

MUTUAL CONSENT AGREEMENT

CARMEL UNIFIED SCHOOL DISTRICT (District), the BARBARA DILL-VARGA (Employee) hereby enter into this Mutual Consent Agreement ("Agreement") on the dated written herein below based on the following recitals:

- A. Employee is currently the Superintendent of the District under an employment agreement with an expiration date of June 30, 2022;
- B. The District and Employee believe that it is in their mutual best interest to sever their employment relationship and avoid any dispute on the terms of Employee's departure from the District;
- C. The parties agree that all disputes are best resolved through mutual agreement; and,
- D. The parties by this Agreement have reached an amicable, full and final settlement of all issues and claims regarding Employee's employment by the District.

NOW, THEREFORE, in consideration of the covenants and conditions of this Agreement, the parties agree as follows:

1. **Resignation.** Employee hereby resigns from the employment of the District effective June 30, 2020. Her resignation shall be deemed accepted by the District upon ratification of this Agreement by its Governing Board.
2. **Leave of Absence.** The Parties agree that employee is unable to work and will be using her sick through June 30, 2020. The District accepts her use of sick leave to be absent through June 30, 2020. However, Employee shall be available to members of the District's Board and staff to respond to questions as they may arise through June 30, 2020, but shall have no other day-to-day responsibilities to the District and shall not engage in conducting any District business.
3. **Payment of Salary and Benefits.** The District shall pay to Employee her current regular monthly wages through May 20, 2021, with all standard deductions from the current gross amount of her salary. In addition, Employee shall complete the necessary documents to continue to receive health insurance coverage under COBRA upon termination of employment with the District. Employee and the District will request that the carrier bill the District for the monthly premium costs for the continuation of coverage under the current health benefits plans covering Employee (medical, dental and vision) May 31, 2021 or until such time as Employee becomes eligible and covered for health benefits through another employer, whichever comes first. Employee shall immediately notify the District in the event that she becomes eligible for health insurance coverage under another plan.
4. **Tax/Retirement Liability.** Notwithstanding any other provision of this Agreement, District shall not be liable for any retirement or state/federal tax consequences to Employee, any beneficiary, heirs, administrators, executors, successors or assigns of Employee as a result of this Agreement. In addition, while it is the District's understanding that all payments under this Agreement are not creditable compensation under STRS, the District makes no representations regarding the impact of the payments under this Agreement on STRS and/or Employee's retirement

benefits. Employee shall assume sole responsibility and liability for all state or federal tax consequences of this Agreement and all related payroll and retirement consequences, including, but not limited to, all tax and retirement consequences stemming from any payments made to Employee under the terms of this Agreement, retirement payments, expense reimbursements, and payments for insurance. Employee agrees to defend, indemnify, and hold the District harmless from all such tax, retirement, and similar consequences.

5. **No Admission.** It is understood and agreed that this Agreement is a compromise of potential claims. This Agreement shall not constitute, nor shall it be construed as, an admission by any party of the truth or validity of any claim asserted or of any obligation, legal or contractual, toward any other party, or any other person or entity mentioned.

6. **Release of Claims.**

a. **Full Release.** Employee acknowledges and agrees to release District from any and all claims for injuries, damages, or losses to person and property, real or personal, whether those injuries, damages or losses are known or unknown, foreseen or unforeseen, patent or latent, which each may possess against District and against its agents, employees and Board members, individually and in their official capacity, related to Employee's salary, salary placement and prior salary payments.

b. **Waiver of Civil Code Section 1542.** Employee waives application of California Civil Code Section 1542, and further waive any and all rights which each may have under the California Civil Code Section 1542. Employee hereby certifies that she has read the following provisions of California Civil Code Section 1542:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her, would have materially affected his or her settlement with the debtor or released party."

and indicates this fact by initialing here: Employee BW

c. **Effect of Statutory Waiver.** Employee understands and acknowledges that the significance and consequence of this waiver of California Civil Code Section 1542 is that if she should eventually suffer additional damages arising out of the facts referred to herein above, she will not be able to make any claim for those damages. Furthermore, Employee acknowledges that she consciously intends these consequences even as to claims for damages that may exist as of the date of this release but which she does not know exist, and which, if known, would materially affect the decision of either party to execute this release, regardless of whether such lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

7. **Reference for Prospective Employment.** Board member, Karl Pallastrini, shall be designated to serve as a reference for Employee in the event she should seek employment in the future. Karl Pallastrini is authorized to provide a letter of reference on behalf of Employee in the form attached hereto as Exhibit A and is further authorized to provide additional information

concerning Employee's performance consistent with the content and tone of Exhibit A.

8. **Non-Disparagement.** The Parties agree not to disparage each other in any manner whatsoever, including the disparagement of the members of District's Board of Trustees, any officer of the district, representatives, agents, employees, predecessors, successors, and assigns. In addition, the Parties agree that neither will encourage, support, or promote in any way whatsoever any other person to disparage each other including the disparagement of the members of District's Board of Trustees, any officer of the district, representatives, agents, employees, predecessors, successors, and assigns.

9. **No Litigation.** If District or Employee commences an action in violation of this Agreement, this Agreement may be pleaded as a complete defense to such an action and agrees that the action shall be dismissed on demur.

10. **Confidentiality.** The parties agree not to discuss the terms of this Agreement with any third party, except their respective representatives. Notwithstanding this provision, the parties recognize that a copy of this Agreement may be made available to the public by District only to the extent required by law.

11. **Amendment.** This Agreement may be modified or superseded only by a written instrument executed by District and Employee and not by any oral promise, representation, statement or agreement, or performance pursuant to such an oral promise, representation, statement or agreement.

12. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California dealing with transactions and occurrences occurring entirely within the State of California. If any party initiates litigation involving this Agreement, venue shall only lie in the appropriate state court in Monterey County, California.

13. **Execution of Other Documents.** All parties to this Agreement shall cooperate fully in the execution of such other and further documents, and in the completion of any additional actions, as may be necessary or appropriate to implement this Agreement.

14. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties. There are no oral understandings, terms or conditions and neither party has relied upon any representation, express or implied, not contained in this Agreement. All prior understandings, terms or conditions are deemed merged into this Agreement.

15. **Voluntary Agreement.** Each party affirms and acknowledges that said Party has read, fully appreciates and understands the above words, terms and provisions of this Agreement, is satisfied with the terms thereof and has consulted with legal counsel and such other experts of such party's choice, and has duly executed this Agreement voluntarily and of her full free will and accord.

16. **Defense and Indemnity.** Nothing contained in this Agreement shall be construed as a waiver by Employee of any rights she may have to a defense and indemnity for matters arising out of the course and scope of her employment by the District.

17. **Ratification.** This Agreement shall be effective upon ratification of the Board of Trustees.

CARMEL UNIFIED SCHOOL DISTRICT

Karl Pallastrini, Board President

Date

EMPLOYEE

Barbara Dill-Varga
Barbara Dill-Varga

May 20, 2020
Date