

## **SUPERINTENDENT CONTRACT BETWEEN FORT BEND INDEPENDENT SCHOOL DISTRICT AND DR. MARCELL SMITH**

The Board of Trustees of the Fort Bend Independent School District (the "Board") and Dr. Marcell Smith (the "Superintendent"), in accordance with Texas Education Code, §11.201, and as recorded in the official minutes of the meeting of the Board held on the 8th day of January 2024, agree that the Board has, and does, employ Dr. Smith to serve as Superintendent of Schools of the Fort Bend Independent School District (the "District"), under the following terms, effective January 22, 2024:

### **1. TERM**

1.1 The District will employ the Superintendent on a twelve-month basis beginning January 22, 2024, and ending on January 22, 2029. The Board shall annually consider whether, in its sole discretion, it wishes to offer any one-year extension of the Contract term. The Superintendent does not have a property interest, or any other legal interest or expectation, in any extension of the Contract term.

### **2. EMPLOYMENT**

2.1 **Duties.** The Superintendent shall faithfully perform the duties of Superintendent as prescribed in the job description and as may be lawfully assigned by the Board, and shall comply with all lawful Board directives, state and federal laws, and lawful District policies, rules, and regulations as they exist or may hereinafter be adopted or amended, including, but not limited to, the monitoring system established by the Board. Except as provided in this Contract, the Superintendent agrees to devote his time and energy to the performance of these duties in a manner that is satisfactory to the Board.

2.2 **Professional/Civic Activities.** During the Superintendent's employment with the District, the Superintendent shall attend and participate in appropriate professional meetings at the local, state, and national levels, and upon the written approval of the Board President, shall be reimbursed by the District for the reasonable expenses for such attendance, including membership fees and dues of the Superintendent in such organizations, from funds budgeted by the Board for that purpose. The Superintendent may hold offices or accept responsibilities in these professional organizations, provided that such meetings, offices and/or responsibilities do not interfere with the performance of his duties as Superintendent. Subject to the Board President's written approval, the District shall also reimburse the Superintendent for dues and expenses for local civic clubs or organizations, if the District is not already a member.

2.3 **Writing, Teaching, and Speaking Activities.** The Superintendent shall be permitted to undertake writing, teaching, and speaking activities with prior notice to and consent of the Board President before undertaking any such activities, provided that these activities do not interfere with the performance of his duties as Superintendent. The Superintendent shall be allowed to retain any compensation received from these writing,

teaching, and speaking activities. The Superintendent shall not undertake any consulting activities outside of the District.

**2.4 Professional Certification and Records.** This Contract is conditioned on the Superintendent's obtaining and providing to the Board valid and appropriate evidence of certification, or other waiver, permit or authorization to act as a superintendent in the state of Texas as prescribed by the laws of the state of Texas and the rules and regulations of the Texas Education Agency and/or the State Board for Educator Certification. The Superintendent must also file any other records required by the District for employment and/or payroll purposes. Failure to provide and maintain necessary certification, waiver, permit or authorization shall render this Contract void. Any misrepresentation in the records shall be grounds for termination of this Contract.

**2.5 Reassignment.** The District cannot reassign the Superintendent from the position of Superintendent without his written consent.

**2.6 Employment of Staff.** Subject to the District's salary schedule and the Board-approved budget, the Superintendent shall have the sole authority to select, employ and terminate all noncontract employees in accordance with District Board Policy DC (LOCAL) while the Board shall have the authority to employ, terminate and non-renew all staff covered by Subchapters C, D, E, F and G, Chapter 21 of the Texas Education Code and any other employees employed by contract that are not covered by Chapter 21 of the Texas Education Code. The Superintendent's authority shall additionally include the right to organize, reorganize, arrange, direct, assign, reassign and transfer all staff; however, the Superintendent shall inform the Board of any assignment, reassignment or transfer of senior administrative staff (deputy superintendent, associate superintendent, assistant superintendent, general counsel and their equivalents) prior to publicly announcing the proposed employment action.

**2.7. Board Meetings.** Unless otherwise prohibited by law, the Superintendent shall attend, and shall be permitted to attend, all meetings of the Board, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on this Contract or the Superintendent's salary and benefits as set forth in this Contract, the Superintendent's performance and/ or evaluation, or for purposes of resolving conflicts between individual Board members, or as due process may require. In the event of illness or Board President-approved absence, the Superintendent's designee shall attend meetings.

**2.8 Criticisms, Complaints and Suggestions.** Board members will be required to refer criticisms, complaints and suggestions (other than those related to individual Board members or the Board as a whole) to the Superintendent who shall either: (a) review and take appropriate action, including informing the Board of the results of such efforts within a reasonable time; or, (b) direct complaints, where appropriate, to the relevant complaint resolution procedure as established by District Board policies. The Board retains the right to investigate complaints about the Superintendent. The Superintendent shall refer all substantive complaints from staff and/or third parties regarding a Board member to the Board President for review and action. If the complaint



is about the Board President, then the Superintendent shall refer the complaint to the next most senior non-implicated Board officer or, if necessary, Board member.

**2.9 Consulting or Personal Services.** During the term of this Contract, the Superintendent will not provide any personal services for a financial benefit, engage in any consulting activities for a fee, or engage in any outside employment for any business entity that conducts or solicits business with the District. Any financial benefit received by the Superintendent for performing personal services for any other entity must receive prior Board approval, on a case-by-case basis, in an open meeting. The Superintendent will comply with all federal and state laws and regulations and District policies, rules and regulations regarding conflict of interest and fraud as they exist or may hereafter be amended or adopted during the term of this Contract. Any such consulting or personal services shall not conflict or interfere with the Superintendent's professional responsibilities to the District and shall be performed during workdays only to the extent that the Superintendent has available vacation or personal leave days to cover his absences. The Board has sole authority to determine whether the consulting or personal services conflict with the Superintendent's duties to the District.

**2.10 Residence.** While the Superintendent is employed as Superintendent of Schools of the District, he will reside within the boundaries of the District; provided, however, that the Superintendent shall be allowed six (6) months from the date of employment in the District to find suitable housing for himself and his family within the boundaries of the District.

### **3. REPRESENTATIONS**

**3.1 Beginning of Contract.** At the beginning of this Contract, and at any time during this Contract, the Superintendent specifically agrees to submit to a review of his national criminal history record information (NCHRI) if required by the District, TEA, or SBEC. The Superintendent understands that a criminal history record acceptable to the Board, at its sole discretion, is a condition precedent to this Contract.

**3.2 During Contract.** Other than routine traffic citations, the Superintendent agrees that, during the term of this Contract, the Superintendent will notify the Board in writing of any arrest or of any indictment, conviction, no contest or guilty plea, or other adjudication of the Superintendent. The Superintendent agrees to provide such notification in writing within seven (7) calendar days of the event or any shorter period specified in Board policy.

**3.3 False Statements and Misrepresentations.** The Superintendent represents that any records or information provided in connection with his employment application are true and correct. Any false statements, misrepresentations, omissions of requested information, or fraud by the Superintendent in or concerning any required records or in the employment application may be grounds for termination or nonrenewal, as applicable.

#### **4. COMPENSATION**

4.1 **Annual Base Salary.** The District shall pay the Superintendent an annual salary of \$410,000.00, payable in equal installments in accordance with Board policy governing payment to other professional staff members in the District and the District's normal payroll schedule.

4.2 **Salary Adjustments.** At any time during the term of this Contract, the Board may, and without the necessity of entering into a new contract, in its discretion, review and adjust the salary of the Superintendent, but in no event will the Superintendent be paid less than the salary set forth pursuant to Section 4.1 of this Contract except by mutual written agreement of the parties.

4.3 **Business Expenses.** During the Superintendent's employment with the District, the District shall pay or reimburse the Superintendent for reasonable reimbursable expenses incurred by the Superintendent in the continuing performance of the Superintendent's duties under this Contract, from funds budgeted for that purpose by the Board. Reimbursable expenses will include, but are not limited to, travel costs, mileage reimbursement for use of a personal vehicle for travel more than a fifty (50) mile radius from the District Administration Building, and professional development costs, costs of memberships in civic organizations, and dues paid for membership in professional organizations. The Superintendent shall comply with all policies, procedures and documentation requirements in accordance with Board policies and established procedures. The Superintendent's business expenses shall be subject to annual review by the District's independent auditors. In addition, the Superintendent shall submit a quarterly report of his business expenses to the Board's Audit Committee.

4.4 **Health Insurance Benefits.** The District shall pay the premiums for health, hospitalization, and dental insurance for the Superintendent pursuant to the group health plan provided by the District for its twelve-month administrative employees.

4.5 **Term Life Insurance.** During the Superintendent's employment with the District, the District shall pay, on the Superintendent's behalf, the annual premium for a term policy of life insurance in the amount of \$500,000. The Superintendent will own the policy and will have the sole discretion to designate beneficiary(ies) under the policy.

4.6 **Disability Insurance.** During the Superintendent's employment with the District, the District shall pay, on the Superintendent's behalf, the annual premium for a disability income protection insurance policy having a monthly total benefit equal to 60% of the annual base salary set out in Section 3.1 until the Superintendent reaches the age of sixty-five (65).

4.7 **Vacation and Holidays.** The Superintendent shall receive, and at the Superintendent's choice may take, up to twenty (20) vacation days per year of this Contract. At the conclusion of each twelve-month contract period, all accrued but unused



vacation days shall be paid to the Superintendent as a single taxable lump-sum payment at the Superintendent's then current daily rate of pay as calculated on a 226-workday calendar. The vacation days taken by the Superintendent will be taken at such time or times as will least interfere with the performance of the Superintendent's duties as set forth in this Contract, with prior notice to the Board President before taking such leave. For purposes of this Contract, vacation days have the same meaning as non-duty days. The Superintendent shall have the same duty days and shall observe the same District holidays as those observed by administrative employees on 12-month contracts.

**4.8 Personal and Sick Leave.** The Superintendent shall have the same personal and sick leave benefits as authorized by Board policies for administrative employees on 12-month contracts. The Superintendent may accumulate personal and sick leave days without limit. Upon termination of employment, all unused days accumulated by the Superintendent during his employment by the District will be paid in a lump sum to the Superintendent or his survivors at the Superintendent's then current daily rate of pay based on two hundred and twenty-six (226) days of service per year, within 30 days of the termination date (less applicable deductions, including withholding taxes).

**4.9 Supplemental Retirement Plan.** Beginning with the first payroll period after January 22, 2024, and for each year thereafter during the term of this Contract, the District shall add to the Salary of the Superintendent the amount of \$1,250.00 per District pay period ("Additional Salary"). In the event the Superintendent executes a salary deferral agreement in accordance with the requirements of Sections 403(b) and/or 457(b) of the Internal Revenue Code (the "Code") in at least the amount of the Additional Salary, the Additional Salary shall be paid as a salary deferral contribution ("Salary Deferral Contribution"). Under and pursuant to applicable Internal Revenue Service rules the Superintendent shall have the option to elect to receive the Additional Salary in cash rather than as a Salary Deferral Contribution. All such Salary Deferral Contributions contemplated herein shall be paid to a plan established by the District under Section 403(b) and/or Section 457(b) of the Code. Such plans shall include investments as allowed under Sections 403(b), 403(b)(7) and/or 457(b) of the Code, respectively, and the investments for the Superintendent's accounts shall be solely at his discretion. The Superintendent shall at all times be 100% vested in his account under the 403(b) and/or 457(b) plan. The Salary Deferral Contributions contemplated herein shall be treated as salary deferrals under the Code and shall be reported as "creditable compensation" by the District for purposes of the Teacher Retirement System of Texas. However, the District shall not be obligated in any way to assure that such salary deferral contribution is treated as creditable by TRS. No payments under this Section shall be made after the Superintendent's employment terminates. Notwithstanding anything herein to the contrary, the District's annual salary deferral contribution shall not exceed \$30,000.

**4.10 Retention Supplement.** As an incentive to the Superintendent to continue in the employment of the District and to continue his pursuit of professional growth and excellence, the Board will contribute Fifty Thousand Dollars per year for the next five years beginning July 1, 2024, to supplemental retirement plans approved by the District, payable on June 30 of each year and yearly thereafter as long as the Superintendent is employed by



the District on this date. The District shall be the owner of the supplemental retirement plan accounts. The Superintendent shall be vested 100% in the supplemental retirement plan accounts as of July 1 each year following the contribution to the plans. Funding for the supplemental retirement plan accounts shall be to an employer paid 403(b) plan established by the District, referred to herein as the Employer Paid 403(b) Plan. Contributions to the Employer Paid 403(b) Plan for the Superintendent shall be in the amount of \$50,000 annually, shall be made as non-elective contributions with the Superintendent having no right to receive such contributions in cash. The investments for the Superintendent's funds in the Employer Paid 403(b) Plan shall be selected solely by the Superintendent, within the limitations of the Code and the plans.

4.11 **Texas Teacher Retirement System.** As supplemental salary, the District shall pay an amount equal to the Superintendent's portion of the monthly contribution to the Texas Teacher Retirement System (both retirement and TRS Care portions) in the percentage amount required by the Texas Teacher Retirement System for the account of the Superintendent. This additional salary supplement for services rendered as Superintendent shall be paid to the Superintendent by regular monthly payroll installments and shall be reported as creditable compensation to TRS.

## 5. ANNUAL PERFORMANCE GOALS

5.1 **Development of Priorities.** The Superintendent shall submit to the Board a preliminary list of goals for the District each year for the Board's consideration and adoption. The Superintendent and the Board shall then meet, and the Board shall approve or revise the list of goals. The Superintendent shall submit to the Board for its approval a plan to implement the goals. The Superintendent and the Board shall meet at least once annually to assess the goals and may adjust or revise the goals either by action of the Board or upon recommendation of the Superintendent and approval of the Board. The goals approved by the Board shall at all times be reduced to writing ("District Goals") and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated. The Board agrees to work with and support the Superintendent in achieving the District Goals.

## 6. REVIEW OF PERFORMANCE

6.1 **Time and Basis of Evaluation.** The Superintendent will be required to annually develop and submit to the Board for its consideration and approval, a proposed list of priorities within the Board's goals for the District. The Board's evaluation and assessment of the Superintendent shall be related to the duties of the Superintendent and the District's goals shall be among the criteria on which the Superintendents' performance is reviewed and evaluated. The Board and the Superintendent will meet at least once a year to discuss the Superintendent's performance and the Board will perform an annual summative evaluation in October. The Board will also have the ability to conduct formal or informal interim evaluations, between annual performance evaluations, as deemed by the Board, in its sole discretion, to be necessary or helpful. Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall at all

times be conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

6.2 **Confidentiality.** Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall at all times be conducted in executive session and shall be considered confidential to the extent permitted by law. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

6.3 **Evaluation Format and Procedure.** The evaluation format and procedure shall be in accordance with the evaluation instrument selected by the Board and in accordance with the provisions of Article 4 of this Contract, the Board's policies, and state and federal law. In the event the Board deems that the evaluation instrument, format and/or procedure is to be modified by the Board, and such modifications would require new or different performance expectations, the Superintendent shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

## **7. TERMINATION AND NONRENEWAL OF EMPLOYMENT CONTRACT**

7.1 **Mutual Agreement.** This Contract may be terminated by agreement of the Superintendent and the Board in writing upon such terms and conditions as may be mutually agreed between the parties.

7.2 **Retirement or Death.** This Contract shall be terminated upon the retirement or death of the Superintendent.

7.3 **Dismissal for Good Cause.** The Board may terminate this Contract and dismiss the Superintendent for good cause. Good cause will include, but is not limited to, the following:

- a. Failure to fulfill duties or responsibilities under the Contract;
- b. Incompetence or inefficiency in the performance of required or assigned duties as documented by evaluations, supplemental memoranda, or other written communication from the Board; provided the Board has given the Superintendent a reasonable opportunity for remediation;
- c. Insubordination or failure to comply with lawful written Board directives;
- d. Willful failure to comply with lawful written Board Policies or lawful District administrative regulations;
- e. Neglect of duties;
- f. Drunkenness or excessive use of alcoholic beverages;
- g. Illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
- h. Conviction of a felony or crime involving moral turpitude;
- i. Failure to meet the District's standards of professional conduct;



- j. Failure to comply with reasonable District professional development requirements regarding advanced course work or professional development;
- k. Disability, not otherwise protected by law, that substantially impairs the Superintendent's performance of required duties;
- l. Immorality, which is conduct not in conformity with the accepted moral standards of the community encompassed by the District. Immorality is not confined to sexual matters, but includes conduct inconsistent with rectitude or indicative of corruption, indecency or depravity;
- m. Assault on an employee or student;
- n. Knowingly falsifying records or documents related to the District's activities;
- o. Conscious misrepresentation of material facts to the Board or other District officials in the conduct of the District's business;
- p. Failure to fulfill requirements for superintendent certification;
- q. Failure to fulfill the requirements of a deficiency plan under an Emergency Plan; or
- r. Any other reason constituting "good cause" under Texas law. To the extent that any provision of this Section 5.3 is inconsistent with or has a different meaning than "good cause" as defined by Texas law, Texas law will control.

**7.4 Disability.** In the event the Superintendent shall become physically or mentally unable to perform the essential functions of his job as Superintendent, the Board, at its option, may terminate this Contract and the employment of the Superintendent. Verification of the illness or disability of the Superintendent shall be required whenever a majority of the Board requests it. Verification shall be by a physician designated by the Board and Superintendent; however, should the Board and Superintendent be unable to agree, the District's chosen physician and the Superintendent's chosen physician shall choose a physician to verify any such illness or disability of the Superintendent. Should the Superintendent be terminated due to such physical or mental disability, the Superintendent shall receive semi-monthly payments, commencing on the first regular payday of the District following such termination of employment, for a period of one (1) year, in an aggregate amount equal to one (1) year of his annual base salary set out in Section 3.1 as may be amended (less applicable deductions, including withholding taxes). Except for the payments set out herein, disability income protection and life insurance policy benefits set out in Section 3.4 and 3.5, plus the amounts for vacation leave under Section 3.6, and state and local leave under Section 3.7, the District shall have no further liability to the Superintendent for any other compensation or benefits.

**7.5 Termination Procedure.** In the event that the Board proposes to terminate this Contract for good cause, the Superintendent shall be afforded the rights as set forth in the Board's policies and applicable state and federal law.

**7.6 Early Termination–Dismissal without Cause.** In the event the Board and Superintendent mutually agree that it is in the best interest of the District and Superintendent that the Superintendent discontinue as the Superintendent for the District,, the Contract may be terminated in accordance with the following financial terms and



conditions and any other terms and conditions as may be mutually agreed upon by the parties:

**7.6.1 Termination during Year One of Term.** In the event the Contract is terminated in accordance with section 7.6 during the first year of the original term of this Contract, the District agrees to pay the Superintendent fifty percent (50%) of the remaining balance of the full value of the Contract (including but not limited to, the balance of salary and benefits due under the remaining terms of the Contract through the end of the term) less deductions (including withholding) required by law half of which will be paid in a lump sum on or before thirty (30) days from the date the majority of the Board votes to approve an agreed upon retirement, resignation, or voluntary separation agreement with the remaining half to be paid after January 1 but on or before January 31 of the year following the date of termination.

**7.6.2 Termination during Year Two or Three of Term.** In the event the Contract is terminated in accordance with section 7.6 during the second or third year of the original term of this Contract, the District agrees to pay the Superintendent seventy-five percent (75%) of the remaining balance of the full value of the Contract (including but not limited to, the balance of salary and benefits due under the remaining terms of the Contract through the end of the term) less deductions (including withholding) required by law half of which will be paid in a lump sum on or before thirty (30) days from the date the majority of the Board votes to approve an agreed upon retirement, resignation, or voluntary separation agreement with the remaining half to be paid after January 1 but on or before January 31 of the year following the date of termination.

**7.6.3 Termination during Year Four and Five of Term.** In the event the Contract is terminated in accordance with section 5.6 during the fourth year of the term of this Contract, the District agrees to pay the Superintendent one hundred percent (100%) of the remaining balance of the full value of the Contract (including but not limited to, the balance of salary and benefits due under the remaining terms of the Contract through the end of the term) less deductions (including withholding) required by law half of which will be paid in a lump sum on or before thirty (30) days from the date the majority of the Board votes to approve an agreed upon retirement, resignation, or voluntary separation agreement with the remaining half to be paid after January 1 but on or before January 31 of the year following the date of termination.

**7.6.4. Termination after Original Term.** After the original five-year term, notwithstanding any other provision in this Contract, the Board may terminate the Contract if a majority of the full board determines in its sole discretion that termination of the Contract is in the District's best interest. In such event, the Board shall pay to the Superintendent as severance pay all accrued pay and benefits due the Superintendent as of the date of termination and a payment equal to one year of salary and benefits within thirty (30) days of the date of termination less deductions (including withholding) required by law. Payment of such amounts under this provision shall terminate any and all rights of the Superintendent to further payment of salary or benefits under this Contract.

**7.7 Nonrenewal of Contract.** Except as otherwise provided herein, nonrenewal of this Contract shall be in accordance with Board policy and applicable law.

**7.8 Professional Liability.** The District shall indemnify, defend, and hold the Superintendent harmless from any claims, demands, duties, actions or other legal proceedings against his, including court costs and attorney's fees, in his individual or official capacity, for any act or failure to act involving the exercise of discretion and that is within the normal course and scope of his duties to the extent and to the limits permitted by law. The District's indemnity obligation will not apply if the Superintendent is found to have materially breached his contract, to have acted with gross negligence or with intent to violate a person's clearly established legal rights, or to have engaged in official misconduct or criminal conduct. It also will not apply to criminal investigations or proceedings. The District may meet its indemnity obligation by purchasing errors and admissions coverage for the benefit of the Board and the professional employees of the District, including the Superintendent. The Board will also be entitled to retain attorneys to represent the Superintendent in proceedings in which she could seek indemnification but will not be required to pay the Superintendent's attorney's fees in cases in which the Board and the Superintendent are adverse to each other. The District's obligation under this paragraph shall continue after the termination of this Contract for qualifying acts or failures to act occurring during the term of this Contract or any extension thereof. The Superintendent shall fully cooperate with the District in the defense of any and all demands, claims, suits, actions and legal proceedings brought against the District. The Superintendent's obligation to cooperate in the defense of any matter as required by this paragraph shall continue after the termination of this Contract.

## **8. MISCELLANEOUS PROVISIONS**

**8.1 Controlling Law.** The laws of the State of Texas shall govern this Contract. Venue for any dispute concerning the interpretation or enforcement of this Contract shall be in Fort Bend County, Texas.

**8.2 Complete Agreement.** This Contract embodies the entire agreement between the parties, and except as expressly provided herein, it cannot be amended except by written agreement of the parties.

**8.3 Savings Clause.** In the event any one or more of the provisions contained in this Contract shall, for any reason, be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. This Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract.

**8.4 Conflicts.** In the event of any conflict between the terms, conditions, and provisions of this Contract and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract



shall take precedence over the contrary provisions of the Board's policies or any such permissive law during the term of the Contract.

FORT BEND INDEPENDENT SCHOOL DISTRICT



Ms. Judy Dae  
President, Board of Trustees

Date: 1/8/2024

ATTEST:



Mr. David Hamilton  
Secretary, Board of Trustees

Date: January 8, 2023

SUPERINTENDENT



Dr. Marcell Smith  
Superintendent of Schools

Date: 1-8-24

**FORT BEND INDEPENDENT SCHOOL DISTRICT  
MOVING AND RELOCATION EXPENSES AGREEMENT**

STATE OF TEXAS

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COUNTY OF FORT BEND

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This Moving and Relocation Expenses Agreement (the “Agreement”) is entered into on the 8<sup>th</sup> day of January 2024, by and between the BOARD OF TRUSTEES (the “Board”) of the FORT BEND INDEPENDENT SCHOOL DISTRICT (the “District”) and DR. MARCELL SMITH (the “Superintendent”).

The Board and the Superintendent, for in and consideration of the terms hereinafter established and pursuant to Chapter 11, Subchapters D and E, Section 11.201 and Chapter 21, Subchapter E of the Texas Education Code have agreed, and do hereby agree, as follows:

**Section 1.** The Board has employed the Superintendent, and the Superintendent has accepted employment as Superintendent of Schools for the District for a term commencing on January 22, 2024 and ending on January 22, 2029.

**Section 2.** The District shall reimburse the Superintendent for all reasonable moving and relocation expenses incurred in moving from Duncanville, Texas to the District. Relocation expenses will include, but may not be limited to, actual moving expenses for a one-time move (not to exceed \$10,000), up to 90 days of lodging expenses incurred in connection with the move (which may include rental payments on a house or apartment pending sale of the Superintendent’s residence in Duncanville, Texas) and travel expenses for commuting between the District and Duncanville during the period of relocation. The Superintendent shall document all expenses with original receipts, cancelled checks or credit card statements.

**Section 3.** The reimbursements of reasonable and necessary expenses associated with the Superintendent’s necessary relocation from her current residence to the District discussed in Section 2 shall not become a part of the Contract of Employment between the Board and the Superintendent. The Superintendent does not have a property interest or liberty interest, or any other legally recognized and protected interest or expectation, in such reimbursement being made again at any time in the future during his employment as Superintendent.

**Section 4.** This Agreement is governed by the laws of the State of Texas, and it shall be performable in Fort Bend County, Texas, unless otherwise provided by law. Venue for any dispute concerning the interpretation or enforcement of this Agreement shall be in Fort Bend County, Texas, unless venue is required elsewhere by Texas law.

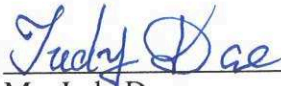
**Section 5.** This written Agreement contains and constitutes the entire understanding and agreement between the Board and the Superintendent with respect to the District’s reimbursement



of reasonable and necessary expenses associated with the Superintendent's necessary relocation from his current residence to the District and with respect to the Superintendent's consulting services for the District, and it supersedes any previous negotiations, discussions, agreements, understandings, or written communications with respect to its subject matter.

EXECUTED AND AGREED TO this 8<sup>th</sup> day of January 2024.

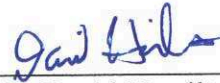
FORT BEND INDEPENDENT SCHOOL DISTRICT



Ms. Judy Dae  
President, Board of Trustees

Date: 1/8/2024

ATTEST:



Mr. David Hamilton  
Secretary, Board of Trustees

Date: January 8, 2023

SUPERINTENDENT



Dr. Marcell Smith  
Superintendent of Schools

Date: 1-8-24