

RESIGNATION AGREEMENT

This Agreement (“Agreement”) is made by and between the Board of Education (“Board”) for the City School District of the City of Rochester (the “District”) and Dr. Lesli Myers-Small (“Dr. Myers-Small”), collectively referred to herein as the “Parties”, pursuant to paragraphs 15.b and c of their current Contract of Employment, dated May 18, 2020.

WITNESETH THAT:

WHEREAS, the District’s Board of Education and Dr. Myers-Small wish to terminate their said Contract of Employment; and

WHEREAS, Dr. Myers-Small and the Board wish to record their understandings regarding said termination in this Agreement;

NOW, THEREFORE, the Parties, in consideration of the mutual promises to be performed, one for the other, as hereafter set forth, do hereby stipulate and agree as follows:

1. Dr. Myers-Small hereby resigns from all appointments to employment by the District, effective upon her signing this Agreement and approval of this Agreement by resolution of the Board. This resignation shall be effective without the need for any further action by Dr. Myers-Small or the Board other than is set forth in this paragraph.
2. The District will pay Dr. Myers-Small the amount equivalent to one year of her current salary (*i.e.*, Two Hundred Fifty Thousand Dollars [\$250,000]), as well as \$31,250 which represents the value of reimbursement for 30 unused vacation days which she shall be entitled to redeem pursuant to her Contract of Employment. Furthermore, in consideration of the retiree health insurance benefit set forth in Section 9.f of the Contract of Employment, and Dr. Myers-

Small's surrender of that right pursuant to this Agreement, Dr. Myers-Small shall receive the amount of Eighty Thousand Dollars (\$80,000) for purposes of offsetting future Medicare subscription costs. These payments shall be subject to the usual and required deductions for taxes, except that Dr. Myers-Small can direct that as much of the cumulative payout amount under this paragraph be contributed to a Section 403(b) and/or Section 457 plan as may be permitted by law and the terms of the District's plans. The District shall pay Dr. Myers-Small \$93,250 in cash no later than September 30, 2022 and shall make a non-elective employer contribution with no cash option in the amount of \$18,000 to her 403(b) plan account no later than September 30, 2022. The District shall pay Dr. Myers-Small \$207,000 in cash on January 6, 2023 and shall make a non-elective employer contribution with no cash option in the amount of \$43,000 to her 403(b) plan account on January 6, 2023. Finally, Dr. Myers-Small shall be permitted to continue in the District's family health insurance and dental program, under the conditions set forth in Sections 9.a of the Contract of Employment (including contribution to the premium cost of such coverage), for a period of twelve (12) months following the date of her resignation from employment pursuant to this Agreement.

3. With the exception of the vacation conversion specified in paragraph 2 hereof, Dr. Myers-Small will accept the additional payment and benefits specified in said paragraph 2 in lieu of any salary or benefits to which she otherwise would be entitled from the District by reason of her resignation, whether contained in her Contract of Employment with the Board or elsewhere.

4. Upon its receipt of an inquiry from a prospective employer about Dr. Myers-Small's services to the District, the District will respond by providing the prospective employer with Dr.

Myers-Small's dates of employment with the District, a statement that Dr. Myers-Small resigned as of the date this Agreement was fully executed and approved by the Board, and the amount of her contractual salary at the time said resignation became effective.

5. For purposes of this Agreement the word "District" shall include the Rochester City School District, its members, officers, employees, agents, attorneys and independent contractors, the Board of Education of the Rochester City School District, its members, individually and in their official capacities, its officers, employees, agents attorneys and/or independent contractors. Dr. Myers-Small covenants that she has not filed any action, complaint, proceeding, charge, grievance or arbitration or any other proceeding, administrative or judicial, against the District. Dr. Myers-Small hereby covenants and agrees not to file or continue any action, complaint, proceeding, charge, grievance or arbitration nor commence or continue any other proceeding, administrative or judicial, against the District in any court of law, admiralty or equity, or before any administrative agency or arbitrator seeking damages or other remedies on Dr. Myers-Small's own behalf, with respect to her relationship with the District, her employment with the District, her separation from employment from the District, or respecting any matters which were or could have been claimed, or otherwise arising on or prior to the date of execution of this Agreement, except to the extent that any such claim concerns an allegation that the District has failed to comply with any obligations created by this Agreement. Presentation of this Agreement shall constitute Dr. Myers-Small's consent to discontinue with prejudice any action or proceeding of any nature commenced or continued in violation of this paragraph.

6. Both Parties to this Agreement do not admit, and specifically deny, any liability, wrongdoing or violation of any law, statute, regulation, agreement or policy, and are entering into this Agreement solely for the purposes of (a) amicably resolving any and all matters in controversy, disputes, causes of action, claims, contentions and differences of any kind whatsoever between the District and Dr. Myers-Small, and (b) avoiding the attorneys' fees and other expenses that would result from litigation or other proceedings.

7. The Parties, for and in consideration of the payments and benefits made by the District, as set forth herein, and other good and valuable consideration, hereby release and forever discharge, and by this instrument do release and forever discharge one another of and from all actions, causes of action, suits, charges, complaints, proceedings, grievances, obligations, costs, losses, damages, injuries, attorneys' fees, debts, dues, sums of money, accounts, covenants, contracts, controversies, agreements and promises of any form whatsoever (collectively referred to as "claims") including, but not limited to, any claims in law, equity, contract, tort or those claims which were or could have been alleged up until the date of execution of this Agreement, or any claims arising under any and all federal, state, county or local statutes, laws, rules and regulations pertaining to employment, as well as any and all claims under state or federal contract or tort law against either Party, whether known or unknown, unforeseen, unanticipated, unsuspected, or latent which they, their heirs, executors, administrators, successors and assigns ever had, now have or hereafter can, shall or may have for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the date of execution of this Agreement, except a claim that a Party has failed to comply with any obligations created by this

Agreement. This waiver shall not apply to any claim by the District that Dr. Myers-Small has improperly retained any property or funds of the District.

8. Without limiting the generality of the foregoing, Dr. Myers-Small agrees that she knowingly and voluntarily waives all rights she has or may have (or that of anyone on her behalf) to commence or prosecute any lawsuit, charge, claim, complaint, or other legal proceeding or action against District, whether an individual or class action, with any administrative agency, court or other forum, including, but not limited to claims brought under the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*, the Civil Rights Act of 1991, Pub. L. No. 102-166, 105 Stat. 1071 (1991), 42 U.S.C. §1981, the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, the National Labor Relations Act, 29 U.S.C. §151 *et seq.*, the Equal Pay Act of 1963, 29 U.S.C. §206(d), the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1001 *et seq.*, the Rehabilitation Act of 1973, 29 U.S.C. §791 *et seq.*, the Family and Medical Leave Act of 1993, 29 U.S.C. §2601 *et seq.*, the New York State Human Rights Law, N.Y. Executive Law §290 *et seq.*, Title IX, 20 U.S.C. §1681 *et seq.*, the New York Civil Rights Law, N.Y. Civil Rights Law §79-e *et seq.*, the New York Equal Pay Law, N.Y. Labor Law §§194-198, the New York Workers' Compensation Law, N.Y. Workers' Compensation Law §1 *et seq.*, under any and all other federal, state and local equal employment, fair employment and civil or human rights law (whether statutory, regulatory or decisional), under the statutory, regulatory or common law of any jurisdiction, including, but not limited to, any and all tort claims (*e.g.*, assault, battery, false imprisonment, defamation, intentional infliction of emotional distress, negligent infliction of

emotional distress, wrongful termination, negligent hiring, supervision and/or retention, conversion, interference with contract, abusive discharge) and under any and all federal, state and local laws relating to employment and/or gender discrimination, sexual and/or other harassment, retaliation, benefits, labor or employment standards, or retaliation.

9. Dr. Myers-Small specifically agrees that she knowingly and voluntarily releases and forever discharges, and by this instrument does release and forever discharge the District of and from all actions, causes of action, suits, charges, complaints, proceedings, grievances, obligations, costs, losses, damages, injuries, attorneys' fees, debts, dues, sums of money, accounts, covenants, contracts, controversies, agreements and promises of any form whatsoever (collectively referred to as "claims"), including, but not limited to claims brought under the Age Discrimination in Employment Act of 1967 (ADEA), 29 U.S.C. §621 *et seq.*, which were or could have been alleged by Dr. Myers-Small, her heirs, executors, administrators, successors and assigns up until the date of execution of this Agreement.

10. To comply with the Older Workers Benefit Protection Act (OWBPA), Dr. Myers-Small has been advised and is fully aware of the legal requirements of the Act, and fully incorporates the said legal requirements by reference into this Agreement as follows:

- a. Dr. Myers-Small understands the terms of this Agreement;
- b. Dr. Myers-Small has been advised of her right to consult with an attorney to discuss the terms of this Agreement, and specifically acknowledges that she has fully discussed the terms of this Agreement with legal counsel of her own choosing and understands the meaning and effect of her waiver of all rights and claims under the Age Discrimination in Employment Act ("ADEA");

- c. Dr. Myers-Small does not waive any rights or claims under the ADEA that may arise after the date of execution of this Agreement;
 - d. Dr. Myers-Small is not receiving consideration beyond anything of value to which she is already entitled in exchange for her execution of this Agreement;
 - e. Dr. Myers-Small acknowledges that the District has afforded her the opportunity to consider the terms of this Agreement for a period of twenty-one (21) days;
 - f. The parties acknowledge that Dr. Myers-Small may revoke this Agreement within seven (7) days after her execution of this Agreement, and that the Agreement shall not become effective until the eighth (8th) day after her execution of this Agreement. In the event Dr. Myers-Small chooses to exercise her option to revoke this Agreement, Dr. Myers-Small shall notify the Board in writing of said revocation, no later than 5:00 P.M. of the last day of the revocation period.
11. The Parties specifically acknowledge that they understand that this Agreement is a legally binding document and that by signing this Agreement, they are prevented from filing, commencing or maintaining any action, complaint, charge, grievance, arbitration or other proceeding against one another, except as expressly permitted by the terms of this Agreement.
12. The District shall provide legal counsel and shall indemnify Dr. Myers-Small to the extent required by law against all uninsured financial loss arising out of any proceeding, claim, demand, suit or judgment by reason of alleged negligence, and excluding criminal conduct, resulting in bodily or other injury to any person or damage to the property of any person committed while Dr. Myers-Small was acting within the scope of her employment under the direction of the Board.
13. Upon the expiration of the seven day period set forth in Section 10.f, Dr. Myers-Small agrees to immediately return all District property in her possession and/or being held on her

behalf by others (to include, without limitation, all District-issued technology such as a laptop) and to discontinue use of all District-issued accounts and means of communication.

14. The Parties agree not to voluntarily disclose or publish the terms of this Agreement or discuss the circumstances that led to this agreement and to keep it confidential to the extent permitted by law. The Parties further agree that either party may disclose the terms of this Agreement, without violating the terms of this paragraph or any part of this Agreement: (a) in response to a valid subpoena; (b) in response to a request for disclosure made pursuant to the New York State Freedom of Information Law; (c) in response to a request by a person or entity that has a legitimate business reason to know the terms of this Agreement (specifically, the New York State Department of Labor, New York State Teachers Retirement System, the Internal Revenue Service, New York State Department of Taxation and Finance or the District's Payroll Service or Business Department); and (d) in response to a claim for breach of this Agreement. Dr. Myers-Small is specifically authorized to discuss the terms of this agreement with her immediate family and may discuss the circumstances that led to this agreement with future prospective employers provided that Dr. Myers-Small only conveys factual information relevant to the purpose of securing employment.

15. This Agreement shall not be effective or binding upon Dr. Myers-Small and/or the District unless and until it is approved by the Board by formal resolution.

16. The provisions of this Agreement are to be implemented according to the laws of the State of New York and are severable. If any part of this Agreement is found to be unenforceable, all other provisions shall remain fully valid and enforceable.

17. The Parties acknowledge that this Agreement represents the full, final, and complete resolution of this matter; so that this Agreement supersedes all prior agreements, written or oral, if any, between the Parties. This Agreement may not be changed except by an instrument in writing signed by the Parties.

18. Dr. Myers-Small agrees that, if asked about the District or its governing body, she shall not make derogatory or disparaging comments about individual school officials, the District, its employees, students and school related organizations. The current members of the Board agree that they shall make no derogatory or disparaging comments about Dr. Myers-Small with respect to her professional reputation, and/or her performance of duties as Superintendent of the District, and shall each if asked for information about the Superintendent of Schools refer the requesting party to the content of this paragraph.

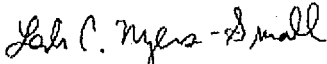
In the event that, during the period September 2, 2022 through and including September 1, 2023, either party breaches this paragraph or the confidentiality provisions of paragraph 14 and such breach is proven in a court of competent jurisdiction to have caused specific, compensable harm to one of them, the breaching party shall pay \$25,000, plus attorney fees, to the other party and the non-breaching party shall no longer be bound by the provisions of this paragraph. The

liquidated damages provisions of this clause shall only apply to a single breach, not for each subsequent breach.

19. If any provision of this Agreement is determined to be contrary to law by a court of competent jurisdiction, it is understood and agreed that such provision shall be deemed deleted and the balance of this Agreement without such deleted provision, if otherwise lawful, shall remain in full force and effect.

Executed in multiple copies, each having the same effect as the original.


DR. MYERS-SMALL:



Dr. Lesli Myers-Small

Date: September 1, 2022

THE DISTRICT:



Cynthia Elliott, President
Board of Education

Date: 9/1/22