

## **RESIGNATION AGREEMENT AND RELEASE**

This Resignation Agreement and Release ("Agreement") is made by and between the Governing Board of the Mountain View Whisman School District ("District") and Dr. Ayindé Dr. Rudolph ("Dr. Rudolph" or "Employee"), sometimes collectively referred to herein as the "Parties," with respect to the following recitals, terms and conditions which are a substantive part of this Agreement.

### **I. RECITALS**

**WHEREAS**, on or about July 1, 2019, the Board of Trustees of the District and the Dr. Rudolph entered into that certain Agreement for Employment of Superintendent ("Employment Agreement"), which has been amended from time to time by the Board;

**WHEREAS**, Dr. Rudolph wishes to end his employment with the District and terminate the Employment Agreement prior its expiration;

**WHEREAS**, the District and Dr. Rudolph desire to resolve all issues and disputes between them ("the Dispute") arising from or related to Dr. Rudolph's employment and departure, and to avoid incurring any additional cost, expense and disruption incident to Dr. Rudolph's resignation. The Parties further desire to fully and finally settle and release all present and possible future claims between them;

**WHEREAS**, pursuant to the "Fringe Benefits" provisions in the Employment Agreement, the District, upon Dr. Rudolph's request, made a loan to Dr. Rudolph in an amount not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000.00) for the purchase of a primary residence for Dr. Rudolph and his family ("District Loan");

**WHEREAS**, the District Loan is reflected in the duly executed and recorded Promissory Note and Deed of Trust ("Note and Deed"), which include the following borrower obligation in the event of "cessation" of Dr. Rudolph's employment:

"Cessation of Employment. Borrower further agrees that no later than 180 days following cessation of Borrower's employment under the Employment Agreement, as may be amended or renewed from time to time, all sums secured hereby shall immediately be due and payable to Beneficiary."

**WHEREAS**, the Note and Deed also includes a shared appreciation provision pursuant to which the District and Dr. Rudolph "shall share any appreciation in the value of the [primary residence], less brokerage and closing costs and fees," which shared percentage is 60% in favor of Dr. Rudolph and 40% in favor of the District;

**WHEREAS**, Dr. Rudolph shall fully comply with all obligations contained in the Note and Deed, as modified below.

**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:

### **II. TERMS AND CONDITIONS**

1. Dr. Rudolph's signature on this Agreement shall constitute his irrevocable and unconditional resignation from the District, which resignation is hereby accepted by

the District. No further documentation or action by the District shall be required to make this resignation effective.

2. In resolution of any and all claims and allegations related to the Dispute and this Agreement and to avoid the exposure and costs associated with potential litigation, the District agrees to the following consideration ("Settlement Amount"):
  - a. A payment in the amount of \$98,259.72, which is equivalent to three (3) months of Dr. Rudolph's 2024-2025 salary plus an additional four percent (4%) retirement contribution as set forth in his Employment Agreement, less applicable tax and other applicable deductions, shall be sent via certified mail to the following address:

Donald A. Velez, Esq.  
Haight, Brown & Bonesteel, LLP  
1255 Treat Blvd  
Suite 610  
Walnut Creek, CA 94597
  - b. Dr. Rudolph shall also be entitled to continued health benefits coverage, as described in his Employment Agreement, through January 31, 2025, or until Dr. Rudolph finds other employment, whichever occurs first;
  - c. Dr. Rudolph shall be entitled to continued life insurance coverage, as described in his Employment Agreement, through January 31, 2025, or until Dr. Rudolph finds other employment, whichever occurs first.
  - d. All applicable payroll taxes and other deductions and withholdings shall be deducted from the Settlement Amount described above.
  - e. Dr. Rudolph does not waive any COBRA rights he possesses after the termination of his employment. Whether Dr. Rudolph shall be entitled to any rights under COBRA shall be determined exclusively by the terms of that statute.
  - f. In the event that Dr. Rudolph makes any application for unemployment benefits with the California Employment Development Department ("EDD"), after the date of his resignation, the District will provide truthful and accurate information requested by EDD as required by law.
3. Dr. Rudolph agrees that the payments and benefits discussed herein constitute the entire amount of consideration provided to him under this Agreement and that he will not seek any further compensation or benefits for any other claimed salary, wages, benefits, deferred compensation, retirement contributions, damages, costs, or attorneys' fees in connection with the matters encompassed in this Agreement.
4. Dr. Rudolph agrees to fully comply with all obligations under the Note and Deed, including the obligation to pay to the District all sums due and owing under the Note and Deed, including the outstanding loan balance and 40% of the appreciated value of the primary residence; provided, however, that notwithstanding the obligation to fully satisfy the Note and Deed within 180 days of cessation of Dr. Rudolph's employment, the District hereby extends this due date to no later than June 30, 2025. From the effective date of this Agreement until Dr. Rudolph fully satisfies the terms and conditions of the Note and Deed, Dr. Rudolph shall not commit, or permit others to commit, waste of the primary residence that is the

collateral of the Note and Deed. if Dr. Rudolph fail to comply with the Note and Deed, the District reserves the right to take any and all legal actions to enforce its rights under the Note and Deed.

5. Dr. Rudolph represents to the District that no litigation or administrative proceeding has been initiated with regard to his employment with the District, and will not be initiated in the future in regard to the Dispute which claims are released hereunder and that all pending claims or other actions have been finally resolved in their totality, with the exception of any already filed Worker's Compensation claims.
6. This Agreement does not constitute an admission of wrongdoing, contract or statutory violation, or liability on the part of the Parties to this Agreement. This Agreement represents a full and complete resolution of the claims and disputes between the Parties related to the Dispute.
7. Except as provided in Paragraphs 4 and 5 above, the Parties release and forever discharge each other and their respective present and former officers, directors, employees, agents, attorneys, representatives, successors and assigns, and each of them, from any and all claims, demands, causes of action, obligations, damages and liabilities of any nature whatsoever, whether legal or equitable, before any administrative body or court, whether or not known, suspected or claimed, which they ever had, now have, or in the future may have, by reason of, on account of, or arising out of any act or failure to act by any person, or any course of conduct, policy or practice, condition or state of events, including the drafting and contents of this Agreement and/or Dr. Rudolph 's employment with the District and any other related matters. Except for an action to enforce the terms of this Agreement, Dr. Rudolph agrees 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. Except for an action to enforce the terms of this Agreement, 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 or an action or proceeding is filed to enforce the terms of this Agreement, the prevailing party shall not only be entitled to amount of judgment recovered, but all other damages, costs, and expenses sustained as a result of such action, including attorneys' fees and other costs incurred in litigating 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.
8. The Parties understand and expressly agree that this Agreement extends to all claims as against all other parties, of every nature and kind, known or unknown, suspected or unsuspected, past or present, arising out of the transactions or occurrences which are the subject of or are in any way related to the above stated matters, including but not limited to claims under the Collective Bargaining Agreement, the federal Civil Rights Act of 1964, federal Americans with Disabilities Act, Family and Medical Leave Act, California Fair Employment and Housing Act, California Labor Code (including claims under Labor Code Section 132a), and/or any other state, local and federal law, and any other contract, tort, retaliation, constitutional, and/or any employment-related claims, and/or any other claims of any kind without exception. This Agreement shall be a complete bar to any claims

asserted in contravention of it, no matter the forum. The Parties acknowledge that they have been informed by their attorneys and/or advisors or otherwise are aware of and familiar with section 1542 of the California Civil Code, which provides as follows:

**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.**

The Parties further understand and agree that this Agreement extends to any and all rights afforded under section 1542 of the California Civil Code or any analogous state or federal law or regulation are hereby expressly waived.

9. In addition to any other waiver and release set forth herein, and by execution of this document, Dr. Rudolph expressly and voluntarily waives any and all 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") and:
  - a. Dr. Rudolph represents and acknowledges that he is waiving any and all rights or claims that he may have arising under the ADEA and ADA;
  - b. Dr. Rudolph represents and acknowledges that he has the right to have and has had representation by an attorney or representative of his own choosing in connection with this Agreement;
  - c. Dr. Rudolph 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;
  - d. Dr. Rudolph 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 otherwise entitled;
  - e. Dr. Rudolph represents and acknowledges that he has the right to have twenty-one (21) days to consider this waiver and expressly waives this right;
  - f. Dr. Rudolph represents and acknowledges that he has also been informed of his right, for a period of seven (7) calendar days following the date of his 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
  - g. In the event of any such revocation of this waiver contained 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 make the payments described above.

10. Dr. Rudolph understands and agrees that:
  - a. 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;
  - b. He has had an opportunity to consult an attorney before signing this Agreement;
  - c. He has read this Agreement in full and understands all of the terms and conditions set forth herein; and
  - d. He knowingly and voluntarily agrees to all of the terms and conditions set forth herein and intends to be legally bound by them.
11. Except for the Note and Deed, this Agreement constitutes the entire agreement between Dr. Rudolph and the District. No other promises, agreements, or statements between the Parties shall be binding unless made in writing and signed by all Parties hereto.
12. Each party hereto 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.
13. 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.
14. The Parties hereby agree to execute all such other documents and to take all such other action as may be reasonably necessary to effectuate the purposes of this Agreement.
15. Each party affirms and acknowledges that he and/or they have 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 full free will and accord.
16. This Agreement may be executed in several counterparts and shall be deemed legally effective at such time as counterparts thereof duly executed on behalf of all Parties have been furnished and delivered to the attorneys for all Parties to this Agreement. Signature of copies of this Agreement and the Letter of Resignation transmitted by facsimile or electronic mail to other Parties to this Agreement, and/or signed electronically by either/both Parties, shall have the same force and effect as signature of the original. This Agreement shall not be construed against any one party, but shall be construed as if jointly prepared by both parties. Any uncertainty or ambiguity shall not be interpreted against any one party.
17. For any inquiries directed to the District's Human Resources Department regarding Employee's employment with the District, the District's Chief Human Relations Officer shall respond with a statement limited to Employee's position(s) held, salary, and dates of employment, except as authorized by Employee or required by law, regulation or court order.

18. This Agreement shall be final as to the Employee, Dr. Rudolph, immediately upon execution, but shall not become final and binding upon the District until it has been approved or ratified by the District's Governing Board.

19. If any provision of this Agreement is held to be void, voidable or unenforceable, the remaining portions of the Agreement shall remain in full force and effect.

20. Any modification of this Agreement must be in writing and signed by the Parties. No oral modifications shall be effective to vary or alter the terms of this Agreement.

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



Dr. Ayindé Rudolph

Date: 11/1/24

\_\_\_\_\_  
Devon Conley, President  
Governing Board of the Mountain  
View Whisman School District

Date: \_\_\_\_\_

