

AGREEMENT FOR EMPLOYMENT
OF THE
ASSISTANT SUPERINTENDENT—HUMAN RESOURCES
BETWEEN THE GOVERNING BOARD
OF THE
SAN MARCOS UNIFIED SCHOOL DISTRICT
AND
DR. JOEL GARCIA

This Agreement for Employment of the Assistant Superintendent—Human Resources, is entered into between the Governing Board (hereinafter "the Board"), on behalf of the San Marcos Unified School District (hereinafter "the District"), and Dr. Joel Garcia (hereinafter "Employee").

1. **TERM.** The term of this Agreement between the District and Employee will begin the 3rd day of January 2023 and terminate on the 30th day of June 2025, and may be extended on an annual basis.

Regardless of the term of this Agreement, if it is terminated, the maximum cash settlement that Employee may receive shall be an amount equal to the monthly salary of Employee multiplied by the number of months remaining on the unexpired term of this Agreement. However, if the unexpired term is greater than eighteen (18) months, the maximum cash settlement shall be an amount equal to the monthly salary of Employee multiplied by eighteen (18). Any cash settlement shall not include any other non-cash items except health benefits, which may be continued for the same duration of time as covered in the settlement, or until the Employee finds other employment, whichever comes first. Again, however, if the unexpired term is greater than eighteen (18) months, the maximum time for continued health benefits paid for by the District shall be eighteen (18) months. The intent of this provision is to satisfy the requirements of Government Code §§ 53260-53264, and shall be interpreted consistently with those statutes.

2. **SALARY.** On July 1 each year during the term of this Agreement, the salary of Employee shall be determined by advancing his placement on the "Assistant Superintendent Salary Schedule" one step for each year of service within the District as the Assistant Superintendent—Human Resources. During the 2022-2023 school year, the annual base salary shall be as set forth on Step 6, in the amount of two hundred twenty-six thousand six hundred twenty-six dollars (\$226,626.00), payable in equal monthly installments. The salary schedule shall be reviewed annually and is subject to upward revision subject to Board approval. The Board reserves the right to increase the "Assistant Superintendent Salary Schedule" and thereby increase the annual salary of Employee at any time. It is provided, however, that by so doing, it shall not be considered that a new Agreement has been entered into or that the termination date of the existing Agreement has been extended.

3. **DUTIES AND AUTHORITY.** Employee shall discharge those responsibilities and have the authority of the Assistant Superintendent—Human Resources, as outlined in the Job Description approved by the Board.

4. **MEDICAL EXAMINATION.** Employee does hereby agree to have a comprehensive medical examination every two years, at the District's expense, so that a confidential statement certifying to the physical fitness of Employee may be filed with the Superintendent. If Employee is not physically fit to perform his regularly assigned duties, even with reasonable accommodations, the Board may terminate this Agreement.

5. **PROFESSIONAL MEETINGS.** Employee is expected to attend appropriate professional meetings at the local, state, and national levels. Prior approval of the Superintendent shall be obtained when Employee attends state and national functions and whenever the actual and necessary expenses of attendance shall be paid by the District. Travel expenses and mileage reimbursement for professional meetings and other job-related duties for travel outside of San Diego County shall be reimbursed at the IRS-approved mileage rate.

6. **PROFESSIONAL ACTIVITIES.** With prior approval by the Superintendent, Employee may undertake outside professional activities including consulting, speaking and writing, either with or without compensation provided such activities do not, in the exclusive judgment of the Superintendent, after being fully advised by Employee, tend to impair the effectiveness of Employee or interfere with his normal duties. In cases where the Employee engages in outside professional activities which generate a fee for services, Employee shall utilize Vacation days as provided for under the terms of this Agreement.

7. **PERFORMANCE CONTRACT.** Employee shall meet with the Superintendent to develop Performance Contract objectives for each school year during the term of this Agreement. Said Performance Contract objectives shall be reduced to writing and shall be based on existing duties and responsibilities as outlined in the Job Description and District management goals.

8. **EVALUATION.** The Superintendent will develop a process for evaluating the performance of Employee. Each year of this Agreement, the Superintendent shall evaluate Employee in writing. The evaluation shall be based upon the current District goals, the Assistant Superintendent—Human Resources Job Description, and applicable Board policies and California law.

9. **COMMUNITY RELATIONS.** Employee shall participate and be involved in community functions and civic organizations.

10. **BENEFITS.** Employee shall be provided all health and fringe benefits, which are provided other management employees. For health benefit purposes, upon retirement the District shall continue to pay the cost of District financed medical insurance for Employee and spouse, provided that Employee is age fifty-five (55) or older, employed by the District at the time of retirement, and has completed ten (10) consecutive years of service with the District prior to retirement. This obligation will terminate when Employee reaches the age of sixty-five (65) and spousal coverage will terminate when he/she reaches age sixty-five (65).

11. **PROFESSIONAL SCHEDULE AND VACATION.** Employee is a full-time Certificated management employee and shall be required to render twelve (12) months of full and regular service to the District during each annual period covered by this

Agreement. Employee shall be entitled to twenty-six (26) working days annual Vacation for each year of service rendered under this Agreement, excluding paid holidays. Employee is exempt from all overtime and from all compensatory time off.

The Board expects Vacation to be taken each year. However, when unable to utilize his full Vacation entitlement, Employee may accrue and carry forward from year to year a maximum of twenty-six (26) days of Vacation time accrued, but unused in previous years. If carrying forward accrued, but unused Vacation time from previous school years, up to the maximum specified above, Employee shall continue to accrue current year Vacation time until accrual of fifty-two (52) days of Vacation, but then shall accrue no more until he reduces the balance of accrued, but unused Vacation time, and thereafter will only accrue additional Vacation time until he again reaches the fifty-two (52) day threshold. At the conclusion of each school year, the District shall pay Employee for all accrued, but unused Vacation time in excess of twenty-six (26) days at the then-existing daily rate of pay, such that Employee will never carry forward more than the twenty-six (26) day maximum from year to year.

12. OTHER DUTIES. Employee shall report directly to the Superintendent and shall be under the immediate authority and supervision of the Superintendent.

13. RESIGNATION. Employee may resign from his position at any time upon ninety (90) days prior written notice to the Superintendent.

14. NON-REEMPLOYMENT. Written notice will be provided six (6) months preceding the expiration of the Agreement that Employee will not be reemployed upon the expiration of the term. If written notice is not provided at least six (6) months prior to expiration, Employee is deemed reemployed for an additional one-year term under the same conditions as set forth in the Agreement.

15. TERMINATION.

a. Mutual Consent. This Agreement may be terminated at any time by mutual consent of the District and Employee. In no event shall any compensation to Employee as consideration for voluntary termination of this Agreement exceed the maximum cash settlement specified in paragraph 1, above

b. Termination for Cause. The District may terminate Employee for: (1) acts done in bad faith to the detriment of the District; (2) refusals or failures to act in accordance with specific provisions of this Agreement, and/or Superintendent or Board directives; (3) breach of this Agreement; (4) unsatisfactory performance; (5) misconduct or dishonest behavior; or (6) conviction of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person. The existence of such cause shall constitute a material breach of this Agreement and shall extinguish all rights and duties of the parties under this Agreement. If such cause exists, the Superintendent shall meet with Employee and shall submit a written statement of the grounds for termination and copies of written documents the Superintendent believes supports the termination. If Employee disputes the charges, he shall then be entitled to a conference before the Board in Closed Session. Employee and the Board shall each have the right to be represented by counsel at their own expense. Employee shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it

shall provide Employee with a written decision. The decision of the Board shall be final. Employee's conference before the Board shall be deemed to satisfy Employee's entitlement to due process of law and shall be Employee's exclusive right to any conference or hearing otherwise required by law. Employee waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts Employee's administrative remedies and then authorizes Employee to contest the Board's determination in a court of competent jurisdiction.

c. Termination without Cause. The District may, for any reason, without cause or a hearing, terminate this Agreement at any time. In consideration for the exercise of this right, the District shall compensate Employee as specified in paragraph 1, above. The parties agree that any damages to Employee that may result from the District's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide health benefits, constitutes reasonable liquidated damages for Employee, fully compensates Employee for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes Employee's sole remedy to the fullest extent provided by law. Finally, the parties agree that this provision, along with paragraph 1, above, meet the requirements governing maximum cash settlements as set forth in Government Code §§ 53260, *et seq.*

d. Disability. Upon written evaluation by a licensed physician designated by the District indicating the inability of Employee to perform the essential functions of the position, with or without reasonable accommodation, this Agreement may be terminated by the District upon written notice to Employee and after providing a reasonable opportunity to respond. The District may allow Employee to continue in employment until expiration of current and accumulated sick leave and differential leave, but upon receipt of the written evaluation specified above, may immediately assign another employee the duties of Employee.

e. Death. Death of Employee immediately terminates this Agreement.

16. LEGALLY MANDATED CONTRACT PROVISIONS.

a. Any salary or paid leave salary provided Employee pending an investigation shall be fully reimbursed if Employee is convicted of a crime involving an abuse of his office or position, as set forth in Government Code §§ 53243 and 53243.4.

b. Regardless of the term of this Contract, if this Contract is terminated, any cash settlement related to the termination that Employee receives from the District shall be fully reimbursed to the District if Employee is convicted of a crime involving an abuse of his office or position, as set forth in Government Code §§ 53243.2 and 53243.4.

c. As required by Government Code § 53260(b)(1), if this Agreement is terminated due to fraud, misappropriation of funds, or other illegal fiscal practices, and an independent audit confirms that the illegal fiscal activities occurred, the maximum cash settlement cannot be greater than the monthly Base Salary multiplied by six.

d. Any funds for the legal criminal defense of Employee provided by the District shall be fully reimbursed to the District if Employee is convicted of an abuse of his office or position, as set forth in Government Code §§ 53243.1 and 53243.4.

IN WITNESS WHEREOF, we affix our signature to this Agreement as the full and complete understanding of the contractual relationship between the parties hereto. This Agreement can be modified only in writing, duly executed by the parties hereto or their successors in interest.

 Date 11/15/2022
Dr. Joel Garcia
Assistant Superintendent
Human Resources

 Date 11.15.22
Dr. Andy Johnson
Superintendent of Schools

____ Date _____
Stacy Carlson
President
Governing Board