

## SEPARATION AGREEMENT AND RELEASE OF CLAIMS

THIS SEPARATION AGREEMENT AND RELEASE OF CLAIMS (“Agreement”) is made and entered into by and between the Marsh Valley School District #21 (“District”), and Isaac Moffett, an individual (“Moffett”). The District and Moffett may collectively be referred to herein as the “Parties.”

WHEREAS, the District is a school district created by and operating pursuant to Chapter 3, Title 33, Idaho Code; and

WHEREAS, Moffett is currently employed by the District on a two-year standard Idaho administrator contract, which contract terminates at the end of the 2021-2022 school year (the “Contract”); and

[REDACTED]

NOW, THEREFORE, in consideration of the mutual promises and releases contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### CONSIDERATION

1. **Release From Contract.** As part of the full execution of this Agreement, the District agrees to release Moffett from the Contract effective as of June 30, 2021. Notwithstanding the release from Contract, Moffett will continue to perform duties for the Marsh Valley Middle School remotely for the remainder of the 2020-2021 school year, which duties shall be limited to completion of evaluations for certificated staff in accordance with District policy. Upon completion of such evaluations, Moffett will have no further duties for the District.

2. **Waiver of Due Process.** Moffett knowingly, voluntarily and intentionally waives any rights he may have to any due process hearing pursuant to Idaho Code §§33-513(5), 33-515(4), and District policy before the Board or any other proceedings against the District provided by federal law, state law, or District policy, on any matter related to his employment, known or unknown at the time of execution of this Agreement.

3. **Contract Buyout.** In consideration of Moffett’s acceptance of this Agreement, and paragraphs 1 and 2 above, the District will pay a cash lump sum in the amount of Ten Thousand Dollars and No Cents (\$10,000.00) to buy-out the second year on Moffett’s Contract, to be paid

upon Moffett's completion of evaluations of certificated employees at Marsh Valley Middle School. Moffett will be responsible for any and all federal, state or other taxes on this amount. This severance pay will be in addition to Moffett's earned salary and benefits, if any.

4. **Salary and Benefits Continuation.** Upon the execution of this Agreement, the Parties agree as follows:

- a. Moffett shall continue to be enrolled in all of the District's benefits plans in which he is enrolled through July 31, 2021.
- b. The District will provide Moffett with his monthly paycheck in the amount of \$5,166.66, less customary payroll deductions, but including unused, accrued annual leave to which he may be entitled, if any, through July 20, 2021.
- c. Following the separation date, Moffett shall be entitled to any and all other rights or benefits afforded to other former employees of the District, including, without limitation, the right to elect to continue, at his cost, coverage under the District's health plan, in accordance with the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA").

5. **Mutual Non-Disparagement.** No party hereto shall, and no party hereto shall permit any of its representatives to, make any statement, whether in writing or verbally, which would have the effect of disparaging, defaming, or discrediting Moffett or the District, or any of its employees, officers, trustees and representatives. Notwithstanding the foregoing, nothing in this paragraph will prevent any party to this Agreement from making any truthful statement to the extent (i) necessary with respect to any litigation, arbitration or mediation involving this Agreement, including, but not limited to, the enforcement of this Agreement; or (ii) required by law or by any court, arbitrator, mediator or administrative or legislative body with apparent jurisdiction to order such person to disclose or make accessible such information.

6. **Unemployment Insurance Benefits.** The District will not challenge or appeal any determination relating to any claim Moffett may make for unemployment insurance benefits.

7. **Inquiries.**

- a. In the event the District receives any inquiry concerning Moffett's employment, the District will limit its response to Moffett's period of employment, years of service, placement and attendance, unless a signed release for additional information is received, or the District is otherwise required by law to provide additional information. The Parties agree that this paragraph shall not bar the District from providing Moffett's personnel file to other school districts in accordance with Idaho Code §33-1210.

- b. In the event Moffett or his family members receive inquiries regarding his employment, the response will be limited to his period of employment, years of service, placement and attendance, unless he is otherwise required by law to provide additional information.

8. [REDACTED]

9. **Expenditure Disclosure.** Pursuant to Idaho Section §33-357, the District will document the expenditure of public funds set forth above on its website. Moffett will be identified as the recipient of the above-identified funds.

10. **Attorneys' Fees.** The Parties to this Agreement will each pay their own attorney fees and costs related to any legal services provided relative to the execution of this Agreement.

**RELEASE**

11. **Release.** In consideration of the acts set forth in paragraphs 3, 6, and 8 herein, Moffett, on behalf of himself, his descendants, ancestors, dependents, heirs, executors, administrators, assigns, and successors, and each of them, hereby covenants not to sue and fully releases, acquits, and discharges the District, its officers, employees, agents, attorneys, or directors, and successors in interest, past, present, future and each of them, and any and all other persons, firms or corporations employed by or associated with the District (the "Releasees"), with respect to and from any and all claims, wages, demands, assistance, support, rights, liens, agreements, contracts, covenants, actions, suits, rights to appeal, entitlements and notices, causes of action, obligations, debts, costs, expenses, interests, attorneys' fees, contributions, damages, judgments, orders and liabilities of whatever kind or nature in law, equity or otherwise, whether known or unknown, suspected or unsuspected, and whether or not concealed or hidden, which he has at any time heretofore owned or held against the Releasees, including, without limitation, those arising out of or in any way connected with his employment relationship with the District or his separation or any other transactions or occurrences, acts or omissions or any loss, damage or injury whatever, known or unknown, suspected or unsuspected, resulting from any of them, committed or omitted prior to the effective date of this Agreement, and including, without limitation, any claim or cause of action under the Idaho Human Rights Act (Idaho Code §§67-5901 *et seq.*); Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000(e) *et seq.*, as amended by the Civil Rights Act of 1991); the Americans with Disabilities Act (42 U.S.C. §12101 *et seq.*, as amended by the Americans with

Disabilities Act Amendments of 2008); the Age Discrimination in Employment Act (29 U.S.C. §621 *et seq.*, as amended by the Older Workers Benefit Protection Act of 1990); the Idaho Protection of Public Employees Act (aka the “Whistleblower Act”) (Idaho Code §§6-2101 *et seq.*); and state law claims for breach of contract, libel, slander, wrongful discharge, intentional and/or negligent infliction of emotional distress, or other tort.

12. **Mutual Release.** The Parties mutually agree to forever release and discharge the other party from any and all claims, actions, or causes of action, in law or equity, statutory or in common law, known or unknown, including, but not limited to any perceived or actual violation of State or Federal law, District policies, or State Board of Education rules, which may arise or be perceived to arise out of Moffett’s employment or release from his employment Contract. The Parties mutually agree not to pursue any claims against the other party in any judicial or administrative proceeding, or before any state agency.

13. **Consideration Period and Revocation Period.** By executing this Agreement, Moffett acknowledges that he has been advised to consult with legal counsel prior to executing this Agreement.

- a. **Consideration Period.** Moffett understands that he has a period of up to twenty-one (21) days after receiving this Agreement to consider whether to execute it (the “Consideration Period”). This means that Moffett can wait until at least the end of the Consideration Period to sign the Agreement and be entitled to receive the subject benefits and arrangements, provided he meets all other applicable terms and conditions. Moffett may accept such benefits and arrangements by signing and returning the Agreement before the expiration of the Consideration Period. However, if Moffett chooses to sign the Agreement before the expiration of the Consideration Period, he acknowledges that he will do so voluntarily; he also understands that he will waive the remainder of the 21-day Consideration Period if he signs and returns the Agreement before the end of the Consideration Period.
- b. **Revocation Period.** After Moffett has signed and returned the Agreement, he will have seven (7) calendar days to revoke his acceptance of the subject benefits and arrangements and the Agreement (the “Revocation Period”) by providing written notice of such revocation to the District at the address set forth in paragraph 17 herein. By revoking the Agreement within the Revocation Period, Moffett understands that he will be exercising his right to change his mind. If Moffett revokes the Agreement, however, he understands that he will not be eligible to receive any payments and other promises referenced in this Agreement and other subject benefits and arrangements. Unless he revokes it, this Agreement will be effective on the eighth day after Moffett has signed it (the “Effective Date”) and only then will he be entitled to receive the payments and promises offered in this Agreement.

14. **Representations of Moffett.** Moffett represents and warrants that:
- a. In giving this release, he has relied wholly on his own judgment and has not relied on any statement of the District or any expert, agent or attorney of the District in electing to enter into this Agreement and that he has been advised by the District to consult with his own attorney and been given the opportunity to do so regarding the contents of this Agreement prior to signing it.
  - b. No promises, inducements, nor agreements not stated in this Agreement have been made to Moffett.
  - c. At the time of the execution of this Agreement he is of legal age and of sound mind and that he is aware of the effect of making this Agreement.
  - d. He is the sole owner of and the only party entitled to make any of the claims released in paragraph 11 herein, and that he has not heretofore assigned or transferred, or purported to assign or transfer, to any person, entity or individual whatsoever, any of the claims released in paragraph 11 herein. Moffett agrees to indemnify and hold harmless the Releasees (as defined in paragraph 11 herein) against any claim, demand, debt, obligation, liability, cost, expense, right of action or cause of action based on, arising out of, or in assignment.
  - e. He has carefully read this Agreement, knows the contents thereof, and has signed this Agreement of her own free will and action.
  - f. He does not hold or harbor, nor is he aware of the existence of any claim or claims which he has, or might have, against the District that is not released and intended to be released by this Agreement, but irrespective of this warranty, it is agreed that he is releasing potentially unknown claims and does so recognizing that he may have limited knowledge regarding such claims.
  - g. He has returned to the District, or will return to the District on or before June 30, 2021, all hard copy and electronic documents (and all copies thereof) and other District property in his possession at any time, including but not limited to: files, notes, drawings, records, business plans and forecasts, financial information, specifications, computer-recorded information (including email), tangible property (e.g. computer, cell phone, etc.), credit cards, entry cards, identification badges and keys, and any materials of any kind that contain or embody any proprietary or confidential information of the District (and all reproductions thereof). If Moffett discovers that he has retained any District property, proprietary or confidential information, he agrees immediately upon discovery to contact the District and make arrangements for returning the information or property.

15. **Claims Not Released.** By this Agreement, the Parties understand and agree that Moffett is not releasing claims for benefits he may have under the District's other benefit plans, any rights to benefits under applicable workers' compensation statutes or government provided unemployment benefits, or any rights to enforce this release.

16. **Compromise.** It is understood and agreed that this Release is not and shall not be construed to be an admission of liability on the part of any of the Parties. Specifically, it is understood that the Released Parties have contested certain allegations made and deny liability; and that by and through the settlement, the Parties are not admitting liability, but rather that settlement has been made to avoid the uncertainties and costs of litigation.

17. **Notices.** Any and all notices of revocation required or allowed pursuant to this Agreement shall be given to the District at the following address: Marsh Valley School District #21, 40 School Street, Arimo, ID 83214, Attention: Gary Tucker.

### MISCELLANEOUS

18. **Binding Effect.** This Agreement shall be binding and inure to the benefit of the parties and their respective heirs, successors, and permitted assigns; effective after Moffett has signed it, unless revoked during the Revocation Period specified in paragraph 13.

19. **Enforcement.** This Agreement shall in no way affect any claim or cause of action that might accrue to Moffett or the District arising out of any breach of this Agreement by either Party.

20. **Waiver.** A waiver or any breach of, or failure to enforce, any of the terms or conditions of this Agreement shall not in any way affect, limit or waive a party's rights to enforce noncompliance thereafter with each and every term and condition of this Agreement.

21. **Entire Agreement.** This Agreement constitutes and contains the entire agreement and understanding concerning Moffett's employment and resignation, and the other subject matters addressed herein between the Parties, and supercedes and replaces all prior negotiations and all prior agreements proposed or otherwise, whether written or oral, concerning the subject matter hereof.

22. **Headings Not Controlling.** The paragraph headings included herein are for reference only and are not part of this Agreement. The headings shall not control or alter the meaning of this Agreement as set forth in the text.

23. **Governing Law.** This Agreement shall be governed by and subject to the laws and exclusive jurisdiction of the courts of the State of Idaho.

24. **Attorneys' Fees.** In the event that either party breaches any of the provisions of this Agreement, that party agrees to pay the other party's reasonable costs of prosecuting such claims, including reasonable attorneys' fees and costs.

25. **Confidentiality.** As part of the consideration given by both Moffett and the District herein, both Moffett and the District agree that the terms of this Agreement, to the extent allowed by law, shall remain confidential and shall not be disclosed to any person or entity at any time, except as shall be necessary to comply with applicable laws, including the public records laws of the state of Idaho, or to enforce the Agreement. The Parties acknowledge that the obligations of confidentiality extend beyond the terms of this Agreement.

26. **Severability.** In the event that one or more of the provisions of this Agreement shall for any reason be held to be illegal or unenforceable, this Agreement shall be revised only to the extent necessary to make such provision(s) legal and enforceable.

27. **Construction of Agreement.** The Parties agree that this Agreement has been negotiated by the parties through their respective counsel, and thus the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

28. **Executed in Counterparts.** Facsimile signatures are the same as original signatures. This Agreement may be executed in any number of counterparts, including facsimile counterparts, with the same effect as if all parties had signed the same document. All counterparts shall be deemed to be originals and must be construed together as one instrument.

29. **Authority.** Each party represents and warrants that it has the full power and authority to enter into this Agreement and to bind the entity or agency under which her/his signature appears below.

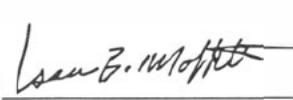
IN WITNESS WHEREOF, the Parties acknowledge that they have read the foregoing Agreement, understand its contents, and accept and agree to the provisions it contains and hereby execute it voluntarily and knowingly and will full understanding of its consequences.

**PLEASE READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF KNOWN AND UNKNOWN CLAIMS.**

**Marsh Valley School District #21**

**Isaac Moffett**

By: 

By: 

Kevin Fannesbeck  
Board Chairman

Date: 05/17/21

Date: May 13, 2021

ATTEST:

  
Shawn Nelson, Board Clerk