

RETIREMENT AGREEMENT

STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF LUBBOCK §

THIS AGREEMENT is made by and between the LUBBOCK INDEPENDENT SCHOOL DISTRICT ("District"), a political subdivision of the State of Texas, acting by and through its Board of Trustees ("Trustees") and WAYNE HAVENS ("HAVENS"). This Agreement is the final agreement between the District and HAVENS, and it controls the contractual employment relationship between the parties hereto after the date of this Agreement.

WHEREAS, HAVENS is currently employed as Superintendent by District under a Superintendent's Contract dated December 13, 2007 ("Contract"); and

WHEREAS, the Contract provides that its term shall end on June 30, 2013; and,

WHEREAS, HAVENS was employed by the District as an employee on or about July 23, 1974; and,

WHEREAS, HAVENS was employed by the District as Superintendent on or about April 25, 2003; and,

WHEREAS, HAVENS is eligible for full retirement from the Teachers Retirement System of Texas on December 31, 2009; and

WHEREAS, HAVENS desires to retire on December 31, 2009; and

WHEREAS, HAVENS desires to give the District ample time to find a qualified replacement as Superintendent to lead the District and to provide a smooth transition; and

WHEREAS, HAVENS and the District believe that it is in their best interests to enter into this Agreement.

WITNESSETH:

NOW, THEREFORE, in consideration of the recitals, terms, conditions and mutual covenants herein, the parties hereto do hereby agree as follows:

1. HAVENS resigns as the Superintendent of the District to be effective on the date HAVENS' successor as superintendent becomes an employee of the District, and HAVENS accepts reassignment as Deputy Superintendent of the District, subject to the assignment of duties and responsibilities by the successor superintendent and the Board through December 31, 2009, and HAVENS does hereby resign as an employee of the District effective December 31, 2009.
2. HAVENS and the District do hereby acknowledge that upon the effective date of this Agreement, District may begin efforts to select a successor superintendent to HAVENS. HAVENS will continue to serve as Superintendent of the District until such time as a successor superintendent is employed by the District to fulfill the position of Superintendent. Upon the date a successor superintendent is employed by the District through December 31, 2009, HAVENS will serve as Deputy Superintendent of the District, subject to the terms and conditions of Paragraph 1 herein.
3. Beginning with the effective date of this Agreement and through December 31, 2009, the District shall pay HAVENS' salary and benefits under the terms of the Contract.
4. 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 HAVENS from any and all demands, claims, suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings currently pending or subsequently hereto brought against HAVENS in his individual capacity or his 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 attorneys' fees, arose or does arise in the future from an act or omission of HAVENS as Superintendent and as an employee of the District, acting within the course and scope of HAVENS' employment with the District; excluding, however, any such demand, claim, suits, actions, judgments, expenses and attorneys' fees those claims or any causes of action where it is determined that HAVENS 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, with conscious indifference or reckless disregard; 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 HAVENS. A legal defense may be provided through insurance coverage. To the extent this Paragraph 4 exceeds the authority provided and limitations imposed by Texas Civil Practice & Remedies Code, Chapter 102, it shall be construed and modified accordingly.

5. On or before 5:00 p.m., December 31, 2009, HAVENS shall return to District all keys, credit cards, equipment, if any, and other property, if any, of the District in HAVENS' possession as it relates to HAVENS' employment as Superintendent and employee of the District.

6. After December 31, 2009, HAVENS agrees to provide assistance to and cooperate with the District, its Trustees, agents, and attorneys in response to, or in defense of, any demand, claim, complaint, suit, action or legal proceeding brought against the District, its Trustees, or agents, at no additional expense to the District other than reimbursement to HAVENS for his documented reasonable and necessary out-of-pocket expenses. Requests for assistance from HAVENS 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 HAVENS shall be mutually agreed in advance.

HAVENS' availability and consultation, under the terms and conditions of this Paragraph 6, will be subject to any request for consultation at HAVENS' sole convenience.

7. Expressly as part of the consideration for this Agreement, HAVENS, on his own behalf, and on behalf of his heirs, successors and assigns, hereby releases and discharges District and its Trustees, both individually and in their official capacity, District's agents, employees, representatives and attorneys, from any and all claims, demands, liability, additional compensation, and causes of action of any kind or character which may or may not have accrued on his behalf to the date of this Agreement, relating to his employment relationship with the District, whether known or unknown.

The District and its Trustees likewise release and discharge HAVENS, his agents and attorneys, from any and all claims, demands, liability, and causes of action of any kind or character which may or may not have accrued on their behalf, to the date of this Agreement relating to his employment relationship with the District, whether known or unknown.

HAVENS expressly covenants and agrees not to sue or participate, unless required by court order, in any federal or state judicial or state administrative proceeding against the District or its Trustees, officers, employees, representatives, agents or attorneys, in their official or individual capacities, related to or concerning his employment by the District, the Trustees' actions regarding his employment, or his resignation from that employment.

The District and Trustees expressly covenant and agree not to sue or participate, unless required by court order, in any federal or state judicial or administrative proceeding

against HAVENS, his agents or attorneys, related to or concerning HAVENS' employment with the District or his resignation of that employment.

HAVENS understands that pursuant to the Older Workers' Benefit Protection Act of 1990 ("OWBPA"), he has twenty-one (21) days within which to consider this Agreement with advice of legal counsel and has seven (7) days after signing the Agreement within which to revoke the Agreement. For purposes of waiving his rights under the Age Discrimination in Employment Act ("ADEA"), HAVENS acknowledges that this waiver specifically refers to rights or claims arising under the ADEA; HAVENS waives rights or claims only in exchange for consideration in addition to anything of value to which HAVENS is already entitled; HAVENS has been given a period of twenty-one (21) days within which to consider this Agreement; and this Agreement provides for a period of seven (7) days following the signing of the Agreement during which HAVENS may revoke the Agreement.

8. This Agreement, together with the instruments referenced herein, constitutes the entirety of the understanding between all the parties hereto. This Agreement shall be binding upon all the parties hereto, their respective heirs, executors, administrators, successors and assigns.

9. This Agreement is hereby deemed performable entirely in Lubbock County, Texas, and shall be governed, construed and enforced in accordance with and subject to the laws of the State of Texas. Mandatory and exclusive venue for any lawsuit or adjudicative proceeding brought by either party to this contract shall be in Lubbock County, Texas.

10. This Agreement may be executed in a number of identical counterparts, each which shall be deemed an original for all purposes. All the parties hereto further agree that they shall execute any and all documents necessary to effect the intent and purposes of this

Agreement. Further, this Agreement supersedes any and all prior oral or written agreements, arrangements, employment contracts, or understandings between the parties. This Agreement may be modified or terminated only in writing, executed by all the parties hereto.

11. The President of the Board of Trustees has been authorized to execute this Agreement on behalf of the District by action of a majority of a quorum of the Trustees present at a properly called and posted meeting on the 11th day of December, 2008.

IN WITNESS WHEREOF, all the parties hereto have executed this Agreement in multiple originals to be effective from and after the 11th day of December, 2008.

LUBBOCK INDEPENDENT SCHOOL DISTRICT

By: *Gordon Wilkerson*
Gordon Wilkerson, President
Board of Trustees

ATTEST:

Vernita Woods-Holmes
Vernita Woods-Holmes, Secretary
Board of Trustees

Wayne Havens
Wayne Havens, Superintendent
Lubbock Independent School District