

SUPERINTENDENT EMPLOYMENT CONTRACT

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TARRANT

This Superintendent Employment Contract ("Contract") is made and entered into this the 31st day of May, 2017, by and between the Board of Trustees, hereinafter referred to as the "BOARD," of the Keller Independent School District, hereinafter referred to as the "DISTRICT," and Dr. Rick Westfall, hereinafter referred to as "Dr. Westfall" or the "SUPERINTENDENT."

WITNESSETH:

The Board and the Superintendent have mutually agreed to enter into the following Contract between the Board and the Superintendent for and in consideration for the mutual promises and consideration contained herein, and pursuant to Section 11.201, and Chapter 21, Subchapter E, of the Texas Education Code, have agreed, and do hereby agree, as follows:

I. TERM

1.1 The Board, by and on behalf of the District, has employed Dr. Westfall, and Dr. Westfall has accepted employment for a term commencing on July 1, 2017, and ending on June 30, 2020. The District may, by action of the Board, and with the consent and approval of the Superintendent, extend or renegotiate the Contract to a term permitted by State law at any time hereafter.

1.2 From July 1, 2017, through July 31, 2017, Dr. Westfall shall be assigned temporarily to the position of Superintendent Elect, and he shall receive the compensation and benefits provided in this Contract. During this time he shall perform the duties of Superintendent, as described in this Contract, as Superintendent Elect whenever the District's current superintendent is not present or at those other times deemed necessary and appropriate by the District's current superintendent. On August 1, 2017, and thereafter during the term of this Contract and any extension thereof, except in accordance with Section 2.7 of this Contract, Dr. Westfall shall assume the position of Superintendent of Schools for the District.

II. EMPLOYMENT

2.1 Duties. The Superintendent shall be the chief executive officer and educational leader of the District and shall administer the School District in accordance with the Board's policies. The Superintendent shall perform those duties which are required by State law and other duties as prescribed by the Board's policies, as they currently exist or as they may hereafter be adopted or amended. The Superintendent agrees to perform the duties of the Superintendent

with reasonable care, diligence, skill, and expertise and in a reasonably thorough, prompt, and efficient manner.

Specifically, it shall be the duty of the Superintendent to recommend employment of new personnel for the District subject to Board approval and consistent with Board's policies and State and Federal law. It shall further be the duty of the Superintendent to organize, reorganize and arrange the staff of the District subject to Board policies and State and Federal law; and to develop and establish administrative regulations, rules and procedures which the Superintendent deems necessary for the efficient and effective operation of the District and which are consistent with the Board policies and State and Federal law.

2.2 Board Meetings. The Superintendent or the Superintendent's designee shall attend all meetings of the Board, both public and closed, and shall participate in the deliberations of the Board on all matters with the exception of those closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, the Superintendent's salary and benefits as set forth in this Contract and/or the Superintendent's evaluation, or when the Board is acting in its capacity as a tribunal and the Superintendent has been a party of the matter before the Board.

2.3 Board Committee Meetings. The Superintendent or the Superintendent's designee shall attend all Board Committee Meetings, Board-authorized and approved citizen committee meetings, and further, the Superintendent shall provide recommendation(s) and/or information as to each of the items of business considered at each meeting as needed or requested.

2.4 Criticisms, Suggestions. Pursuant to the duties established herein, the Board, individually and collectively, shall promptly refer all criticisms, complaints and suggestions called to the Board's attention to the Superintendent for study and appropriate action and the Superintendent or the Superintendent's designee shall promptly investigate such matters, and upon conclusion of such investigative efforts, the Superintendent shall promptly inform the Board, collectively, of the results of such efforts.

2.5 Professional Certification. The Superintendent shall at all times during the term of this Contract, and any renewal or extension thereof, hold and maintain a valid certificate required of a superintendent by the State of Texas and issued by the Texas Education Agency.

2.6 Indemnification. To the extent it may be permitted to do by applicable law, including, but not limited to Texas Civil Practice & Remedies Code Chapter 102, the District does hereby agree to defend, hold harmless, and indemnify Superintendent from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings brought against Superintendent in the Superintendent's individual or official capacity as an employee and as Superintendent of the District, providing the incident(s), which is (are) the basis of any such demand, claim, suits, actions, judgments, expenses and attorney's fees, arose or does arise in the future from an act or omission of Superintendent as an employee of the District, acting within the course and scope of Superintendent's employment with the District; excluding, however, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees for those claims or any causes of action where it is determined that Superintendent

committed official misconduct, or committed a willful or wrongful act of omission, or an act or omission constituting gross negligence, or acted in bad faith, or with conscious indifference or reckless disregard, nor does it apply to criminal investigations or proceedings, nor to any investigations or proceedings in which the District or Board and the Superintendent are adverse to each other; 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 Superintendent. The selection of Superintendent's legal counsel shall be with the mutual agreement of Superintendent and the District if such legal counsel is not also District's legal counsel. A legal defense may be provided through insurance coverage, in which case Superintendent's right to agree to legal counsel provided for him will depend on the terms of the applicable insurance contract. To the extent this Section 2.6 exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly.

2.6.1 During the term or any extended term of this Contract, the Superintendent shall cooperate with the District in the defense of any and all demands, claims, suits, actions and legal proceedings brought against the District.

2.6.2. After termination of this Contract, the Superintendent agrees to provide reasonable assistance to and cooperate with the District, its Trustees, agents, and attorneys in response to, or in defense of, any demand, claim, complaint, suite, 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 Superintendent's employment with the District, at no additional expense to the District other than reimbursement to Superintendent for his documented reasonable and necessary out-of-pocket expense, plus reimbursement of any salary loss by Superintendent by virtue of his taking time off from his then current employment to assist the District at its request. If Superintendent is not employed at the time, the District shall compensate Superintendent at Superintendent's daily rate of pay, calculated by dividing the salary (Section 3.1) under the most current contract by 226. Requests for assistance from Superintendent with respect to such matters shall be made through the Board of Trustees' President, any successor superintendent, and/or legal counsel for the District, and the amount to be reimbursed to Superintendent shall be mutually agreed upon in advance.

2.6.3 Except as expressly set forth herein, both the District's obligation and the Superintendent's obligation under this Section 2.6 shall survive the termination of this Contract.

2.7 Reassignment. The Superintendent cannot be reassigned from the position of Superintendent to another position without the Superintendent's express written consent.

2.8 Residence. No later than July 1, 2018, the Superintendent shall establish his primary residence within the geographic boundaries of the District, and shall thereafter maintain such primary residence within the District at all times during the term of this Contract and any extension thereof.

III.
COMPENSATION

3.1 Salary. The District shall provide the Superintendent with an annual salary in the sum of TWO HUNDRED AND FORTY FIVE THOUSAND AND NO/100 DOLLARS (\$245,000.00). The full annual salary shall be paid in twelve equal installments. A "contract year" or "school year" shall run from July 1 of each calendar year through June 30 of the following calendar year and shall consist of 226 contract days.

3.2 Salary Adjustments. At any time during the term of this Contract, the Board may, in its discretion, review and adjust the salary of the Superintendent, but in no event shall the Superintendent be paid less than the salary set forth pursuant to Section 3.1 of this Contract. Such adjustments, if any, shall be in the form of a written addendum to this Contract or a new contract, and such adjustment shall be exclusive of any insurance policy or other benefits, unless specifically provided in the addendum or new contract. If such adjustments are made during a school year, the new salary shall not be effective until the beginning of the next school year unless made effective at a different date by action of the Board.

3.3 Texas Teacher Retirement System. The District shall supplement the Superintendent's annual salary, for performance of Superintendent duties, by an amount equal to the Superintendent's portion of the monthly member contribution to the Texas Teacher Retirement System ("TRS") beginning on July 1, 2017, and continuing for the term of this Contract, with any extensions made by the Board. This supplement shall include both the retirement and TRS-Care parts of the TRS member contribution, as applicable. This additional salary supplement shall be paid to the Superintendent in regular monthly payroll installments and shall be reported as "creditable compensation" by the District for purposes of TRS, to the extent permitted by TRS.

IV.
ANNUAL PERFORMANCE GOALS

4.1 Annual Goals. 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 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.

4.2 Performance Criteria. The goals developed by the Superintendent and approved by the Board shall at all times be reduced to writing 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 implementing these goals.

V.
REVIEW OF PERFORMANCE

5.1 Time and Basis of Evaluation. The Board shall evaluate and assess in writing the performance of the Superintendent each year during the term of this Contract. The evaluation and assessment shall be reasonably related to the duties of the Superintendent and the goals and objectives approved by the Board for the year of evaluation.

5.2 Confidentiality. The evaluation of the Superintendent shall at all times be conducted in executive or closed session unless the Superintendent and the Board agree in writing that it shall be conducted in open session, and the evaluation and information concerning the evaluation, of whatever nature, shall be considered confidential information, as provided by law.

5.3 Evaluation Format and Procedure. The evaluation format and procedure shall be in accordance with the evaluation instrument selected by the Board in accordance with Article V of this Contract, the Board's policies, and state and federal law. In the event that the Board determines that the performance of the Superintendent is unsatisfactory in any respect, it shall describe in writing, in reasonable detail, specific instances of unsatisfactory performance. The evaluation shall include recommendations as to areas of improvement in all instances where the Board deems performance to be unsatisfactory. A copy of the written evaluation shall be delivered to the Superintendent. The Superintendent shall have the right to make a written response to the evaluation within thirty (30) days of receipt of the written evaluation from the board. That response shall become a permanent attachment to the evaluation in the Superintendent's personnel file. 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.

VI.

EXTENSION/NONRENEWAL OF EMPLOYMENT CONTRACT

6.1 Extension. Following the yearly evaluation of the Superintendent or at other times in the Board's discretion, the Board may consider extension of the Superintendent's Contract.

6.2 Nonrenewal. The Board shall notify the Superintendent in writing on or before the 45th day prior to June 30 of the last year of this Contract if this Contract is being considered for nonrenewal under the terms of the Texas Education Code, Chapter 21, Subchapter E.

6.3 Nonrenewal Procedure. In the event the Board proposes to not renew this Contract, the Superintendent shall be afforded all applicable rights as set forth in the Board's policies and State and Federal law.

VII.
TERMINATION OF EMPLOYMENT CONTRACT

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

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

7.3 Resignation. The Superintendent may relinquish the position and duties of the Superintendent and leave the employment of the District at the end of any school year without penalty, provided the Superintendent submits a resignation in writing to the Board forty-five (45) days prior to June 30 of any year during the term of this Contract, or upon such other notice of resignation which the Board chooses, at its option, to accept. Upon the acceptance of such written resignation by the Board, the representative rights, duties and obligations stated herein shall terminate.

7.4 Dismissal for Good Cause. The Board may dismiss the Superintendent during the terms of the Contract for good cause. The term "good cause" is defined as follows:

- a. Failure to fulfill duties or responsibilities as set forth under the terms and conditions of this 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, however the terms and conditions of this paragraph shall not justify good cause unless the Board has provided the Superintendent a reasonable opportunity to remediate any incompetency or inefficiency;
- c. Insubordination or failure to comply with lawful written Board directives;
- d. Willful failure to comply with written Board Policies or 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 the requirements of a deficiency plan under an Emergency Plan; or,
- q. Any other reason constituting "good cause" under Texas Law.

7.5 Termination Procedure. In the event that the Board terminates this Contract, the Superintendent shall be afforded all the rights as set forth in the Board's policies and State and Federal law.

VII BENEFITS

8.1 Expenses. The District shall pay or reimburse the Superintendent for reasonable expenses incurred by the Superintendent in the continuing performance of the Superintendent's duties under this Contract. The District agrees to pay the reasonable actual and incidental costs incurred by the Superintendent for the reasons of District-related travel outside of the Metroplex (including, but not limited to, gasoline, hotels, and accommodations, meals, and rental car), and other expenses incurred in the performance of the business of the District. The Superintendent shall comply with all policies, procedures, and documentation requirements in accordance with Board policies and established District procedures, which shall be subject to review by the District's independent auditors.

8.2 Insurance. The District will make available to the Superintendent the same insurance options under the same conditions as all District employees.

8.3 Vacations, Holidays, Sick Leave. The Superintendent shall be privileged to take, at the Superintendent's choice, the same number of days of vacation authorized by policies adopted by the Board for administrative employees on twelve-month contracts, the days to be in a single period or at different times. 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 set forth in this Contract. Accrued, but unused vacation days shall be lost at the end of each school year unless the Board President provides written authorization to carry such days over to the next school year. Such days may not be carried over more than one contract year.

The Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees on twelve-month contracts. The Superintendent is hereby granted the same number of illness benefits and leave as authorized by Board policies for administrative employees on twelve-month contracts.

8.4 Professional Growth. The Superintendent shall devote the Superintendent's time, attention and energy to the direction, administration and supervision of the District. The Board, however, encourages the continued professional growth of the Superintendent through the Superintendent's active attendance and participation in appropriate professional meetings at the local, regional, state and national levels. The Board shall also encourage the participation of the Superintendent in pertinent education seminars and courses by public or private institutions or by educational associations, as well as the participation in the informational meetings with those individuals whose particular skills expertise or backgrounds would serve to improve the capacity of the Superintendent to perform the Superintendent's professional responsibilities for the District. In its encouragement of the Superintendent to grow professionally, the District shall permit a reasonable amount of release time for the Superintendent, as the Superintendent and Board deem appropriate, to attend such seminars, courses or meetings. The District shall pay the Superintendent's membership dues to the American Association of School Administrators and the Texas Association of School Administrators, as well as other memberships which the Superintendent and Board mutually agree are necessary to maintain and improve the Superintendent's professional skills. The District shall bear the reasonable costs and expenses for such attendance or membership.

8.5 Supplemental Retirement Plan. On behalf of the District, the Board shall establish for the Superintendent a supplemental retirement plan (the "Plan"). The District shall make a contribution of \$12,000.00 to the Plan on or before June 30 of each school year during the term of this Contract and any extension thereof.

The District contribution shall be paid to a Board-paid non-elective plan established under Section 403(b) (12) of the Internal Revenue Code (the "Code"). The Superintendent shall not have any right to receive the contribution by the Board in cash.

The account balance(s) established under the Plan for the Superintendent ("Account") shall be one hundred percent (100%) vested to the benefit of the Superintendent at all times. The Superintendent shall have the right, subject to the limitations of the Code, to (a) name a beneficiary for the Account, (b) determine how the funds in the Account are invested, and (c) have an unencumbered right to receive distributions and/or loans from the Account.

Each of the plans that are a part of the Plan shall be established under a written document as may be required to meet the requirements of the Code and such document is hereby incorporated herein by reference.

8.6 Civic Memberships. The District expects and urges the Superintendent to be actively involved in community affairs and, to the extent consistent with the performance of his duties, to be involved in community activities and civic organizations. The Superintendent shall determine which organizations would provide the greatest benefit to the Superintendent and to the District and will review proposed membership in such organizations with the Board prior to joining the organizations. The District shall pay for the Superintendent's membership in such organizations and any reasonable costs and expenses associated with membership activities.

8.7 Automobile. Due to the nature of the responsibilities and duties of the Superintendent as the chief administrator and executive officer of the District, the District shall provide the Superintendent with an allowance for all expenses related to his automobile for business travel to destinations within the Metroplex in the sum of EIGHT HUNDRED AND NO/100 DOLLARS (\$800.00) per month. The Superintendent shall provide his own vehicle for business or personal use. The Superintendent shall purchase and maintain in force appropriate liability insurance for his vehicle at all times during the term of this Contract and any extension thereof. The Superintendent shall be reimbursed for reasonable and necessary business travel in his vehicle outside of the Metroplex at the District's established mileage reimbursement rate.

8.8 Cell Phone. The District shall provide Superintendent with a cell phone allowance in the amount of ONE HUNDRED AND FIFTY AND NO/100 DOLLARS (\$150.00) per month. Superintendent shall be responsible for obtaining and maintaining his own cell phone and phone service. The Superintendent's cell phone shall be his personal property and shall not belong to the District. The Superintendent may use the cell phone for his personal use and/or District business.

IX. PHYSICAL CONDITION AND DISABILITY

9.1 Annual Physical Examination. The Superintendent shall undergo a physical examination performed by a licensed physician of the Superintendent's choice annually during the term of the Contract. The physician shall submit a confidential statement to the Board certifying the Superintendent's fitness to perform the Superintendent's duties and copies of all such statements shall be maintained in the Superintendent's personal file. The District shall pay all costs of the annual physical examination. The Superintendent shall provide the physician's statement to the Board for its review upon request.

9.2 Disability.

- a. Disability Procedure. Should the Superintendent be unable to perform the essential functions and duties of his position by reason of illness, accident, etc., following complete exhaustion of all accrued vacation and sick leave, the Superintendent may be placed on unpaid leave from the District upon a determination of Long Term or Permanent Disability, as hereinafter provided; provided, however, that the Board, in its discretion, may continue to pay the

Superintendent's salary and benefits under the Contract for a period the Board deems appropriate.

- b. Long Term or Permanent Disability. Long Term or Permanent Disability means a disability which renders the Superintendent incapable of performing the Superintendent's essential duties or obligations of employment as Superintendent for a period which exceeds one hundred (180) business days or an incapacity rendering the Superintendent incapable of performing the essential duties or obligations of employment as Superintendent that is irreparable.
- c. Determination of Long Term or Permanent Disability. The determination of Long Term or Permanent Disability will be made by the Board based on a physical examination performed by a licensed physician selected by the Superintendent. The Board may obtain a second opinion from another licensed physician. The costs of the physical examinations provided for herein shall be paid by the District.
- d. Action of the Board. In the event that the disability of the Superintendent is a Long Term or Permanent Disability, as defined in subparagraph (b) of this paragraph, the Board, may, in its discretion, and upon a redetermination of Long Term or Permanent Disability under subparagraph (c), terminate this Contract by providing the Superintendent with written notice of such termination.

X.

OUTSIDE EMPLOYMENT

10.1 Outside Employment. Any outside employment of the Superintendent requires Board approval in advance of accepting such employment, and shall be in accordance with Section 11.201(e) of the Texas Education Code and other applicable law.

XI.

MISCELLANEOUS

11.1 Controlling Law. The Contract shall be governed by the laws of the State of Texas and shall be performable in Tarrant County, Texas. Venue for any legal action arising under this agreement shall be in a court of competent jurisdiction in Tarrant County, Texas, unless state or federal law requires a different venue.

11.2 Complete Agreement. This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties.

11.3 Notice. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to either party, as the case may be, at the addresses contained herein.

11.4 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. All existing agreements and contracts, both verbal and written, between the parties hereto regarding the employment of the Superintendent have been superseded by this Contract, and this Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract.

11.5 Conflicts. In the event of any conflict between the terms, conditions, and provisions of this Employment Contract and the provisions of any Board policies enacted subsequent to this Contract or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provision of such Board's policies or any such permissive law during the term of the Contract.

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KELLER INDEPENDENT SCHOOL DISTRICT

By:  _____

President, Board of Trustees

Address: 350 Keller Parkway
Keller, Texas 76248

SUPERINTENDENT

By:  _____

Dr. Rick Westfall

Address: 350 Keller Parkway
Keller, Texas 76248