

VOLUNTARY SEPARATION AGREEMENT AND MUTUAL RELEASE

STATE OF TEXAS §
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS:

THIS VOLUNTARY SEPARATION AGREEMENT (“Agreement”) is made by and between the AUSTIN INDEPENDENT SCHOOL DISTRICT (“District”), a political subdivision of the State of Texas, acting by and through its Board of Trustees (“Board”) and Dr. Paul Cruz (“Cruz”). The Agreement is the final agreement between the District and Cruz, and it controls the contractual employment relationship between the parties hereto after the date of the Agreement.

WHEREAS, Cruz is currently employed as Superintendent by the District under an Austin Independent School District Superintendent's Employment Contract effective through December 31, 2021, as amended (the "Contract"); and

WHEREAS, Cruz and the Board have reached a mutually acceptable agreement for Cruz to resign his position as Superintendent of the District effective at 11:59 p.m. on August 31, 2020 and to resign from employment with the District effective at 11:59 p.m. on December 31, 2020; and

WHEREAS, it is strictly the voluntary act of Cruz to resign his position as Superintendent of the District and to subsequently resign from employment with the District because Cruz believes it will be in his best interest and that of the District to do so.

WITNESSETH:

NOW, THEREFORE, in consideration of the recitals, terms, conditions and mutual covenants herein, the parties hereto do hereby agree as follows:

1. Cruz does hereby voluntarily submit and the Trustees do hereby accept his resignation as the Superintendent effective at 11:59 p.m. on August 31, 2020, and as an employee of the District effective at 11:59 p.m. on December 31, 2020. Cruz's resignation letter shall be

submitted to the Trustees at the regularly called board meeting of April 27, 2020. See **Exhibit “A”** which is attached hereto and incorporated herein by reference. Notwithstanding anything to the contrary contained herein, Cruz shall be paid his full salary and benefits according to the terms stated in his Contract through December 31, 2020.

2. Effective September 1, 2020 and continuing through the effective date of his resignation as an employee of the District on December 31, 2020, Cruz shall take and use accumulated leave days while remaining employed in the District as Superintendent Emeritus. During such time, Cruz will be available on an as-needed basis to assist with the transition of a new Superintendent and to provide information and support related to on-going District functions and operations.

3. On or before 5:00 p.m. on December 31, 2020, Cruz shall be paid the value of sixty-one (61) paid leave days in a lump sum based upon his daily rate of base salary.

4. The District shall withhold applicable state and federal deductions, but shall not withhold any payments to the Teachers Retirement System from the sums contributed or paid for or in behalf of Cruz as described in Paragraph 3 herein.

5. On or before 5:00 p.m. on August 31, 2020, Cruz shall return to District all keys, cell phones, computers, credit cards, if any, and other property, if any, of the District in Cruz's possession as it relates to Cruz's employment as the Superintendent of the District.

6. No later than 5:00 p.m. on August 31, 2020, Cruz shall remove his personal effects and property from the Superintendent's office.

7. To the extent it may be permitted to do so by applicable law, and to the limited extent provided for by an insurance contract or contracts held by the District, the District does hereby agree to defend, hold harmless, and indemnify Cruz from any and all demands, claims, including but not limited to suits, actions, judgments, expenses and attorneys' fees incurred in any

legal proceedings or administrative proceedings currently pending or subsequently hereto brought against Cruz in his individual capacity or his official capacity as an employee and as Superintendent of the District, providing the incident(s) which is (are) the basis of any claim or lawsuit arose or does arise in the future while Cruz, as Superintendent and as an employee of the District, was acting within the scope of Cruz's employment with the District as determined by the Board of Trustees; excluding, however, those claims or any causes of action where it is determined by the Board of Trustees that Cruz committed a criminal act, official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith, with conscious indifference or reckless disregard; and excluding any costs, fees, expenses or damages that would be recoverable or payable under an insurance contract, held either by the District or by Cruz. The selection of Cruz's legal counsel shall be made by the District with input of Cruz. A legal defense may be provided through insurance coverage, in which case selection of legal counsel shall be made in accordance with said insurance coverage contract.

8. The District and Cruz do hereby agree to be responsible for and pay for each of their respective attorneys' fees incurred by the District and Cruz in connection with the negotiation of this Agreement.

9. After August 31, 2020, in his continuing capacity as an employee of the District, Cruz agrees to provide assistance to and cooperate with the District, its Trustees, agents, and attorneys in response to, or in defense of, any demand, claim, complaint, suit, action or legal proceeding brought against the District, its Trustees, or agents, arising from any acts or events alleged to have occurred during the term of Cruz's employment with the District, at no additional expense to the District. Requests for assistance from Cruz with respect to such matters shall be made through the Board of Trustees' President, and/or legal counsel for the District

10. After December 31, 2020, Cruz agrees to provide assistance to and cooperate with the District, its Trustees, agents, and attorneys in response to, or in defense of, any demand, claim, complaint, suit, action or legal proceeding brought against the District, its Trustees, or agents, arising from any acts or events alleged to have occurred during the term of Cruz's employment with the District, at no additional expense to the District other than reimbursement to Cruz for his documented reasonable and necessary out-of-pocket expenses, plus reimbursement of any salary lost by Cruz by virtue of his taking time off from his then current employment to assist the District at its request. Requests for assistance from Cruz with respect to such matters shall be made through the Board of Trustees' President, and/or legal counsel for the District, and the amount to be reimbursed to Cruz shall be mutually agreed upon in advance.

11. Expressly as part of the consideration of this Agreement, Cruz does hereby, and for his heirs, executors, administrators, successors and assigns, totally and completely, fully and finally, RELEASE, ACQUIT and FOREVER DISCHARGE the District and its employees, attorneys and agents, the Board and each and every Board Member (both individually and in the Board Members' official capacities), past and current, of and from any and all claims, actions, causes of action, demands, rights, damages (including, but not limited to, consequential damages), costs, attorney's fees, expenses and compensation whatsoever, known or unknown, which Cruz had, has, or which may hereafter accrue on account of or in any way growing or arising out of Cruz's employment relationship with District and/or relationship with the District's Board and/or each and every Board Member (both individually and in the Board members' Members' official capacities) past and present. This release shall be effective upon the full and complete performance of Board and District with the terms and conditions contained in this Agreement. Without in any way limiting the scope of this release, Cruz intends to release any claims made by Cruz for personal embarrassment, mental and physical strain and injury, and for damages to his reputation, and any rights, which Cruz

may have under any federal or state constitutions, laws, rules, regulations, or public policy. Such constitutions, laws, rules or regulations include, but again are not limited to, the United States Constitution, the Constitution of the State of Texas, 42 U.S.C. § 1983, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Title IX of the Education Amendments of 1972, Section 504 of the Vocational Rehabilitation Act of 1973, the Americans With Disabilities Act of 1990, the Fair Labor Standards Act, and any further or other federal or state discrimination laws, employment laws or workers compensation or benefit laws, as now or hereafter enacted.

12. The District and the Board likewise totally and completely, fully and finally, RELEASE, ACQUIT and FOREVER DISCHARGE Cruz, his attorneys and agents, of and from any and all claims, actions, causes of action, demands, rights, damages (including, but not limited to, consequential damages), costs, attorney's fees, expenses and compensation whatsoever, of any kind or character, known or unknown, which the District and/or Board had, has, or which may hereafter accrue on account of or in any way growing or arising out of Cruz's employment relationship with District and/or relationship with the Board and/or each and every one of the Board members past and present excluding, however, those claims or any causes of action where it is determined that Cruz committed a criminal act, official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith, with conscious indifference or reckless disregard.

13. Cruz expressly covenants and agrees not to sue or participate, unless required by court order, in any federal or state judicial or state administrative proceeding against the District or its Board, Board members, officers, employees, representatives, agents or attorneys, in their official or individual capacities, related to or concerning his employment as Superintendent by the District,

the Board member's actions regarding his employment as Superintendent of the District, or his voluntary resignation from employment as Superintendent of the District.

14. The District and Trustees expressly covenant and agree not to sue or participate, unless required by court order, in any federal or state judicial or administrative proceeding against Cruz his agents or attorneys, related to or concerning Cruz's employment with the District or his resignation of that employment. Furthermore, the District and Board covenant and agree not to raise or prosecute any grievance, complaint, or other claim against Cruz, and will take such action or actions as may be necessary or required to withdraw or dismiss with prejudice any such grievance, complaint, or claim raised by the District, excluding, however, those claims or any causes of action where it is determined that Cruz committed a criminal act, official misconduct, or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence, or acted in bad faith, with conscious indifference or reckless disregard. "Administrative proceeding", as used in this Agreement, includes, by way of example, but not by way of limitation, any hearing or appeal before the District's Board of Trustees, or before the State Board for Educator Certification, or before the State Board of Education, or before the Texas Education Agency under the Texas Education Code.

15. The District and Cruz agree and understand that the Agreement constitutes a compromise and release, and, except to the extent expressly set forth herein, terminates all rights of both parties relating to the Contract by and between Cruz and the District concerning service as Superintendent of the District. The release includes all contractual rights, liberty rights, constitutional rights, statutory rights, and any other rights or claims, including but not limited to, claims, under 42 USC 1983, Title VII, personal injury, slander, unemployment, property damage, and any EEOC or TCHRA claims either under state or federal law, known or unknown, that might conceivably be asserted by either party.

16. The Board, individually and collectively, and Cruz do hereby agree that each of them shall refer any third party inquiries regarding Cruz's employment as an employee of the District and as the Superintendent of the District to their Agreement through the Board President. Notwithstanding anything to the contrary herein, the District, the Board, individually and collectively, and Cruz expressly covenant and agree not to make disparaging remarks about the other party(ies), their agents, representatives, attorneys or assigns to this Agreement. Nothing in this Agreement should be construed to prevent Cruz from requesting a personal reference, oral or written, from a District employee or Trustee, in their personal and individual capacity, or to prevent such District employee or Trustee from providing such a personal reference to Cruz.

17. The Agreement constitutes the entirety of the understanding between all the parties hereto. The Agreement shall be binding upon all the parties hereto, their respective heirs, executors, administrators, successors and assigns.

18. The Agreement is hereby deemed performable entirely in Travis County, Texas, and shall be governed, construed and enforced in accordance with and subject to the laws of the State of Texas. Mandatory and exclusive venue for any lawsuit or adjudicative proceeding brought by either party to the contract shall be in Travis County, Texas.

19. The Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes and all of which shall constitute one document. All the parties hereto further agree that they shall execute any and all documents necessary to affect the intent and purposes of the Agreement. Further, the Agreement supersedes any and all prior oral or written agreements, arrangements, employment contracts, or understandings between the parties. The Agreement may be modified or terminated only in writing, executed by all the parties hereto.

20. The President of the Board of Trustees has been authorized to execute the Agreement on behalf of the District by action of a majority of a quorum of the Trustees present at a properly

called and posted meeting on April 27, 2020, in accordance with the Texas Open Meetings Act and pursuant to orders of the Governor and Attorney General of Texas associated with the ongoing COVID-19 pandemic.

IN WITNESS WHEREOF, all the parties hereto have executed the Agreement in multiple originals to be effective from and after _____.

AUSTIN INDEPENDENT SCHOOL DISTRICT

By: _____
Geronimo Rodriguez, President
Board of Trustees
Austin Independent School District

ATTEST:

Amber Elenz, Secretary
Board of Trustees
Austin Independent School District

SUPERINTENDENT

Dr. Paul Cruz, Superintendent
Austin Independent School District

EXHIBIT “A”