

STATE OF TEXAS §
 §
COUNTY OF WOOD §

FULL AND FINAL RESIGNATION AND SEPERATION AGREEMENT

The Mineola Independent School District ("MISD" or "District") and Dr. Kim Tunnell ("Superintendent" or "Tunnell") wish to resolve any disputes between the parties in a mutually satisfactory and beneficial manner. They voluntarily execute this Full and Final Resignation and Separation Agreement ("Agreement") with the express intention of settling and extinguishing all obligations, demands, claims, causes of action, and liability of whatever nature arising from Superintendent's employment with, resignation, and separation from MISD. This Agreement is entered into on behalf of MISD, its trustees, officers, employees, agents, attorneys, heirs, and successors, and Tunnell, her agents, attorneys, affiliates, heirs, and successors.

WHEREAS, Tunnell is currently employed as Superintendent by the District under a MISD Superintendent's Employment Contract beginning February 26, 2018 (the "Contract"); and

WHEREAS, the current term of the Contract shall expire on August 31, 2021; and

WHEREAS, Tunnell and the Board have reached a mutually acceptable agreement for Tunnell to resign her position as Superintendent of the District effective the earlier of (i) the date upon which Tunnell becomes employed in another school district or (ii) 11:59 p.m., January 31, 2020 (collectively, the "Resignation Date"); and

WHEREAS, it is strictly the voluntary act of Tunnell to voluntarily resign her employment as Superintendent of the District because Tunnell believes it will be in her best interest and that of the District to voluntarily resign her position as Superintendent of the District effective on the Resignation Date.

NOW THEREFOR, in consideration of the foregoing and the mutual promises and covenants set forth in this Agreement, the adequacy and sufficiency of which are hereby acknowledged by the parties, the District and Tunnell agree as follows:

1. Resignation: Tunnell hereby tenders her resignation as Superintendent of Schools, effective on the Resignation Date. Tunnell's resignation letter shall be submitted to the Trustees at the specially called board meeting of August 22, 2019. See **Exhibit "A"** which is attached hereto and incorporated herein by reference. Tunnell's resignation will be irrevocable upon receipt and acceptance by the District. MISD hereby accepts this resignation. Additionally, Tunnell agrees to waive her non-reassignment clause in her employment contract effective August 22, 2019 ("Reassignment Date") and agrees to be reassigned to the position of Special Assistant to the Interim or Acting Superintendent for the remainder of her employment in the District until the Resignation Date. Notwithstanding anything to the contrary contained herein, Tunnell shall be paid her current full contractual salary and benefits through the Resignation Date.

2. Severance Payment: In consideration of Tunnell' voluntarily resignation from her position as Superintendent of the District, the District shall pay Tunnell on or before the Resignation Date, the sum of One Hundred Seventeen Thousand Seven Hundred Seventy-one and No/100 Dollars (\$117,771.00), representing ten month's salary and full contractual benefits under and pursuant to the Contract ("Settlement Payment"), by mailing the check for the Settlement Payment via Federal Express overnight delivery. The Settlement Payment shall be made payable jointly to Tunnell and Adams, Lynch, & Loftin, P.C., and shall be delivered to the law offices of Adams, Lynch & Loftin, P.C, 3950 Highway 360, Grapevine, Texas, 76051. All appropriate federal and employer withholding shall be deducted from Tunnell's monthly paychecks and from the Settlement Payment. The Parties further agree that no TRS contribution will be deducted from the Settlement Payment. Any information that Tunnell may need from the District for tax purposes shall not be unreasonably withheld.

3. Release: Tunnell additionally agrees to release, forever discharge, and covenant not to sue, or bring any other legal or administrative action against MISD or any of its trustees, officers, employees, agents, attorneys, heirs, and successors with respect to any and all claims and causes of action of any nature, both past and present, known and unknown, foreseen and unforeseen, which Tunnell has or which could be asserted on her behalf by any other person or entity, resulting from or relating to any act or omission of any kind occurring on or before the date of the execution of this Agreement. Tunnell understands and agrees that this Release includes, but is not limited to, the following:

i. All claims arising from or related to Tunnell's employment with, or separation from, MISD; all claims under Texas law, including Texas common law, the Texas Labor Code, and Chapter 21 of the Texas Education Code; and all claims arising under federal law, including any claims under the Civil Rights Acts of 1964 and 1991, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Family and Medical Leave Act, and the Older Workers Benefits Protection Act.

ii. Any and all claims for unpaid wages, overtime, bonuses, separation pay, or any other compensation or benefit arising from Tunnell' employment with and/or separation from MISD.

iii. All claims and causes of action for past or future loss of pay or benefits, expenses, damages for physical or mental injury, liquidated damages, punitive damages, compensatory damages, attorney's fees, court costs, interest, and any other injury, loss, damage or expense or any other legal or equitable remedy of any kind whatsoever.

Likewise MISD and its Board of Trustees agrees to release, forever discharge, and covenant not to sue, or bring any other legal or administrative action against Tunnell with respect to any and all claims and causes of action of any nature, both past and present, known and unknown, foreseen and unforeseen, which MISD has or which could be asserted on its behalf by any other person or entity, resulting from or relating to any act or omission of any kind occurring on or before the date of the execution of this Agreement.

4. Indemnification: To the extent it may be permitted to do so by applicable law, MISD does hereby agree to defend, hold harmless, and indemnify Tunnell from any and all demands, claims, including but not limited to suits, actions, judgments, expenses and attorneys' fees incurred in any legal proceedings or administrative proceedings currently pending or subsequently hereto brought against Tunnell in her individual capacity or her official capacity as an employee and as Superintendent of the MISD, providing the incident(s) which is (are) the basis of any claim or lawsuit arose or does arise in the future while Tunnell, as Superintendent and as an employee of the MISD, was acting within the scope of Tunnell' employment with the MISD; excluding, however, those claims or any causes of action where it is determined that Tunnell committed a criminal act, 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 MISD or by Tunnell. The selection of Tunnell' legal counsel shall be made with the mutual agreement of Tunnell and MISD, which agreement will not be unreasonably withheld by either party. A legal defense may be provided through insurance coverage.

5. No Admission of Liability: Tunnell and the District agree and acknowledge that nothing contained in this Agreement constitutes an admission of wrongdoing by either party.

6. Non-Disclosure: The Parties agree not to disclose, or cause to be disclosed, the existence or terms of this Agreement (including, but not limited to the fact that Tunnell received consideration pursuant to this Agreement), or the substance or content of discussions involved in reaching this Agreement, except (i) with respect to Tunnell to her immediate family, attorneys, accountants and/or tax advisors or as required by, or as otherwise required by law, (ii) with respect to the District to its attorneys, appropriate District personnel, appropriate regulatory agencies or taxing authorities, or as otherwise required by law, and (iii) as may be required to enforce this Agreement.

7. Non-Disparagement: The Board, individually and collectively, and Tunnell do hereby agree that each of them shall refer any third party inquiries regarding Tunnell's employment as an employee of the District and as the Superintendent of the District to the Agreement through the Board President. Notwithstanding anything to the contrary herein, the District, the Board, individually and collectively, and Tunnell expressly covenant and agree not to make disparaging remarks about the other party(ies), their agents, representatives, attorneys or assigns to this Agreement. The parties agree to issue a joint public statement. See **Exhibit "B"** which is attached hereto and incorporated herein by reference. Furthermore, Tunnell shall be provided a letter of reference signed by the Board President. The parties agree that the Board President shall prepare a mutually acceptable letter of reference, the form of which is attached hereto and incorporated herein by reference as **Exhibit "C."** Nothing in this Agreement should be construed to prevent Tunnell from requesting a personal reference, oral or written, from a District employee or Trustee, in their personal and individual capacity, or to prevent such District employee or Trustee from providing such a personal reference to Tunnell. The parties further agree that no party shall ever make any statements or references to the fact that they "won", "prevailed", or "were prevailing parties", or any other similar statement. District and the Board, individually and collectively, agree to refrain from making negative comments regarding Tunnell

to others, including potential future employers. Tunnell agrees to refrain from making negative comments regarding the District and its administration.

8. Signatories: The parties expressly warrant that they are legally empowered and competent to execute this Agreement and that they have not and will not in the future assign, pledge, transfer, or otherwise convey any right, title, interest, or claim in this matter to any third party.

9. Cooperation of the Parties: The parties agree to cooperate fully to execute any supplementary documents necessary to effectuate this Agreement and to take all additional actions that may be necessary or appropriate to give force and effect to the terms and intent of this Agreement and which are not inconsistent with its terms.

10. No Assignment of Claims: The parties covenant and warrant that they have not assigned, transferred, or subrogated any portion of any claim they have or could have asserted in connection with Tunnell's employment with, or separation from, the District.

11. Construction: Tunnell expressly understands and agrees that the terms contained in this Agreement are contractual and not merely recitals, and that the provisions contained herein, and the consideration transferred are to compromise disputed claims, to avoid litigation, and buy peace. Each party and counsel have reviewed and approved this Agreement, and accordingly any presumption or rule of construction permitting ambiguities to be resolved against the drafting party shall not be employed in the interpretation or application of this Agreement.

12. Governing Law: Texas law shall govern the validity and interpretation of this Agreement insofar as federal law does not control. Venue shall be in Wood County, Texas.

13. Entire Agreement and Severability: This Agreement contains the entire understanding between Tunnell and the District. This Agreement supersedes any prior written or oral agreements. This Agreement shall not be modified, amended, or terminated unless such modification, amendment, or termination is executed in writing by Tunnell and the District. If any single paragraph or clause of this Agreement should be found unenforceable, it shall be severed and the remaining paragraphs and clauses shall be enforced in accordance with the intent of this Agreement.

14. Other Representations: Tunnell hereby represents and certifies that she: (i) has carefully read all of this Agreement; (ii) understands its provisions; (iii) has not been influenced to sign this Agreement by any statement or representation by the District that is not contained in this Agreement; (iv) has had an opportunity to consult with her attorney prior to the execution of this Agreement; and (v) enters into this Agreement knowingly and voluntarily.

15. Time for Review of Agreement: Tunnell acknowledges that she has been advised of her right to consult with an attorney of her own choosing before executing this Agreement. Further, Tunnell acknowledges that she has been informed that she has a period of 21 days within which to consider this Agreement. Tunnell may execute (sign) this Agreement before the expiration of that 21-day period but is not required to do so. For a period of seven days following her execution (signing) of this Agreement, Tunnell may

revoke this Agreement. This Agreement shall not become effective or enforceable until signed by the President of the District's Board of Trustees, and Tunnell, and the revocation period described in this paragraph has expired. Any revocation must be in writing and must be delivered within the seven-day revocation period to the District at the address identified in Paragraph 17.

16. **Authority to Execute Agreement:** Each of the undersigned parties represent that he or she is of legal age, is legally competent to execute this Agreement, and possesses the requisite legal authority.

17. **Notice:** Notice under this Agreement must be in writing and may be delivered by hand delivery or by certified mail as indicated below:

Mineola Independent School District
1695 West Loop 564
Mineola, Texas 75773

Dr. Kim Tunnell
520 N. Newsom
Mineola, Texas 75773

18. **Headings:** The headings in each paragraph herein are for convenience and reference only and shall be of no legal effect in the interpretation of the terms hereof.

ACCEPTED AND AGREED:

Kim Tunnell Date 8/22/19
Dr. Kim Tunnell

MINEOLA INDEPENDENT
SCHOOL DISTRICT
By: John Abbott Date 8/22/19
Dr. John Abbott
President, Board of Trustees

EXHIBIT "A"

[DISTRICT LETTERHEAD]

August 22, 2019

Dr. John Abbott, President
Board of Trustees
Mineola Independent School District
1695 West Loop 564
Mineola, Texas 75773

Dear Dr. Abbott:

This letter is to inform you that I hereby submit my resignation as an employee and as Superintendent of the Mineola Independent School District, to be effective the earlier of (i) the date upon which I become employed in another school district or (ii) 11:59 p.m., January 31, 2020.

My resignation as the Superintendent and an employee of the Mineola Independent School District is tendered, subject to the parties' execution of, and in accordance with, the terms, conditions and provisions of that certain Full and Final Resignation and Separation Agreement between the Mineola Independent School District and me effective the 22nd day of August, 2019.

Sincerely,

Dr. Kim Tunnell
Superintendent

EXHIBIT “B”

MINEOLA INDEPENDENT SCHOOL DISTRICT JOINT STATEMENT OF THE BOARD OF TRUSTEES AND DR. KIM TUNNELL

Dr. Kim Tunnell has announced her resignation as Superintendent of Schools for the Mineola Independent School District. An Agreement has been reached which allows Dr. Tunnell the ability to pursue other interests and permits the Board to pursue hiring another Superintendent. The Board and Dr. Tunnell have entered into the Agreement believing it is in their respective best interests and in the best interests of the District. Prior to the date of her resignation Dr. Tunnell will remain employed in the District as Special Assistant to the Interim or Acting Superintendent.

On behalf of the entire District, the Board of Trustees expresses its sincere appreciation to Dr. Tunnell for her efforts while serving as Superintendent of this great school district and its wonderful students, parents and administrators, and for the many achievements and accomplishments of the entire District team during Dr. Tunnell's tenure as Superintendent, some of the most notable of which are:

- Raised test scores with district gains as documented in the State A-F Accountability System from 69 to 85 in overall performance the past 3 years and from 74 to 86 in student achievement.
- Expanded CTE programming options available and created new pathways in Health Science, Welding, Industrial Maintenance, Education, and Information Technology.
- Increased dual credit opportunities for almost three times the number of students with triple the number of courses taken.
- Sought after and was awarded over 1.7 million dollars over the past four years. in grant funding from TEA and state agencies including the award of a \$267,000 in Texas Workforce Commission (JET) grant for welding.
- Increased community engagement with Literacy Partner program and creation of Mineola ISD Education Foundation.
- Established District MISD Police Department and hiring of two district police officers.

Dr. Tunnell thanks the present and past Board of Trustees for providing her with the opportunity to serve in the Mineola Independent School District. A school district is measured by the commitment of the Board, staff and community to its children and their achievements. This District is indeed so committed. Dr. Tunnell would like to express her heartfelt appreciation to the staff and community for their support of the District's programs and services during her term as Superintendent.

Success requires hard work, dedication, leadership and vision. The Board and Dr. Tunnell wish to acknowledge and recognize the teachers, principals, administrators, staff, students, parents and patrons who have all contributed to the District's success.

The Board extends its best wishes to Dr. Tunnell in her future endeavors. On its part, the Board will soon begin its search for a new Superintendent as not to disrupt the District's operations.

EXHIBIT "C"

[DISTRICT LETTERHEAD]

August 22, 2019

To Whom It May Concern:

Please allow this letter to serve as my recommendation for employment of Dr. Kim Tunnell. As Board President, it has been my pleasure to have worked with Dr. Tunnell in the Mineola Independent School District. Dr. Tunnell has exhibited commitment and dedication to the Mineola ISD vision and goals. She is a collaborative servant leader and has created a fresh new approach to team management and leadership. She is an accomplished educator and highly supportive of rigorous student learning and quality teacher development.

Dr. Tunnell has had to face obstacles from day one in the school district and has worked diligently with others to transform the culture and direction of the school district. During her tenure in the school district, Dr. Tunnell has admirably provided her leadership to the District under increasingly difficult economic circumstances while maintaining qualified staff and quality instructional programs and initiatives.

Dr. Tunnell possesses a hard work ethic. She thrives on being a “change agent” for positive improvement, and is above all, always proactive. She exhibits great vision and believes in building the capacity of all school district team members. She handles school district matters with poise and diplomacy. Dr. Tunnell leads by example and believes strongly in preserving the respect and dignity of every individual.

I highly recommend Dr. Tunnell for any position of responsibility, most especially as school superintendent. In conclusion, I know you will come to admire her dedication to children and learning as I do.

Sincerely,

Dr. John Abbott
Mineola Independent School District Board President