

## ADDENDUM NO. 2

### EANES INDEPENDENT SCHOOL DISTRICT SUPERINTENDENT EMPLOYMENT AGREEMENT

This Addendum No. 2 is hereby made this the 16th day of JUNE, 2008, effective January 1, 2008, and is made a part of that certain Superintendent's Employment Agreement between the Eanes Independent School District (the "District") and Nola Wellman, Ph.D. (the "Superintendent") dated May 6, 2007 and effective January 1, 2007, and amended by Addendum No. 1 dated May 14, 2007, and effective January 1, 2007 (ceased to be effective on December 31, 2007) (the "Agreement").

#### WITNESSETH:

#### I.

In consideration of the mutual covenants herein and the continued employment of the Superintendent by the District, the District does hereby make the following modifications to the Agreement:

A. The following is substituted for Paragraph 2 of the Agreement:

"2 Term. The term (the "Term") of this Agreement shall begin on January 1, 2008 (the "Effective Date") and shall end December 31, 2012 (the "Termination Date"). This Agreement may be renewed for one or more additional one year terms (each, a "Renewal Term") by mutual agreement of the parties in accordance with the Texas Education Code, Chapter 21, Subchapter E, and the policies of the District's Board of Trustees (the "Board").

B. Paragraph 7a. of the Agreement is hereby modified to change the Annual Base Salary to Two Hundred Sixteen Thousand Seven Hundred Fifty Seven Dollars and Eighty Four Cents (\$216,757.84) to be effective January 1, 2008.

C. Paragraph 7b. of the Agreement is hereby deleted and the following is substituted for Paragraph 7b. of the Agreement:

"7.b. The District shall supplement the Superintendent's annual salary beginning on January 1, 2008 and through the term of this agreement, by an amount equal to the Superintendent's portion of the monthly contribution to the Texas Teacher Retirement System required for the superintendent, including the employee contribution, the TRS-care contribution, the cost of purchasing wait period service credit, federal income tax and Medicare tax

owed. This additional salary supplement shall be paid to the Superintendent by regular monthly payroll installments and shall be reported as "creditable compensation" by the District for purposes of the TRS of Texas. In the event the Superintendent's employment terminates on or before December 31, 2008, the Superintendent, over the 12 months following the date of termination, shall pay the District back the sum of Twenty Four Thousand Three Hundred Sixty-Four and 75/100 Dollars (\$24,364.75) representing a prorata portion of the District providing the Superintendent the benefit of paying for the costs of purchasing wait period service credit. In the event the Superintendent's employment terminates after December 31, 2008 and on or before December 31, 2009, the Superintendent, over the 12 months following the date of termination, shall pay the District back the sum of Nineteen Thousand Three Hundred Sixty-Four and 75/100 Dollars (\$19,364.75) representing a prorata portion of the District providing the Superintendent the benefit of paying for the costs of purchasing wait period service credit. In the event the Superintendent's employment terminates after December 31, 2009 and on or before December 31, 2010, the Superintendent, over the 12 months following the date of termination, shall pay the District back the sum of Fourteen Thousand Three Hundred Sixty-Four and 75/100 Dollars (\$14,364.75) representing a prorata portion of the District providing the Superintendent the benefit of paying for the costs of purchasing wait period service credit. In the event the Superintendent's employment terminates after December 31, 2010 and on or before December 31, 2011, the Superintendent, over the 12 months following the date of termination, shall pay the District back the sum of Five Thousand No/100 Dollars (\$5,000.00) representing a prorata portion of the District providing the Superintendent the benefit of paying for the costs of purchasing wait period service credit. In the event the Superintendent's employment terminates after December 31, 2011, the Superintendent shall not owe any amount to the District in regard to the District providing the Superintendent the benefit of paying for the costs of purchasing wait period service credit."

- D. Paragraph 7c. is hereby amended to change the contribution from Twenty Thousand Five Hundred and No/100 Dollars (\$20,500.00) to Twenty One Thousand and No/100 Dollars (\$21,000.00).
- E. The Five Thousand and No/100 Dollars (\$5,000.00) supplemental retirement contribution under Paragraph 7d. is suspended only for the year 2008 of this Agreement.

II.

Unless expressly modified by the provisions of this Second Amendment, the terms of the Agreement shall remain in full force and effect and are expressly ratified hereby. The terms which are capitalized in this Second Amendment shall have the same meaning given to them in the Agreement. This Second Amendment may be executed in multiple counterparts, each of which shall, for all purposes, be deemed an original, and all of which shall, for all purposes, constitute one and the same instrument.

EANES INDEPENDENT SCHOOL DISTRICT

By: Jim Strickland  
Jim Strickland, President

By: Paul W. Stone  
Paul Stone, Secretary

Nola Wellman  
Nola Wellman, Ph.D., Superintendent

**EANES INDEPENDENT SCHOOL DISTRICT  
SUPERINTENDENT EMPLOYMENT AGREEMENT**

This Superintendent Employment Agreement (“**Agreement**”) is made by and between Eanes Independent School District (the “**District**”) and Nola Wellman, Ph.D. (the “**Superintendent**”).

**RECITATIONS**

The District desires to employ the Superintendent, and the Superintendent desires to be employed by the District, on the terms and conditions set forth herein.

**AGREEMENT**

In consideration of the mutual covenants contained herein, the parties hereto, each intending to be legally bound hereby, agree as follows:

1. **Conditions Precedent.** This Agreement is expressly conditioned upon the Superintendent satisfactorily providing to the District the necessary certification and experience records, medical records, and other records required by law, District policy, State Board for Educator Certification rules, and Texas Education Agency rules. Failure to provide necessary records within thirty (30) days of the execution hereof, unless waived by Board action and approved by the Texas Education Agency, shall render this Agreement void and unenforceable.
2. **Term.** The initial term (the “**Initial Term**”) of this Agreement shall begin on January 1, 2007 (the “**Effective Date**”) and shall end December 31, 2011 (the “**Termination Date**”). This Agreement may be renewed for one or more additional one year terms (each, a “**Renewal Term**”) by mutual written agreement of the parties in accordance with Texas Education Code Chapter 21, Subchapter E, and policies of District’s Board of Trustees (the “**Board**”).
3. **Duties.** The Superintendent shall be the chief executive of the District and shall faithfully perform the duties of the Superintendent of schools for the District as prescribed herein and as may be lawfully assigned by the Board from time to time. The Superintendent shall comply with all lawful Board directives, state and federal law, district policy, rules, and regulations as they exist or may hereafter be amended. The Superintendent’s duties shall include, without limitation, the following:
  - a. recommending for employment all professional employees of the District subject to the Board’s approval;
  - b. employing all other personnel consistent with the Board’s policies;
  - c. directing, assigning, reassigning, and evaluating all of the employees of the District consistent with Board policies and federal and state law;
  - d. organizing, reorganizing, and arranging the staff of the District and developing and establishing administrative regulations, rules, and procedures which the Superintendent deems necessary for the efficient and effective operation of the District consistent with the Board’s lawful directives, the Board’s policies, and state and federal law;
  - e. accepting all resignations of employees of the District consistent with the Board’s policies, except the Superintendent’s resignation, which must be accepted by the Board;

- f. preparing and submitting to the Board annually a proposed budget covering all estimated revenue and proposed expenditures of the District for the following fiscal year;
- g. preparing recommendations for policies to be adopted by the Board and overseeing the implementation of adopted policies;
- h. developing appropriate administrative regulations to implement adopted policies;  
and
- i. providing leadership for the attainment of student performance based on the academic excellence indicators adopted by the Texas Education Agency, the State Board of Education and other indicators adopted by the Board.

All duties assigned to the Superintendent by the Board shall be appropriate to and consistent with the professional role and responsibility of a Superintendent of Schools, and the Superintendent shall perform her duties with reasonable care, diligence, skill and expertise.

4. Performance Evaluation.

a. Development of Goals. The Superintendent shall submit to the Board each year, for the Board's consideration and adoption, a recommended list of goals for the District. The goals approved by the Board ("**District Goals**") shall at all times be reduced to writing and shall be among the criteria on which the Superintendent's performance is reviewed and evaluated.

b. Time and Basis of Evaluation. At least annually, but more frequently if deemed desirable by the Board, the Board and the Superintendent shall meet in executive session to evaluate the Superintendent's performance under this Agreement and her working relationship with the Board. The evaluation and assessment shall be reasonably related to District Goals and the duties of the Superintendent as outlined herein.

c. Confidentiality. Unless the Superintendent expressly requests otherwise in writing, the evaluation of Superintendent at all times shall 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.

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

5. Board Meetings, Criticisms, and Complaints.

a. Unless otherwise prohibited by law, the Superintendent shall attend all meetings of the Board, both public and closed, with the exception of the following:

- (1) meetings devoted to (i) the consideration of any Board action in connection with this Agreement, (ii) the Superintendent's salary and benefits as set forth in this Agreement, (iii) the Superintendent's evaluation; or (iv) resolving conflicts between individual Board members; and
- (2) meetings in which the Board is acting in its capacity as a tribunal.

In the event of illness or Board President approved absence, the Superintendent's designee shall attend such meetings.

b. Criticisms, Complaints, and Suggestions. All substantive criticisms, complaints, and suggestions brought to the Board's attention shall be referred timely to the Superintendent for study and appropriate action, and within a reasonable time the Superintendent shall investigate such matters and inform the Board of the results of such investigation.

6. Professional and Civic Activities. The Superintendent shall devote all necessary time, skill, labor, and attention to performing her duties hereunder and may undertake consulting work, speaking engagements, writing, lecturing, and other professional activities that do not materially interfere with the Superintendent's professional responsibilities to District, provided however that if such activities require more than five (5) days in any particular year, then Board approval shall be required. Superintendent shall participate in community and civic affairs in accordance with Board policy and reasonable expenses incurred in such participation shall be borne by the District.

7. Base Salary, Retirement Benefits, and Retention Incentives. The District shall pay the Superintendent an annual base salary and other compensation as follows:

a. Base Salary. Annually throughout the term of this Agreement, the District shall pay the Superintendent a base salary of Two Hundred Eight Thousand Four Hundred Twenty One and No/100 Dollars (\$208,421.00) (the "Annual Base Salary"). The District shall pay the Annual Base Salary in such installments as are consistent with Board policy. At any time during the Initial Term or any Renewal Term of this Agreement, the Board, in its sole discretion, may review and adjust the Annual Base Salary, but in no event shall the District pay the Superintendent less than the Annual Base Salary set forth in this paragraph 7.a. The Annual Base Salary shall be increased each year by an amount equal to the highest percentage raise given to the District's teachers or a percentage mutually agreeable to the Board and Superintendent. ←

b. The District shall supplement the Superintendent's annual salary beginning on January 1, 2007 and through the term of this Agreement, by an amount equal to the Superintendent's portion of the monthly contribution to the Texas Teacher Retirement System required for the Superintendent. This additional salary supplement shall be paid to the Superintendent by regular monthly payroll installments and shall be reported as "creditable compensation" by the District for purposes of the Teacher Retirement System of Texas. ←

c. Contributions to Superintendent's Tax Sheltered Plan. Not later than December 31 of each year during the Initial Term or any Renewal Term and provided that 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 the amount of the salary deferral contribution, the District shall contribute Twenty Thousand Five Hundred and No/100 Dollars (\$20,500) as a salary deferral contribution to a plan established by the District under either Section 403(b) or Section 457(b) of the Code (the "**Superintendent's Plan**"), which plans may include investments as allowed under Sections 403(b)(7) and/or 457(b) of the Code, respectively, at the Superintendent's option. Provided that the Superintendent's salary deferral agreements executed in accordance with the requirements of Sections 403(b) and/or 457(b) of the Code allow for deferrals that are at least equal to the contribution of the District, the District shall increase its annual salary deferral contribution to the Superintendent's Plan by Five Hundred and No/100 Dollars (\$500.00) each year, up to the maximum salary deferral contribution allowed under Code Sections 403(b) or 457(b), as applicable. This contribution shall be treated as a salary deferral contribution under the Code and shall be reported as "creditable compensation" by the District for purposes of the Teacher Retirement System of Texas. Notwithstanding anything herein to the contrary, the District shall be obligated to make the total annual salary deferral specified herein and will not be obligated to make any salary deferrals in excess of this amount. The total salary deferral amount specified herein may be allocated to a plan established under Section 403(b) and/or 457(b) of the Code, at the discretion of the Superintendent.

d. Retention Incentive: As an incentive for the Superintendent to continue in the employment of the District, the Board shall make non-elective employer contributions to one or more "Retention Incentive Plans", as described herein. These contributions are referred to herein as the "**Supplemental Retirement Contributions**". A one-time, initial Supplemental Retirement Contribution of Fifty Thousand and No/100 Dollars (\$50,000) has been made to the Retention Incentive Plan. In addition, a Supplemental Retirement Contribution of Five Thousand and No/100 Dollars (\$5,000.00) shall be contributed annually on or before December 31 of each year. Further, the Board may, at its discretion, make additional Supplemental Retirement Contributions.

The Superintendent shall become 100% vested in the Supplemental Retirement Contributions and any earnings thereon if and only if the Superintendent (i) continues in the employment of the District through December 31, 2011, or (ii) the Superintendent's employment is terminated prior to December 31, 2011 due to death, disability, or involuntary termination of employment, other than termination for "good cause" pursuant to Sections 13(e)(iv) through (xviii) of this Agreement. If the Superintendent dies or becomes permanently disabled prior to December 31, 2011, the District shall promptly thereafter make the Supplemental Retirement Contribution in the amount of Five Thousand and No/100 Dollars (\$5,000.00) due for that year and thereafter, shall have no obligation to make contributions under this paragraph 7.d.

Supplemental Retirement Contributions shall be non-elective employer contributions, and the Superintendent shall not have any right to receive such contributions in cash. The Supplemental Retirement Contributions shall be made first to the District's Section 403(b) plan. To the extent that such contribution, together with salary deferral contributions, exceeds the maximum contribution limit under the Code for a Section 403(b) plan, the remaining contribution shall be made to a plan established under Section 457(b) of the Code.

Each of these plans shall be established under a written plan document that meets the requirements of the Code and such documents are hereby incorporated herein by reference. The funds for the 403(b) and 457(b) plans shall be invested in such investment vehicles as are

allowable under the Code for the applicable type of plan and such investment vehicles shall be mutually agreeable to the Superintendent and the Board.

Notwithstanding anything herein to the contrary, in the event of termination of the Superintendent's employment prior to December 31, 2011 by reason of death, disability, or involuntary termination of the Superintendent by the Board for any reason other than "good cause" termination pursuant to Sections 13(e)(iv) through (xix) of this Agreement, the Superintendent shall be one hundred percent (100%) vested in all of the Supplemental Retirement Contributions and earnings thereon made prior to the date of termination of the Superintendent's employment or as a result of her death or disability, but neither the Superintendent nor the Superintendent's estate or beneficiaries shall be entitled to any further contributions.

8. Life Insurance. The District shall pay all premium costs for life insurance coverage for the Superintendent in the policy amount of at least Five Hundred Sixty Thousand and No/100 Dollars (\$560,000). The life insurance policy provided hereunder shall be owned by the Superintendent on the life of the Superintendent, with the Superintendent having the sole right to determine the beneficiary and to the cash surrender value of the life insurance policy, if any, at any time during the Initial Term or any Renewal Term of this Agreement and following its termination or expiration.

9. Vacations, Holidays and Sick Leave.

a. Vacations. The Superintendent shall have ten (10) vacation days per year, which vacation days may be taken all together or separately at such time or times as, in her reasonable determination, will least interfere with the performance of her duties hereunder.

b. Holidays. The Superintendent shall receive the same number of legal holidays as provided by the Board from time to time for administrative employees on twelve-month contracts.

c. Sick Leave. The Superintendent shall receive seven (7) days sick leave annually and shall receive five (5) personal days annually. The Superintendent's accrued but unused personal leave days, sick leave days, and vacation days shall carry over from year to year, provided she may request payment for accrued but unused personal leave days, sick leave days, and vacation days on June 30 of each year during the Initial Term or any Renewal Term of this Agreement, to be paid at the Superintendent's "daily rate," which shall be determined by dividing the Superintendent's then current salary by 230 days. Upon the termination or expiration of this Agreement, the Superintendent shall be entitled to receive payment for her accrued and accumulated but unused personal leave days, sick leave days, and vacation days, at the Superintendent's then current "daily rate" computed as provided above.

10. Reimbursements. The District shall reimburse the Superintendent for reasonable out-of-pocket expenses directly incurred by her in the performance of her duties under this Agreement, including without limitation mileage, gasoline, hotel, meal, rental car and other travel related expenses. The Superintendent shall comply with all expense reporting procedures required by Board policy. In addition, the District shall reimburse the Superintendent for expenses reasonably incurred for out-of-district travel in the performance of her duties hereunder.

11. Laptop Computer and Internet Access. The District shall provide the Superintendent with a laptop computer and Internet access for her general use. ←

12. Memberships and Other Benefits.

a. Memberships. The District shall pay for the Superintendent's membership in civic organizations that are considered beneficial to fostering positive relations with the Eanes community. ←

b. Other Benefits. The District shall provide the Superintendent with any additional benefits provided to full-time employees of the District. ←

c. Professional Growth. The Superintendent shall devote her time, attention, and energy to the direction, administration, and supervision of the District. The Board shall permit a reasonable amount of release time for the Superintendent as deemed appropriate for professional growth seminars, courses or meetings. The District hereby agrees to provide annually a professional development budget to be used by the Superintendent for registration, travel, meals, lodging, and other expenses related to such seminars, courses or meetings. The District shall pay the Superintendent's membership dues to the Texas Association of School Administrators, the American Association of School Administrators, and the National School Board Association as well as other memberships necessary to maintain and improve Superintendent's professional skills. The District shall bear the reasonable cost and expense for such attendance and membership. ←

13. Termination. This Agreement may be terminated prior to expiration in accordance with the following:

a. Termination by Mutual Agreement. The Superintendent and the District may terminate this Agreement pursuant to any mutually agreeable written terms and conditions.

b. Termination Upon Death. This Agreement shall terminate immediately upon the death of the Superintendent.

c. Termination for Disability.

(i) In the event that the Superintendent ceases to be able to perform her duties and responsibilities under this Agreement due to injury or illness, then at the Superintendent's option or upon reasonable request by the District, the Superintendent or her representatives, within a reasonable time, shall provide the Board with a written statement from the Superintendent's physician that the Superintendent is disabled because she is unable, due to illness or injury, to perform the essential functions of the Superintendent's position. The District may dispute such determination by providing written notice to the Superintendent or the Superintendent's representatives within thirty (30) days of the District's receipt of said written statement from the Superintendent's physician.

(ii) If District disputes the determination of the Superintendent's physician, District may request a second opinion from a physician chosen by the District. If the physician selected by the District does not concur with the determination of the Superintendent's physician, then the District and the Superintendent shall

select a third physician whose determination shall be binding on all parties. The Superintendent hereby consents to any medical examinations required pursuant to this paragraph 13.c.(ii).

(iii) If the District does not dispute the determination by the Superintendent's physician in writing within thirty (30) days of receipt of such determination, then the Superintendent will be deemed to be disabled for purposes of this Agreement.

(iv) If the Superintendent is determined to be disabled, then for the first six (6) months after the Superintendent ceases to be able to perform her duties and responsibilities, the Superintendent or Superintendent's representatives shall receive the Superintendent's full compensation and benefits attributable to that period, less any short term, long term or residual disability benefits, or any other type of income protection benefit provided by the District for the Superintendent. The Superintendent also shall receive all accrued vacation, sick leave and prorated supplemental benefits. The District will not be obligated further to compensate the Superintendent after the expiration of said six (6) month period, except for any obligations relating to the District's welfare or pension benefit plans imposed on the District from time to time by law or under such plan documents.

(v) If during the first six (6) months after the Superintendent has been determined to be disabled, the Superintendent determines that her disability has ceased, then, upon delivery to the District of a full medical release from the Superintendent's physician, she may resume her full duties and continue to receive her compensation and benefits hereunder as if she had never been disabled. If, however, the Superintendent is unable to perform the essential functions of her position with or without reasonable accommodation after the expiration of said six (6) month period, the District may terminate this Agreement without further obligation to Superintendent.

(vi) If the Superintendent fails timely to establish her disability under the provisions of this paragraph 13.c., then the District shall have the right, but not the obligation, to terminate the employment of the Superintendent under the provisions of this paragraph 13.c.

d. Termination for Convenience. The Superintendent may terminate this Agreement for convenience at the end of the any school year by filing a written letter of resignation with the Board. The letter of 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.

e. Termination by the District for Good Cause. The District may terminate this Agreement at any time for good cause. For purposes of this Agreement, "good cause" shall mean:

(i) a determination by the Board that a consolidation of the District with one or more other school districts requires that this Agreement be terminated;

(ii) failure to fulfill duties or responsibilities as set forth under the terms and conditions of this Agreement;

- (iii) 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 however that the terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent with a reasonable opportunity to remediate any incompetence or inefficiency;
- (iv) insubordination or failure to comply with lawful written Board directives;
- (v) failure to comply with written Board policies or District administrative regulations;
- (vi) neglect of duties;
- (vii) drunkenness or excessive use of alcoholic beverages;
- (viii) illegal use of drugs, hallucinogens, or other substances regulated by the Texas Controlled Substances Act;
- (ix) conviction of a felony or crime involving moral turpitude;
- (x) failure to meet the District's standards of professional conduct;
- (xi) failure to comply with reasonable District professional development requirements regarding advanced course work or professional development;
- (xii) disability, not otherwise protected by law, that substantially impairs the Superintendent's performance of required duties;
- (xiii) 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;
- (xiv) assault;
- (xv) knowingly falsifying records or documents related to the District's activities;
- (xvi) any material misrepresentation of fact knowingly made to the Board or other District officials in the conduct of the District's business;
- (xvii) failure to fulfill requirements for superintendent certification unless waived by Board action and approved by the Texas Education Agency;
- (xviii) failure to fulfill the requirements of a deficiency plan under an emergency plan; or
- (xix) any other reason constituting "good cause" under Texas law.

f. Termination for Retirement. This Agreement shall terminate immediately upon retirement of the Superintendent under the Teacher Retirement System of Texas.

g. Termination by Non-Renewal. In the event the Superintendent is terminated by nonrenewal, such termination by non-renewal shall comply with the Texas Education Code, as amended from time to time. The District shall notify the Superintendent of its intent to terminate her by non-renewal at least ninety (90) days prior to the expiration date of this Agreement.

14. No Tenure. The Superintendent understands and agrees that the Board has not adopted any policy or practice that grants tenure and that no right of tenure is created by this Agreement or by the Superintendent's continued employment beyond the Initial Term or any Renewal Term.

15. No Reassignment. The District shall not reassign the Superintendent to another position within the District without the Superintendent's prior written consent.

16. Medical Examination. Once a year at the District's expense, the Superintendent shall undergo a comprehensive medical examination by a physician acceptable to the Board and the Superintendent and shall obtain and deliver to the Board a written statement from the examining physician certifying that the Superintendent is physically able to perform her duties under this Agreement.

17. Indemnification/Legal Defense. To the extent permitted by applicable law, the District agrees to indemnify, defend, and hold harmless the Superintendent from and against any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings and any administrative proceedings brought against the Superintendent in her individual or official capacity as employee of the District arising from or related to any act or omission of the Superintendent within the course and scope of her employment with the District (each, a "Claim"); excluding however any Claim (i) in which it is determined that the Superintendent committed official misconduct, willful or wrongful act or omission, or an act or omission constituting gross negligence, or bad faith, or (ii) to the extent recoverable or payable under an insurance contract held either by the District or by the Superintendent. The Superintendent's legal counsel shall be selected by mutual agreement of the Superintendent and the District. A legal defense may be provided through insurance coverage, in which case the Superintendent's right to agree to legal counsel provided for her will depend on the terms of the applicable insurance contract.

18. Miscellaneous.

- a. Notices. Any notices to be given hereunder by either party to the other may be effected by personal delivery in writing or by registered or certified United States mail, with postage prepaid and return receipt requested, addressed as follows:

If to the District:

Eanes I.S.D.  
Attn: President of the Board of Trustees  
601 Camp Craft Road  
Austin, Texas 78748

If to the Superintendent:

Nola Wellman, Ph.D.  
c/o Neal W. Adams,

Adams, Adams, Lynch & Loftin, P.C.  
1903 Central Drive, Suite 400  
Bedford, TX 76021

Any party may change its address by written notice in accordance with this paragraph 19.a. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of two (2) days after mailing by delivering the same into the care and custody of the United States Postal Service, by registered or certified mail, return receipt requested, with postage prepaid.

b. Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of the Superintendent by the District and contains all of the covenants and agreements between the parties with respect to the subject matter hereof. Each party to this Agreement acknowledges that no representations, inducement, promises, or agreements, orally or otherwise, have been made that are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by the party to be charged.

c. Superintendent Representations. The Superintendent represents and warrants to District that (i) the execution, delivery and performance of this Agreement by the Superintendent does not and will not conflict with, breach, violate or cause a default under any contract, agreement, instrument, order, judgment or decree to which the Superintendent is a party or by which it is bound, and (ii) upon the execution and delivery of this Agreement by the District, this Agreement shall be a valid and binding obligation of the Superintendent enforceable in accordance with its terms.

d. Waiver and Amendments. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach, whether or not similar, unless such waiver specifically states that it is to be construed as a continuing waiver. This Agreement may be amended, modified or supplemented only by a written instrument executed by the parties hereto.

e. Law Governing Venue; Successors and Assigns. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding its conflicts of laws principles. Each party consents to jurisdiction and venue for any suit relating to this Agreement in any court of competent jurisdiction in Travis County, Texas, or the United States District Court for the Western District of Texas. This Agreement shall be binding upon and inure to the benefit of the legal representatives, successors and assigns of the parties hereto (provided, however, that the Superintendent shall not have the right to assign this Agreement in view of its personal nature).

f. Attorneys' Fees and Costs. Except as otherwise provided in this Agreement, if any action is necessary to enforce or interpret the terms of this Agreement (including without limitation any actions for injunctive relief), the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which the prevailing party may be entitled.

g. Severability. Should any term, covenant, condition or provision of this Agreement be held to be invalid or unenforceable, the balance of this Agreement shall remain in full

force and effect and shall stand as if the unenforceable term, covenant, condition or provision did not exist.

h. Right of Offset. The Superintendent agrees that the District may offset any amounts owed by the Superintendent to the District against the Superintendent's compensation due from the District. In the event the District claims an offset under this paragraph, then, before the District may exercise its right to such offset, the District shall provide the Superintendent with prior written notice, which shall contain a detailed accounting of any amounts the District claims are owed by the Superintendent to the District, and the Superintendent shall have thirty (30) days from the date of such notice to pay or otherwise address the offset claimed in the District's notice.

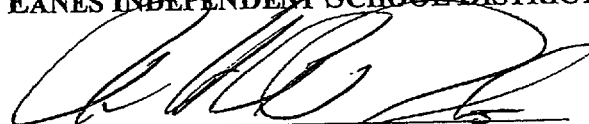
i. Conflicts. In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of the Board's policies, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over the contrary provisions of the Board's policies or any such permissive law.

j. Paragraph Headings. The paragraph and section headings of this Agreement are for reference only and shall not be considered in the interpretation of this Agreement.

k. Survival. The provisions of paragraphs 17 and 18 shall survive termination of this Agreement.

This Agreement is executed to be effective as of the Effective Date.

**EANES INDEPENDENT SCHOOL DISTRICT**



By: Robert R. Durkee, III  
Its: President, Board of Trustees

Date: May 6, 2007

**SUPERINTENDENT**

  
Nola Wellman, Ph.D., Individually

Date: May 10, 2007

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