

**Dublin Unified School District  
Interim Superintendent Employment Agreement**

This Employment Agreement (“Agreement”) is made and entered into effective August \_\_\_\_\_, 2020, by and between the Dublin Unified School District Board of Trustees (“Board” or “District”) and Dr. Daniel Moirao (“Interim Superintendent”).

NOW, THEREFORE, District offers, and Interim Superintendent accepts, employment as District Interim Superintendent of the Dublin Unified School District:

**I. TERM**

A. Position

The District recognizes that it is currently in a transitional period and in great need of stability and consistency in leadership while it conducts an efficient and comprehensive search for exceptional candidates to fill leadership roles, including the role of chief executive officer. Additionally, the District is in need of experienced leadership in order to immediately address District needs related to school reopening and distance learning during the present COVID-19 crisis. The District has requested and Interim Superintendent has agreed to reinstate from retirement to serve as the full-time Interim Superintendent for the Term of this Agreement in accordance with the terms and conditions of this Agreement. Interim Superintendent is uniquely qualified based on his extensive years of experience in leadership roles, including as Superintendent, as well as experience in dealing with crisis situations and as State Board of Education appointed trustee for an at-risk California school district.

B. Term

The term of this Agreement shall be September 1, 2020, through and including August 31, 2021, unless terminated earlier in accordance with the terms and conditions set forth below (“Term”).

**II. COMPENSATION**

A. Base Salary

District shall pay Interim Superintendent an annual base salary of Three Hundred and Thirty Six Thousand Dollars (\$336,000.00).

B. Salary Payment Process.

Salary shall be payable on the last day of each month in installments of one-twelfth (1/12) of the annual base salary rate for services rendered during the preceding month, less all applicable deductions and withholdings required by law

or authorized by Interim Superintendent. In the event this Agreement is terminated prior to August 31, 2021, in accordance with Section VIII Interim Superintendent's compensation will be pro-rated.

### **III. PROFESSIONAL DUTIES AND RESPONSIBILITIES OF SUPERINTENDENT**

#### **A. General Duties**

1. Interim Superintendent shall be the Chief Executive Officer of the Board (Education Code section 35035). As Chief Executive Officer, Interim Superintendent shall have primary responsibility for the execution of District/Board Policy. Primary responsibility for the formulation of District/Board Policy is retained by the Board.
2. Interim Superintendent will serve as secretary to the Board (Education Code section 35025).
3. Interim Superintendent shall be expected to perform all reasonable, necessary and customary duties of the office of Superintendent including, but not limited to, those powers and duties provided in Education Code section 35035, those powers delegated to the Superintendent by the Board and all applicable provisions of law.
4. In addition to the powers and duties set forth in Education Code section 35025 and all applicable provisions of law, Interim Superintendent shall have such other powers and duties which have been delegated to Superintendent in adopted Board Policy or other actions of the Board referenced in official minutes of Board meetings.
5. Interim Superintendent shall perform all duties set forth in this section III, and shall carry out all lawful directives from the Board.
6. Interim Superintendent shall serve as a liaison to all District committees and subcommittees. Interim Superintendent shall be entitled to submit recommendations on any item of business to be considered by either the Board or any committee or subcommittee of District.

#### **B. Personnel**

1. Interim Superintendent shall make timely and appropriate recommendations to the Board regarding the employment of personnel.
  - a. If the Board rejects a person recommended for employment, Interim Superintendent shall nominate a replacement.

- b. All candidates for employment shall be recommended by Interim Superintendent.
2. When appropriate, Interim Superintendent shall recommend the release, non-reelection, or termination of an employee.

C. Communications

Interim Superintendent and the Board recognize the importance of communications between them.

1. Interim Superintendent shall keep the Board advised of all significant issues, including significant emerging issues, which relate to District business.
2. Board Members, individually and collectively, shall communicate to Interim Superintendent regarding all significant issues, including significant emerging issues, which relate to District business.
3. Whenever practical, and consistent with the public meeting laws, each shall communicate with the other in advance of scheduled Board meetings.

D. Board and Interim Superintendent Relations

1. Interim Superintendent shall work with the Board in developing and maintaining a spirit of cooperation and teamwork in which the Board shall accept responsibility for formulating and adopting policy and for taking action on matters which, by law, require Board action and Interim Superintendent shall accept responsibility for implementing adopted Board policy. Interim Superintendent shall be responsible for clear, direct, professional and meaningful discussion with the Board regarding all such matters.

E. Outside Professional Activities

1. Interim Superintendent may undertake consultative work, speaking engagements, writing, lecturing or other professional duties and obligations outside of the normal workday or other after-workday District commitments, including but not limited to scheduled District Board meetings, without prior Board approval. Such outside professional activities may be performed for consideration. Interim Superintendent shall give priority to District commitments. Any consultative work, speaking engagements or other professional duties and obligations during the normal workday, after-workday District commitments, or that would

interfere with the Interim Superintendent's ability to satisfactorily perform the duties of his position must be approved in advance by the Board.

2. Interim Superintendent agrees not to use District staff or property in performing these outside activities without prior written approval by the Board. There shall be no District reimbursement of costs/expenses related to such activities without prior Board approval.

#### **IV. WORK YEAR AND LEAVE BENEFITS**

##### **A. Work Days- Positive Work Year**

Interim Superintendent is required to render two hundred twenty five (225) days of service to the District, exclusive of legal holidays set forth in Section IV.B below, unless the Agreement is terminated early in accordance with Section VIII. Days worked in excess of 225 days are considered non-work days. Interim Superintendent is not entitled to pay for non-work days. The parties recognize the high demands of the position, which will require Interim Superintendent to work beyond the traditional work day. Accordingly, the District acknowledges the importance of the Interim Superintendent's use of personal time during the term of this Agreement and encourages Interim Superintendent not to work more than the required number of days of service.

If this Agreement is terminated prior to the completion of the Term pursuant to Sections VIII.A (Failure by Interim Superintendent to maintain a valid California Administrative Credential), VIII.C (Retirement or Resignation), VIII.G (Termination for Cause), or VIII.H (Termination for Inappropriate Fiscal Practices) of this Agreement, the District will calculate how many days the Interim Superintendent should have worked under the Agreement based on a formula of 18.75 work days per month worked (225 days divided by 12 months) to determine final salary. For example, if the Agreement is terminated according to the provisions Sections VIII.A, VIII.C, VIII.G or VIII.H after six (6) months, Interim Superintendent will be expected to work 112.5 days (18.75 days times 6 months), which will be compared to the days actually worked by the Interim Superintendent to determine final compensation or any necessary adjustments thereto. Any necessary adjustments shall be deducted from the Interim Superintendent's final paycheck. To determine Interim Superintendent's daily rate of pay, Interim Superintendent's annual base salary shall be divided by 225. In recognition of the demands of the Interim Superintendent position and the likelihood that the Interim Superintendent will work beyond the traditional work day, no such required deduction shall occur in the event this Agreement is terminated prior to the completion of the Term pursuant to Sections VIII.B (Mutual Consent), VIII.D (Disability of Interim Superintendent), VIII.E (Death of Interim Superintendent), VIII.F (Non-Renewal of Agreement by District), VIII.I (Early Termination), or VIII.J (Termination without Cause).

B. Holidays

Absent extraordinary circumstances, Superintendent shall not be required to work on: (1) those holidays set forth in section 37220 of the Education Code; and (2) any local holidays declared by the Board.

C. Sick Leave

Interim Superintendent shall accrue sick leave at the rate of one (1) day per month per year. This leave shall accumulate without limit but shall not be compensable. Interim Superintendent shall not be entitled to cash payment for earned, unused sick leave.

**V. EVALUATION**

A. Informal Evaluation

The Board and the Interim Superintendent together serve as the governance team of the District, and will discuss any performance concerns or provide updates regarding work progress on a regular basis throughout the Term of this Agreement.

**VI. PROFESSIONAL GROWTH OF INTERIM SUPERINTENDENT**

- A. District encourages the continuing professional growth of Interim Superintendent through his participation in:
1. The operations, programs and other activities conducted or sponsored by local state and national school board and administrative associations;
  2. Seminars and courses offered by public or private educational institutions;
  3. Informational meetings with other persons whose particular skills or backgrounds would serve to improve the capacity of Interim Superintendent to perform his professional responsibilities for District; and
  4. Local civic organizations.
- B. In its encouragement, District shall permit a reasonable amount of release time for Interim Superintendent to attend such matters and shall pay, in accordance with Board Policy and with prior Board approval, necessary travel and subsistence expenses. Interim Superintendent shall provide written notice to the Board of his intention to engage in such matters.

## VII. EXPENSES AND OTHER BENEFITS

### A. General Expenses

1. Except as otherwise provided in this Agreement, District shall reimburse Interim Superintendent for all actual and necessary expenses that have been incurred within the scope of employment.
  - a. In accordance with prudent business practices, payment shall require counter-signature by District's Chief Financial Officer.
  - b. District shall provide Interim Superintendent with a credit card to facilitate the payment of actual and necessary expenses.
2. Reimbursement of all expenses shall be in accordance with Board policy and applicable law.

### B. Laptop

The District shall purchase a laptop computer and purchase a wireless service plan that will provide Interim Superintendent with the means of communicating with the District (collectively, "Technology Devices"). The Technology Devices will be the property of the District and the District shall have the sole right to control access to, and use of, the Technology Devices through its policies and law. Interim Superintendent shall use the Technology Devices in accordance with all District policies and legal requirements. Interim Superintendent agrees to sign all technology use agreements or other forms that are required of other District employees. Notwithstanding any District policy to the contrary, Interim Superintendent agrees to conduct all District business, whether by email or otherwise, on the District Technology Devices or, if Interim Superintendent conducts District business on a private device, through a District account, so that all communications related to the District's business shall be available to the District irrespective of the form of communication.

### C. Professional and Civic Organizations and Committees

1. To the extent such participation relates to, and is in furtherance of, the mission of District, Interim Superintendent is encouraged to participate in the activities of professional and civic organizations and committees.
  - a. With prior Board approval, District shall pay for subscriptions, memberships and attendance at conferences and professional meetings of such organizations. At a minimum, this shall include: the Association of California School Administrators, the American Association of School Administrators Collaborative, the National

Superintendents Roundtable, and one local service club (e.g. Rotary).

b. Upon request, the Board may grant permission to Interim Superintendent to attend out-of-state meetings at District expense.

2. Interim Superintendent shall provide written notice to the Board of his intention to engage in such matters.

D. Health and Welfare Benefits

During employment as Interim Superintendent, Interim Superintendent shall receive health and welfare benefits (e.g. medical, dental, vision and other insurances) in the same manner as those benefits are paid for by the District for other management employees.

**VIII. TERMINATION OF AGREEMENT**

A. Failure by Interim Superintendent to maintain a valid California Administrative Credential.

B. Mutual Consent

This Agreement may be terminated at any time by mutual consent by the Board and the Interim Superintendent.

C. Retirement or Resignation

The Interim Superintendent may resign and terminate this Agreement only by providing the Board written notice with at least sixty (60) calendar days of the effective date of termination, unless the Parties agree otherwise.

D. Disability of Interim Superintendent.

1. Interim Superintendent may be removed from his position by the Board should he be unable to perform the essential elements of the position (with or without accommodation) due to physical and/or mental disability.

2. The Board's determination shall be supported by (1) a written evaluation rendered by a licensed physician selected by the Board, or (2) a written evaluation by a licensed physician selected by Interim Superintendent, that indicates Interim Superintendent will be unable to perform the essential duties and responsibilities of his position for a period of time of at least three (3) months.

3. If Interim Superintendent is informed by a physician that he is unable to perform the essential functions of his position, Interim Superintendent shall immediately request the physician to furnish the Board President with a written report containing those findings.
4. If a physician issues a report indicating that Interim Superintendent cannot perform the essential functions of his position Interim Superintendent may apply for STRS disability benefits or STRS retirement.

E. Death of Interim Superintendent

1. Death of Interim Superintendent terminates the Agreement immediately. In such event, all salary and other monetary amounts due to Interim Superintendent at the time of death, if any, shall be paid to Interim Superintendent's estate unless otherwise declared in writing by Interim Superintendent.

F. Non-Renewal of Agreement by District

1. Notice to Interim Superintendent. The Board may elect not to renew this Agreement upon its expiration by providing written notice of this decision to Interim Superintendent in accordance with Education Code section 35031 (which currently requires forty-five [45] days prior notice), or other applicable provisions of law. Unless this Agreement has terminated earlier according to the provisions of section VIII of this Agreement, Interim Superintendent shall notify the Board, in writing, of the timeline for this requirement at least sixty (60) days prior to expiration of this Agreement.

G. Termination for Cause

1. The Board may terminate the Interim 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 directives from the Board; (3) breach of this Agreement; (4) unsatisfactory performance; (5) misconduct or dishonest behavior; (6) any reason specified in the Education Code; or, (7) conviction of or the entry of a plea of "nolo contendere" to any crime involving dishonesty, fraud, theft, physical violence, or entry of a civil judgment against the Interim Superintendent for fraud, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of the Agreement and shall extinguish all rights and duties of the parties to this Agreement.



2. Should the Board elect to terminate this Agreement prior to its expiration pursuant to this section, the Board shall notify Interim Superintendent in writing.
  - a. Upon request, the Board shall serve upon Interim Superintendent a reasonably detailed statement of the facts upon which the Board has determined that cause exists.
  - b. Interim Superintendent will be afforded an opportunity for a meeting which shall include the right to be represented by counsel and the right to call witnesses.
  - c. If Interim Superintendent chooses to be accompanied by legal counsel at such meeting, Interim Superintendent shall bear any costs therein involved. Such meeting shall be conducted in closed session. Interim Superintendent shall be provided a written decision describing the results of the meeting. If the Board determines not to release Interim Superintendent at or following this meeting, the District shall reimburse the Interim Superintendent for reasonable and verified legal costs paid for legal counsel's representation of Interim Superintendent at this meeting.

H. Termination for Inappropriate Fiscal Practices

1. Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that Interim Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may immediately terminate Interim Superintendent solely upon written notice to Interim Superintendent and Interim Superintendent shall not be entitled to any compensation of any nature, whether as cash, salary payments, or other non-cash settlement. This provision is intended to implement the requirements of Government Code section 53260(b).

I. Early Termination. The Board may, for any reason, without cause or a hearing, terminate this Agreement upon sixty (60) days prior written notice to Interim Superintendent as an early termination of this Agreement. Interim Superintendent shall serve the sixty (60) days following this notice pursuant to the terms of the Agreement.

J. Termination without Cause

1. The Board may, for any reason, without cause or a hearing, terminate this Agreement at any time, immediately upon written notice to Interim Superintendent. In consideration for the exercise of this right, if the Board

terminates this Agreement before its normal expiration (except pursuant to section XIII, A-I above), the District shall pay to Interim Superintendent, from the date of termination until the expiration of this Agreement, or for a period of sixty (60) days, whichever is less, Interim Superintendent's base salary at the rate in effect during Interim Superintendent's last month of service. Payments shall be made on a monthly basis.

2. For purposes of this termination without cause provision of the Agreement, the term "salary" shall include only Interim Superintendent's monthly base salary and shall not include the value of any other payments, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this termination without cause provision shall constitute creditable service or creditable compensation for retirement purposes, but instead shall be considered final settlement pay. Therefore, no retirement contributions shall be paid based on any payments made pursuant to this provision.
3. The Parties agree that any damages to Interim Superintendent that may result from the Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the Parties agree that the payments made pursuant to this termination without cause provision constitutes reasonable liquidated damages for Interim Superintendent, fully compensates Interim 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 Interim 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.

## **IX. FINGERPRINTING CLEARANCE**

Interim Superintendent certifies that he has not been convicted of a violent or serious felony. Pursuant to District Administrative Regulation 4312.5, the District may hire an employee prior to a certificate of clearance from the Department of Justice, if the employee became a permanent employee of another school district as of October 1, 1997. Interim Superintendent represents that he meets this requirement. However, the District will also obtain a current verification from the Department of Justice that Interim Superintendent has not been convicted of a serious or violent felony, or other offense set forth in Education Code sections 44010 or 44011. If the Department of Justice verification shows that Interim Superintendent has been convicted of a serious or violent felony, or an offense defined in Education Code sections 44010 or 44011, this Agreement

will be immediately terminated and the provisions in paragraph VIII of this Agreement, above, shall not apply.

**X. TUBERCULOSIS CERTIFICATION**

Interim Superintendent shall, at no cost to the District, obtain a TB test in full compliance with the requirements of Education Code section 49406 or provide a TB test certification completed within the past four (4) years.

**XI. GENERAL PROVISIONS**

A. Full and Complete Document

This Agreement is the full and complete Agreement between the Parties. It can be changed or modified only in writing, which must be signed by both parties. This Agreement supersedes any and all other prior communications between the Parties, whether written or oral. Any prior agreements, promises, negotiations or representations related to the subject matter not expressly set forth in this Agreement are of no force and effect.

B. Applicable Laws

Except as modified by an express term of this Agreement, this Agreement is subject to all applicable laws of the State of California, to the rules and regulations of the State Board of Education, and to the lawful rules and regulations of the Governing Board of the Dublin Unified School District. These laws, rules, regulations, and policies, as referenced above, are a part of the terms and conditions of this Agreement as though fully set forth herein. Venue shall be in Alameda County.

C. Exclusivity

To the extent permitted by law, the parties agree that the employment relationship between the District and Interim Superintendent shall be governed exclusively by the provisions of this Agreement and not by board policies, administrative regulations, Management Handbooks or similar documents.

D. Indemnity

District shall defend and indemnify Interim Superintendent as required by California Government Code section 995, et. seq., and other applicable provisions of law.

E. Tax/Retirement Liability

Notwithstanding any other provision of this Agreement, the District shall not be liable for any retirement or state/federal tax consequences to Interim Superintendent, any designated beneficiary, heirs, administrators, executors, successors or assigns of Interim Superintendent. Interim Superintendent shall assume sole responsibility and liability for all state or federal tax consequences of this Agreement and all related payroll and retirement consequences, including, but not limited to, whether compensation or service is creditable for purposes of retirement, all tax and retirement consequences stemming from any payments made to Interim Superintendent as a result of the termination without cause provision of this Agreement, retirement payments, expense reimbursements, and payments for insurance.

F. Abuse of Office Provisions

In accordance with Government Code section 53243, et seq., and as a separate contractual obligation, should Interim Superintendent receive a paid leave of absence or cash settlement if this Agreement is terminated with or without cause, such paid leave or cash settlement shall be fully reimbursed to the District by Interim Superintendent if Interim Superintendent is convicted of a crime involving an abuse of Interim Superintendent's office or position. In addition, if the District funds the criminal defense of Interim Superintendent against charges involving abuse of office or position and Interim Superintendent is then convicted of such charges, Interim Superintendent shall fully reimburse the District all funds expended for Interim Superintendent's criminal defense.

G. Board Approval

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

H. 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.

I. Independent Review

Interim Superintendent represents that he has had read this Agreement in full and understands and voluntarily agrees to all such provisions. Interim Superintendent further declares that, prior to signing this Agreement, he had the opportunity to obtain independent legal or other professional advice with regard to this Agreement, including tax and retirement consequences. Interim Superintendent recognizes that in entering into this Agreement, he has relied upon the advice only

of his own attorney or other representatives, and that the terms of this Agreement have been completely explained to him by his attorney or representatives, and that those terms are fully understood and voluntarily accepted.

J. Binding Effect

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

K. 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. A copy, facsimile, photographic copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement and shall be as valid as an original for any purpose. In addition, this Agreement may be signed in person or electronically and such signatures shall be binding.

L. Savings Clause/Severability

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.

M. Management Hours

The parties recognize that the demands of the position will require Interim Superintendent to average more than eight (8) hours a day and/or more than forty (40) hours per week. The parties agree that Interim Superintendent shall not be entitled to overtime compensation.

N. Public Record

The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

O. Notice of Finalist in Search

In all cases, Interim Superintendent immediately shall notify the Board President should Interim Superintendent become a finalist in the selection process for any other employment.

P. Waiver

Any waiver of any breach of any term or provision of this Agreement shall be in writing and shall not be construed to be a waiver of any other breach of this Agreement.

Q. Notice

Notices by the Board shall be deemed served either on the date on which it is personally served upon Interim Superintendent or the date on which it is deposited in the United States Mail, postage prepaid, and addressed as follows:

Dr. Daniel Moirao  
Dublin Unified School District  
7471 Larkdale Avenue  
Dublin, California 94568

R. No Assignment

Interim Superintendent may not assign or transfer any rights granted or obligations assumed under this Agreement.

S. Construction

This Agreement shall not be construed more strongly against either party regardless of which party is responsible for its preparation.

IN WITNESS, we affix our signatures to this Agreement as the full and complete understanding of the relationships between the Parties.

MEMBERS OF THE BOARD OF TRUSTEES:

By: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Trustee

By: \_\_\_\_\_  
Trustee

**ACCEPTANCE OF OFFER**

I accept the above offer of employment and 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 employment agreement

I understand that the District is relying upon information provided by me during the application process in extending this offer of employment. By signing below, I represent that I have not provided the District with any false information or made any material misrepresentation or omission during the job application process. I agree that false, incomplete, or misleading statements or omissions made during the job application process constitute dishonesty and breach of this Agreement and are grounds for termination of this Agreement for cause.

I hold legal and valid administrative and teaching credentials each of which are or will be recorded in the Office of the Superintendent of Schools of Alameda County before receipt of my first payroll warrant, and I agree to maintain in full force all of my credentials throughout the term of this Agreement.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Dr. Daniel Moirao