

THE STATE OF TEXAS

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KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF COOKE

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**SUPERINTENDENT’S EMPLOYMENT CONTRACT**

THIS SUPERINTENDENT’S EMPLOYMENT CONTRACT (“Contract”) is made and entered into effective, the 11 day of August, 2018, by and between the Board of Trustees (the “Board”) of the **Gainesville Independent School District** (the “District”) and **Dr. DesMontes Stewart** (the “Superintendent”).

**WITNESSETH:**

NOW, THEREFORE, the Board and the Superintendent, for and in consideration of the terms hereinafter established and pursuant to Section 11.201(b) and Chapter 21, Subchapter E of the Texas Education Code, have agreed, and do hereby agree, as follows:

**I. Term**

**1.1 Term.** The Board, by and on behalf of the District, does hereby employ the Superintendent, and the Superintendent does hereby accept employment as Superintendent of Schools for the District for a term of three (3) years, **commencing on August 13, 2018, and ending on June 30, 2021.** The District may, by action of the Board, and with the consent and approval of the Superintendent, extend the term of this Contract as permitted by state law.

**1.2 No Tenure.** The Board has not adopted any policy, rule, regulation, law, or practice providing for tenure. No right of tenure is created by this Contract. No property interest, express or implied, is created in continued employment beyond the Contract term.

**II. Employment**

**2.1 Duties.** The Superintendent is the educational leader, chief executive, and chief administrator of the District and shall faithfully perform the duties of the Superintendent of Schools for the District as prescribed in the job description and as may be lawfully assigned by the Board, and shall comply with all lawful Board directives, state and federal law, District policy, rules, and regulations as they exist or may hereafter be amended.

Specifically, it shall be the duty of the Superintendent to recommend for employment all professional employees of the District subject to the Board’s approval. It shall be the further duty of the Superintendent to employ all other personnel consistent with the Board’s policies. It shall be the further duty of the Superintendent to direct, assign, reassign, and evaluate all of the employees of the District consistent with the Board’s policies and federal and state law. It shall be the further duty of the Superintendent to organize, reorganize, and arrange the staff of the District, and to develop and establish administrative regulations, rules, and procedures that 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. It shall be the further duty of the Superintendent to accept 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.

The Superintendent hereby agrees to devote substantially all of his time, skill, labor, and attention to the performance of his duties during the term of this Contract. The Superintendent shall perform the duties of the Superintendent of Schools for the District with reasonable care, diligence, skill, and expertise. All duties assigned to the Superintendent by the Board shall be appropriate to and consistent with the professional role and responsibility of the Superintendent.

**2.2 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 State Board for Educator Certification or the Texas Education Agency and any other certificates required by law.

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

**2.4 Board Meetings.** The Superintendent shall attend, and shall be permitted to attend, all meetings of the Board, both public and closed, with the exception of those closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, or the Superintendent's evaluation, or for purposes of resolving conflicts between individual Board members, or when the Board is acting in its capacity as a tribunal. In the event of illness or Board-approved absence, the Superintendent's designee shall attend such meetings.

**2.5 Criticisms, Complaints, and Suggestions.** The Board, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints, and suggestions called to the Board's attention either: (a) to the Superintendent for study and/or appropriate action, and the Superintendent shall refer such matter(s) to the appropriate District employee or shall investigate such matter(s) and shall within a reasonable time inform the Board of the results of such efforts; or, (b) to the appropriate complaint resolution procedure as established by District Board policies.

**2.6 Indemnification.** To the extent it may be permitted 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 the Superintendent from any and all demands, claims, suits, actions, judgments, expenses, and attorneys' fees incurred in any legal proceedings brought against the Superintendent in the Superintendent's individual or official capacity as an employee and as Superintendent of the District, providing the incident(s) that is (are) the basis of any such demands, claims, suits, actions, judgments, expenses, and attorneys' fees, arose or does arise in the future from an act or omission of the Superintendent as an employee of the District, acting within the course and scope of the Superintendent's employment with the District; excluding, however, any such demands, claims, suits, actions, judgments, expenses, and attorneys' fees for those claims or

any causes of action where it is determined that the Superintendent committed official misconduct; or committed a willful or wrongful act or omission, or an act or omission constituting gross negligence; or acted in bad faith; 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 the Superintendent. The selection of the Superintendent's legal counsel shall be with the mutual agreement of the 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 the 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. The provisions of this Section 2.6 shall survive the termination of this Contract.

**2.7 Annual Physical Examination and Disability.** The Superintendent shall undergo an annual physical examination performed by a licensed physician of the Superintendent's choice. The physician shall submit a confidential statement to the Board President verifying the Superintendent's fitness to perform the essential functions of his job, and a copy of such statement shall be maintained separate from the Superintendent's personnel file. The District shall pay all costs of the annual physical examination.

a. **Disability Procedure.** Should the Superintendent be unable to perform any or all of the essential functions of the material 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 the compensation amount under this Contract for any 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 any or all of the essential functions of the Superintendent's material duties or obligations of employment for a period which exceeds one hundred and eighty (180) business days or such an incapacity 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) above, the Board, may, in its discretion, and upon a re-determination of disability under subparagraph

(c), terminate this Contract by providing the Superintendent with written notice of such termination.

### **III. Compensation and Benefits**

**3.1 Salary.** The District shall provide the Superintendent with an annual salary in the sum of **Two Hundred Thousand Dollars Exactly (\$200,000.00)**. This annual salary rate shall be paid to the Superintendent in equal installments consistent with the Board's policies.

**3.1.1 Consulting.** In an effort to effectuate a smooth transition, effective August 3, 2018, Superintendent may work as a consultant for the District prior to beginning his role as the Superintendent of Schools. The District shall provide the Superintendent compensation at a daily rate of **Eight Hundred Eighty-Four Dollars and Ninety-Six Cents Exactly (\$884.96)** per day worked in the district.

**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 in Section 3.1 of this Contract except by mutual agreement of the two parties. Such adjustments, if any, shall be made pursuant to a lawful Board resolution. In such event, the parties agree to provide their best efforts and reasonable cooperation to execute a new contract incorporating the adjusted salary.

**3.2.1 Widespread Salary Reductions.** If the Board implements a widespread salary reduction under Texas Education Code section 21.4032, the Superintendent's annual salary shall be reduced by the percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

**3.2.2 Furlough.** If the Board implements a furlough under Texas Education Code section 21.4021, the Superintendent shall be furloughed for the same number of days as other contract personnel and the Superintendent's salary shall be reduced in proportion to the number of furlough days.

**3.2.3 Financial Exigency.** In accordance with Texas Education Code section 21.212(f), the Board may choose to amend the terms of the contract of a Superintendent employed under a term contract on the basis of a declared financial exigency under Section 44.011 of the Texas Education Code. A Superintendent whose contract is amended under this provision may resign without penalty by providing reasonable notice to the Board of at least 30 calendar days.

**3.3 Vacation, Holiday, and Personal Leave.** The Superintendent shall receive ten (10) days of vacation leave per year during the term of this Contract. The Superintendent may take vacation leave in accordance with policies adopted by the Board, 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 as set forth in this

Contract. The Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees on 12-month contracts. The Superintendent is hereby granted the same number of sick and personal leave days as authorized by Board policies for administrative employees on 12-month contracts, as they exist or may hereafter be amended. Beginning August 13, 2018, all accrued but unused vacation days shall be paid to the Superintendent as a single taxable lump-sum payment at the daily rate of \$884.96, on or after June 1 of each year, provided the Superintendent is employed by the District on each such date.

**3.4 Insurance.** The District shall pay for group health and hospitalization insurance on the same basis as other twelve-month administrative employees of the District.

**3.5 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 at and participation in appropriate professional meetings at the local, regional, state, and national levels. The Board shall encourage the use of data and information sources and shall encourage the participation of the Superintendent in pertinent education seminars and courses offered by public or private institutions or by educational associations, as well as the participation in 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.

**3.5.1 Professional Development.** In its encouragement of the Superintendent to grow professionally, the Board shall permit a reasonable amount of release time for the Superintendent, as the Superintendent and the Board deem appropriate to attend such seminars, courses, or meetings. The District does hereby agree to provide in the District's budget during the term of this Contract for the benefit of the Superintendent, a professional development budget per contract year to be used for registration, travel, meals, lodging, and other related expenses.

**3.5.2 Professional Organizations.** The District encourages the continuing professional growth of the Superintendent through participation in professional organizations and activities and shall pay the membership fees of the Superintendent in the following organizations:

- A. American Association of School Administrators (AASA); and
- B. Texas Association of School Administrators (TASA).

In addition, the District shall bear reasonable costs and expenses for other memberships mutually agreed to be necessary to maintain and improve the Superintendent's professional skills. With the prior approval of the Board, the Superintendent may hold office in such professional organizations, serve as a consultant to other school districts or educational agencies, lecture, engage in writing activities and speaking engagements, and engage in

other similar activities which are of a short-term duration and do not interfere with the performance of his duties as Superintendent.

**3.6 Civic Activities.** The Superintendent is encouraged to participate in community and civic affairs. The District shall pay the membership dues to two (2) community or civic organizations selected by the Superintendent.

**3.7 Outside Employment and Consulting Activities.** The duties and responsibilities of the Superintendent require full-time employment and frequently require that the Superintendent attend to his duties during the evenings, weekends and holidays. The Superintendent shall not accept any outside employment that in any manner interferes with the performance of his duties and responsibilities. The Board does recognize that certain outside employment may have a beneficial impact on the Superintendent's professional growth or may not interfere with the Superintendent's performance of his duties and responsibilities. The Superintendent may accept a limited amount of outside employment or consulting (including writing, lecturing, speaking engagements, or the opportunity to teach or serve as an adjunct professor at the college or university level on a part-time basis), provided that the Board has approved the outside employment and found that the outside employment in no manner interferes with the Superintendent's performance of his duties and responsibilities. The Superintendent will take vacation or other leave time as defined by Board policy while performing any private consulting during normal weekday work hours. In addition, the Superintendent may accept appointments to foundations, boards or commissions that do not interfere with the Superintendent's performance of his duties under this Contract, subject to the approval of the Board. The Superintendent agrees to comply with all laws and regulations regarding conflicts of interest. In no event will the District be required to reimburse any expenses incurred by the Superintendent in the performance of outside employment.

**3.8 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 actual and incidental costs incurred by the Superintendent for travel to destinations outside the District. Such actual or incidental costs may include, but are not limited to, gasoline, hotels and accommodations, meals, rental car, and other expenses incurred in the performance of the business of the District. The Superintendent shall comply with all procedures and documentation requirements in accordance with Board policies.

**3.9 Signing Bonus.** The District shall provide the Superintendent a one-time signing bonus in the amount of Five Thousand Dollars Exactly (\$5,000.00).

#### **IV. Annual District Goals**

**4.1 Development of Goals.** The Superintendent shall submit to the Board each year, for the Board's consideration and adoption, a preliminary list of goals for the District. The goals approved

by the Board shall be reduced to writing (“District Goals”) 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 achieving the District 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 at least once each year during the term of this Contract. The Board’s evaluation and assessment of the Superintendent shall be reasonably related to the duties of the Superintendent as outlined in the Superintendent’s job description and Section 2.1 of this Contract and shall be based on the District’s progress towards accomplishing the District Goals. The Superintendent shall provide a written reminder to the Board of its evaluation obligation at least thirty (30) days prior to the Regular Called Board Meeting in January. The evaluation format and procedure shall be in accordance with the Board’s policies and state and federal law.

**5.2 Confidentiality.** Unless the Superintendent expressly requests otherwise in writing, the evaluation of the Superintendent shall at all times 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 Superintendent’s evaluation with their respective legal counsel.

**5.3 Evaluation Format and Procedures.** 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 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 or Nonrenewal of Employment Contract**

**6.1 Extension/Nonrenewal.** Extension and/or nonrenewal shall be in accordance with Board policy, Texas Education Code Chapter 21, Subchapter E, and applicable law.

## **VII. Termination of Employment Contract**

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

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

**7.3 Dismissal for Good Cause.** The Board may dismiss the Superintendent during the term of the Contract for good cause in accordance with state law and Board policy.

**7.4 Termination Procedure.** In the event that the Board terminates this Contract for “good cause,” the Superintendent shall be afforded all the rights as set forth in the Board’s policies and state and federal law.

**7.5 Resignation of Superintendent.** The Superintendent may leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following school year. The Superintendent may resign with the consent of the Board at any other time.

**7.6. Unilateral Termination by the Board.** The Board may, at its option, unilaterally terminate this Contract. In the event of such termination the Board shall pay to the Superintendent, as severance pay, all of the aggregate salary he would have earned under this Contract from the actual date of termination to the termination date set forth in this Contract. In the event that the Board offers to terminate the Contract by paying the amount specified herein, the right to a hearing before the Board, as specified in section 8.5. above, and the right to appeal the Board’s action shall be considered waived by the Superintendent.

## **VIII. Miscellaneous**

**8.1 Controlling Law.** This Contract shall be governed by the laws of the State of Texas and shall be performable in Cooke County, Texas, unless otherwise provided by law.

**8.2 Complete Agreement.** This Contract embodies the entire agreement between the parties hereto and cannot be varied except by written agreement of the undersigned parties, except as expressly provided herein.

**8.3 Conflicts.** In the event of any conflict between the terms, conditions, and provisions of this Contract and the provisions of the Board’s policies, or any permissive state or federal law, unless otherwise prohibited by law, the terms of this Contract shall take precedence over the contrary provisions of the Board’s policies or any such permissive law during the term of the Contract.

**8.4 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.



**8.5 Amendments.** This Contract may only be amended in writing by the agreement of both parties.

**8.6 Attorney Fees.** In the event of any hearing or dispute arising under this Contract or the termination or nonrenewal thereof, any resulting legal expenses will be solely the responsibility of the party employing such legal counsel.

Executed this the 15 day of October, 2018:

**GAINESVILLE INDEPENDENT SCHOOL DISTRICT**

By: 

Corey Hardin, President  
Board of Trustees

**ATTEST:**

By: 

Phil Neelley, Secretary  
Board of Trustees

**SUPERINTENDENT OF SCHOOLS**

By: 

Dr. DesMontes Stewart