

STATE OF TEXAS

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COUNTY OF HARRIS

FOURTH AMENDED AND RESTATED SUPERINTENDENT'S CONTRACT

THIS FOURTH AMENDED and RESTATED AGREEMENT is made and entered into by and between the Board of Trustees (the "Board") of the Alief Independent School District (the "District") and H.D. Chambers the "Superintendent").

NOW 'THEREFORE, the Board and the Superintendent, for and in consideration of the terms stated in this amended contract do hereby agree as follows:

1. The Board, by and on behalf of the District, does hereby employ the Superintendent and the Superintendent does hereby accept employment as Superintendent of Schools for the District for a term commencing on July 1, 2021 and ending on June 30, 2024. For the remainder of this Agreement and any extension thereof, each contract year shall be from July 1st through June 30th (hereinafter referred to as the "Contract Year").
2. This Agreement is conditioned on the Superintendent satisfactorily providing the necessary certification and experience records, medical records, and other records required by law, district policy, State. Board of Educator Certification rules, and Texas Education Agency rules. Failure to provide necessary certification shall render this Agreement void. Any material misrepresentation may be grounds for dismissal.
3. The Superintendent shall perform the duties of Superintendent of Schools for the District as prescribed in state law, the job description, and as may be assigned by the Board. The Superintendent shall comply with all Board directives, state and federal law and rules, district policy, regulations as they exist or may hereafter be amended. Texas law shall govern construction of this Agreement or disagreements involving this Agreement.
4. The Superintendent agrees to devote his time, skill, labor, and attention to performing his duties, but may, with prior written consent of the Board, undertake consulting work, speaking engagements, writing, lecturing, and other professional duties and obligations that do not conflict or interfere with the Superintendent's professional responsibilities to the District.
5. The Board agrees to pay the Superintendent an annualized salary and other compensation as follows:
 - a. Salary. For the 2022-2023 school year, the District shall provide the Superintendent with an annualized salary in the sum of \$380,967.64 (three hundred eighty thousand nine hundred sixty-seven dollars and sixty-four cents). The annualized salary for adjustment purposes for each successive year after the 2022-2023 school year shall

be the annualized salary of the previous year plus the increase set forth in 5(b), if any.

- b. Salary Adjustments. At any time during the term of this Agreement, the Board may, and without the necessity of entering into a new agreement, in its sole discretion, review and adjust the salary of the Superintendent, but in no event will the Superintendent be paid less than the salary set forth 5(a) of this Agreement except by mutual written agreement of the parties. Mutually agreed adjustments, if any, will be in the form of a written addendum to this Agreement or a new agreement signed by the parties, and such adjustment shall be exclusive of any other benefits unless specifically provided in the addendum or new agreement. The requirements of a mutual agreement, new contract, or written addendum are not applicable if a salary adjustment resulting in a reduction in salary is made pursuant to and in accordance with the provisions of either Sections 21.4021 or 21.4032 of the Texas Education Code.
- c. Business Expenses. The District shall pay or reimburse the Superintendent for reimbursable business expenses incurred by the Superintendent, and only the Superintendent in the continuing performance of his duties under this Agreement. These expenses may include but are not limited to: (1) airline tickets, hotels and accommodations, meals, rental car, gasoline costs, and other expenses incurred in performance of his duties of out-of-district travel, (2) the reasonable cost of meals and incidental expenses associated with the Superintendent's work with staff members, Board Members, community patrons, or other persons related to the performance of his duties as Superintendent, and (3) cellular phone. In seeking reimbursement, the Superintendent shall comply with all documentation requirements dictated by District policies and procedures. The Board retains the authority to disallow any reimbursement request which it reasonably believes, falls outside the scope of the Superintendent's duties. The Superintendent specifically will not be reimbursed for local mileage or transportation expenses. Local being defined as within Harris and contiguous counties.
- d. Vacation, Nonduty Days, and Holidays. The Superintendent may take, at his choice subject to Board approval, the same number of vacation days authorized by District policy for administrative employees. Vacation days should be taken by the Superintendent at a time or times that will least interfere with the performance of the Superintendent's duties. The Superintendent shall also observe the same legal holidays and nonduty days as those observed by other administrative employees at the District.
- e. Sick, Personal, and Local Leave. The Superintendent shall have the same sick, personal, and local leave benefits as authorized by District policy for administrative employees. Upon retirement from the District, the Superintendent shall be entitled to payment for his unused local leave days at a daily rate of \$3,046.70 on the terms and conditions outlined in Board Policy DEC (Local) for employees with the same years of service. The daily rate expressed in this paragraph shall only be used for

purposes of this paragraph and for no other purpose. To the extent of a conflict with Board Policy DEC (Local), this paragraph is controlling.

- f. Medical, Dental, Disability Insurance. The Superintendent will pay 100% of his own medical, dental and disability insurance, for himself and any dependents, and waive any claims on any District sponsored plans to which the Superintendent may be eligible.
 - g. Performance Incentive Pay Plan. For the 2021-2022 school year, the Board at a lawfully called board meeting on June 21, 2022, awarded the Superintendent the performance pay outlined in the parties' Third Amended and Restated Contract for having met the performance metrics outlined in the Third Amended and Restated Contract. The Board does not authorize performance incentive pay for the 2022-2023 school year.
 - h. Supplemental Retirement Plan. For each payroll period beginning July 1, 2021, and for each year thereafter during the term of this Contract, the District shall add to the Salary of the Superintendent the amount of \$625.00 per payroll ("Additional Salary"), not to exceed \$1,250 per month. 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. No payments under this Section shall be made after the Superintendent's employment terminates.
6. The Superintendent shall at all times during the term of this contract continue to have his primary residence within the boundaries of the District, unless the Board and Superintendent agree otherwise in writing.
 7. The Superintendent, or his designee, shall have the right to attend all meetings of the Board, both open and closed, and may participate in the deliberations of the Board at all such meetings, with the exception of those closed meetings of the Board involving the Superintendent's evaluation, consideration of the terms of the Superintendent's employment pursuant to the terms of this Agreement, confidential discussions among Board members to resolve any differences of opinion among members of the Board, and/or when the Board is acting as a tribunal.

8. The Superintendent cannot be reassigned from the position of Superintendent to another position without the Superintendent's consent.
9. The Board shall evaluate and assess in writing the Superintendent's performance at least once each year during the term of this Agreement. The evaluation format and procedure shall comply with Board policy and state law.
10. The Board may dismiss the Superintendent at any time for good cause in accordance with Texas Education Code Sections 21.211, 21.212(d) and Board policy.
11. This agreement shall be terminated upon the death of the Superintendent or upon the Superintendent's retirement under the Teacher Retirement System of Texas.
12. A determination by the Board that a consolidation of the District with one or more other districts requires that the contract of the Superintendent be terminated during the term. This shall constitute good cause for dismissal.
13. The Superintendent and the Board may agree in writing to terminate this Agreement pursuant to any mutually agreed upon terms and conditions.
14. Renewal or nonrenewal of this Agreement shall be in accordance with Texas Education Code Chapter 21, Subchapter E, and Board policy.
15. At any time during the contract term, the Board may, in its discretion, reissue the contract for an extended term. Failure to reissue the contract for an extended term shall not constitute nonrenewal under Board policy. The Superintendent does not have a property or liberty interest, or any other legally recognized and/or protected interest or expectation, in such extension by the Board. In the event that the Agreement is extended, the Superintendent's compensation and benefits will be as set forth herein, unless the parties agree to different compensation and benefits in the form of a written addendum or new contract, signed by the parties.
16. The Superintendent may leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following school year. The Superintendent may resign, with the consent of the Board, at any other time. The District may appoint an interim or permanent new superintendent before or upon the Superintendent's resignation and/or retirement from the District. The Superintendent agrees to cooperate with the interim and/or permanent new superintendent to ensure a smooth transition of leadership.
17. The Board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this Agreement. No property interest, express or implied, is created in continued employment beyond the contract term.
18. The Superintendent agrees to have a comprehensive medical examination at District expense once a year, and to obtain a statement certifying that the Superintendent is

physically able to perform his essential job functions with or without reasonable accommodation. This statement shall be filed with the president of the Board.

19. The District shall defend, hold harmless and indemnify the Superintendent from any and all demands, claims, suits, actions, judgments, expenses, and attorney's fees incurred in any legal proceedings brought against the Superintendent in his individual or official capacity for any act or failure to act involving the exercise of judgment and discretion within the normal course and scope of his duties as Superintendent of the District, to the extent and to the limits permitted by law. The Superintendent shall be included as a covered official or employee in the District's liability insurance coverage. This paragraph does not apply if the Superintendent is found to have materially breached this Agreement, 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, nor does it apply to criminal investigations or proceedings. The Board may retain attorneys to represent the Superintendent in any proceeding for which he could seek indemnification under this paragraph, to the extent that damages are recoverable or a defense is provided, under any such contract of insurance. No individual member of the Board shall be personally liable for indemnifying and defending the Superintendent under this paragraph. The District's obligation under this paragraph shall continue for a period of no more than four (4) years after the termination of this Agreement for qualifying acts or failures to act occurring during the term of this Agreement or any extension thereof. The Board shall not be required to pay any costs of any legal proceedings in the event the Board and the Superintendent are adverse to each other in any proceedings. 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, regardless of whether the Superintendent is a named party. The Superintendent's obligation under this paragraph shall continue after any termination of this Agreement for a period of no more than four (4) years.

20. Any notice, request, instruction, correspondence, or other document to be given hereunder by either party to the other (herein collectively called "Notice") shall be in writing and delivered in person or by courier service requiring acknowledgment of receipt of delivery or mailed by certified mail, postage prepaid and return receipt requested, or by telecopier, as follows:

if to District to:

Alief Independent School District
4250 Cook Road
Houston, Texas 77072

Attn: President, Board of Education

with copy to:

Thompson & Horton, LLP
3200 Southwest Frwy, Suite 2000

Houston, Texas 77027

Attn: Lisa McBride, Partner

if to Superintendent, to:

H. D. Chambers
Alief ISD Administration Building
4250 Cook Road
Houston, Texas 77072-1115

with copy to:

Adams, Lynch & Loftin, P.C.
3950 Highway 360
Grapevine, Texas 76051
Attn: Neal W. Adams

Attn: Neal W. Adams

Notice given by personal delivery, courier service or mail shall be effective upon actual receipt. Notice given by telecopier shall be confirmed by appropriate answer back and shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. Any party hereto may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

21. The parties additionally agree as follows:
- a. Controlling Law. This Agreement shall be governed by the laws of the state of Texas, and it shall be performable in Harris County, Texas, unless otherwise provided by law. Venue for any dispute concerning the interpretation or enforcement of this Agreement shall be in Harris County, Texas.
 - b. Heirs and Assigns. The provisions of this Agreement are binding upon the heirs, personal representatives, successors and assigns of the Superintendent.
 - c. Waiver. No waiver of any of the provisions of this Agreement shall be deemed for any purpose to be a waiver of the right of any party hereto to enforce strict compliance with the provisions hereof in any subsequent instance.
 - d. Severability. Each of the covenants and provisions contained in this Agreement shall be enforceable independently of every other covenant and provision in this Agreement and whether or not Superintendent has any claim or cause of action against the District based on this Agreement or otherwise.

- e. Entirety of Agreement. This Agreement supersedes all other agreements, or amendments thereof, either oral or in writing, between the parties to this Agreement with respect to the employment of the Superintendent by the District and matters relating to this Agreement, including but not limited to the First and Second Amendments to the Amended and Restated Contracted signed on May 27, 2020, and July 21, 2020, respectively. No representations, warranties, recitals, covenants, or statements of intention have been made by, or on behalf of, any party hereto which is not embodied in this Agreement, and no party hereto shall be bound by, or liable for, any alleged representation, warranty, recital, covenant, or statement of intention not so set forth.
- f. Modification. This Agreement may not be modified or amended except by written amendment, or addendum, signed by all Parties to this Agreement.
- g. Failure to Enforce Not Waiver. Any failure or delay on the part of either the District or the Superintendent to exercise any remedy or right under this Agreement shall not operate as a waiver. The failure of either party to require performance of any of the terms, covenants, or provisions of this Agreement by the other party shall not constitute a waiver of any of the rights under this Agreement. No forbearance by either party to exercise any rights or privileges under this Agreement shall be construed as a waiver, but all rights and privileges shall continue in effect as if no forbearance had occurred. No covenant or condition of this Agreement may be waived except by the written consent of the waiving party. Any such written waiver of any term of this Agreement shall be effective only in the specific instance and for the specific purpose given.
- h. Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions and otherwise valid and enforceable clauses of this Agreement shall remain in full force and effect as if this Agreement had been executed without any such invalid provisions having been included.
- i. Section Headings. Any section headings contained in this Agreement are for convenience only and shall in no manner be construed as a part of this Agreement.
- j. Non-Reliance. The Parties stipulate and agree that they have not relied upon any statements or representations made by any of the other parties hereto or by any person or entity representing any of the other parties hereto.
- k. Legal Consideration. The parties hereto stipulate and acknowledge that adequate legal consideration exists to support all such parties' execution and delivery of this Agreement and the transactions, covenants, and agreements contemplated hereby.
- l. Legal Representation. The parties have been represented by legal counsel of their choice or have had the opportunity to consult with legal counsel, in the negotiation and execution of this Agreement.

- m. Construction. This Agreement is the product of negotiations between the Parties. The parties hereto agree that this Agreement shall not be construed against the drafter and any rule of contract construction providing for an interpretation against the drafter shall not apply. The parties hereto agree that should any additional instruments be necessary or desirable to confirm and accomplish effectively the purposes of this Agreement, or to establish the rights or discharge the obligations of any party hereunder, such additional instruments will be promptly executed and delivered upon the request of any such party.
- n. Counterparts and Copy Effective. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one agreement. A copy of this Agreement fully executed shall be as effective, for all purposes, as a signed original.
- o. Paragraph Headings. The headings used at the beginning of each numbered paragraph in this Agreement are not intended to have any legal effect; the headings do not limit or expand the meaning of the paragraphs that follow them.

ALIEF INDEPENDENT SCHOOL DISTRICT


AGREED AND APPROVED:

By: 
 Ann Williams
 President, Board of Trustees

By: 
 Dr. Lily Truong
 Secretary, Board of Trustees

Date: 7/1/2022

Date: 7.6.2022

By: 
 H.D. Chambers, Superintendent

Date: 6/30/22