

SETTLEMENT AGREEMENT (2/18/2010)

This Settlement Agreement (hereinafter "Agreement") is made and entered into by and between SALIDA UNION ELEMENTARY SCHOOL DISTRICT ("District") and DOUG BAUGHN ("Mr. Baughn"). District and Mr. Baughn shall be referred to individually as "Party" and collectively as "Parties."

WHEREAS, Mr. Baughn currently serves in the position of Superintendent for the Salida Union Elementary School District; and

WHEREAS, the District and Mr. Baughn each desire to end the employment relationship between them and to facilitate Mr. Baughn's resignation from employment in a manner mutually convenient for each of the respective Parties.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and for other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed by and between the Parties as follows:

1. No Admission: Each Party agrees that neither the execution of nor the performance of this Agreement is an admission of, or concession to liability for, any claim, premise, or position of the other Party as this Agreement is a compromise settlement.

2. Resignation: By execution of this Agreement below, Mr. Baughn irrevocably resigns from employment with the District effective February 16, 2010. The Parties further acknowledge, stipulate and agree that Mr. Baughn's resignation pursuant to this Agreement is wholly voluntary.

3. Acceptance Of Resignation: By the District's execution of this Agreement, the District accepts Mr. Baughn's non-revocable resignation as an employee of the District effective February 16, 2010.

4. Consideration:

a. Consultant Contract: As a result of Mr. Baughn's five (5) years' experience as an administrator in the District and his unexpected resignation, the District requires certain consultant services relating to transition of Superintendent duties and other temporary administrative services. The Board and Mr. Baughn agree to enter into an independent contractor consultant contract to provide such services to the District. The contract shall be for the period of February 17, 2010 through October 30, 2010 as described by the terms of the contract except as follows: If the Superintendent accepts other employment as an employee during consultant contract after September 1, 2010, monthly amount payable under consultant contract is reduced to difference above gross base monthly salary in new employment. The proposed consultant contract shall be approved by Mr. Baughn prior to execution of this Agreement by both Parties. The Board of Education shall approve the contract no later than the next Board meeting following execution of this Agreement.

b. Health Benefit Premium Contribution: Mr. Baughn's regular health benefit contribution as an employee of the District shall be paid through the end of February 2010. For a period commencing March 1, 2010 and continuing through October 30, 2010, the District shall pay Five Hundred Thirty Dollars (\$530.00) in cash per month to Mr. Baughn in lieu of a health benefit contribution. Mr. Baughn may continue to participate in the District group health plan under the requirements of COBRA provided he pays all premium costs. These cash payments shall terminate if Mr. Baughn is employed as an employee of a private or public employer and receives the same or higher amount of monthly employer contribution or cash in lieu payments for health benefits from the other employer.

c. The Parties stipulate and agree that, notwithstanding the Contract of Employment for District Superintendent executed on June 22, 2007, the consideration described in subparagraphs a. and b., above, shall constitute the full and final compensation due Mr. Baughn under said Contract of Employment.

5. Communication: The Parties agree that they will not intentionally disparage the other in any communications after the date of this Agreement to the extent such communications pertain to the matters released herein and/or relating to Mr. Baughn's employment by the District, including Mr. Baughn's resignation from that employment.

6. Verification Of Employment: Any inquires regarding verification of Mr. Baughn's employment with the District shall be referred to only one Board member designated in writing by Mr. Baughn. No other Board member or District employee will respond to any such inquiries. In response to such an inquiry, the Board member shall generally limit specific information to (a) the dates of Mr. Baughn's service and the title(s) held during such service for District; (b) Mr. Baughn's final salary and benefits package, including nature and amounts thereof; (c) the fact of Mr. Baughn's voluntary resignation date from the District; and (d) a copy of Mr. Baughn's September 8, 2009 evaluation as Superintendent. In response to inquiries, the Board member shall provide an overall positive response.

7. Release Of All Claims: It is possible that other injuries, damage or claims not known now will develop or be discovered, or consequences or results of known injuries, damage or other claims will develop, worsen or be discovered, and this final compromise and release is expressly intended to cover and include, and does cover and include, all future claims, damages, expenses, future consequences or results of known or unknown injuries, damage or claims, including all rights of action based thereon. By execution of this Agreement by each of the Parties herein below, the District hereby releases Mr. Baughn, and Mr. Baughn hereby releases the District and its Board members, current employees and the District's officers, agents, directors, supervisors, employees, or other representatives, from any and all liability and/or obligation resulting from any and all rights, duties, obligations, liability or claims for any and all acts or omissions arising prior to the date of execution of this Agreement except for the benefits conferred on either Party by this Agreement. In this connection, the District and Mr. Baughn each expressly waive the provisions of Civil Code section 1542 which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH A CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN TO HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.


Without in any way limiting the generality of the foregoing language, this Release shall include all claims arising out of or in any way connected with any occurrences, acts, omissions, transactions or policies which were or could be asserted under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans With Disabilities Act, the California Fair Employment and Housing Act, federal or state common law or any other federal, state or local statute, law, regulation or ordinance, or any charge or complaint of breach of contract, defamation, retaliation, violation of any constitutional right, or other grievance, claim or cause of action arising out of or in any way related to Mr. Baughn's employment. In addition, Mr. Baughn waives any right to recover monetary damages, injunctive or declaratory relief as a result of any such proceeding which was initiated or which could have been initiated on his behalf. Signatories, including but not limited to Mr. Baughn, acknowledge and agree that this Release is an essential and material term of this Agreement and, without such release, this Agreement would not have been entered into by the Parties. Mr. Baughn's specific waiver of Federal Age Discrimination Claims described below shall not limit the generality of the other waivers and releases given in this section.

8. Separate Release Of Federal Age Discrimination Claims Under Chapter 14, Title 29, United States Code: Pursuant to Chapter 14 of Title 29 of the United States Code, it shall be unlawful for an employer (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his or her compensation, terms, conditions or privileges of employment, because of such individual's age; (2) to limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee, because of such individual's age; or (3) to reduce the wage rate of any employee in order to comply with said federal law.

By his initials below, Mr. Baughn specifically agrees to the terms and conditions of this Section and specifically waives any and all rights and claims against the District and District's Governing Board, and, as applicable, its and their respective agents, representatives, successors, assigns, employees, officers, Board members, attorneys, and affiliated entities, arising under Chapter 14 of Title 29 of the United States Code (referred to herein as "Federal Age Discrimination Claims").

The Parties agree that the promises given by the District in Section 6 (Verification of Employment) of this Agreement shall constitute separate valuable consideration ("Separate Consideration") for Mr. Baughn's waiver of his Federal Age Discrimination Claims. Mr. Baughn acknowledges that the Separate Consideration constitutes valuable consideration for his waiver of Federal Age Discrimination Claims.

BY MY INITIALS, I AGREE TO THE TERMS AND CONDITIONS OF THE WAIVER OF FEDERAL AGE DISCRIMINATION CLAIMS


[initials] Doug Baughn

9. No Pending Proceedings: Mr. Baughn represents that he has not filed any complaints, claims, or actions against the District, its officers, employees' agents, directors, supervisors, employees, or representatives with any state, federal, or local agency or court regarding the employment of Mr. Baughn. Mr. Baughn represents that he will not file any future complaints, claims or actions against the District, its officers, employees' agents, directors, supervisors, employees or representatives with any governmental agency or court regarding his employment with the District to the date of this settlement other than for the enforcement of the terms of this Agreement. District represents that it has not filed any complaints, claims, or actions against Mr. Baughn with any state, federal, or local agency or court and that it will not do so at any time hereafter.

10. Confidentiality: The District and Mr. Baughn agree that it is the intent of each of the Parties hereto that the terms of this Agreement be confidential to the extent permitted by law and that neither Party will hereafter disclose that information concerning this Agreement to anyone, other than a representative or advisor of a Party, or as otherwise required by law. Mr. Baughn understands and acknowledges that this Agreement is a public record which the District may be required by law to release in response to a request pursuant to Government Code sections 6250, *et seq.*, and/or Government Code sections 54950, *et seq.* Further, the information regarding the monetary terms of this settlement may be disclosed to any state or federal taxing authority as required by law.

11. Acceptance: Mr. Baughn shall have twenty-one (21) days to accept this Agreement. Mr. Baughn may use as much of this twenty-one (21) day period as he wishes. Should Mr. Baughn sign this Agreement before the twenty-one (21) day period expires, then Mr. Baughn waives his right to the full twenty-one (21) day period.

12. Revocation: Mr. Baughn may revoke his waiver of Federal Age Discrimination Claims for a period of seven (7) calendar days following his execution of this Agreement and that such waiver shall not become effective or enforceable until the revocation period has expired. In the event that Mr. Baughn revokes his waiver of Federal Age Discrimination Claims within the seven-day period, Section 8 of this Agreement and the promises given by the District in Section 6 of this Agreement shall be of no force or effect. All other provisions of this Agreement shall continue in full force and effect even if Mr. Baughn revokes his waiver of Federal Age Discrimination Claims. Revocation may be made by delivering a written notice to the District's attorney, Terry Filliman, Atkinson, Andelson, Loya, Ruud & Romo, 2485 Natomas Park Drive, Suite 240, Sacramento, California 95833. For revocation to be effective, written notice must be received no later than 5:00 p.m. on the seventh calendar day after Mr. Baughn signs this Agreement.

13. Effective Date: The effective date of this Agreement shall be the day Mr. Baughn indicates acceptance by his signature below.

14. Counsel: The Parties acknowledge that each of them has read this Agreement, had the opportunity to discuss the contents of this Agreement with their attorney, and that they have knowingly, willingly, and voluntarily entered into this Agreement.

15. Representations: The Parties hereto represent and acknowledge that in executing this Agreement they do not rely and have not relied upon any representation or statement made by any of the Parties or by any of the Parties' agents, attorneys, or representatives with regard to the subject matter, basis, or effect of this Agreement or otherwise, other than those specifically stated in this written Agreement.

16. Successors Bound: This Agreement shall be binding upon the Parties hereto and upon their heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of said Parties and each of them and to their heirs, administrators, representatives, executors, successors, and assigns. Mr. Baughn expressly warrants that he has not transferred to any person or entity any rights, causes of action, or claims released in this Agreement.

17. Entire Agreement: This Agreement sets forth the entire agreement between the Parties hereto and fully supersedes any and all prior agreements or understandings, written or oral, between the Parties hereto pertaining to the subject matter hereof.

18. Construction: All Parties and their legal counsel participated equally in the drafting of this Agreement. This Agreement shall, therefore, be interpreted in accordance with the plain meaning of its terms and not strictly for or against any of the Parties hereto.

19. Attorneys' Fees: Each Party hereto shall bear their own attorneys' fees and legal expenses/costs in connection with the negotiation and execution of this Agreement.

20. Choice Of Law: This Agreement is executed and delivered within the State of California, and the rights and obligations of the Parties hereto shall be construed and enforced in accordance with the laws of the State of California.

21. Severability: In the event any term of this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall remain valid and enforceable.

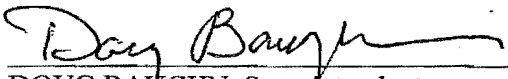
22. Enforcement: In the event of litigation to enforce any term or condition of this Agreement, the Parties agree that the prevailing Party in such litigation shall recover its reasonable attorneys' fees and costs from the other Party.

23. Execution Of Related Documents: Each Party to this Agreement shall cooperate fully in the execution of any and all documents and in the completion of any additional action which may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement. The District agrees to timely provide to Mr. Baughn all documents reasonably necessary for implementation of this Agreement, including without limitation documents relating to COBRA benefits.

24. Execution Of This Agreement: The Parties hereto agree that this Agreement may be transmitted and executed in two (2) or more counterparts, each of which may be deemed an

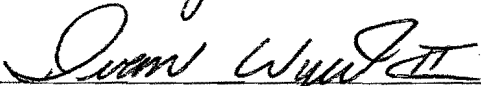
original, but all of which together shall constitute one and the same Agreement. Each Party shall be provided one (1) original copy of the Agreement. A copy of this Agreement shall be equally as valid as an original so long as there is no dispute as to the authenticity of that copy that is not resolved in favor of authenticity.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the date indicated below:



DOUG BAUGHN, Superintendent

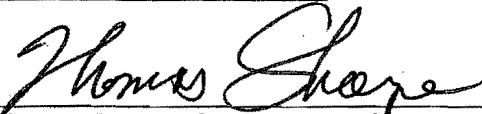
2/18/10
Date



IVAN WYETH, Board President on
behalf of the Board of Education

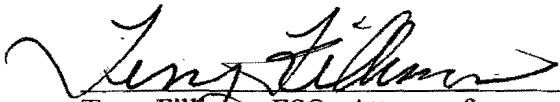
3/3/10
Date

APPROVED AS TO FORM:



Thomas Sharp, ESQ., Attorney for
DOUG BAUGHN

2/20/2010
Date



Terry Filliman, ESQ., Attorney for
SALIDA UNION ELEMENTARY
SCHOOL DISTRICT

2/24/2010
Date

**CONSULTANT SERVICES AGREEMENT
BETWEEN THE SALIDA UNION ELEMENTARY SCHOOL DISTRICT
AND DOUG BAUGHN (2/18/2010)**

This Agreement is entered into by and between the Salida Union Elementary School District, 4801 Sisk Road, Salida, California 95368, hereinafter referred to as "District," and Doug Baughn hereinafter referred to as "Consultant" or "Mr. Baughn."

RECITALS

WHEREAS, Mr. Baughn has recently resigned as Superintendent of the District and after having served as a District administrator for the past five (5) years and is available to provide professional services as an independent contract consultant; and

WHEREAS, Mr. Baughn possesses certain professional knowledge and information regarding District operations based upon his prior experience with the District; and

WHEREAS, the District does not currently have sufficient certificated administrative staff available to provide such required services, including research and special projects related to District administration; and

WHEREAS, California Government Code section 53060 grants the District the authority to contract with and employ persons for the furnishing to the District of special services if such persons are specially trained, experienced, and competent to perform the special services requested; and

WHEREAS, Consultant is specially trained and possesses the necessary skills, experience, education and competency, and licenses or credentials to perform the required services.

NOW, THEREFORE, District and Consultant agree as follows:

**I.
TERM**

The term of this Agreement shall commence on February 17, 2010 and shall end on October 30, 2010.

**II.
RESPONSIBILITIES OF CONSULTANT**

Consultant shall perform the following services:

A. Upon notice from the Interim Superintendent, shall perform research, analysis and special projects related to District operations. Consultant shall attend meetings, produce reports and carry out all activities necessary to complete such research, analysis and special projects.

B. Consultant shall provide own place of work, transportation, equipment and supplies necessary to perform contracted services. Consultant shall determine days and hours of work necessary to perform requested services by established deadlines.

III. RESPONSIBILITIES OF DISTRICT

District shall perform the following services:

A. District shall make known and available to Consultant all District policies and procedures applicable to this Agreement.

B. Interim Superintendent shall notify Consultant in person or in writing describing projects, research and professional services requested to be performed and potential duration of each specific project.

IV. COMPENSATION

A. District shall pay Consultant for services provided under this Agreement as follows: Eleven Thousand Five Hundred Dollars (\$11,500.00) per month, prorated on a daily basis for less than a full month, for the term of the Agreement except as provided for in Section 4.a. of a separate agreement between the parties dated February 18, 2010.

B. No payment shall be made unless and until the District verifies that all services for which payment is requested have been fully and satisfactorily performed. Consultant shall submit to District any documentation necessary to substantiate the full and satisfactory performance of the services for which payment is requested. The District administrator who will verify the services have been performed and approve the invoice is: Interim Superintendent, Twila Tosh.

C. Consultant shall provide a written invoice to District by the twenty fifth (25th) calendar day of each month during the term of this Agreement. Approved payments shall be made on the last calendar day of each month.

V. REIMBURSEMENT OF COSTS AND/OR EXPENSES

All costs and expenses necessary to perform Consultant's services shall be born solely by Consultant. The Consultant shall be entitled to, eligible for, or otherwise tender to District any claim for reimbursement of any cost, fee or expenses incurred in connection with the service performed pursuant to this Agreement.

VI. AMENDMENT

This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the District's Governing Board.

VII.
TERMINATION

This Agreement may not be modified or terminated prior to October 30, 2010 except pursuant to Section 4.a. of that separate agreement between the parties dated February 18, 2010. Such termination shall not be deemed to be a breach of this Agreement, nor shall it be deemed to be tortious conduct.

VIII.
INDEPENDENT CONTRACTOR

Consultant is, for all purposes arising under this Agreement, an independent contractor. No officer, agent or employee of Consultant or District shall be deemed an officer, agent or employee of the other party. Neither Consultant nor District, nor any officer, agent or employee thereof, shall be entitled to any benefits to which employees of the other party are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave, or other leave benefits. No taxes or other statutory deductions shall be taken from monthly payments for services made to Consultant.

IX.
ASSIGNMENT

Neither Consultant nor District may assign or transfer any interest in this Agreement without the prior written consent of the other party.

X.
INDEMNIFICATION

A. Consultant agrees to defend, indemnify, and save free and harmless District, its officers, agents and employees against any and all losses, injuries, claims, actions, causes of action, judgments or liens arising from, or alleged to have arisen from, the intentional or negligent acts or omissions of Consultant, its officers, agents, or employees.

B. District agrees to defend, indemnify, and save free and harmless Consultant, its officers, agents and employees against any and all losses, injuries, claims, actions, causes of action, judgments or liens arising from, or alleged to have arisen from, the intentional or negligent acts or omissions of District, its officers, agents, or employees.

XI.
OWNERSHIP

A. All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems, and another materials produced by Consultant under this Agreement shall be the sole and exclusive property of District. No such materials produced, either in whole or in part, under this Agreement shall be subject to private use, copyright or patent right by Consultant in the United States or in any other country without the express written consent of District.

B. District shall have unrestricted authority to publish, disclose, distribute and otherwise use, copyright or patent any such materials produced by Consultant under this Agreement.

XII.
NOTICES

Any notice permitted or required under this Agreement shall be in writing and signed by the party giving or serving the same, and shall be served either by personal delivery or certified mail to the following persons and at the following addresses:

Consultant:

Douglas Baughn
[REDACTED]

District:

Twila Tosh
Interim Superintendent
Salida Union School District
4801 Sisk Road
Salida, CA 95368

XIII.
CONTRACT DOCUMENTS

This Agreement includes the terms and conditions set forth in this document and in Section 4.a. of a separate agreement between the parties dated February 18, 2010.

XIV.
DIVERSITY PROGRAMS

Consultant agrees to comply with any applicable District employment or contracting diversity programs, policies or procedures.

SIGNATURES

This Agreement is signed below by the duly authorized representatives of the parties.

Doug Baughn

By: Doug Baughn
(signature)

Doug Baughn
(typed or printed name)

Title: Consultant

Date: 2/18/10

Salida Union Elementary School District

By: Twila Tosh
(signature)

Twila Tosh
(typed or printed name)

Title: Interim Superintendent

Date: 3-3-10



Salida Union School District

APPROVED
3-8-10

MARCH 8, 2010
Special Board Meeting

AGENDA ITEM:

Consider Approval of Settlement Agreement and Consultant Services Agreement between Salida Union Elementary School District and Doug Baughn.

DESCRIPTION:

The board and Mr. Baughn agree to enter into an independent contractor consultant contract to provide such services to the District. The contract shall be for the period of February 17, 2010 through October 30, 2010.

FISCAL IMPACT:

Cost for 8.5 months is \$101,990.00

5-0

RECOMMENDATION:

It is recommended that the Board approve the Settlement Agreement and Consultant Services Agreement between Salida Union Elementary School District and Doug Baughn.

Approved for Recommendation to the
Governing Board by:

A handwritten signature in cursive script, appearing to read "Twila Tosh", written over a horizontal line.

Twila Tosh
Interim Superintendent