

**EMPLOYMENT AGREEMENT BETWEEN
THE CABRILLO UNIFIED SCHOOL DISTRICT AND
SEAN McPHETRIDGE**

THIS AGREEMENT is entered into this 16th day of May, 2019, by and between the Board of Trustees of the Cabrillo Unified School District, hereinafter referred to as the “Board” or “District”, and Sean McPhetridge, hereinafter referred to as the “Superintendent”.

IT IS HEREBY AGREED BY THE PARTIES AS FOLLOWS:

1. **TERM:** The Board hereby employs the Superintendent for a period beginning on July 15, 2019 and ending on June 30, 2022, unless terminated earlier or extended as provided by the terms of this Agreement or as required by law. The Superintendent shall provide twelve months of full and regular service to the District during each full school year covered by this Agreement.
2. **DUTIES:** The Superintendent shall perform, at the highest level of competence, all services, duties, and obligations required by (i) this Agreement, (ii) the Superintendent’s job description, (iii) applicable laws and regulations, (iv) Board rules, regulations, and policies and as otherwise directed by Board. The Superintendent shall be chief executive officer and secretary of the Board.

The Superintendent shall have primary responsibility for execution of Board policy, responsibility for the duties prescribed by Education Code section 35035, and responsibility for any duties authorized by the Board pursuant to Education Code section 17604. The Superintendent may delegate his duties to a responsible District employee at the Superintendent’s discretion unless otherwise stated in applicable laws and regulations, found in Board rules, regulations, and policies, or otherwise prohibited by the Board.

The Superintendent shall have primary responsibility for the management of all District affairs. In carrying out his duties, the Superintendent shall provide educational leadership and be responsible for the operations of District, including, but not limited to, the areas of general administration, instruction, human resources, communications, government relations, facilities, and business affairs.

3. **COMPENSATION:** In full consideration for the services provided under this Agreement, the Superintendent will receive a salary at the annual rate of two hundred and five thousand three hundred and ninety one dollars (\$205,391.00). The annual salary shall be payable on the last day of each month in installments of one-twelfth (1/12) of the annual salary for services rendered during the preceding month, with proration for a period of less than a full month of service. The daily rate for the purpose of prorating the annual salary provided for in this Agreement shall be \$904.81 (“Daily Rate”).

Upon receiving a satisfactory evaluation for his performance in the prior year, the Superintendent shall receive the equivalent percentage salary increase as the District approves for the certificated salary schedule during the term of this Agreement. Any

increase in salary shall be discussed and approved in open session at a regular Board meeting pursuant to Government Code Section 54956(b). A change in salary during the term of the Agreement shall not constitute the creation of a new contract or extend the termination date of the Agreement.

The District agrees to provide the Superintendent with the ability to use an IRS Section 403b or similar tax deferred plan, an IRS Section 125 Cafeteria Plan, and other plans that are made available to other District employees. All employee and employer contributions to such plans shall conform to all requirements of state and federal law.

4. FRINGE BENEFITS:

5.

- a. **Health Insurance Benefits.** The Superintendent shall receive District paid health, dental, vision and other fringe benefits in the same manner and subject to the same limitations as other certificated cabinet-level employees, as those benefits may change from time-to-time.
- b. **Life Insurance.** On behalf of Superintendent, District shall purchase a \$200,000 term life insurance policy, with beneficiary or beneficiaries to be determined by the Superintendent.
- c. **Sick Leave.** The Superintendent shall be allocated sick leave at the rate of one day per month. Earned sick leave may be accumulated without limitation; however, under no circumstances shall the District be obligated to compensate the Superintendent for earned, unused sick leave. Unused sick leave may be credited for retirement purposes as authorized by either the California State Teachers' Retirement System (STRS) or the California Public Employees Retirement System (CalPERS) as may be applicable.
- d. **Vacation Time.** During each school year (July 1 – June 30), throughout the term of this Agreement, the Superintendent shall be entitled to twenty (20) days of vacation with full pay in each year of service, exclusive of holidays as defined below. Vacation days for a partial school year shall be prorated. In no event shall the Superintendent accrue more than twenty (20) days of vacation as of June 30 of each year of the term of the Agreement, unless otherwise approved by the Board. Upon separation from employment with the District, the Superintendent shall be entitled to compensation for all accrued but unused vacation days at the Daily Rate, up to a maximum of 20 days. All vacation must be scheduled in advance and approved by the Board President.
- e. **Holidays.** The Superintendent shall be entitled to receive holidays as provided to the District's certificated management employees.
- f. **Other Leave.** The Superintendent shall be entitled to all other personal necessity, bereavement, jury duty, or other leaves as provided to the District's certificated management employees.

- g. **Written Records.** The Superintendent shall keep written records of his use of vacation or other leave time. The Superintendent is expected to work a full workday and is expected to promptly account for absences of greater than one half of a workday as vacation time, sick leave or other leave of absence.

6. WORK RELATED EXPENSES:

- a. **Automobile Allowance.** The Superintendent is required to have a vehicle available at all times to perform the services and duties of the position. Therefore, the Superintendent shall be entitled to receive a monthly automobile allowance of Four Hundred Dollars (\$400.00) for the acquisition, use, maintenance and insurance of an automobile while on all District business for business related travel in-district and within 100 miles of the District's boundaries, irrespective of the number of miles traveled on District business. The Superintendent shall be solely responsible for all expenses to use, maintain, operate and insure the automobile. No documentation is required in order to receive this allowance and the Superintendent shall have discretion regarding the expenditure of this allowance. This allowance shall be treated as salary for tax purposes and shall not be treated as creditable compensation for CalSTRS or CalPERS purposes unless it is permitted by law. The Superintendent's receipt of this automobile allowance shall be in lieu of any entitlement to mileage reimbursement; however, the Superintendent shall be eligible for mileage reimbursement at the IRS rate for work-related travel outside of 100 miles from the District's boundaries.
- b. **Expense Reimbursement.** The District shall reimburse the Superintendent for all actual and necessary expenses incurred by the Superintendent within the scope of employment in accordance with applicable District policy, not to exceed \$500 per month without the written authorization of the Board. For reimbursement, the Superintendent shall complete and submit expense claims in writing in accordance with the District's policies, rules and regulations and shall provide the Board with copies of the Superintendent's monthly expense reports. The Superintendent's expense claims shall be supported by appropriate documentation prior to reimbursement.
- c. **Memberships.** The District shall pay the Superintendent's annual membership charges for up to three professional or service organizations like ACSA, AASA or Rotary. The District shall pay for the Superintendent to attend up to three regional, state or national professional conferences each year. The Superintendent shall obtain written authorization of the Board, as set forth in Section 5(b) above, if the cost to attend to attend a professional conference exceeds \$500.
- d. **Professional Equipment.** District will provide Superintendent with such facilities, equipment, supplies and clerical assistance as appropriate to Superintendent's position and necessary for the adequate performance of his duties. District shall provide Superintendent with appropriate technology, including but not limited to, a laptop computer and cellular device. The District shall pay any costs and expenses

associated with owning, licensing, operating and maintaining such Technology Devices. This does not include costs associated with maintaining home internet access. All Technology Devices so provided are the property of the District and the District shall have the right to control the access to, and use of, Technology Devices through its Board policies, including its technology use policies, personnel policies, and its risk management policies.

All District-provided Technology Devices are provided to facilitate performance of the Superintendent's duties and obligations as an employee of District. The Superintendent may use District-provided Technology Devices for personal use within reasonable limits and in a manner consistent with Board policies, including its technology use policies, personnel policies, and its risk management policies. The Superintendent shall not use any Technology Device in any manner that is inconsistent with such policies.

The Superintendent shall not conduct District business on devices that are not provided or owned by District.

The Superintendent hereby waives any and all rights and protections over the content of any Technology Device or other electronic device (e.g., cell phone, computer, tablet) on which he has conducted any District business, regardless of whether the device is provided by District pursuant to the Agreement. This waiver permits the Board or anyone authorized by the Board to examine the contents of any such device without requiring additional permission, including, but not limited to, a separate waiver or a warrant.

7. EVALUATION: On a mutually agreeable schedule, the Superintendent and the Board will jointly develop goals, objectives and a job description. The Board shall evaluate the Superintendent's performance at least once a year based upon the goals, objectives and job description as periodically established by the Board in consultation with the Superintendent. Any failure on the part of the Board to meet the requirements or deadlines relating to the Superintendent's evaluation shall not release the Superintendent from fully and faithfully performing the services required to be performed under this Agreement or any applicable statute or regulation, or constitute a default by the District of its obligations under this Agreement.
8. PROFESSIONAL DEVELOPMENT: As part of the Superintendent's annual evaluation, there will be a discussion of professional development, and the Superintendent and the Board shall identify the appropriate courses and activities which the Superintendent will complete as part of his professional development. As set forth in Section 5(b), the Superintendent will promptly submit invoices/receipts related to all such activities.
9. NON-RENEWAL OF AGREEMENT: Should the Board determine that it does not wish to negotiate and execute a new contract at the end of the term of the Agreement, the Board shall give written notice of the decision to the Superintendent at least forty-

five (45) days prior to the end of the Agreement, as required pursuant to Education Code Section 35031. The Parties expressly agree to waive the term of the automatic renewal provision established in Education Code Section 35031. Rather, if Board fails to provide notice of non-renewal, the Agreement shall automatically be renewed on the same terms but only for a period of one year.

Between ninety (90) days and one hundred and twenty (120) days prior to the end of the Agreement, Superintendent shall, in writing, remind each Board member of the Board's obligation under Education Code Section 35031 to give written notice of its decision to not renew the Agreement.

10. **TERMINATION OF AGREEMENT:** This Agreement may be terminated prior to the expiration of the contract term as follows:

- a. **Mutual Consent.** The Parties may terminate the Agreement at any time by written mutual consent.
- b. **Resignation.** The Superintendent may resign and terminate this Agreement provided that, unless otherwise waived by the Board, the Superintendent shall give at least ninety (90) days advance written notice. Notwithstanding the provisions of section 4(c) above, for each day less than ninety (90) days advance written notice, the Superintendent's unused vacation days shall be reduced by one day.
- c. **Termination for Cause.** The Board may terminate the Agreement for cause. Cause is defined as: (1) breach of this Agreement; (2) failure by the Superintendent to possess or maintain a valid California Administrative Credential; (3) neglect of duty; (4) physical or mental inability of the Superintendent to perform his duties with or without reasonable accommodations; (5) any other legally permissible reason, which includes but is not limited to conduct that is seriously detrimental to the District. Conduct that is seriously detrimental to the District includes, by way of illustration and not limitation, failure of good behavior, either during or outside of duty hours, which is of such a nature that it causes discredit to the District, unprofessional conduct, or incompetence.

Prior to making a final determination of cause for termination, Superintendent shall be provided with thirty (30) calendar days written notice of the action and the reasons therefore, and a reasonable opportunity to be heard by the Board in a closed session. If the Superintendent chooses to be accompanied or advised by legal counsel at such meeting, the Superintendent shall bear any costs therein involved. Such meeting shall be conducted in closed session unless specifically prohibited by State law. The Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges and to submit any written documents the Superintendent believes are relevant to the charges. The conference with the Board shall not be an evidentiary hearing and neither party

shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, it shall provide the Superintendent with a written decision. The decision of the Board shall be final. The Superintendent's conference before the Board shall be deemed to satisfy the Superintendent's entitlement to due process of law and shall be the Superintendent's exclusive right to any conference or hearing otherwise required by law. The Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Superintendent's administrative remedies and then authorizes the Superintendent to contest the Board's determination in a court of competent jurisdiction.

- d. **Termination Without Cause.** The Board may, for any reason, without cause or a hearing, terminate this Agreement at any time. In consideration for the exercise of this right, the District shall pay to Superintendent from the date of termination until the expiration of this Agreement, or for a period of six (6) months, whichever is less, an amount equal to the difference between Superintendent's salary at the rate in effect during the Superintendent's last month of service and the amount which the Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed). As a condition of payment, the Superintendent shall be obligated to immediately seek other employment and to notify the District in writing immediately if the Superintendent earns income from any employment-related source as defined above.

For purposes of this Agreement, the term "salary" shall include only the Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. All payments made pursuant to this termination without cause provision shall be subject to applicable payroll deductions and shall be treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service or creditable compensation for retirement purposes. Payments made pursuant to this termination without cause provision shall be considered as final settlement pay and shall not count for any retirement purpose; accordingly, no deductions shall be made for retirement purposes.

The Superintendent shall also be entitled to District-paid health benefits, as those benefits may change from time-to-time, until expiration of this Agreement, a period of six (6) months, or until the Superintendent obtains other employment which provides health benefits, whichever occurs first.

If the Superintendent is terminated without cause and elects to retire instead of fulfilling the Superintendent's obligation to seek other employment as set forth above, the parties agree that, effective upon the date of the Superintendent's retirement with the CalSTRS or CalPERS, the amount payable to the

Superintendent as salary shall be reduced by the amount of retirement income earned by the Superintendent from CalSTRS or CalPERS.

The parties agree that any damages to the Superintendent that may result from the Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination without cause provision, along with the District's agreement to provide paid health benefits, constitutes reasonable liquidated damages for the Superintendent, fully compensates the Superintendent for all tort, contract and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Superintendent's sole remedy to the fullest extent provided by law. Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code sections 53260, et seq.

11. MEDIATION: Should any dispute arise out of this Agreement, the Parties will meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. The costs of the mediator, if any, will be paid by the District. If a mediated settlement is reached, neither party will be the prevailing party for the purposes of this settlement. Neither party will be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution.
12. REPAYMENT AFTER CRIMINAL CONVICTION: If the Superintendent is convicted of a crime involving an abuse of his or her office or position, the Superintendent shall fully reimburse the District for any severance pay, paid leave salary disbursed pending an investigation, and/or legal criminal defense funds paid by the District. This provision expressly does not oblige the District to make any of these payments.
13. MERGER CLAUSE: This Agreement constitutes the sole agreement of the Parties hereto and correctly states the rights, duties, and obligations of each party. Any prior agreement, promises, negotiations or representations between the Parties not expressly stated in this document are not binding. All subsequent modifications will be in writing and signed by the Parties.
14. APPLICABLE LAW: This Agreement is subject to all applicable laws of the State of California, the regulations of the State Board of Education, and the rules, regulations, and policies of the District.
15. TAX/RETIREMENT LIABILITY: Notwithstanding any other provision of this Agreement, the District shall not be liable for any retirement or state/federal tax consequences to the Superintendent, any designated beneficiary, heirs, administrators, executors, successors or assigns of the Superintendent. The Superintendent 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 the Superintendent as a result of the termination without cause provision of this Agreement, retirement payments, expense reimbursements, and payments for insurance. The Superintendent agrees to defend, indemnify and hold the District harmless from all such tax, retirement and similar consequences.

IN WITNESS WHEREOF, the parties hereto, or their duly authorized representative, affixed their hands.

SUPERINTENDENT

Dated: _____

Sean McPhetridge

CABRILLO UNIFIED SCHOOL DISTRICT

Dated: _____

President, Board of Trustees

ATTEST:

Clerk of the Board