EMPLOYMENT AGREEMENT FOR SUPERINTENDENT

THIS AGREEMENT is entered into as of this 27th day of April 2022, between the Board of Education (hereinafter referred to as the "Board") of the Banning Unified School District (hereinafter referred to as the "District") of Riverside County, California, and Terrence Davis (hereinafter referred to as "Mr. Davis" or the "Superintendent"). The above-named parties hereby mutually agree and promise as follows:

1. TERM

The Board hereby employs the Superintendent for the period May 2, 2022, through May 1, 2026. During all periods of employment under this Agreement, and any amendment(s) hereto, the Superintendent shall maintain a valid and appropriate certificate to act as Superintendent of Schools, which complies with the California Education Code. If the Superintendent's annual evaluation pursuant to Section 12 of this Agreement is satisfactory in the initial year of the Term, and any subsequent year of the Term or any extension thereof, the expiration date of this Agreement will be extended for an additional year. Subsequent extensions of this Agreement shall be presented to the Board no later than May 1 of each subsequent year, commencing in 2023. If the Board declines any subsequent extension, the Board shall notify the Superintendent no later than May 1 of the year that is 2 years prior to the expiration of any extension of this Agreement.

2. DUTIES

a. Officer Positions. The Superintendent shall serve as Chief Executive Officer and Secretary of the Board pursuant to Education Code section 35035.

b. Duties Imposed by Law. The Superintendent shall perform the duties of the district superintendent as prescribed by the laws of the State of California including, but not limited to, those duties as described in the Education Code. In addition, the Superintendent shall perform such further duties as shall be assigned or required of him by the Board.

c. Scope of Primary Responsibility. The Board shall assume primary responsibility for establishment of policy, and the Superintendent shall be responsible for implementation of policy. In addition, all powers and duties which may lawfully be delegated to the Superintendent are to be performed and executed by him in accordance with the policies adopted by the Board. The Superintendent shall have the primary responsibility of oversight, organizing, assigning, and arranging the management and supervisory staff, including curriculum development, instructional services, fiscal services, special education services, personnel services, and school site management, in a manner which, in his judgment, best serves the District. The Superintendent shall have the primary responsibility over all personnel matters, including, but not limited to, selection, assignment, and transfer of employees. Should the Board reject a recommendation from the Superintendent concerning any personnel matter, the Superintendent shall retain the right to promptly submit another recommendation to the Board.

d. Additional Duties. The Superintendent shall also perform the following duties:

i. Provide leadership, guidelines, and direction to ensure that policies, short-range plans, and long-range plans are carried out.

ii. Report regularly to the Board information regarding student learning and an analysis of student achievement, test scores, discipline, interventions, and socioemotional conditions.

iii. Review all policies adopted by the Board and make appropriate recommendations to the Board.

iv. Manage the evaluation of employees as provided for by California law and Board policy.

v. Identify possible sources of funds that might be available to implement present or contemplated District programs and advise the Board of such possible sources.

vi. Maintain and improve his professional competence by a variety of means, including, without implied limitation, subscription to and reading of appropriate periodicals and research, and joining and participating in appropriate professional associations and their activities.

vii. Establish and maintain an appropriate and reasonably effective community relations program.

viii. Serve as a liaison between the Board and the Board's representatives with respect to all employer-employee matters and make recommendations to the Board concerning those matters.

ix. Provide educational leadership, with and through staff, to ensure quality teaching and learning and professional learning opportunities for all staff.

x. Communicate openly and systematically with the Board, staff, and the community and keep the Board informed of critical issues and incidents.

3. BOARD-SUPERINTENDENT RELATIONS

Working Relationship. The Superintendent shall work with the Board in developing and maintaining a spirit of cooperation and teamwork. The Board shall be responsible for formulating and adopting policy and for taking action on matters which, by law, require Board action. Administrative responsibility and commensurate authority for administering the school system is delegated by the Board to the Superintendent. The Board shall provide the Superintendent with periodic opportunities to discuss Board-Superintendent relationships as they relate to the Board's productivity and the effectiveness of the Superintendent's leadership. The

Board, individually and collectively, shall promptly refer any criticism, complaint, or suggestion brought to the attention of the Board or any member thereof to the Superintendent for study and recommendation.

4. SALARY

The annual base salary for this Agreement shall be $285,000, for a total of 225 workdays per year. The base salary shall be prorated for service of less than a full year. Salary shall be payable in twelve (12) equal installments on the first day of each month, in accordance with the District's regular payroll practices.

In the event the Board approves a salary increase for certificated staff, the Superintendent shall also receive such increase(s). Any increase(s) shall be automatic and take effect on the same terms and the same effective date.

The Superintendent shall receive a step increase each year of the term of this Contract beginning July 1, 2023, of each school year in an amount equal to three percent (3%) of the Superintendent's annual salary not to exceed COLA for the prior school year subject to the Superintendent receiving a satisfactory evaluation from the Board based on criteria as established by the Board pursuant to Paragraph 12 below.

5. FRINGE BENEFITS

In addition to the salary set forth in Paragraph 4 above, the Superintendent shall receive the following fringe benefits:

a. Health and Welfare Benefits. The Superintendent shall be afforded participation in health and welfare benefits (health, dental, and vision insurance) as are granted to the District's other management employees.

b. Contribution to Tax Deferred Account. The Superintendent shall receive 8% of his base salary as a contribution toward a tax sheltered annuity, 403(b) and/or 457(b), of his choosing.

c. Life Insurance Benefits. The Superintendent shall be provided a term-life insurance policy for the benefit of the Superintendent and his designated beneficiaries in an amount of not less than one hundred thousand dollars ($100,000.00).

d. Equipment. The District will provide the Superintendent with a cell phone, a laptop computer, and all reasonably necessary software, all of which shall be used solely for District purposes.

6. SICK LEAVE

The Superintendent shall accrue sick leave at the rate of twelve (12) days per year, which shall be accrued monthly.

7. VACATION

The Superintendent shall accrue vacation days at the rate of 1.833 days per month (twenty-two (22) days annually) up to a maximum of sixty-six (66) days. Once the Superintendent accrues sixty-six (66) days of vacation, no further vacation leave shall accrue unless and until the Superintendent's total accrued vacation leave is less than sixty-six (66) days. Upon termination or expiration of this Agreement, the Superintendent shall be entitled to compensation for all unused and accrued vacation days.

8. EXPENSE REIMBURSEMENT

a. Routine Expenses. The District shall reimburse the Superintendent for all reasonable and necessary business related expenses incurred in accordance with District policy or with prior Board approval. The Superintendent shall seek prior approval of the Board for any reimbursable expenses in excess of five hundred dollars ($500.00). The Superintendent shall not need to seek prior approval of expenses for conferences and travel. Reimbursement shall be made within sixty (60) days after the Superintendent submits a reimbursement request, together with supporting documentation and commiserate with district policies and procedures.

b. Defense and Indemnity. The District shall defend and indemnify the Superintendent to the maximum extent permitted by Government Code sections 825 and 995, and hold the Superintendent harmless from any and all demands, claims, suits, actions, and legal proceedings brought against the Superintendent in his capacity as an agent or employee of the District, or while the Superintendent was acting within the course and scope of his employment with the District.

9. STATE TEACHERS RETIREMENT SYSTEM

The Parties affirm that each will pay its/his own statutory contribution toward the Superintendent's CalSTRS retirement. The Superintendent's required contribution shall be made with pre-tax dollars, through payroll deductions. The contribution shall be made in the amount required by reference to the Superintendent's base salary, without regard to any fringe benefits provided in accordance with Paragraph 5 of this Agreement.

10. PROFESSIONAL ACTIVITIES

The Board encourages the Superintendent to participate in professional organizations and activities. The District shall pay the Superintendent's dues in ACSA (Association of California School Administrators), one national professional organization and any other professional or local service organization/local service club as approved by the Board. The Superintendent shall apprise the Board of the expenses incurred in implementing this section.

The Superintendent may engage in outside professional activities such as consulting, speaking, and writing, so long as these activities do not interfere with the Superintendent's duties. The Superintendent shall request Board approval before engaging in any outside professional activities. The Board shall not unreasonably withhold approval.

11. MEDICAL EXAMINATIONS

The Superintendent shall have an annual medical examination, certifying his fitness for duty. A statement certifying the Superintendent's fitness for duty shall be filed with the President of the Board and shall be treated as confidential information by the Board. Any expense beyond that paid by District insurance shall be at the District's expense in an amount not to exceed one thousand dollars ($1,000).

12. PERFORMANCE EVALUATION, GOALS, AND OBJECTIVES

a. Performance Goals. Performance goals shall be established for the year during a goal-setting meeting between the Board and Superintendent. Goals will be aligned with the mission, vision, and values of the Board and District. The performance goals and objectives shall be established by the Board in consultation with the Superintendent. The objectives shall be based on the duties and responsibilities set forth in this Agreement and aligned with Board and state policies and shall coincide with district goals, objectives, and success indicators; educational, management, and community leadership skills; Board-adopted priorities; and other criteria established by the Board in consultation with the Superintendent.

b. Time to Establish Performance Goals. Within three (3) months after the execution of this Agreement, the parties shall meet to establish the Superintendent's performance goals and objectives for the initial year under this Agreement. Thereafter, performance goals shall be established annually, in conjunction with the Board's evaluation of the Superintendent and shall be in place no later than (3) months prior to the start of each school-year.

c. Annual Performance Evaluation. The Board shall annually evaluate the performance of the Superintendent according to Board Policy, with a mid-year progress assessment. Said evaluation shall be based on the duties and responsibilities of the Superintendent as set forth in this Agreement and the performance goals and objectives established above.

d. Expense Report Updates. The Superintendent will provide a quarterly report to the Board of Trustees which includes an update on legal fees, consultant fees, student Average Daily Attendance (ADA) and enrollment data.

e. Process for and Content of Performance Evaluation. In accordance with Board Policy 2140, prior to the evaluation, the Superintendent shall provide to the Board for its review a report of progress toward district goals, the Superintendent's self-appraisal of accomplishments and performance, and a statement of actions taken to address any Board recommendations from the previous evaluation. Each Board member shall independently evaluate the Superintendent's performance based upon the evaluation criteria, after which the Board shall produce a single document that integrates the individual evaluations and represents the consensus of the Board. The evaluation shall provide commendations in areas of strength and achievement and recommendations for improving effectiveness in any areas of need, concern, or unsatisfactory performance. In the event the Board determines that the performance of the Superintendent is unsatisfactory in any respect, the Board shall provide a detailed, written description of the unsatisfactory performance, together with objective goals for improvement. The evaluation may also identify professional development opportunities for the Superintendent and/or the entire governance team to address areas of concern, strengthen the relationship between the Superintendent and Board, or enhance the Superintendent's knowledge of current educational issues and leadership and management skills.

f. Delivery of Performance Evaluation. The annual evaluation shall be in writing and shall be completed by May 1 of each year unless another date is agreed upon by the Board and the Superintendent. A copy of the written evaluation shall be delivered to the Superintendent and the Superintendent shall have the right to make a written response to the evaluation. Within thirty (30) workdays of the delivery of the evaluation to the Superintendent, the Board shall meet with the Superintendent to discuss the evaluation. The Board shall devote a portion of at least one meeting annually to discuss the evaluation with the Superintendent. At this meeting, the Superintendent shall have an opportunity to ask questions, respond verbally and in writing to the evaluation, and present additional information regarding his performance or District progress.

g. Closed Session Discussion Required. Any discussion of the evaluation, either as a Board or with the Superintendent, shall be conducted in closed session.

h. Satisfaction of Education Code Requirements. The Board and the Superintendent agree that the evaluation procedure contained in this provision fully satisfies all requirements of Education Code sections 44660 through 44664 and any other laws or regulations applicable to the evaluation of certificated employees.

i. Effect of Failure to Complete Performance Evaluation. Should the Board not complete an evaluation of Superintendent in any year, for the purposes of this Paragraph, the Superintendent shall be deemed to have received a satisfactory or better evaluation.

13. DUE PROCESS

In the event that the Board charges the Superintendent with a material breach of this Agreement based on an unsatisfactory evaluation or based on some other criteria, and seeks to terminate said Agreement prior to its expiration, the Board shall, prior to taking such action, give

the Superintendent: (a) written notice of the proposed action and reasons thereof; (b) a reasonably detailed written statement of the charges and material upon which the proposed action is based; (c) the right to respond either orally or in writing to the Board; and (d) the right to a hearing before the Board.

A request for hearing shall be filed by the Superintendent with the presiding officer of the Board within ten (10) days after service of notice of the proposed action on him. The hearing shall be held before any action is taken and within twenty-five (25) days after the notice was served on the Superintendent, unless continued for good cause.

The hearing shall be conducted by the Board and shall be an evidentiary hearing before a neutral third party, with the District having the burden of establishing cause for the proposed action. Each party shall have the right to call any witnesses and to confront any witnesses called by the other party. Each party shall have the right to counsel. The hearing shall be held in closed session. The neutral third party shall prepare written findings of fact following the hearing. These findings shall be presented to the Board for consideration.

The decision of the Board shall be in the form of a resolution which shall set forth either a rescission of the charges or the charges of material breach found to exist, and the final decision of the Board specifying the action to be taken shall be a supermajority vote. The Superintendent shall be notified in writing of said decision and of its effective date.

14. TERMINATION OF AGREEMENT

Termination of this Agreement may be made in the manner described below.

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

b. Non-Renewal of Agreement by District. The Board may elect not to renew this Agreement by providing written notice to the Superintendent in accordance with Paragraph 1 of this Agreement. If the Board elects not to renew this Agreement, but fails to notify the Superintendent in accordance with Paragraph 1, this Agreement shall be deemed to have been extended for a term of one year under the same terms and conditions and with the same compensation, pursuant to Education Code section 35031 or other applicable provisions of law.

c. Non-Renewal of Agreement by Superintendent. The Superintendent may elect not to renew this Agreement by providing written notice to the Board at least thirty (30) days before the expiration of this Agreement or any extension of this Agreement.

d. Termination without Cause. Notwithstanding any other provision of the Agreement, Board shall have the sole right to terminate Superintendent without cause at any time before its normal expiration with a supermajority vote. If the Board terminates the Superintendent without cause before its normal expiration, it shall pay to Superintendent his base salary and medical/dental/vision and other benefits provided under the Agreement for either twelve (12) months or the number of months remaining on the Agreement, whichever is less.

e. Termination for Cause. The Board may terminate this Agreement for: (1) intentional acts done in bad faith to the detriment of the District; (2) material breach of this Agreement; (3) unsatisfactory performance, following notice of the specific manner in which the performance is not satisfactory and a ninety (90) day period in which to meet the performance expectations; (4) refusal to act in accordance with a specific provision of this Agreement or a lawful directive or order of a majority of the Board; (5) misconduct or dishonest behavior; (6) conviction of a crime involving dishonesty or breach of trust; (7) for other conduct seriously prejudicial to the District; or (8) any other cause listed in Education Code section 44932(a). In the event of such termination, which shall be a supermajority vote, the Board shall provide the Superintendent with due process as set forth in Paragraph 13, above.

The parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code section 53260, *et seq.*

f. Disability or Death of the Superintendent. Upon expiration of the Superintendent's entitlement to current and accumulated sick leave and differential leave, and 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 immediately terminated by the Board upon written notice to the Superintendent. The death of the Superintendent automatically terminates this Agreement immediately. In such an event, all earned salary, vacation, or other amounts due to the Superintendent at the time of his death shall be paid to his estate.

g. Termination for Inappropriate Fiscal Practices. 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 any salary payments, health benefits or other non-cash benefits as set forth in subsection (d) above. If the Superintendent elects to contest the Board's determination in this regard, the Superintendent may request a hearing before an administrative law judge who shall determine the amount of the cash settlement, if any, in accordance with the requirements of Government Code section 53260(b).

h. Abuse of Office Provisions. In accordance with Government Code section 53243, *et seq.*, and as a separate contractual obligation, if the Superintendent receives a paid leave of absence or cash settlement and this Agreement is terminated for any reason, such paid leave or cash settlement shall be fully reimbursed to the District by the Superintendent if the Superintendent is convicted of a crime involving an abuse of office or the position of Superintendent. In addition, if the District funds the criminal defense of the Superintendent against charges involving abuse of office or position and the Superintendent is then convicted of such charges, the Superintendent shall fully reimburse the District all funds expended for the Superintendent's criminal defense.

15. TAX/RETIREMENT ISSUES

Notwithstanding any other provision of this Agreement, so long as the District appropriately calculates the tax and retirement contribution rates and makes the required and accurate contributions, the District shall not be liable for any state or federal tax consequences or any retirement consequences of any nature because of this Agreement. The Superintendent declares that, prior to signing this Agreement, the Superintendent reviewed, or had reasonable opportunity to review, relevant data and received, or had reasonable opportunity to receive, independent advice and counsel regarding the state and federal tax consequences and the retirement consequences of this Agreement.

16. NOTICE OF FINALIST IN SEARCH

Upon becoming a finalist for any other form of employment, the Superintendent shall notify the entire Board in closed session within 45 days.

17. 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.

18. AMENDMENT OF AGREEMENT

This Agreement may be changed, modified, or amended by mutual consent of the parties. Such changes, modifications, or amendments shall be reduced to writing and signed by both parties.

19. APPLICABLE LAW

This Agreement is subject to all applicable laws of the State of California, rules and regulations of the State Board of Education, and rules, regulations, and policies of this Board, all of which are made a part of the terms and conditions of this Agreement as though set forth herein.

20. SEVERABILITY

If a court of competent jurisdiction should rule that any provision of this Agreement is invalid, for any reason whatsoever, such ruling shall not affect the validity of the remaining portions of the Agreement, and the same shall continue in full force and effect.

21. COMPLETE AGREEMENT

This Agreement is the full, complete, and final expression of the Agreement between the parties hereto, concerning the Superintendent's employment with the District. This Agreement supersedes, replaces, and terminates all prior negotiations and all agreements proposed or otherwise, whether written or oral, concerning the subject matter hereof.

22. BOARD APPROVAL

The effectiveness of this Agreement shall be contingent upon approval by the Board as required by law.

In Witness herein we affix our signatures to this Agreement consisting of ten (10) typewritten pages as the full and complete understanding of the relationship of the parties hereto.

Signed this 27th day of April, 2022.

By: Leslie A. Sattler

Leslie Sattler
President of the Board of Trustees
of the Banning Unified School District

ACCEPTANCE:

I hereby accept this offer of employment and agree to comply reasonably with each and every condition thereof, and to fulfill faithfully all of the duties of employment as Superintendent of the Banning Unified School District.

By: _____

Terrence Davis
Superintendent