

**THIRD ADDENDUM TO  
AGREEMENT FOR EMPLOYMENT OF SUPERINTENDENT  
BETWEEN THE BOARD OF EDUCATION OF THE  
NEWPORT-MESA UNIFIED SCHOOL DISTRICT AND  
DR. FREDERICK NAVARRO DATED JUNE 26, 2012**

This Third Addendum is entered into this 27 day of October, 2015 and is intended to replace and supersede the below indicated sections of the Agreement dated June 26, 2012 by and between the Board of Education ("Board") of the Newport-Mesa Unified School District ("District") and Dr. Frederick Navarro ("Superintendent"), which was further amended October 22, 2013 and July 8, 2014. Sections and provisions of said Agreement as amended not indicated below or altered are intended to remain in full force.

The parties hereto mutually agree to this Third Addendum to the employment Agreement which is deemed effective commencing on the date signed by the parties.

**REPLACE AND SUPERSEDE**

**1. EMPLOYMENT TERM:**

The Board of Education hereby extends the term of employment of Dr. Navarro as the District's Superintendent and Chief Executive Officer for four years effective July 1, 2015, and ending on June 30, 2019.

**4. COMPENSATION AND REIMBURSEMENTS**

**A. SALARY**

**1.** The Superintendent's annual salary shall be Two Hundred Seventy-Five Thousand, Nine Hundred and Forty-Five and No/100 Dollars (\$275,945.00) each fiscal year, (July 1 through June 30 of the following year) commencing with July 15, 2015.

*Existing Agreement*

**5.** Commencing July 1, 2013 the Superintendent shall be eligible for an annual merit/performance salary supplement determined and awarded at the Board of Education's discretion for the preceding school year. The supplement shall be based on the Superintendent reaching or exceeding mutually agreed upon goals/standards in his annual evaluation. Said merit/performance salary supplement shall not be added to the amount of the Superintendent's annual base salary in the subsequent fiscal year.

*Provision added by the Third Addendum*

Commencing July 1, 2015, the amount of the merit/performance salary supplement above shall take the form of an amount contributed to a Tax Sheltered Annuity (TSA) of the Superintendent's choice. The Superintendent shall

be eligible for a merit/performance salary supplement in accordance with the following provisions:

a) Intent

It is the intent of the Board to provide the Superintendent with a merit/performance salary supplement contingent upon the Board's evaluation of his performance in accordance with the Board's priorities as measured by annual Superintendent Performance Evaluation instrument for the prior year. The merit/salary supplement shall be separate and apart from salary creditable to the State Teachers Retirement System (STRS) and shall not be eligible for additional STRS contributions by the District or the Superintendent.

b) Formula

The merit/performance salary supplement for any given year shall be calculated and provided in accordance with the following formula:

(Performance Evaluation Range Percentage)

x

(Maximum Eligible Award Amount by Year)

c) Performance Evaluation Categories

The Superintendent Performance Evaluation is completed individually by each Board Member at the conclusion of the academic year. The results are tabulated by the Board President and the summary is expressed in accordance with the following structure:

Exceptional Performance	100-90 points
Proficient Performance	89- 80 points
Performance Meets Standard	79-70 points
Performance Needs Improvement	69 -60 points
Performance Fails to Meet Standard	59 – 0 points

For the purpose of awarding a merit/performance salary supplement only performance that meets or exceeds the standard established by the Board shall be considered. (70–100 points)

d) Award Amount Based on Performance Evaluation

The merit/performance salary supplement for a given year shall be awarded based upon the summary performance level as reflected in the Superintendent Performance Evaluation for the prior academic year on the following basis:

Exceptional Performance	100% of the Eligible Award Amount
Proficient Performance	75% of the Eligible Award Amount
Performance Meets Standard	50% of the Eligible Award Amount

e) Maximum Eligible Award Amount by Year

For each year this contract is in effect, there shall be a maximum Eligible Award Amount for the merit award established as follows:

2015 \$20,000 fixed

2016 50% of the IRS limitation amount on a TSA for the Superintendent as of 2015.

2017 65% of the IRS limitation amount on a TSA for the Superintendent as of 2015.

2018 75% of the IRS limitation amount on a TSA for the Superintendent as of 2015.

f) Letter of Award

In accordance with the provisions of this Addendum, subsequent to the Superintendent's Performance Evaluation each year and no later than November 1 there shall be a Letter of Award specifying the summary performance level and the amount of the merit/salary supplement for the respective year affirmed by the Board and provided to the Superintendent. The Letter of Award shall specify by name the summary performance level from Section A.5.c above as reflected in the Superintendent Performance Evaluation for the prior academic year, and the award amount as calculated in Section A.5.d and Section A.5.e above.

The Letter of Award shall be affirmed by the Board of Education by a vote in Closed Session and reported out in Open Session in a regularly scheduled meeting of the Board.

A copy of the letter shall be provided to the District's Chief Business Official. The Chief Business Official shall effect payment for the TSA designated by the Superintendent no later than thirty (30) days from receipt of both the Letter of Award and the Superintendent's application for a TSA.

## **7. TERMINATION OF EMPLOYMENT/AGREEMENT**

### **A. The Superintendent's Employment and this Agreement may be terminated by:**

**8. Unilateral termination by the Board.** The Board may, at its sole option, unilaterally terminate this Agreement and the Superintendent's employment without cause, upon giving the Superintendent thirty (30) days written notice of termination. If the Board elects to unilaterally terminate the Superintendent's employment, the Board may also place the Superintendent on paid administrative leave from his duties and responsibilities. Thereafter, and within thirty (30) days of the written termination notice, the District shall no longer pay the Superintendent's monthly salary; instead, the Superintendent shall be paid a one lump sum severance payment, less applicable taxes in an amount equal to the monthly base salary (Section 4.A.I.) multiplied by the number of months left on the unexpired term of the Agreement. The Superintendent shall also be paid for his accrued but unused vacation as of the date of the written termination notice. However, if the unexpired term of the Agreement is greater than 18 months, the maximum amount paid on the base salary shall be an amount equal to the monthly base salary (Section 4.A.I.) multiplied by 18. This unilateral termination shall terminate the Superintendent's employment with the District, including all salary and benefits, notwithstanding any period of time remaining on the term of this Agreement. In accordance with California Government Code section 53243.2: if this Agreement is unilaterally terminated, any severance pay related to the termination that the Superintendent may receive from the District shall be fully reimbursed to the District if the Superintendent is convicted of a crime involving an abuse of office or position. In such case, this statutorily required reimbursement shall be paid by the Superintendent to the District in full within thirty (30) days of such conviction, whether or not the conviction is appealed.

In accordance with Government Code 53243.2 the parties acknowledge regardless of the term of this Agreement, that if the agreement is terminated, any cash settlement related to the termination that the Superintendent may receive from the

Original Agreement  
Dated June 26, 2012

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## NEWPORT-MESA UNIFIED SCHOOL DISTRICT

### AGREEMENT FOR EMPLOYMENT OF SUPERINTENDENT

This Agreement is entered into this 26<sup>th</sup> day of June, 2012, between the Board of Education of the Newport-Mesa Unified School District and Dr. Frederick Navarro, who is employed as the District's Superintendent ("Dr. Navarro" or "the Superintendent").

It is mutually agreed as follows:

#### **1. EMPLOYMENT TERM.**

The Board of Education employs Dr. Frederick Navarro as the Superintendent of the Newport-Mesa Unified School District for a term of approximately three (3) years, commencing August 1, 2012, and ending June 30, 2015.

#### **2. SUPERINTENDENT'S DUTIES AND RESPONSIBILITIES.**

A. Dr. Navarro agrees that he shall at all times conscientiously perform the duties and responsibilities required by this Agreement, and by applicable state and federal laws and regulations, the rules and regulations of the State Board of Education, and the Board of Education's bylaws, policies, and regulations.

B. The Superintendent shall perform the duties and exercise the powers prescribed for superintendents of school districts by the Education Code, including Section 35035. The Superintendent shall be responsible for the administration of the District's schools and operations under the direction of the Board of Education. The Superintendent shall serve as the Secretary of the Board of Education and shall be the Chief Executive Officer of the Board of Education (or "Board"). The Superintendent shall be responsible for the direction, supervision, and assignment of teachers and other employees of the schools under his supervision; organize, reorganize, and arrange the administrative and supervisory staff, subject to the direction of the Board, including instruction and business affairs, as best serves the District; be responsible for the selection of all personnel, subject to the Board of Education's direction; from time to time suggest bylaws, policies, rules and regulations, including those pertaining to governance, deemed necessary and appropriate for the well-ordering of the District; and, in general, perform all duties incident to the position of Superintendent. Although the Board of Education retains ultimate power and authority over decisions affecting the District, the Board shall not unreasonably interfere with the day-to-day decision-making processes of the Superintendent. The Board of Education retains the right to approve, disapprove, question or modify, in its discretion and as it deems appropriate, the recommendations that the Superintendent makes to the Board of Education.

C. The Superintendent shall provide his exclusive professional services to the District during the period of this Agreement, except as otherwise provided in this Agreement. He shall attend all regular and special meetings of the Board of Education, including closed sessions where no conflict of interest exists, unless otherwise excused by the Board. He shall faithfully and diligently perform the duties and responsibilities regularly performed by superintendents of school districts in this state,

including active participation in community and civic organizations, and those required by the laws of the state. For his services to the District, the Superintendent shall accept as full payment the compensation provided in this Agreement.

The Superintendent's duties and responsibilities shall include:

1. Providing leadership, guidelines and direction to ensure that the laws and regulations, policies and procedures related to curriculum, instruction, pupil-personnel services, personnel, budget, business affairs and facilities are carried out;
2. Overseeing the District's compliance with applicable state and federal laws and regulations, the rules and regulations of the State Board of Education, and the bylaws, policies, and regulations of the Board of Education;
3. Recommending policies and policy changes to the Board, as well as drafting, amending, implementing, and reasonably interpreting policies, regulations, rules, and procedures as the Superintendent deems necessary for the District;
4. Providing timely data and analysis to the Board so that the Board can evaluate the District's achievements, including student performance;
5. Ensuring that the District's annual budget is aligned with the District's vision, mission and priorities to increase student outcomes;
6. Overseeing the preparation and promulgation of agendas, minutes, and other documents associated with the meetings and the business of the Board, in accordance with law;
7. Evaluating employees as provided by California law and the Board's policies.
8. Establishing and implementing a process for keeping the Board abreast of developments, initiatives and issues facing the District;
9. Working cooperatively with the Board as a liaison between the District and the community and assuming responsibility for a program of public relations for the Board and District and for creating and managing a cooperative working relationship between the District and the community;
10. Serving as a public school advocate and instructional leader for the District.
11. Such other duties and responsibilities as may be required by the Board from time to time.

**D.** The Superintendent shall not accept any outside employment or appointments that in any manner interferes with the performance of his duties and responsibilities as Superintendent. The Superintendent shall not accept any outside consulting or employment during the first two (2) years of this Agreement without Board approval. The Board recognizes, however, that certain outside employment may have a beneficial impact on the Superintendent's professional growth and may not interfere with the Superintendent's performance of his duties and responsibilities. Thus, the

Superintendent, subject to prior approval by the Board as to time commitment, may teach or serve as an adjunct professor or in some other capacity at the college or university level on a part-time basis. In addition, the Superintendent may accept appointments to foundations, boards or commissions, as long as such appointments do not provide compensation to the Superintendent (other than expense reimbursement) without Board approval, that do not interfere with the Superintendent's performance of his duties under this agreement. Upon prior approval by the Board of Education, he may serve as a consultant to other districts or educational agencies, lecture, engage in writing activities, and speaking engagements. The Superintendent may, at his option, and with the approval of the Board of Education, continue to draw a salary while engaged in the outside activity as described above. In such cases, honorariums or compensation paid to the Superintendent in connection with these activities shall be transferred to the District. If the Superintendent chooses to use vacation days to perform outside activities, he shall retain any honorarium and/or compensation paid. The Superintendent shall ensure that there is not a conflict of interest or perceived conflict of interest with regard to his duties to the District. In no event will the District be required to reimburse any expenses incurred by the Superintendent in the performance of outside compensated employment. The Superintendent further understands and agrees that any outside employment which may be allowed by this Agreement must be at all times subservient to his duties as Superintendent, and have been authorized or approved by the Board.

**3. BOARD AND SUPERINTENDENT'S WORKING RELATIONSHIP/  
COMMUNICATION.**

A. The Board of Education and the Superintendent agree that they shall work together in a spirit of cooperation and teamwork, and shall provide each other with periodic opportunity to discuss the Board/Superintendent relationships and communications.

B. The Superintendent will assess periodically, but no less than once annually, the organization of the District and recommend to the Board of Education in the form of a "State of the District" report any changes which, in his judgment, will improve the effectiveness of the District.

C. The Board of Education is a collective body and each Board member recognizes that his/her power as a Board member is derived from the collective deliberation and action of the Board of Education as a whole in a duly constituted meeting.

D. It is through Board of Education policy, official action or consensus of the Board that the Board members give direction to the Superintendent.

E. The Superintendent and the Board of Education, individually and collectively, will refer promptly to each other all substantial criticisms, complaints, and suggestions pertaining to any aspect of the operation of the District for consideration and appropriate action, if necessary.

F. The Board of Education shall hold the Superintendent accountable to manage the District consistent with approved policies which establish the Board's expectancies and what it expects the District to accomplish.

G. The Board of Education shall provide the Superintendent with periodic opportunities to discuss Board-Superintendent responsibilities and working relationships as they relate to the Board's productivity, the effectiveness of the Superintendent's leadership and achievement of the goals of the



District. As a part of this process, when it is deemed necessary by either the Board of Education or the Superintendent, a mutually-acceptable outside advisor may be retained to facilitate this process.

#### **4. COMPENSATION AND REIMBURSEMENTS.**

##### **A. SALARY.**

1. The Superintendent's annual base salary shall be Two Hundred Thirty Thousand and No/100 Dollars (\$230,000.00) each fiscal year (July 1 through June 30 of the following year).

2. All portions of the salary amount shall be payable in 12 equal monthly installments on the last working day of each month with proration for a period of less than a full month of service during the term of this Agreement.

3. In the event of District budget adjustments, the Superintendent agrees to the same percentage decrease, if any, in salary and/or benefits as applied to other District management personnel.

4. In recognition of the Superintendent's earned doctorate degree, the Superintendent shall be paid additional compensation in the amount of Eight Hundred Dollars (\$800.00) per month during the term of this Agreement.

5. Commencing July 1, 2013, the Superintendent shall be eligible for an annual merit/performance salary supplement determined and awarded at the Board of Education's discretion for the preceding school year. The supplement shall be based on the Superintendent reaching or exceeding mutually agreed upon goals/standards in his annual evaluation. Said merit/performance salary supplement shall not be added to the amount of the Superintendent's annual base salary in the subsequent fiscal year.

6. The Board of Education reserves the right to adjust the salary payable to the Superintendent on any date, including back to the commencement of the then-current fiscal year that is mutually agreed to between the parties. Any adjustment in salary during the term of this Agreement shall be approved or ratified by the Board of Education in open session at a regular meeting of the Board of Education and shall not operate as an extension of this Agreement.

##### **B. PROFESSIONAL SCHEDULE, VACATION AND SICK LEAVE.**

1. The Superintendent shall be required to render 12 months of full and regular service to the District during each annual period covered by this Agreement, inclusive of vacation, sick leave, and other permissible absences.

2. The parties recognize that the demands of the Superintendent, the key management position of the District, will require him to average more than eight (8) hours a day and/or more than forty (40) hours per week. In that respect, the Board hereby certifies that the duties, need for the flexibility of hours, salary, benefit structure, and authority of the position are of such a nature that the position of Superintendent is set apart from all other positions in the District.

3. The Superintendent shall, during the term of this Agreement, earn and accrue 22 days of paid vacation per year, exclusive of holidays defined in sections 37220 and 37221 of the California Education Code, and any additional local holidays granted by the Board of Education to 12-month management employees of the District. A maximum of 10 days of earned vacation may be carried over from one year to the next. Accrual shall cease at 22 days, and shall not resume until the number of earned and unused vacation days falls below 32 days. In the event of termination of this Agreement, the Superintendent shall be entitled to compensation for unused vacation at a salary rate effective during the school year in which the vacation credit was earned. In no case shall more than 32 days of unused vacation be paid at the expiration or termination of this Agreement.

4. Vacation shall be used so as not to interfere with the operations of the District. To facilitate the benefits of taking vacation the Board encourages the Superintendent to use at least ten (10) vacation days during the year in which they are earned.

5. The Superintendent shall continue to earn and accrue one day of sick leave pay for each full month of service rendered. In addition, sick leave shall be accrued and transferred in accordance with the California Education Code and State Board of Education policy.

#### **C. NOTIFICATION OF ABSENCE FROM WORK.**

1. When the Superintendent intends to be absent from the District for three (3) or more consecutive days for any reason, he shall provide the Board of Education with at least five (5) work days notice prior to the absence, except in the event of a medical, personal or family emergency. In such case, the Board President shall be notified as soon as possible.

2. In the event the Superintendent is hospitalized for non-emergency purposes, the Superintendent shall provide the Board of Education with at least five (5) work days notice prior to the hospitalization, except in the event of a medical emergency. In such case, the Board President shall be notified as soon as possible.

#### **D. HEALTH, WELFARE, AND OTHER BENEFITS.**

1. The Superintendent shall be eligible for the same fringe benefits, including group health insurance, disability insurance, and life insurance coverage, which are granted to the District's other management employees according to the salary level or other basis provided by the Board of Education in connection with such benefits, with the expense for premiums to be shared by the Superintendent and the District in the same proportion as with other management employees. The provision of such benefits to Superintendent shall be at his personal election and he authorizes his share of the premiums and expenses for any such benefits selected to be deducted periodically in accordance with the District's regular policies and procedures from the salary payments that he receives from the District.

2. Except as otherwise specified within this Agreement, the Superintendent shall be entitled to all other benefits and leaves afforded other District administrators.

3. The Superintendent shall undergo a comprehensive medical examination annually during his service under this Agreement. Any expenses beyond those paid by the Superintendent's medical insurance shall be borne by the District for an amount not to exceed

\$500.00 per medical examination. A written statement from the licensed physician(s) certifying that the Superintendent is medically fit to perform his duties and responsibilities (without any medical details) shall be sent to the Board of Education for review in closed session and filed in the Superintendent's personnel file after each examination. All records associated with such examinations shall be treated as confidential medical records.

**E. ADMINISTRATIVE SUPPORT.**

1. The Superintendent shall be paid an automobile allowance of Seven Hundred Fifty Dollars (\$750.00) per month for the use of his personal vehicle for District business purposes. The compensation provision of this paragraph shall be considered a part of total compensation for CalSTRS purposes to the extent permitted or required by law.

The allowance shall cover all travel within Orange County. Automobile travel outside the County shall be reimbursed to the Superintendent at the rate per mile paid to other District employees, except that in no case shall the mileage reimbursement for any one trip exceed the cost of round trip coach airfare.

2. The District shall provide the Superintendent with such facilities, equipment, supplies, and clerical assistance as appropriate to the Superintendent's position and necessary for the adequate performance of the Superintendent's duties. The District shall provide the Superintendent, at District expense, with the appropriate technology that will assist the Superintendent in the performance of his job duties and responsibilities. These are to include, by way of example but not by way of limitation, a laptop computer, copier/printer/scanner, fax machine, internet access for his home office. The Superintendent shall have the right to use any District-provided computers, peripherals, communications devices, and internet access to conduct personal business as long as such personal use does not interfere with the performance of his duties under this Agreement. All such equipment and appliances shall remain the property of the District and must be used and employed in strict compliance with District policies applicable to their use.

3. The Superintendent shall receive a monthly allowance of One Hundred Dollars (\$100) as reimbursement for the use of his personal electronic communication device in the performance of his duties.

**F. PROFESSIONAL ACTIVITIES AND DEVELOPMENT.**

1. The Superintendent is encouraged and expected to represent the District at a wide variety of meetings and community functions.

2. The Superintendent shall be reimbursed for out-of-pocket costs involved in such meetings and community functions, including meal expenses and appropriate dues/membership fees. The Superintendent may instead provide payment for costs involved in such meetings and community functions with a credit card provided for such purpose by the District, as long as original receipts are returned to the District. The meal expense involved in such meetings and community functions shall not exceed the amounts permitted by District claim/reimbursement policies and procedures applicable to District employees generally.

3. In the event that the meeting is in the nature of a banquet, awards ceremony, recognition event, or similar meeting, or meeting with individuals (other than District staff) who are in a position to assist the District in financial or other matters, or if the expense is being incurred in a city where the reasonable cost of appropriate meals is significantly higher than authorized by District claim/reimbursement policies and procedures, then the Superintendent shall be reimbursed the full costs associated with his/her attendance at such meeting.

4. For any meeting or community events functions or work-related expenses which are not otherwise provided for in this Section, the Superintendent is authorized to be reimbursed in accordance with the usual claim/reimbursement policies and procedures applicable to employees of the District generally. The Superintendent may pay for such expenses by using a District provided credit card, as long as original receipts are provided. The Board reserves the right to regularly review these and any other claims/reimbursements made to the Superintendent.

5. The Board of Education encourages the continuing professional development of the Superintendent through participation in local, state and national conventions, seminars, conferences, or other functions intended for the purpose of increasing his knowledge and leadership ability. The Superintendent will keep abreast of developments in the field of education, and the Board of Education agrees to pay his actual and necessary expenses in attending meetings, seminars, workshops, and other programs for this purpose so long as these expenses have been budgeted and received prior approval by the Board of Education. In case of unforeseen necessity to attend a conference or meeting, the Superintendent will notify the President of the Board of Education and the Superintendent's expenses will be ratified at the next appropriate meeting of the Board of Education. Such reimbursements shall be made in accordance with the terms of applicable Board policies, regulations, and procedures. Time spent by the Superintendent attending such meetings and conferences on behalf of the District shall not be considered vacation or personal time.

#### **G. MEMBERSHIP DUES, FEES AND RELATED COSTS.**

The Superintendent shall endeavor to maintain and improve his professional competency by all means, including joining and participating in appropriate local, state, and national professional, educational, business, and service organizations and their activities, as well as workshops, visitations, and meetings. The Superintendent shall be reimbursed for all such membership fees, dues, and related costs for each organization approved by the Board of Education.

#### **5. OTHER CONDITIONS OF EMPLOYMENT.**

A. Prior to August 1, 2012, the Superintendent shall be compensated for services performed in the District between July 1, 2012 and August 1, 2012, regarding transition into his position in the District. The Superintendent shall be paid at the rate of \_\_\_\_\_ (\$1,069,642) for each full day or \_\_\_\_\_ (\$534,821) for each half day for such transition services, not to exceed five (5) days.

B. Prior to employment, the Superintendent shall undergo a complete medical examination by a physician licensed to practice in California. A written statement from the licensed physician certifying that the Superintendent is able to perform his duties and responsibilities shall be communicated by the Superintendent to the Board. The Board's offer of employment is conditionally made subject to receipt of the medical certificate that the Superintendent is medically fit to perform the

duties and responsibilities of the position of Superintendent. The Board shall assume the cost for this medical examination, said cost not to exceed Five Hundred Dollars (\$500.00). All records associated with such examination shall be confidential. The Superintendent represents and warrants that his current physical and mental condition shall not prevent him from devoting his full time skills, labor and attention to performing satisfactorily all of the duties and responsibilities of the position of the District's Superintendent and Chief Executive Officer. Furthermore, the Superintendent represents and warrants that his current financial condition shall not prevent him from devoting his full time skills, labor and attention to performing satisfactorily all of the duties and responsibilities of the position of the District's Superintendent and Chief Executive Officer.

C. The Superintendent shall not, directly or indirectly, accept any payment or gratuity or favor or thing of any value from any vendor or business which does business with the District or seeks to do so.

D. The Superintendent shall notify the President of the Board in the event he makes application, knowingly allows his name to be placed in competition or is knowingly under consideration as a candidate for another full-time position in any other school district or agency. The President of the Board shall keep such notification confidential unless the Superintendent waives confidentiality in writing or the Superintendent makes a public statement about his candidacy.

E. In the event the Superintendent is aware that he has become a final candidate (defined as four or fewer candidates under consideration) for such position, he shall immediately notify all members of the Board of Education. Such notification shall also be considered confidential, unless the Superintendent waives confidentiality in writing or makes a public statement about his candidacy. The information shall remain confidential until such time as the Superintendent is scheduled to participate in a final interview at the other school district or agency. If the Superintendent is scheduled to participate in a final interview then either the Superintendent or members of the Board of Education may publicly announce or respond publicly that the Superintendent is a candidate for employment elsewhere with the particular district or agency.

F. If, after serving proper notice as required above, and prior to a final interview, the Superintendent withdraws from the process or is no longer a candidate under consideration by the other school district or agency then all information shall remain confidential by all parties unless the Superintendent waives confidentiality in writing or makes a public statement about his involvement. The Superintendent is also aware that this Agreement requires 30 days written notice to the Board of Education prior to resigning employment with the District, unless a shorter time is mutually agreed upon between the parties.

G. The Superintendent represents to the District and its Board that he possesses all qualifications, certificates, and credentials required by California law to serve as the Superintendent and that he will maintain them in good standing while serving as the District's Superintendent. Superintendent shall, as a condition to starting his employment with the District, present to the District for its records written proof of such requirements having been met. If the status of such good standing changes during his service as Superintendent, he will forthwith advise the Board and such change shall be considered as conduct sufficient to deny the severance payment to the Superintendent under Section 7.A.8.

## 6. EVALUATION.

A. The Board and the Superintendent shall develop mutually agreeable criteria and processes for the annual evaluation of the Superintendent's performance in accordance with the following guidelines to the extent practicable.

B. The evaluation of the Superintendent shall at all times be conducted in closed session and shall be considered confidential to the extent permitted by law and shall be conducted with input from the Superintendent. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel, nor does it prevent the Board within the terms of the Ralph M. Brown Act from meeting in closed session without the Superintendent present to discuss his evaluation.

C. The Board and the Superintendent will endeavor to meet at least quarterly during the course of the year to discuss the working relationship between the Superintendent and the Board and the Superintendent's performance, progress towards meeting the mutually agreed-upon goals and objectives and agreed-upon modifications to those goals and objectives.

D. By no later than September 30, 2012, the Board and Superintendent will meet to discuss and agree upon goals and objectives for the purposes of the evaluation of the Superintendent's performance for the 2012-13 school year. Thereafter, on an annual basis no earlier than May 1 and no later than on or about July 31, the Board and the Superintendent will meet and agree upon goals and objectives for his evaluation for the succeeding school year.

E. In addition, by June 30 of each year of this Agreement, starting with 2013, the Board will evaluate the performance of the Superintendent using an evaluation form and process agreed to by the Board and the Superintendent. For this purpose, no later than on or about September 30 of each year of this Agreement, the Superintendent shall submit to the Board a recommended evaluation form and process. By no later than on or about October 31 of each school year, the Board shall meet with the Superintendent to discuss the recommended evaluation form and process and shall agree on the evaluation form and process for that school year. In the event that an agreement as to the evaluation form is not reached between the Superintendent and the Board, the Board will adopt an evaluation format taking the Superintendent's recommendations under advisement.

F. Using the agreed upon evaluation form and process, the Superintendent, prior to his evaluation, shall provide the Board with a written self-appraisal of his accomplishments and attainment of the agreed-upon annual goals and objectives. After the Board receives the Superintendent's self-appraisal, the Board and Superintendent shall meet in closed session or sessions to discuss the written performance evaluation. Based on the closed session or sessions, the Board President, or such other member of the Board as may be designated by the Board, shall have overall responsibility for completing the agreed-upon evaluation form on behalf of the Board, subject to the Board's approval. By June 30 of each year of this Agreement, starting with 2013, the Board shall provide the Superintendent with a copy of the completed evaluation form. The Superintendent shall be given the opportunity to respond to the Board's written evaluation either orally during a closed session or in writing. By mutual consent, the June 30 deadline for completing the Superintendent's evaluation may be extended.

**7. TERMINATION OF EMPLOYMENT/AGREEMENT.**

**A. The Superintendent's employment and this Agreement may be terminated by:**

- 1. Mutual agreement of the parties.**
- 2. Retirement of the Superintendent.**
- 3. Death of the Superintendent.**
- 4. Expiration of the term of the Agreement.**

**5. Disability of the Superintendent.** In the event the Superintendent is unable to perform the essential functions of his position (with or without reasonable accommodations) due to illness or other disability for a period of four (4) consecutive months; thereafter, this Agreement may be terminated by the Board following the medical examination by a licensed physician selected by the Board and certification by the examining physician that the Superintendent is no longer capable of performing the job (with or without reasonable accommodation), as provided for in Section 7.A.5. The Superintendent will be entitled to receive (a) the payments prescribed under any disability benefit plan that may be in effect for District administrators and (b) salary, reimbursements or other payments then due and owing. In addition, the Superintendent shall be entitled to health insurance coverage, which shall be provided by the Board at no cost to the Superintendent for one additional year beyond the date of termination. It is understood that nothing in this paragraph shall constitute a waiver of any rights that the Superintendent may have under applicable workers' compensation laws, provisions of the American with Disabilities Act or provisions of state statutes of similar effect;

**6. Unilateral termination by the Superintendent.** The Superintendent may, at his option, unilaterally terminate this Agreement by giving written notice on or before May 15 of any year that he will not fulfill the obligation of his Agreement during the succeeding fiscal year, or after the beginning of the fiscal year, by giving at least forty-five (45) days written notice to the Board that he wishes to be relieved of his Agreement for the remainder of the period of the Agreement as of a specific date;

**7. Termination for Cause by the Board.** This Agreement may be terminated by the Board of Education for Dr. Navarro's failure or refusal to satisfactorily perform any of the Superintendent's duties or responsibilities, or for any of the causes listed in Education Code section 44932. Pending its decision, the Board may place the Superintendent on paid administrative leave from his duties and responsibilities. Before terminating this Agreement for cause, the Board of Education shall provide the Superintendent written notice of its intention with a statement of the acts or omissions which give rise to the proposed termination. Dr. Navarro shall then be entitled to meet with the Board in closed session to be heard by way of explanation or defense. This meeting shall not be considered an evidentiary hearing and no witnesses shall be called. The Superintendent shall have the right to be represented by counsel at the Superintendent's own expense. The Board shall notify the Superintendent in writing of its decision and the reasons therefor. Any decision to terminate for cause shall terminate the Superintendent's employment with the District, including all salary and benefits, notwithstanding any period of time remaining on the term of this Agreement.

The Superintendent's accrued, but unused vacation up to the effective date of his termination, shall be paid to the Superintendent.

**8. Unilateral termination by the Board.** The Board may, at its sole option, unilaterally terminate this Agreement and the Superintendent's employment without cause, upon giving the Superintendent thirty (30) days written notice of termination. If the Board elects to unilaterally terminate the Superintendent's employment, the Board may also place the Superintendent on paid administrative leave from his duties and responsibilities. Thereafter, and within thirty (30) days of the written termination notice, the District shall no longer pay the Superintendent's monthly salary; instead, the Superintendent shall be paid a one lump sum severance payment, less applicable taxes in an amount equal to the monthly base salary (Section 4.A.1.) multiplied by the number of months left on the unexpired term of the Agreement. The Superintendent shall also be paid for his accrued but unused vacation as of the date of the written termination notice. However, if the unexpired term of the Agreement is greater than 12 months, the maximum amount paid on the base salary shall be an amount equal to the monthly base salary (Section 4.A.1.) multiplied by 12. This unilateral termination shall terminate the Superintendent's employment with the District, including all salary and benefits, notwithstanding any period of time remaining on the term of this Agreement. In accordance with California Government Code section 53243.2: if this Agreement is unilaterally terminated, any severance pay related to the termination that the Superintendent may receive from the District shall be fully reimbursed to the District if the Superintendent is convicted of a crime involving an abuse of office or position. In such case, this statutorily required reimbursement shall be paid by the Superintendent to the District in full within thirty (30) days of such conviction, whether or not the conviction is appealed.

#### **8. NOTICE OF NON-RENEWAL AND EXTENSION OF THIS AGREEMENT.**

**A.** It is the obligation of the Superintendent to notify the members of the Board of Education about the provisions of Section 8 by providing the members of the Board of Education with a copy of the Superintendent's Agreement, and any amendments thereto by no later than December 31 of the last year of this Agreement.

**B.** If the Board of Education determines not to renew this Agreement beyond its term, including any extension thereof, the Superintendent shall be given at least sixty (60) days advance written notice before the end of the term of this Agreement, including any extension thereof. Consequently, should notice of non-renewal be given, then at the conclusion of the term of this Agreement, including any extension thereof, all of the obligations of the District and the Board of Education to employ Dr. Navarro shall cease.

**C.** In the event such notice is not given by the Board to the Superintendent, the Agreement shall be automatically renewed for one additional year under the same provisions.

#### **9. DEFENSE AND INDEMNIFICATION.**

In accordance with the provisions of California Government Code 995, the District shall defend, hold harmless, and indemnify the Superintendent from any and all demands, claims, suits, actions and legal proceedings brought against the Superintendent in his individual capacity, or in his official capacity as agent and employee of the District, provided the incident giving rise to any such demand, claim, suit, action or legal proceeding arose while the Superintendent was acting



within the scope and course of his employment; and provided further, that such liability coverage is within the authority of the District to provide under California law. The District shall provide indemnity from liability as set forth above for all claims made and occurrences throughout the term of this Agreement and any extensions thereof and after his employment with the District ends. In no case will individual Board members be considered personally liable for indemnifying the Superintendent against such demands, claims, suits, actions and legal proceedings.

If in the opinion of District's legal counsel a conflict exists with regards to providing a defense to Superintendent and/or the District does not provide and assign separate counsel to represent Superintendent, then Superintendent may engage separate legal counsel for which the District shall indemnify Superintendent for costs and legal fees to such items for which the District has agreed to provide indemnification as stated above. Those costs and legal fees shall not exceed the rates and amounts paid by the District with respect to the defense of the District in the pending litigation, provided that such legal costs and fees are not recoverable by Superintendent under any personal insurance or professional association membership.

## **10. RESOLUTION OF DISPUTES, BINDING ARBITRATION.**

Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Orange County, California, or another location agreed to by the parties. The arbitration shall be administered by ADR Services, Inc. ("ADR Services"). The arbitration shall be held before a sole arbitrator and shall be binding, and with no right of appeal.

### **A. SCOPE OF THE AGREEMENT.**

The District and the Superintendent mutually agree and expressly intend that this arbitration clause apply to any and all controversies, disputes, or claims arising out of or relating to this Agreement including, but are not limited to, claims for breach of any contract or covenant (express or implied); tort claims; claims for discrimination (including, but not limited to, race, sex, sexual harassment, or any type of unlawful harassment, religion, national origin, age, marital status, medical condition, disability or sexual orientation); claims for wrongful termination in violation of public policy; and claims for violation of any federal, state, or other governmental law, statute, regulation or ordinance, including, but not limited to, all claims arising under Title VII of the Civil Rights Act of 1969, as amended, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the California Fair Employment & Housing Act, applicable provisions of State law, including the California Education Code, Government Code, Labor Code, Title 5 of the California Administrative Code, or District bylaws, policies, rules and regulations.

Claims the Superintendent may have for workers' compensation benefits or unemployment compensation are not covered by this Agreement. Notwithstanding the fact that the Superintendent is not required to arbitrate such claims, he may, if he so chooses, submit wage and hour claims to binding arbitration pursuant to this Agreement.

**B. SELECTION OF THE ARBITRATOR AND APPLICABLE RULES.**

The arbitration shall be conducted pursuant to the ADR Services, Inc. Standard Arbitration Rules. The arbitration shall be commenced by filing a demand for arbitration with the administrator of ADR Services and serving the demand on the opposing party. The responding party may file a response and/or a counter-claim within fifteen (15) calendar days. If no response is filed, all the allegations of the demand shall be deemed denied.

Judgment on any Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

The District and Superintendent shall select an arbitrator by mutual agreement through ADR Services within thirty (30) calendar days of the date the demand for arbitration is filed.

The District and the Superintendent shall request from ADR Services, Inc. a list of at least ten (10) randomly selected arbitrators who are retired judges from the State of California with employment law experience. Each party shall independently strike names from the list until only five remain, then the Superintendent first, and then the District, will alternately strike names from the remaining names, if necessary, until only one name remains.

**C. AUTHORITY AND ROLE OF THE ARBITRATOR.**

The arbitrator shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of this Agreement, including but not limited to determining the scope of reasonable discovery in the arbitration proceeding, and any claim that all or any part of this Agreement is void or voidable.

The arbitrator shall not apply the applicable statute of limitations to any claim, but rather, shall apply the one-year claims requirement in accordance with paragraph 10.D. of this Agreement.

The arbitrator shall issue a written opinion, including findings, and award, which shall be signed and dated. The arbitrator shall be permitted to award those remedies that are available under applicable law. The arbitrator's decision regarding the claims shall be final and binding upon the parties, subject only to the limited judicial review authorized by law.

**D. COMMENCEMENT OF ARBITRATION; ONE YEAR LIMIT ON CLAIMS.**

It is mutually agreed that the aggrieved party must give written notice of any claim to the other party within one year of the date that the aggrieved party knew or should have known that he or it possessed a claim against the other party. Each party to this agreement knowingly and voluntarily waives the application or benefit of any and all statutes of limitations of longer duration than one year.

It is mutually agreed that such written notice shall identify and describe the nature of all claims asserted and detail the facts upon which such claims are based. The notice shall be sent to the other party by certified or registered mail, return receipt requested.

The Superintendent shall send written notice of any and all claims under the Agreement against the District, or its officers, employees or agents, to the President of the Board of Education, Newport-Mesa Unified School District, 2985 Bear Street, Building A, Costa Mesa, California, 92626.

The District shall send the Superintendent written notice of any and all claims under the Agreement against the Superintendent at the last address recorded in his personnel file or such other address as the Superintendent may provide to the District from time to time following the date of this Agreement by a writing specifying that it is the address for notice under this Agreement.

**E. CHOICE OF LAW.**

Except as otherwise specifically stated herein, this Agreement and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of California, exclusive of conflict or choice of law rules.

**F. FEES AND COSTS; AWARD MAY BE MADE TO PREVAILING PARTY.**

The costs of the arbitration, including the arbitrator's fees, shall be paid by the District. The District and the Superintendent shall bear their own attorney fees incurred in the proceeding. However, should an arbitration hearing take place and a decision be rendered by the arbitrator, the arbitrator may award to the prevailing party, if any, the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration.

The arbitrator shall utilize California law pertaining to cost and fee awards that would otherwise be applicable to the subject matter of the arbitration in determining who is the prevailing party, the propriety of the award, and the amount of the award.

**G. CONFIDENTIALITY.**

The parties shall maintain the confidential nature of the arbitration proceeding and the Award, including the Hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an Award or its enforcement, or unless otherwise required by law or judicial decision.

**H. ACKNOWLEDGMENT OF JURY TRIAL WAIVER.**

The Superintendent understands that, by this Agreement, he is waiving his right to have a claim adjudicated by a court or jury. Any party may be represented by an attorney or other representative selected by the party.

**I. REQUIREMENTS FOR MODIFICATION OR REVOCATION.**

This Agreement to arbitrate shall survive the termination of the Superintendent's employment with the District. It can only be revoked or modified by a writing signed by the parties that specifically states intent to revoke or modify this Agreement.

**J. SAVINGS CLAUSE.**

If any provision of Section 10 is 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.

**11. RESIGNATION.**

The Superintendent shall not resign from employment with the District except upon 30 days written notice to the Board of Education, unless a shorter time is mutually agreed upon between the parties.

**12. BINDING EFFECT.**

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

**13. MODIFICATION.**

This Agreement contains all the understandings and agreements between the parties. Any modifications or amendments of any of the terms and conditions of this Agreement must be expressly made by the parties hereto in writing, subject to Board approval.

**14. SEVERABILITY.**

If any provisions of this Agreement are held to be contrary to law by formal 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.

**15. CONFLICT OF INTEREST.**

The Superintendent acknowledges that he has read and understands the conflict of interest statutes of the State of California and agrees to comply with the statutes and any other state laws or Board policies relating to conflicts of interest.

**16. BOARD APPROVAL.**

The effectiveness of this Agreement shall be contingent upon approval by District's Board in open session at a regular Board meeting as required by law.

**17. GOVERNING LAW.**

This Agreement 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.

**18. WAIVER OF BREACH.**

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.

**19. CONSTRUCTION AND HEADINGS.**

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 and headings of this Agreement have been inserted for convenience or references only and shall not affect the interpretation of any of the provisions of this Agreement.

**20. NO ASSIGNMENT.**

Since this Agreement is for the employment of the Superintendent and his specific knowledge and talents, both parties acknowledge that neither party shall assign this Agreement or any interests therein. Any such attempt to assign this Agreement is null, void, and of no effect.

**21. FURTHER ASSURANCES.**

Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent and agreements of the parties hereto.

**22. RETURN OF DISTRICT PROPERTY/EQUIPMENT.**

At such time as the Superintendent leaves employment with the District, he shall return all District property and equipment entrusted to him to the District's Chief Financial Officer.

**23. COMPLETE AGREEMENT.**

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


**24. 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 representative, 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 the Superintendent and legal counsel for the Board.

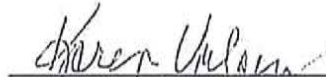
IN WITNESS WHEREOF, the parties have duly approved and executed this Agreement.


Approved this 26 day of June, 2012.

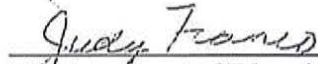
**Board of Education  
Newport-Mesa-Unified School District**


  
\_\_\_\_\_  
President, Board of Education

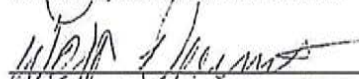
  
\_\_\_\_\_  
Vice-President, Board of Education

  
\_\_\_\_\_  
Clerk, Board of Education

  
\_\_\_\_\_  
Member, Board of Education

  
\_\_\_\_\_  
Member, Board of Education

  
\_\_\_\_\_  
Member, Board of Education

  
\_\_\_\_\_  
Member, Board of Education

**Acceptance of Offer**

I am pleased to enter into this Agreement for employment as the Superintendent of the Newport-Mesa Unified School District.

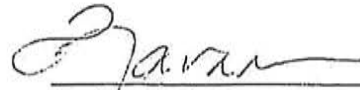
I acknowledge that I have carefully read this Agreement and have had sufficient time to review it, that I understand its contents and consequences, that I have been provided the opportunity to consult with an attorney, that the only representations, promises, or agreements made to me are those stated in this Agreement, and that I have not relied on any other representations, promises, or agreements of any kind in connection with my decision to enter into this Agreement.

I represent and warrant that my current physical and mental condition shall not prevent me from devoting my full time skills, labor and attention to performing satisfactorily all of the duties and responsibilities of the position of the District's Superintendent and Chief Executive Officer. In addition, I represent and warrant that my current financial condition shall not prevent me from

devoting my full time skills, labor and attention to performing satisfactorily all of the duties and responsibilities of the position of the District's Superintendent and Chief Executive Officer.

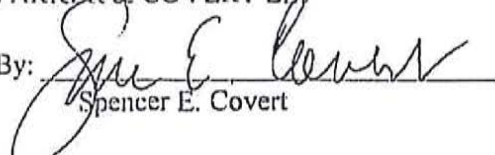
I have not entered into and am not subject to a contract of employment with any other school district or any other employer that will in any way conflict with the terms of this Agreement.

Date: June 21, 2012

  
\_\_\_\_\_  
Dr. Frederick Navarro

Approved as to form on behalf of the  
Newport-Mesa Unified School District:

PARKER & COVERT LLP

By:   
\_\_\_\_\_  
Spencer E. Covert

Date: June 21, 2012

District shall be fully reimbursed to the District within 30 days if the Superintendent is convicted of a crime involving an abuse of his office or position.

**IN WITNESS WHEREOF**, the parties hereto have duly approved and executed this Agreement on the day and year above written.

BOARD OF EDUCATION OF THE  
NEWPORT-MESA UNIFIED SCHOOL DISTRICT

DATE: 10-27 \_\_, 2015

BY: Martha Fluor  
Martha Fluor  
Board President

ACCEPTANCE

I hereby accept the foregoing Addendum to the Agreement for Employment of Superintendent and agree to continue to faithfully perform all of the duties and responsibilities of employment as provided for in the Agreement and in this Addendum as the Superintendent, Chief Executive Officer, and Secretary to the Board of Education of the Newport-Mesa Unified School District.

DATE: 10-27 \_\_, 2015

BY: Dr. Frederick Navarro  
Dr. Frederick Navarro

APPROVED AS TO FORM:

PARKER & COVERT LLP

DATE: 11-3, 2015

BY: Spencer E. Covert  
Spencer E. Covert

Attorneys for the  
Newport-Mesa Unified School District





Attachment I  
**Newport Mesa Unified School District**  
**Superintendent Contract**  
**Salary Statement**  
**2015-16**  
 for

Fred Navarro
**Current Year**  
2015-16

Date of Board Approval This Action:	October 27, 2015
Date of Authorized Contract:	June 26, 2012
Salary Calculation to take effect as of:	July 15, 2015

Article	Salary	value	
4	Salary	base	\$ 275,945.00
Operational Allowance		per/mo	
4	Transportation Allowance	\$ 750	\$ 9,000.00
4	Communications Allowance	\$ 100	\$ 1,200.00
	<b>TOTAL</b>		<b>\$ 286,145.00</b>

Superintendent   
 Fred Navarro

President of the Board of Education   
 Martha Fluor

This Salary Statement is a reflection of the financial terms of the authorized contract for the Superintendent with the Newport-Mesa Unified School District as of the dates indicated above, and is acknowledged as such by the above signatures.