

## RESIGNATION AGREEMENT AND GENERAL RELEASE

This Resignation Agreement and General Release (“Agreement”) is made by and between the Governing Board of the Palo Alto Unified School District, (“District”) and Glenn “Max” McGee, the Superintendent of the District, collectively referred to as the “parties.”

WHEREAS, the District and McGee were parties to a contract for his employment effective August 1, 2014, and terminating June 30, 2018 (“Contract”), ratified by the Governing Board on June 17, 2014;

WHEREAS, The District and McGee were parties to a First Amendment and Second Amendment to the Contract, ratified by the parties on September 23, 2014 and August 25, 2015 respectively;

WHEREAS, McGee now submits and the District accepts his voluntary resignation terminating the Contract effective on the date provided in the signed letter of resignation;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the parties have agreed and do agree as follows:

1. Consideration

a. McGee agrees that by signing this Agreement he is resigning his employment with the District effective at the close of business on September 29, 2017. At the same time as execution of this resignation agreement, McGee will submit the signed letter of resignation, which is Attachment 1 to this Agreement and incorporated herein by reference, which will be maintained in his personnel file.

b. In exchange for McGee’ resignation and release and waiver of claims set forth below, in addition to final compensation and benefits for any and all days of service on or before September 29, 2017, the District will make the following payment to McGee by October 31, 2017 or upon completion of the transfer of interest in property as described in paragraph 1.f. below, whichever occurs later:

i. A lump sum payment equal to six (6) months of his current annual salary. For purposes of this Agreement, the term “annual salary” shall include only McGee’s annual salary as provided in paragraphs 2(a) and (b) of the Contract.

ii. The foregoing payment set forth in paragraph 1.b.i. above shall be subject to all applicable payroll deductions and state and federal taxes. Such payment shall **not** constitute creditable service or creditable compensation for retirement purposes, but shall be considered as final settlement pay; accordingly, no deductions shall be made for retirement purposes.

iii. McGee shall also be entitled to continue to receive District-paid health benefits according to paragraph 3.a. of the Contract as those benefits may change from time-to-time, up to and including December 31, 2017.

c. The District makes no representation regarding McGee's eligibility for retirement benefits or the amount of any benefits if he is eligible resulting from his service to the District. The District also makes no representation concerning the impact of this Agreement on his eligibility or receipt of any credits or benefits.

d. All payments shall be subject to payroll deductions as required by law.

e. The payments and benefits discussed above constitute the entire amount of consideration due to McGee under this Agreement. McGee will not seek any further compensation for any other claimed salary, wages, benefits, deferred compensation, retirement contributions, damages, costs, or attorneys' fees for any acts, omissions, events or circumstances in any way connected with his employment by the District or the matters encompassed in this Agreement.

f. The parties acknowledge that the Superintendent's Employment Agreement, as provided in the Second Amendment, provides:

**3. h. Relocation Loan Secured by Deed of Trust.** If Superintendent relocates his principal residence within the boundaries of the District, the District agrees to provide him with an option of a loan of up to One Million Five Hundred Thousand Dollars (\$1,500,000) from the District with a zero interest rate to be applied towards the purchase of his principal residence provided Superintendent complies with the requirements of IRS Regulation 26 CFR 1.7872-5T(c)(1)(i) and executes all documents, including a promissory note, deed of trust, certifications and consents as required by the District and its legal counsel. Further, said loan is contingent on the District receiving both an appraisal and ALTA or CLTA lender's title insurance policy satisfactory to District prior to disbursing any funds. The entire loan amount shall be repayable to the District 12 months from the date that the Superintendent ceases to be Superintendent of the District.

i. The parties further acknowledge that the Superintendent exercised the above option and the District provided the loan in the amount of one million four hundred fifty eight thousand eight hundred eighty eight dollars (\$1,458,888) to the Superintendent.

ii. In lieu of the aforementioned repayment obligation, not later than October 31, 2017, the Superintendent shall convey to the District all rights, title and interest in the property located at \_\_\_\_\_ Palo Alto, California held by the Superintendent. If the property has any liens or other encumbrances not acceptable to the District, the Superintendent shall clear all unacceptable encumbrances prior to conveying the property to the District.

iii. Superintendent agrees to vacate the property by October 31, 2017, including all personal property and possessions. If any personal property or possessions are left at the property after October 31, 2017, Superintendent agrees that the District may dispose of said personal property and possessions as the District sees fit without further notice. The Superintendent shall coordinate a meeting with a District representative to walk-through, document the condition, turn over the keys and/or security codes, and any other steps to ensure a smooth surrender of the property.

g. McGee agrees to return all District property in his possession including but not limited to keys, computers, office equipment, identification cards, documents and files, both in electronic and hard copy format, or anything else on or before the effective date of resignation. For the benefit of both McGee and District, McGee shall have full access to all emails, documents, and files associated with the email address mmcgee@pausd.org until October 31, 2017.

2. Mutual Release of Claims.

a. The District and McGee, on behalf of himself, his spouse, heirs, successors in interest, assigns, creditors, lien holders, insurers, attorneys, representatives, consultants, employees and agents, mutually release and forever discharge each other including the District and its officers, directors, board members, employees, agents, attorneys, insurers, consultants, representatives, joint ventures, affiliates, predecessors and successors in interest, and assigns, past, present, or future ("District Releasees"), from any and all claims, rights, demands, and causes of action of any nature whatsoever, whether or not known, suspected or claimed, that he ever had, now has, or in the future may have, by reason of, on account of, or arising out of his employment with or separation from the District. The District and McGee understand and acknowledge the significance and consequence of the releases and waivers provided for in this Agreement, including that he is forever waiving claims, rights, demands, and causes of action arising from or related to his employment with or separation from the District of which he is not now aware, even if through later factual or legal investigation, research or analysis, he becomes aware of different or additional claims, rights, demands, causes of action, factual or legal theories, damages, injury, or harm. The parties hereby agree to except from this general release the District's obligation under the law, if any, to defend and/or indemnify McGee from third party claims arising from his employment with the District, and the District's right to contribution, indemnity and/or defense from McGee, if any.

b. The District and McGee agree never to commence, prosecute, or cause, permit, advise or assist to be commenced or prosecuted, any action or proceeding based upon any claims, demands, causes of action, obligations, damages or liabilities which are released pursuant to this Agreement. Each party shall bear their own fees and costs with regard to these actions.

c. The parties agree that in the event of commencement by them of any action in violation of this Agreement, this Agreement may be pleaded as a complete defense to any such action and may be asserted by way of counterclaim in such an action. If any action or proceeding is filed in breach of this Agreement, the damage to the party or parties so sued shall include not only the amount of judgment recovered against them, but all other damages, costs, and expenses sustained as a result of such action, including attorneys' fees and other costs incurred in preparing a defense of said action (whether or not such costs and expenses are taxable), and attorneys' fees and other costs incurred in prosecuting any counterclaim, suit, motion or action to recover damages resulting from the breach of this Agreement.

d. The parties acknowledge that any and all rights granted to the parties under section 1542 of the California Civil Code or any analogous state or federal law or regulation are hereby expressly waived. Section 1542 of the California Civil Code reads as follows:

**A general release does not extend to claims the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.**

McGee understands and acknowledges the significance of this waiver, including that he may have additional claims against the District of which he is not now aware and that he may not make a further demand for any such claims upon the District or other persons or entities released in this Agreement.

e. McGee understands and agrees that:

i. His decision to execute this Agreement was knowing and voluntary and was not induced by the District through fraud, misrepresentation, or by any other reason prohibited by law;

ii. He has had an opportunity to consult an attorney before signing this Agreement;

iii. He has read this Agreement in full and understands all of the terms and conditions set forth herein;

iv. He knowingly and voluntarily agrees to all of the terms and conditions of this Agreement and intends to be legally bound by them.

f. McGee knowingly and voluntarily agrees to waive any rights or claims arising out of or relating to the federal Age Discrimination in Employment Act (29 U.S.C.A. §621 et seq.) ("ADEA") and the federal Americans with Disabilities Act (41 U.S.C.A. §12101 et seq.) ("ADA").

i. McGee represents and acknowledges that he is waiving any and all rights or claims that he may have arising under the ADEA and ADA;

ii. McGee represents and acknowledges that he has the right to have and/or has had representation by an attorney of his own choosing in connection with this Agreement;

iii. McGee knows and understands that he is not waiving any ADEA or ADA rights or claims that may first arise after the date this waiver of ADEA and ADA rights is executed;

iv. McGee knows and understands that in exchange for the waiver of his rights under the ADEA and ADA, he has received consideration in addition to any consideration to which he is already entitled;

v. McGee represents and acknowledges that he has the right to have twenty-one (21) days to consider this waiver and expressly waives this right;

vi. McGee represents and acknowledges that he has also been informed of his right, for a period of seven (7) calendar days following the date of execution of this Agreement to revoke this waiver ("Revocation Period"), and that this Agreement shall not become effective or enforceable until the Revocation Period has expired; and

vii. In the event of any such revocation of this waiver contained in this section, this Agreement and the obligations contained herein shall be null and void and of no force and effect, including any obligation by the District to pay the payments described herein.

3. Reference and Public Statement.

a. In response to inquiries from the public, the media or potential employers about McGee or his employment at the District, the District shall refer the inquiries exclusively to Board of Education President Terry Godfrey, during and following her term as Board President.

b. No other information about McGee or his employment with the District shall be released to a third party except as required by law or court order, or if mutually agreed to in writing, or as set forth in subparagraph 3.c. below.

c. McGee and the District agree that announcement of McGee's resignation shall be through the press release dated September 26, 2017 and entitled "Dr. Glenn "Max" McGee to Resign Effective Sept 29 2017," which is Attachment 2 to this Agreement and incorporated herein by reference.

4. Other Terms and Conditions.

a. The parties agree further that this Agreement supersedes and forever terminates any and all obligations previously agreed to by the parties including those contained in the Contract and First and Second Amendments referred to above between the Governing Board and McGee.

b. This Agreement is subject to approval by the District's Governing Board.

c. This Agreement is and shall be binding upon the respective successors, representatives, executors, administrators, and heirs of McGee and shall inure to the benefit of the successors and representatives of the District.

d. This Agreement constitutes the entire agreement between McGee and the District. No other promises, agreements, or statements between the parties shall be binding unless made in writing and signed by all parties.

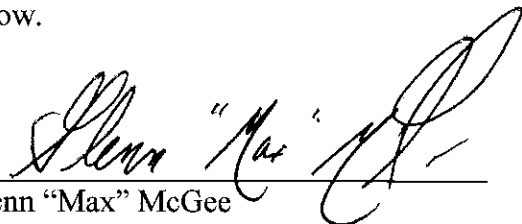
e. Each party shall bear its own costs and attorneys' fees incurred or connected with the drafting and signing of this Agreement and the events leading up to this Agreement.

f. This Agreement and the rights and obligations of the parties hereunder shall be construed and interpreted in accordance with the laws of the State of California. Any action or proceeding to enforce this Agreement shall be commenced and maintained in the County of Santa Clara, State of California.

g. Each party affirms and acknowledges that he/she has read, fully appreciates, and understands the above words, terms, and provisions of this Agreement, is entirely satisfied with the settlement described, and has duly executed this agreement voluntarily and of his/her full free will and accord.

h. This Agreement may be executed in counterparts and is effective when signed by all the parties. Signature of copies and facsimile versions of this Agreement shall have the same force and effect as signature of the original.

IN WITNESS WHEREOF the parties hereto have executed the Agreement as dated below.

  
\_\_\_\_\_  
Glenn "Max" McGee

PALO ALTO UNIFIED SCHOOL DISTRICT

  
\_\_\_\_\_  
Terry Goshay  
President, Governing Board

Dated: 9/25/17

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