board meeting.

DATED:

GOVERNING BOARD OF THE DESERT SANDS UNIFIED SCHOOL DISTRICT

SUPERINTENDENT

Gary Tomak, President

Scott Bailey

Wendy Jonathan,
Vice President/Clerk

Michael Duran, Member

Donald B. Griffith, Member

Linda Porras, Member