

TEXAS EDUCATION AGENCY'S FINANCIAL INTEGRITY RATING SYSTEM OF TEXAS

2013 FIRST report gives Tomball Independent School District a perfect score for
for fiscal management and financial condition.

Huey Kinchen, Superintendent
Jim Ross, Chief Financial Officer



Tomball Independent School District Annual Financial Accountability 2013 Management Report

The financial accountability rating report issued by the Texas Education Agency (TEA) is called the *Financial Integrity Rating System of Texas*, or **FIRST**. TEA issues this financial rating each year based on financial data required to be submitted to the Agency by each school district through the Public Education Information Management System (PEIMS). The PEIMS financial data of each school district is used to answer a series of specifically designed financial questions. The resulting financial ratings issued are "superior achievement", "above standard achievement", "standard achievement", "substandard achievement" or "suspended-data quality".

The primary assessment tool for the FIRST rating is the Financial Accountability Rating Worksheet. This worksheet is completed by TEA and designed to assess the overall financial condition of each school district, and the efficiency of district administrators in fiscal management.

The Financial Accountability Rating Worksheet for 2013 contains 20 questions, or indicators, assessing the 2011-2012 fiscal year of the District. This format was 22 indicators until 2012. An indicator testing the amount of fund balance was eliminated along with an indicator question regarding the academic standing of the District.

Critical indicators are those numbered 1 through 6. A "No" response for indicators 1, 2, 3, 4, or 5 and 6 together, automatically result in a rating of Substandard Achievement. Indicator questions 7 through 20 require an answer of "Yes" or "No" and are assigned a numerical score. The highest numerical score attainable in the financial rating is a 70. The financial ratings assigned to scores are as follows:

Superior Achievement	64-70
Above Standard Achievement	58-63
Standard Achievement	52-57
Substandard Achievement	<52 or NO to a Critical Indicator

The 2013 School FIRST rating for Tomball ISD as reported by TEA is that of "**Superior Achievement**", scoring a **70** of the possible 70 on the financial accountability rating worksheet. Tomball ISD received the same top rating of "Superior Achievement", with a perfect score in 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2010, 2011 and 2012 School FIRST ratings. The 2009 School FIRST rating score was a "Superior Achievement" rating with a score of 84 of the possible 85. The only point deducted since the FIRST rating system began in 2002 was on an indicator question that was deleted in the year after it had been originally added – the 65% rule question. The official TEA 2013 ratings worksheet follows with each of the indicator questions answered for Tomball ISD.

NOTE: The wording used in the indicator questions, and the reason behind each question, can be confusing to non-accountants. Therefore, following the rating worksheet questions will be a brief explanation of what each indicator question means or measures, and how Tomball ISD actually scored on that indicator question.

#1. Was the total fund balance less non-spendable and reserved fund balance greater than zero in the General Fund?

This indicator is a ***Critical Indicator*** because school districts must have a fund balance to ensure adequate funding for operations. The indicator is designed to ensure that our district has a positive amount of fund balance, or ‘rainy-day’ savings, not required to be reserved or set-aside for some specific legal purpose. The financial data for Tomball ISD for this indicator shows unreserved General Fund fund balance was \$52,040,498. With this fund balance amount the answer for Tomball ISD to this indicator is **YES**.

#2. Was the total unrestricted net asset balance (net of accretion of interest on capital appreciation bonds) in the governmental activities column in the Statement of Net Assets greater than zero? (Yes, if the District’s 5-year percentage change in students was 10% or more.)

This indicator is a ***Critical Indicator*** designed to measure whether our district has assets available for daily operations. The financial data for Tomball ISD for this indicator showed unrestricted net assets (net of accretion on CABs) totaling \$54,375,553. This indicator also considers whether the District’s 5-year percentage change in students was 10% or more. In 2008 the enrollment was 9,336 and in 2012 enrollment was 11,076. This change is 18.64% which is greater than 10%. Therefore the answer for Tomball ISD to this indicator is **YES** to either of the two questions.

#3. Were there NO disclosures in the Annual Financial Report and/or other sources of information concerning default on bonded indebtedness obligations?

This indicator is a ***Critical Indicator*** that seeks to make certain that our district has paid our bills and obligations in a timely manner on bonds issued for school construction. The answer for Tomball ISD to this indicator is **YES**.

#4. Was the Annual Financial Report filed within one month after the November 27th or January 28th deadline depending upon the district's fiscal year end date (June 30th or August 31st)?

This indicator is a ***Critical Indicator*** designed to identify whether our district has problems producing financial statements for auditors; and consequently, is able to submit an independently audited Annual Financial Report to TEA in a timely manner. The audit due date was February 28th, 2013 and TEA received our audit on January 14th, 2013. The answer for Tomball ISD to this indicator is **YES**.

#5. Was there an Unqualified Opinion in the Annual Financial Report?

This indicator is a **Critical Indicator** when combined with indicator 6 below. A "Qualification" on our financial report means the District needs to correct some of its reporting or financial controls for a 'clean audit' opinion to be expressed by the independent auditors. Therefore, our district's goal is to receive an "Unqualified Opinion" on its Annual Financial Report. The answer for Tomball ISD to this indicator is **YES**, we have an Unqualified Opinion or 'clean audit'.

#6. Did the Annual Financial Report NOT disclose any instance(s) of material weaknesses in internal controls?

This indicator is a **Critical Indicator** when combined with indicator 5 above, and both answered with a "No". A 'clean audit' opinion in our Annual Financial Report would indicate our district has no material weaknesses in internal controls. Internal control weaknesses identified in an audit report indicate a risk exists that our district may not be able to properly account for its use of public funds; and, should be immediately addressed. The answer for Tomball ISD to this indicator is **YES**, our independent auditors have not identified and reported material weaknesses in our internal controls.

#7. Was the three-year average percent of total tax collections (including delinquent) greater than 98%?

This indicator measures our district's success in collecting the taxes owed by our community's businesses and homeowners by setting a 98 percent minimum collections standard for a 3-year average. This is a change from the past measurement of 96% for the single year being evaluated. When including delinquent tax dollars paid, Tomball ISD collected an average of 100.45% of its tax levy over the past 3-year period. The answer for Tomball ISD to this indicator is **YES**. **[Score: 5]**

5	4	3	2	1	0
>98%	>95%=<98%	>92%=<95%	>89%=<92%	>86%=<89%	<=86%

#8. Did the comparison of PEIMS data to like information in the Annual Financial Report result in an aggregate variance of less than 3 percent of expenditures per fund type (data quality measure)?

This indicator measures whether the data reported in our PEIMS submission and our Annual Financial Report 'matches up' to within 3 percent. Tomball ISD reported a total of \$122,866,313 in expenditures in all funds, and had a total data submission matching error of \$10,669. This is well below the 3% variance with a 0.0001% variance, and the answer for Tomball ISD to this indicator is **YES**. **[Score: 5]**

5 points if less than 3%	0 points if greater than 3%
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#9. Were debt-related expenditures (net of IFA and/or EDA allotment) less than \$350 per student? (If the district's five-year percent change in students is equal to or greater than 7%, or if property taxes collected per penny of tax effort is greater than \$200,000, than answer this indicator YES)

This indicator shows the intent for limiting the amount of money a district should be in debt for facilities to \$350 per student. Fortunately, the indicator allows for fast-growing districts to exceed this cap, by observing fast-growth districts must build for the growth they are currently experiencing and in planning for the future. Also the indicator allows for districts that have a property tax base that can support a higher expense per student.

Tomball ISD's debt-related expenditures are well above \$350 per student. However, Tomball ISD has experienced a 5-year average increase in students of 18.64%, which is greater than 7%. Property taxes collected per penny were \$552,408, which is greater than \$200,000. The answer for Tomball ISD to this 3-part indicator is **YES**. **[Score: 5]**

5	4	3	2	1	0
< \$350	>=\$350< \$600	>=\$600< \$850	>=\$850< \$1,100	>=\$1,100< \$1,350	>=\$1,350

#10. Was there NO disclosure in the Annual Audit Report of material noncompliance?

This question is an all or nothing indicator with an answer of either Yes (5 points) or No (0 points). NO disclosure means the Annual Audit Report does not indicate the school district failed to comply with laws, rules and regulations for a governmental entity. The answer for Tomball ISD to this indicator is **YES**, our audited financial report and accompanying disclosures have been found by independent auditors to be compliant with acceptable financial accounting standards and legal requirements. **[Score: 5]**

#11. Did the district have full accreditation status in relation to financial management practices? (e.g. no conservator or monitor assigned)

This is an indicator that simply asks the question, "Did TEA take control of our district due to financial issues such as fraud, gross mismanagement, or continued negative fund balances?" If not, the district will pass this indicator. This is an all or nothing indicator with an answer of Yes (5 points) or No (0 points). The answer for Tomball ISD to this indicator is **YES**, we are fully accredited. **[Score: 5]**

#12. Was the aggregate of budgeted expenditures and other uses less than the aggregate of total revenues, other resources and fund balance in the General Fund (GF)?

This indicator simply asks, "Did we spend more than we received in revenue and/or have in 'rainy-day' set-aside savings?" This question is an all or nothing indicator with an answer of either Yes (5 points) or No (0 points). Tomball ISD had total revenues and reserves available of \$128,425,358 with budgeted GF appropriations of \$81,270,387. The answer for Tomball ISD to this indicator is **YES**, we had more than enough resources to fully fund our adopted budget. **[Score: 5]**

#13. If the district's aggregate fund balance in the General Fund and Capital Projects Fund was less than zero, were construction projects adequately financed? (To avoid creating or adding to the fund balance deficit situation)

This question is an all or nothing indicator with an answer of either Yes (5 points) or No (0 points). The indicator simply asks, "Did we spend more than we have on school construction?" This indicator is designed to measure our district's ability to construct facilities without damaging our operating, or General Fund (GF), fund balance. Tomball ISD began the fiscal year with a General Fund fund balance of \$49,409,302 and ended the fiscal year with a General Fund fund balance of \$56,528,162. Capital project expenditures of \$12,842,572 were fully funded with capital projects funds and there was no negative effect on the GF fund balance. The answer for Tomball ISD to this indicator is **YES**, we did not spend more than we had available in the Capital Projects fund on construction projects and use GF fund balance. **[Score: 5]**

#14. Was the ratio of cash and investments to deferred revenues (excluding the amount equal to net delinquent taxes receivables) in the General Fund greater than or equal to 1:1? (If deferred revenues are less than the net delinquent taxes receivable, than the answer to this indicator is YES.)

This indicator measures whether or not our district has sufficient cash and investments to offset dollars already received but not earned from other sources, such as TEA overpayments (deferred revenues). In other words, our district should have the operating capital necessary to pay current year expenses without using money received that will be applied by TEA to operating revenues in the following year. Tomball ISD had Deferred Revenues totaling \$1,702,269 of which \$1,641,692 was deferred for Delinquent Taxes Receivable. We had cash and investments in the General Fund totaling \$62,984,354. Therefore our cash to deferred revenues ratio for this indicator is 1,039 to 1. The answer to this indicator is **YES**, our ratio is much greater than a 1:1 ratio. **[Score: 5]**

5	4	3	2	1	0
≥ 1.00	$\Rightarrow 0.95 < 1.00$	$\Rightarrow 0.90 < 0.95$	$\Rightarrow 0.85 < 0.90$	$\Rightarrow 0.80 < 0.85$	< 0.80

#15. Was the Administrative Cost Ratio less than the threshold ratio?

This question is an all or nothing indicator with an answer of either Yes (5 points) or No (0 points). The indicator measures compliance with a state law that sets a cap on the percentage of the budget that a Texas school district can spend on administration based on the size of the district. This ratio takes administrative costs and divides them by instructional costs to arrive at this percentage. Based on Tomball ISD's size, our administrative cost limit is 11.05%. Tomball ISD's Administrative Cost Ratio (ACR) is 6.86%, and well below the state standard for a district our size. Tomball ISD's answer to this indicator is **YES**, we strictly control our administrative costs. **[Score: 5]**

Additional Information:

In the 2012 School FIRST rating this indicator threshold was increased to 11.05% for Tomball ISD because student enrollment was greater than 10,000. Also since this indicator is measuring the often contentious issue of administrative costs and salaries, it seems important to demonstrate how the ACR has changed over the years. In a time of rising salaries and increased costs there has been a conscious and concerted effort to hold down administrative costs at Tomball ISD. The measurement methodology has not been changed since 1999. TEA has officially released the following ACR percentages for Tomball ISD:

<u>Fiscal Year Ending</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>
Administrative Cost Ratio %	7.92	7.80	7.26	6.54	6.46	6.77	6.86

#16. Was the ratio of Students to Teachers within the ranges shown below according to district size?

This indicator measures the staffing and personnel management controls of our pupil to teacher ratio to ensure it is within the TEA recommended ranges for a district of our enrollment size. A district our size should have a pupil to teacher ratio between 13.5 to 1 and 22.0 to 1. Tomball ISD has a pupil to teacher ratio of 16.54 to 1, which is within this range. The answer for Tomball ISD to this indicator is **YES**. **[Score: 5]**

#17. Was the ratio of students to total staff within the ranges shown below according to district size?

This indicator measures the staffing and personnel management controls of our pupil to staff ratio to ensure it is within the TEA recommended ranges for a district of our enrollment size. A district our size should have a pupil to staff ratio between 7.0 to 1 and 14.0 to 1. Tomball ISD has a pupil to staff ratio of 7.72 students per staff member, which is within this range. The answer for Tomball ISD to this indicator is **YES**. **[Score: 5]**

The following table is used for scoring indicator questions 16 and 17.

	5	4	3	2	1	0
Upper Limit	<=100%	>100%=<105%	>105%=<110%	>110%=<115%	>115%=<120	>120
Lower Limit	=>100%	=>95%<100%	=>90%<95%	=>85%<90%	=>80%<95%	<80%

#18. Was the decrease in Undesignated Unreserved Fund Balance less than 20% over two fiscal years? (If total revenues are greater than operating expenditures in the General Fund, then answer this indicator YES and score is 5)

This indicator measures the cash management and fiscal responsibility of our district by asking the question, "Are we depleting our savings to pay district operating expenses?" Undesignated unreserved funds are defined as those dollar amounts not reserved due to legal restrictions, and not designated by the Board of Trustees for tentative or contingency needs, or for future plans of the Board.

This indicator question asks whether or not a deficit budget had been adopted, or if a deficit budget was adopted was it a legitimate reason. The undesignated unreserved fund balance was \$24,169,064 at the beginning of the fiscal year, and \$24,040,498 at the end of the fiscal year. The answer for Tomball ISD to this indicator is **YES**, we are not depleting our fund balance with annual budgeted operating expenses. **[Score: 5]**

5	4	3	2	1	0
< 20%	=>20%< 21%	=>21%< 22%	=>22%< 23%	=>23%< 24%	=>24%

#19. Was the aggregate total of cash and investments in the General Fund more than \$0?

This question is an all or nothing indicator with an answer of either Yes (5 points) or No (0 points). This indicator measures the cash management of our district by asking the simple question "Does our district have immediate cash available either in the bank or in temporary investments?" The answer for Tomball ISD to this indicator is **YES**, we had cash and investments totaling \$62,984,354 as of the end of the fiscal year. **[Score: 5]**

#20. Did investment earnings in all funds (excluding Debt Service and Capital Projects Fund) meet or exceed the 3-month treasury bill rate?

This indicator also measures the cash management of our district by asking the question "Does our district invest wisely?" Tomball ISD earned in interest income a total of \$115,422, which is the equivalent yield of 0.20% return. This exceeds the 3-month treasury bill rate of 0.059%. The answer for Tomball ISD to this indicator is **YES**, our investment earnings exceed the average 3-month treasury bill rate. **[Score: 5]**

5 points if greater than 0.095%	0 points if less than 0.095%
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SUMMARY

The Financial Integrity Rating System of Texas uses 20 complex financial indicator questions to assess the quality of the fiscal management and financial condition of our school district. A “Yes” or “No” answer is determined for every indicator question and 16 questions receive a numerical score to indicate the level of realization. Tomball ISD received a **YES** answer on all 20 indicator questions and a numerical score of 70 of 70 possible points in the FIRST rating. This score released by the Texas Education Agency officially confirms the financial management practices and fiscal condition of Tomball ISD as being of such high quality to state it as a **"Superior Achievement"**.

The FIRST rating is the tool used by the Texas Education Agency to actually measure fiscal management and condition. However, this assessment tool does not examine the financial reporting and disclosure to user groups. For the benefit of the public being served, understandable and descriptive annual financial reports that have been independently audited for accuracy should be provided by the district.

The highest recognition in governmental finance reporting is receiving a ***Certificate for Excellence in Financial Reporting*** for annual financial reports from the Association of School Business Officials, International (**ASBO**) or the Government Finance Officers Association (**GFOA**). Both of these associations are dedicated to enhancing the professional financial management of governments by identifying, recognizing and promoting the highest quality financial reporting practices of governmental entities. Annual financial reports submitted for review to these two associations are subjected to very stringent and discerning requirements. Only the best in format and disclosure will receive the ***Certificate for Excellence in Financial Reporting***.

For the 2011-2012 fiscal year - the year of review for this FIRST rating - Tomball ISD received the ***Certificate for Excellence in Financial Reporting*** from both GFOA and ASBO for the fourteenth consecutive year. For the 2011-2012 fiscal year 61 of the 1,024 school districts in Texas received the GFOA Certificate for Excellence in Financial Reporting, 41 received the ASBO Certificate for Excellence in Financial Reporting, and only 39 received this award from both associations. Receiving both is an achievement.

The Director of Finance, Zack Boles, and his staff should be commended for their outstanding efforts to set our district apart as an example of quality financial reporting. Only 3.81% of Texas school districts received such recognition from both associations for the preparation of financial reports for 2011-2012, and very few districts can boast of receiving both GFOA and ASBO recognition for 14 consecutive years. In 2012 Tomball ISD can boast of being 1 of only 32 school districts awarded a 5-star rating in the State Comptroller's Financial Allocation Study of Texas (FAST) for cost effectiveness and efficiency. The 2013 FAST report has not been released at this time.

Also, Standard & Poor's recognizes Tomball ISD's financial strength with an AA rating. In Texas only 43 school districts have an AA rating, and 12 have an AA+ rating.

DISCLOSURES

Annual disclosures in accordance with Title 19 Texas Administrative Code Chapter 109, Budgeting, Accounting, and Auditing Subchapter AA, *Commissioner's Rules Concerning Financial Accountability Rating System* have been added for increased "transparency". The Commissioner's Rule concluded that TEA has the discretionary authority to add to the specific disclosures if desired. The disclosures and the format that are included in the financial management report are those required by the Commissioner for the year of review and are:

(A) a copy of the superintendent's most current employment contract, attached to this financial management report and available upon request;

(B) a summary schedule for the fiscal year (12-month period) of total reimbursements received by the superintendent and each board member. The summary schedule separately reports reimbursements for meals, lodging, transportation, motor fuel, and other items (the summary schedule of total reimbursements is not to include reimbursements for supplies and materials that were purchased for the operation of the school district);

<i>Reimbursements for the 12-month period ending August 31, 2010</i>	<i>John Neubauer, Superintendent</i>	<i>Sam Gregson, Trustee</i>	<i>Mark Lewandowski, Vice President</i>	<i>Lisa Nicholas, Trustee</i>	<i>Ken Odom, Trustee</i>	<i>John McStravick, President</i>	<i>Kathy Handler, Secretary</i>	<i>Michael Pratt, Assistant Secretary</i>
<i>Meals</i>	\$ 0	\$ 0	\$ 23	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
<i>Lodging</i>	0	0	0	0	0	0	0	0
<i>Transportation</i>	0	0	0	0	0	0	0	0
<i>Motor Fuel</i>	0	0	0	0	0	0	0	0
<i>Other</i>	0	166	0	0	72	0	0	0
TOTAL	\$ 0	\$ 166	\$ 23	\$ 0	\$ 72	\$ 0	\$ 0	\$ 0

(C) a summary schedule for the fiscal year of the dollar amount of compensation and/or fees received by the superintendent from another school district or any other outside entity in exchange for professional consulting and/or other personal services. The schedule separately reports the amount received from each entity;

Name(s) of the Entity(ies) paying compensation or fees to the Superintendent for services for the 12-month period ending August 31, 2011	Amount Paid
None Received	\$ 0.00
TOTAL	\$ 0.00

(D) a summary schedule for the fiscal year of the total dollar amount by the executive officers and board members of gifts that had an economic value of \$250 or more in the aggregate in the fiscal year. This reporting requirement only applies to gifts received by the school district's executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, as a person related to another person within the first degree by consanguinity or affinity) from an outside entity that received payments from the school district in the prior fiscal year, and gifts from competing vendors that were not awarded contracts in the prior fiscal year. This reporting requirement does not apply to reimbursement of travel-related expenses by an outside entity when the purpose of the travel is to investigate or explore matters directly related to the duties of an executive officer or board member, or matters related to attendance at education-related conferences and seminars whose primary purpose is to provide continuing education (this exclusion does not apply to trips for entertainment related purposes or pleasure trips). This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had an aggregate economic value of less than \$250 per executive officer or board member;

[illegible]

(E) a summary schedule for the fiscal year of the dollar amount by board member for the aggregate amount of business transactions with the school district. This reporting requirement does not duplicate the items disclosed in the summary schedule of reimbursements received by board members;

[illegible]

**SUMMARY SCHEDULE OF DATA SUBMITTED UNDER THE
FINANCIAL SOLVENCY PROVISIONS OF TEC §39.0822**

This year will be the second year that the district must also provide a summary schedule of the data previously submitted to TEA under the financial solvency provisions of TEC §39.0822. That information follows:

General Fund – First-Quarter Expenditures by Object Code

Reported first 3 months expenditures by object code of fiscal year 2012-2013 in whole numbers:

Payroll – expenditures for payroll costs	\$ 18,006,426
Contract Services – costs for services of firms, individuals, etc.	1,781,307
Supplies and Materials – supplies needed to operate	681,420
Other Operating – costs other than payroll, supplies, etc.	287,058
Debt Service – payments of principal and interest on debt	-0-
Capital Outlay – expenditures on land, buildings, equipment	44,648

Additional Financial Solvency Questions

Within the last two years, did the school district:

- | | |
|--|-----------|
| 1) draw funds from a short-term financing note (term less than 12 months) between the months of September and December, inclusive, and | NO |
| 2) for the prior fiscal year, have a General Fund balance of less than 2% of total expenditures for General Fund function codes 11-61? | NO |

Has the school district declared financial exigency within the past two years?	NO
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Provide comments or explanations for student-to-teacher ratios significantly (more than 15%) below the norm, rapid depletion of General Fund balances, or any significant discrepancies between actual budget figures and projected revenues and expenditures, or any other information that may be helpful in evaluating the school district's financial solvency.	None
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For School Districts with 10,000 to 24,999 Students:

Mean Student-to-Teacher Ratio	14.88	TISD
85% of Mean Ratio	12.65	16.54

How many superintendents has your school district had in the last five years?	1
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How many business managers or chief financial officers has your school district had in the last five years?	1
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SUPERINTENDENT'S EMPLOYMENT CONTRACT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

THIS SUPERINTENDENT'S EMPLOYMENT CONTRACT ("**Contract**") is by and between the Board of Trustees (the "**Board**") of the Tomball Independent School District (the "**District**") and Huey Kinchen (the "**Superintendent**").

WITNESSETH:

WHEREAS, at the meeting of the Board on June 11, 2013, the Board, acting on behalf of the District, offered Huey Kinchen employment as Superintendent of Schools for the District; and

WHEREAS, Huey Kinchen has accepted the Board's offer of employment as Superintendent of Schools for the District;

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

I. Term

1.1 Term of Contract. The Board, by and on behalf of the District, employs the Superintendent, and the Superintendent accepts employment as Superintendent of Schools for the District, for a term of three (3) years, commencing on July 1, 2013 and ending on June 30, 2016.

1.2 Term Extension. On or about December of each year of this Contract, the Board will review the Superintendent's performance, and the District may, by action of the Board, and with the agreement of the Superintendent, extend the term of this Contract for an additional twelve-month period in the manner herein provided in this Section 1.2. The Board, in its sole discretion, may vote at a meeting of the Board each year whether to extend this Contract for an additional year and, if so, to set the annual base salary of the Superintendent for such year in accordance with Section 3.1. Such extension, if any, shall be in the form of a written addendum or amendment to this Contract, or a new contract. The Superintendent does not have any legal entitlement to, expectation of, or property interest in any such extension.

II. Employment

2.1 Duties. 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 the job description and as may be assigned by the Board, and shall comply with all Board directives, state and federal law, district policies, rules, and regulations as they exist or may hereafter be adopted or 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. The Superintendent shall employ all other personnel consistent with the Board's policies and direct, assign, reassign, and evaluate all of the employees of the District

consistent with Board policies and federal and state law. The Superintendent shall organize, reorganize, and arrange the staff of the District, and 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. The Superintendent shall have the authority 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 to be effective. The Superintendent shall perform all duties of the Superintendent for the District with reasonable care, diligence, skill, and expertise.

2.2 Certification. The Superintendent shall at all times during the term of this Contract hold and maintain a valid certificate required of a superintendent by the State of Texas and issued by the Texas Education Agency, plus any other certificates required by law. This includes provisional certification.

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

2.4 Board. The Superintendent or the Superintendent's designee shall attend all meetings of the Board, both public and closed, with the exception of closed meetings devoted to the consideration of any action or lack of action on the Superintendent's Contract, the Superintendent's salary or benefits, or the Superintendent's evaluation. The Superintendent or designee may also be excluded from any board meeting when the subject is related to conflicts or interpersonal relationships between individual Board members.

2.5 Criticisms, Complaints, Etc. The Board, individually and collectively, shall refer all criticisms, complaints, and suggestions called to the Board's attention that a board member deems substantive at the time to the Superintendent for study and appropriate action, and the Superintendent shall review and investigate such matters and inform the Board of the results.

III.

3.1 Annual Base Salary. The District shall provide the Superintendent with an annual base salary in the amount of One Hundred Ninety-Four Thousand Three Hundred Fifty Dollars (\$194,350.00). The Superintendent will be eligible each year during the term of this Contract for no more than the percentage raise received by other administrative employees of the District on twelve month contracts.

3.2 Salary Adjustment. 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 above except by mutual written agreement of the parties. Such adjustments, if any, shall be in the form of a written addendum or amendment to this Contract or a new contract and shall be exclusive of any annuity, insurance policy or other benefits.

3.3 Business 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; such costs may include, but are not limited to, airline tickets, 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.

3.4 Payment for Accrued Leave Days. The District shall pay the Superintendent for his accrued but unused personal leave days remaining under his prior assignments with the District as of June 1, 2013, up to a maximum of 10 leave days. Such payment shall be calculated at a daily rate determined by dividing the Superintendent's annual base salary under Section 3.1 of this Contract by 226 work days, for a daily rate of \$796.46, with a maximum reimbursement for 10 leave days not to exceed \$7,964.60. Such reimbursement shall be paid to the Superintendent in a single lump sum without deductions, except federal income tax withholding.

3.5 Life, Health and Other Insurances. The Superintendent will receive, and the District shall provide, indemnity hospitalization, major medical, dental and life insurance coverages, and any other insurance available, on the same basis as provided to administrative employees of the District on twelve-month contracts.

3.6 Vacation, Holidays, Sick Leave. The Superintendent may take, at the Superintendent's choice, subject to the Board's approval, the same number of days of vacation authorized by policies adopted by the Board for administrative employees of the District 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 as set forth in this Contract. The Superintendent shall observe the same legal holidays as provided by Board policies for administrative employees of the District on twelve-month contracts. The Superintendent is hereby granted the same sick leave benefits as authorized by Board policies for administrative employees of the District on twelve-month contracts.

3.7 Annual Physical Examination. The Superintendent shall undergo an annual physical examination performed by a licensed physician mutually acceptable to the Board and the Superintendent. The physician shall submit a confidential statement to the Board President verifying the Superintendent's fitness to perform the Superintendent's duties and copies of all such statements shall be maintained in the Superintendent's personnel file. All such statements of the Superintendent's fitness shall be kept confidential to the full extent authorized by law. The District shall pay all costs of the annual physical examination.

3.8 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 District. 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 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, as approved by the Board, deemed necessary to maintain and improve the Superintendent's professional skills. The District shall bear the reasonable costs and expenses for such attendance or membership.

3.9 Outside Consultant Activities. The Superintendent shall not serve as a consultant or receive a reimbursement of expenses and/or be paid an honorarium for consultant services outside of his employment as superintendent of the District.

3.10 Civic Activities. The Superintendent is encouraged to participate in community and civic affairs including Chambers of Commerce and civic clubs within or affecting the District. The memberships and other reasonable expenses of the Tomball Area Chamber of Commerce, Tomball Rotary Club, and/or other Tomball area based organizations shall be borne by the District. The Board may approve the payment of other memberships and expenses requested by the Superintendent.

IV. Annual Performance Goals

4.1 Development of Goals. The Superintendent and the Board President, or designee, shall develop annual performance goals for the Superintendent that shall be submitted to the Board for consideration and adoption. The performance goals approved by the Board shall at all times be reduced to writing and shall be reasonably related to the District's goals, mission and/or vision as set by the Board.

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 contract year during the term of this Contract. The evaluation and assessment shall be reasonably related to the duties of the Superintendent as outlined in the Superintendent's job description and annual goals.

5.2 Confidentiality. The evaluation of the Superintendent shall at all times be conducted in closed or 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 the Superintendent's evaluation with their respective legal counsel.

5.3 Evaluation Format and Procedure. The evaluation format and procedure shall be in accordance with the Board's policies and procedures and state and federal law.

VI. Renewal and Nonrenewal of Employment Contract

6.1 Renewal/Nonrenewal. Renewal or nonrenewal shall be in accordance with Board policy and applicable law.

VII. Termination of Employment Contract

7.1 Mutual Agreement. This Contract may be terminated by mutual written agreement of the Superintendent and the District, acting through the Board, 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 District, acting through the Board, may dismiss the Superintendent during the term of the Contract for good cause.

7.4 Termination Procedure. In the event that the District, acting through the Board, terminates this Contract for "good cause," the Superintendent shall be afforded the rights as set forth in the Board's policies and applicable state and federal law.

VIII. Miscellaneous

8.1 Controlling Law. This Contract shall be governed by, and interpreted and enforced in accordance with, the laws of the state of Texas and shall be performable in Harris County, Texas, unless otherwise provided by law.

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

8.3 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 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.

EXECUTED this 11th day of June, 2013.

ATTEST:

By:

Kathy Handler

Secretary, Board of Trustees

TOMBALL INDEPENDENT SCHOOL DISTRICT

By:

John E. McStravick

President, Board of Trustees

By:

Huey P. Kinchen

Superintendent of Schools