

# WACO INDEPENDENT SCHOOL DISTRICT

## Superintendent's Contract

### I. Term

IT IS HEREBY AGREED by and between the Board of Trustees (hereinafter called "Board") of the WACO INDEPENDENT SCHOOL DISTRICT (hereinafter called "District"), and DR. AL MARCUS NELSON (hereinafter called the "Superintendent"), that the Board in accordance with its action as found in the minutes of its meeting on April 27, 2017 does hereby employ Dr. Marcus Nelson as Superintendent of Schools from June 1, 2017 (hereinafter the "Effective Date") through June 1, 2022. Both parties agree that the Superintendent will perform the duties of Superintendent of Schools in and for the public schools of the District as prescribed by the laws of the State of Texas and by the policies, rules and regulations made thereunder by the Board of the District.

The Board and Superintendent may agree to extend or renew (whichever is appropriate), this Contract on an annual basis.

The Board has not adopted any policy, rule, regulation, law or practice providing for tenure. No right of tenure, contractual obligations, expectancy of continued employment, or claim of entitlement is created beyond the Contract term. Extension, renewal, non-renewal or termination of this Contract shall be in accordance with and pursuant to the terms and conditions of this Contract, Board Policy and applicable federal or state law.

### II. Employment

The Superintendent is the chief executive of the District and shall faithfully perform the duties of the Superintendent of Schools for the District as prescribed in Board Policies, the job description for Superintendent and as may be assigned by the Board, and shall comply with all Board directives, state and federal law, District policy, rules, and regulations as they exist or may

hereafter be amended. It shall be the further duty of the Superintendent to direct, assign, reassign, and evaluate all of the employees of the District consistent with Board 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 which the Superintendent deems necessary for the efficient and effective operation of the District consistent with 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 shall perform the duties of the Superintendent of Schools for the District with reasonable care, diligence, skill and expertise.

The Board, individually and collectively, will endeavor to refer all substantive criticisms, complaints and suggestions called to the Board's attention to the Superintendent for study and appropriate action, and the Superintendent or his designee shall investigate such matters and inform the Board of the results of such efforts.

The Superintendent, as directed by the Board, will furnish throughout the term of this Contract, a valid and appropriate certificate to act as Superintendent of Schools in the State of Texas. If the Superintendent's certification expires, is canceled, or is revoked, this Contract is void.

Except as otherwise permitted by this Contract or Board action, the Superintendent hereby agrees to devote his full time, energy, skill, labor and attention to said employment during the terms of this Contract.

The Board will have exclusive jurisdiction in determining policies for the direction and operation of the school system, and the Superintendent agrees to carry such policies into execution.

While the Board may assign additional duties to the Superintendent and change the Superintendent's responsibilities or work at any time during this Contract, the duties shall be appropriate and consistent with the professional role of the Superintendent and the Superintendent cannot be reassigned from the position of Superintendent to another position without the Superintendent's express written consent.

The Superintendent has disclosed to the Board his previous consulting relationships with vendors who have or may do business with the District. The Superintendent may serve as a consultant or undertake speaking engagements, or other professional duties and obligations (referred to collectively herein as "Consulting Services") that do not conflict or interfere with the Superintendent's professional responsibilities to the District. The Superintendent will not miss more than ten (10) District business days per contract year relating to Consulting Services. The Superintendent may accept a reimbursement of expenses but may not be paid an honorarium for such Consulting Services with vendors or potential vendors and such services will be of no cost to the District. Consultation provided by the Superintendent under the terms and conditions of this paragraph must be consistent with state and federal law, including Texas Education Code Section 11.201(e). The Superintendent shall keep the Board apprised of all outside speaking engagements.

The Superintendent shall attend all open meetings of the Board. The Superintendent shall also attend all closed meetings of the Board, unless the Board decides to exclude the Superintendent. If the Superintendent is ill or has obtained the approval of the Board President to be absent from a board meeting, the Superintendent's designee shall attend the meeting in place of the Superintendent.

### **III. Compensation**

#### **1. *Salary.***

The Superintendent, for performing faithfully the duties of Superintendent of Schools shall receive an annual salary of \$272,000.00. His annual salary will be paid in equal installments in accordance with the policy of the Board governing payment of other professional staff members in the District. It is agreed that the amount of the Superintendent's salary will not be reduced from the preceding year's salary.

2. *Other Benefits.*

The District shall provide benefits to the Superintendent as provided by state law and Board policies. The Board reserves the right to amend its policies at any time during the term of this Contract to reduce or increase these benefits, at the Board's sole discretion.

Additionally, the District will provide the following benefits:

(a) *Insurance.* The District shall pay on behalf of the Superintendent the same contribution as to other District employees for the health and medical insurance premium at the State Plan coverage option offered to the District's employees. The District shall pay at least the same premiums for hospitalization and major medical insurance coverage for the Superintendent pursuant to the group health care plan provided by the District for its administrative employees. The District shall pay the premiums for vision and dental insurance. The District will provide life insurance in the amount of \$500,000.00 (annual premium payment not to exceed \$1,500.00).

(b) *TRS Benefits.* The District will make the total member contribution on behalf of the Superintendent to the Texas Retirement System ("TRS"), including both the employer and the employee contributions. This salary supplement shall be paid to the Superintendent by regular payroll installments and shall be reported as compensation by the District to TRS. To the

extent that the District's payment of this TRS benefit as compensation to the Superintendent results in an increase of the TRS member contribution, the Superintendent shall be responsible to pay the difference.

(c) *Automobile Allowance.* The District shall provide the Superintendent with an automobile allowance in the sum of Five Hundred and No/100 Dollars (\$500.00) per month. This payment is in lieu of mileage expense reimbursement, gasoline, insurance, or other charges associated with such travel. The Superintendent is authorized to designate all or any part of this automobile allowance as salary.

(d) *Payment to a Tax-Deferred Annuity.* The District shall pay annually to the Superintendent, in addition to the Superintendent's salary identified in Section III(1) above, the amount of \$20,000.00 to a tax-deferred annuity identified by the Superintendent.

(e) *Out of Town Travel Expenses.* With exception of expenses associated with paragraph (c) above, and upon presentation of receipts and/or other documentation, the District shall reimburse the Superintendent for reasonable out of town travel expenses associated with his duties including, but not limited to, travel, lodging and meals. The Superintendent shall comply with all District Policies and procedures for documenting reimbursable expenses.

(f) *Vacations, Holidays, Sick Leave.* The Superintendent shall observe the same legal holidays and breaks as provided for other 12-month administrators in the Board's adopted annual calendar. The Superintendent shall also be entitled to an additional ten days of paid vacation to be used at his discretion. Unused vacation days (up to a maximum of 10) may be carried over

for future use. The Superintendent shall schedule vacation and leave days with prior written approval of the Board President and at times that will least interfere with the performance of the Superintendent's duties.

The Superintendent will be entitled to sick leave in accordance with state law and Board Policies as they presently exist or as they may be amended in the future in the same amount and under the same circumstances as other District professional personnel. Additionally, if the Superintendent should be unable to perform all or any of his duties by reason of illness, accident or other cause beyond his control, if said disability exists for a period longer than the accumulated sick leave to which he is entitled under Board policy, the Board may then in its discretion continue to pay the Superintendent for an additional period not longer than sixty (60) working days either at full or reduced salary, and if such disability continues beyond this additional period, or if said disability is permanent, irreparable or of such nature as to prevent proper performance of his duties, the Board may, at its option, terminate this Contract whereupon the respective duties, rights and obligations hereof will terminate.

The District shall pay the Superintendent a maximum of: (i) twenty accrued, unused state and local leave days and (ii) ten accrued, unused paid vacation days upon the Superintendent's resignation from employment, provided the Superintendent provides at least 60 days' written notice of resignation. The payout, if any, will be calculated using the Superintendent's daily rate of pay at the time of resignation, computed by dividing the Superintendent's annual salary by 230 days.

(g) *Membership Dues.* The Board encourages the Superintendent to become a member of and participate in professional associations and community and civic affairs, including the chamber of commerce, civic clubs, governmental committees, and educational organizations. The Board concludes that such participation will serve a legitimate purpose related to the educational mission of the District. The District will reimburse the Superintendent for the cost of membership in up to two professional associations and four local community or civic organizations. The District may reimburse the cost of membership in additional professional or civic organizations upon request by the Superintendent and subject to advance Board approval, in its discretion.

(h) *Internet Service.* The District shall pay or reimburse the Superintendent for the annual or monthly expenses incurred for providing the Superintendent with access to the Internet at the Superintendent's home, through a reputable Internet Service Provider.

(i) *Laptop Computer and cell phone.* The District shall provide wireless connectivity expenses and a laptop computer with necessary software for the Superintendent's use, at the sole cost and expense of the District. The Superintendent may, in the Superintendent's discretion, obtain a new replacement laptop computer every two years during the term of this Contract. The District will provide the Superintendent with a cell phone allowance in the amount of \$50.00 per month.

#### **IV. Review of Performance**

In January of each year, or as soon thereafter as practicable, but no later than February 15, the Board will devote a meeting or meetings to a mid-year review of the Superintendent's

performance (with the Superintendent present). In August of each year, the Board will devote a meeting or meetings to an evaluation of the Superintendent's performance (with the Superintendent present). The Superintendent's annual evaluation will be in accordance with State Law, rules of the Commissioner and Board Policies. At each such meeting(s), the Board, in consultation with the Superintendent, will establish specific goals or other objective criteria upon which, along with criteria set forth in Board Policies, the Superintendent will be evaluated for the following twelve (12) months. 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. The Superintendent's evaluation shall be reduced to writing. The Board shall furnish the Superintendent with a copy of the written evaluation and shall discuss its contents with the Superintendent in executive session. Nothing herein shall prohibit the Board or the Superintendent from sharing the content of the Superintendent's evaluation with their respective legal counsel.

**V. Professional Legal Liability**

The Board agrees to indemnify and hold the Superintendent harmless from any and all claims, actions, causes of action or judgments brought against him or recovered against him by third parties including, but not limited to, court costs and attorney's fees incurred by the Superintendent or awarded against him, arising from the performance of his duties as Superintendent and this Contract to the fullest extent permitted by law and the policies of the Board. Provided, however, that the District's obligation to indemnify and hold harmless does not apply if it is determined that the Superintendent committed official misconduct, a willful or wrongful act or omission, and act or omission constituting gross negligence, or an act in bad faith or to criminal investigations or criminal proceedings.

The Superintendent shall fully cooperate with the District in the defense of any and all claims, demands, actions, causes of actions, suits and/or legal proceedings brought against the Board of Trustees, the District and/or employees of the District (in their official capacity), regardless of whether the Superintendent is named as a party. As long as the Superintendent fulfills his obligation of full cooperation, the District shall reimburse reasonable, necessary and related expenses incurred by the Superintendent in cooperating and defending. The provisions of this paragraph and the obligations of the parties under this paragraph shall survive and continue following any termination of this Contract.

The Board may provide a policy of liability insurance to protect the Superintendent in regard to matters covered under this section. In entering into this Contract, the Board and the Superintendent do not waive or modify any defense, immunity or jurisdictional bar available to the Board and the Superintendent. No policy of insurance providing coverage to the Superintendent is modified or changed by this Contract. If legal counsel is provided (to the District and/or the Superintendent) through any insurance coverage, the Superintendent agrees to such legal counsel, subject to the terms of the applicable insurance contract. If no legal counsel is provided through any insurance coverage, the District's legal counsel will also be counsel for the Superintendent for purposes of this section, unless a conflict precludes such dual representation. In that event, 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.

#### **VI. Resignation, Suspension, Non-renewal and/or Termination of Employment**

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 year. The Superintendent may resign with the consent of the Board at any other time.

The Board may suspend the Superintendent with pay as determined to be in the best interest of the District.

The Board may suspend the Superintendent without pay, non-renew this Contract and/or terminate this Contract pursuant to Texas Education Code Chapter 21.

For purposes of suspension without pay and/or termination of this Contract, the term "good cause" means good cause as found by the Board and includes but is not limited to the following:

- (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. (The terms and conditions of this subparagraph (b) shall not justify good cause unless the Board has provided the Superintendent reasonable opportunity to remediate any incompetence or inefficiency.);
- (c) Insubordination or failure to comply with lawful written Board directives;
- (d) Failure to comply with the Board's policies or the District's 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 impairs performance of the required duties of the Superintendent;

- (l) Immorality, which is conduct the Board determines is 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) Failure to put forth a reasonable effort to achieve a good rapport with parents, the community, staff, or the Board; however, failure to accomplish a good rapport under the terms and conditions of this paragraph shall be deemed not to be good cause when said good rapport is not achieved due to no fault of the Superintendent;
- (n) Assault on an employee or student;
- (o) Knowingly falsifying records or documents related to the District's activities;
- (p) Conscious misrepresentation of facts to the Board or other District officials in the conduct of the District's business;
- (q) Failure to fulfill requirements for superintendent certification;
- (r) Failure to fulfill the requirements of a deficiency plan under an Emergency Permit; or,
- (s) Any other reason constituting "good cause" under Texas law.

## VII. Miscellaneous

The Superintendent is encouraged to promote the District and the District's interests locally, and to participate in community and civic affairs and organizations. To this end, the District shall budget and provide the Superintendent with a Superintendent's Discretionary Fund of at least Twenty Thousand and No/1 00 Dollars (\$20,000.00). Any annual expenses for such activities in excess of this amount are subject to prior Board approval. Any portion of the Superintendent's Discretionary Fund which is not spent during any fiscal year shall be returned to the District's general fund. In the event sufficient funds are not appropriated to continue the Superintendent's Discretionary Fund in the above amount for any fiscal year, such lack of funding shall not be a breach of this Contract. The providing of this fund shall not be considered compensation to the Superintendent.

The Superintendent shall obtain three written quotes for expenses related to relocating the Superintendent's family and personal possessions to the District. The District shall pay the moving expenses in accordance to the best value as determined by the Superintendent. The Superintendent shall document all expenses with receipts, canceled checks, or credit card statements. In connection with Superintendent's relocation expenses incurred in connection with the prompt transition to the District, the District shall (1) reimburse in accordance with District policies and procedures the Superintendent for necessary and reasonable expenses incurred in the Superintendent's travel to and from the district, as well as related lodging and meals, incurred on or after April 27, 2017; and, (2) provide the Superintendent a maximum of sixty (60) days suitable lodging accommodations from the date of the Contract, in order to permit the Superintendent an opportunity to locate permanent lodging in the Waco area. The Superintendent shall document all expenses with receipts, cancelled checks or credit card statements, and the District shall reimburse the Superintendent for all such documented allowable expenses in accordance with District policies and procedures.

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. Upon the Effective Date, all existing agreements and contracts, both verbal and written, between the parties hereto regarding the employment of the Superintendent will be superseded by this Contract, and this Contract constitutes the entire agreement between the parties unless amended pursuant to the terms of this Contract.

This Contract shall be governed by the laws of the State of Texas and shall be performable in McLennan County, Texas, unless otherwise provided by law.

The Superintendent will fulfill all aspects of this Contract, any exception thereto being by written mutual consent of the Board and the Superintendent. Any extensions or amendments of this Contract will be in writing signed by both parties.

DATED this 30<sup>th</sup> day of April, 2017.

ATTEST:

WACO INDEPENDENT SCHOOL DISTRICT

  
Norman Manning, Secretary  
Board of Trustees

  
Pat Atkins, President  
Board of Trustees

  
Al Marcus Nelson,  
Superintendent of Schools  
Waco Independent School District

## Extension Addendum to Superintendent's Contract

The Board of Trustees (the "Board") of WACO INDEPENDENT SCHOOL DISTRICT and DR. AL MARCUS NELSON (the "Superintendent") agree to extend and amend the Superintendent's Contract (the "Contract") entered into between the Board and the Superintendent on April 30, 2017 and amended January 4, 2018, as follows:

Paragraph I Term of the Contract is changed to extend the ending date of employment under the Contract to June 1, 2023.

The Board and the Superintendent agree that there have been no oral modifications to the Superintendent's Contract. All other terms and conditions of the Contract, as amended, shall remain in full force and effect.

I have read this Addendum and agree to abide by its terms and conditions:

Superintendent: A. Marcus Nelson

Date signed: 1/4/18

Waco Independent School District

By: [Signature]  
President, Board of Trustees

Date signed: 1/4/18

## Extension Addendum II to Superintendent's Contract

The Board of Trustees (the "Board") of WACO INDEPENDENT SCHOOL DISTRICT and DR. AL MARCUS NELSON (the "Superintendent") agree to further extend and amend the Superintendent's Contract (the "Contract") (entered into between the Board and the Superintendent on April 30, 2017 and previously amended January 4, 2018- extending the Contract to June 1, 2023) as follows:

Paragraph I Term of the Contract is changed to extend the ending date of employment under the Contract to June 1, 2024.

The Board and the Superintendent agree that there have been no oral modifications to the Superintendent's Contract. All other terms and conditions of the Contract, as amended, shall remain in full force and effect.

I have read this Addendum and agree to abide by its terms and conditions:

Superintendent: A. Marcus Nelson

Date signed: 12/13/18

Waco Independent School District

By: [Signature]  
President, Board of Trustees

Date signed: 12/13/2018