

**EMPLOYMENT AGREEMENT FOR GENERAL COUNSEL  
OF THE MOUNT DIABLO UNIFIED SCHOOL DISTRICT**

This Employment Agreement (“Agreement”) is made and entered into effective as of **January 31, 2024**, by and between the Mount Diablo Unified School District, a public school district in the State of California (“District”) and Susanne Starecki Kim, an individual (referred to herein as “General Counsel”).

WHEREAS, the District’s Governing Board of Education (“Board”) desires to employ the General Counsel as General Counsel of the District and General Counsel desires to accept employment as the General Counsel of the District upon the terms and conditions hereinafter set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing terms and conditions set forth herein, the parties hereto agree as follows:

1. **Term.** The term of this Agreement shall commence on February 28, 2024, and terminate on June 30, 2025, unless terminated earlier pursuant to the provisions of this Agreement. The District shall provide General Counsel with at least 45 days written notice prior to the expiration of this Agreement of the intention of the District not to renew the Agreement; if the District does not give notice then the General Counsel is deemed reelected.
2. **Senior Management.** The General Counsel position is a Senior Management position of the classified service pursuant to Education Code § 45100.5. The General Counsel shall not have any property interest in the position that would entitle the General Counsel to permanent status in a Senior Management position; her employment rights are as provided in Education Code §§ 45104.5 and 35031.
3. **Employment Duties and Obligations.** General Counsel is hereby employed to serve as General Counsel and agrees to perform the services, duties and obligations required by this Agreement, the Superintendent, the applicable position description, applicable state and federal laws and regulations, and Board policies. In performing these duties, General Counsel shall jointly report to the Superintendent and the Board of Education. General Counsel shall give their exclusive professional services to the District during the period of this Agreement, and shall attend all regular and special meetings of the Board, unless otherwise excused by the Superintendent. For their services to the District, they shall accept as full payment the compensation provided in this Agreement.
4. **Salary and Benefits.**
  - 4.1 **Salary.** General Counsel shall be placed on Step 9 of DMA Management Schedule, a copy of which is attached hereto as Attachment “A” for reference. In the event the Board approves an increase to DMA Management Schedule, or revises DMA Management Schedule, to be effective during the term of this

Agreement, General Counsel shall be entitled to receive the increased rate of pay (in regards to both salary and doctoral stipend), and/or be placed on the new salary schedule, without the need to amend this Agreement so long as General Counsel does not receive less than Step 9 of DMA Management Schedule. General Counsel shall be entitled to receive a doctoral degree stipend (J.D.) (currently in the total amount of Three Thousand Dollars (\$3,182) per year), payable in twelve (12) equal monthly installments during the Term of this Agreement and as it may be amended from time to time.

- 4.2 Work Year and Vacation. General Counsel's regularly scheduled work year shall consist of 261 days. General Counsel shall be entitled to all vacation benefits applicable to 12 month classified management employees as an incident to their employment relationship with the District, currently twenty four (24) days per year. General Counsel may carry forward unused vacation into any subsequent year, except that General Counsel may not accrue more than permitted by Administrative Regulation 4362.11 (currently set at each management employee's annual accrual rate plus 10 additional) of unused vacation at any time. In the event General Counsel's employment terminates, the District shall pay them for all accrued but unused vacation at their then-daily rate of pay. The District encourages taking vacation time and the Superintendent has the authority to direct General Counsel to take vacation in accordance with District policy and procedures.
- 4.3 Leaves and Benefits. During the term of this Agreement, General Counsel shall be entitled to all benefits applicable to management employees as an incident to their employment relationship with the District, including but not limited to, the employer retirement contributions, paid sick leave and holidays. General Counsel may carry forward unused sick leave into any subsequent year, except that General Counsel may not accrue more than 130 days of unused sick leave at any time. General Counsel and his/her dependents shall be entitled to all the health and welfare benefits as set forth in the District's insurance policies and plans in effect at the time of execution of this Agreement, or such policies and plans that may be implemented at a future date, as afforded to other classified management employees.
- 4.4 Fringe Benefits. The General Counsel shall receive benefits, contributions and eligibility for retirement programs normally granted other management employees. The District shall make the ordinarily required contributions and deductions for CalPERS, Unemployment Insurance, Workers' Compensation, and other normal payroll costs.
- 4.5 Dues, Meetings and Professional Development. The District shall pay the General Counsel's dues for her participation as a member of the California State Bar, National Council of School Attorneys, and California Council of School Attorneys, and appropriate subscriptions, such as the California School Board

Association's Policy Manual, to maintain and improve her professional competence. General Counsel's expenses for attendance at appropriate professional conferences, academies, seminars, meetings at local, state and national levels, continuing education programs, and professional development services, shall be approved and reimbursed in accordance with the current District policy.

- 4.6 Transportation Expenses. The General Counsel shall be reimbursed for transportation expenses for the operation of the General Counsel's own vehicle for District related travel pursuant to Board Policy 3350 Travel Expenses.
- 4.7 Expense Reimbursement. The District shall reimburse the General Counsel for actual and necessary expenses incurred by the General Counsel within the course and scope of her employment, so long as such expenses are incurred by prior approval of Superintendent, are consistent with this Agreement, and as long as the cost of the expense is not already provided for under the terms of this Agreement. For reimbursement, the General Counsel shall submit and complete expense claims in writing in accordance with the District's policies, rules, and regulations and shall provide the Superintendent with copies of the General Counsel's monthly expense reports. The General Counsel's expense claims shall be supported by the appropriate documentation prior to reimbursement.

5. **Termination.**

- 5.1 By General Counsel. General Counsel may terminate their obligations under this Agreement by giving the District at least forty-five (45) days written notice.
- 5.2 Mutual Agreement. The District and General Counsel may agree in writing to terminate this Agreement at any time.
- 5.3 Inability to Perform Duties. This Agreement shall terminate upon the occurrence of either of the following events:
  - 5.3.1 The death of General Counsel; or
  - 5.3.2 General Counsel is unable to perform the essential functions of the position with or without reasonable accommodation and General Counsel has exhausted all leave benefits to which General Counsel is entitled.
- 5.4 Termination for Cause. This Agreement may be terminated by the District, with no further district obligation to General Counsel beyond salary and benefits accrued to date, upon determination by the Board of any of the following causes:
  - 5.4.1 Continued and material failure or refusal by General Counsel to perform in a satisfactory manner the essential duties and responsibilities of the position, after 60 calendar days' written notice of same from the Superintendent or the Superintendent's designee;
  - 5.4.2 Serious intentional misconduct or malfeasance; or

- 5.4.3 Any of the grounds set forth in Education Code §§ 44932 *et. seq.*, except that accompanying statutory dates, warnings, notices and hearing procedures and limitation to certificated employees are not applicable to this Agreement.
- 5.4.4 In lieu of termination for cause, the Superintendent may elect to demote or transfer General Counsel for cause.
- 5.4.5 Prior to final determination by the Board of cause for termination, transfer or demotion, General Counsel shall be provided a 30-day written notice of the action and the reasons therefore, and a reasonable opportunity to be heard by the Board. The Board's determination shall be final.

5.5 Termination Without Cause.

- 5.5.1 Notwithstanding any other provision of this Agreement, the Board, without cause, in its sole discretion, shall have the option to unilaterally terminate this Agreement upon the provision of written notice of such termination to General Counsel. If the Board elects the option to terminate this Agreement without cause, then General Counsel shall receive their regular salary for the remainder of the Term, or six (6) months, whichever is less, and shall additionally be entitled to the health insurance benefits General Counsel has elected for the same period of time. Such termination payments shall be paid on the same installment basis as General Counsel's current salary unless both parties have mutually agreed to another form of compensation.
- 5.5.2 Pursuant to Government Code § 53243.2, any funds received by General Counsel from the District as a buyout, resulting from the Board's decision to terminate General Counsel without cause, shall be fully reimbursed to the District if General Counsel is convicted of a crime involving the abuse of their powers of office. If the District funds the criminal defense of General Counsel against charges involving the abuse of their office or position, and General Counsel is then convicted of those charges, General Counsel shall fully reimburse the District for all District funds paid for General Counsel's criminal defense.

6. **Outside Professional Activities.** General Counsel may serve as a consultant to other districts or educational agencies, lecture, engage in professional activities and speaking engagements, and engage in other activities which are of a short-term duration. Any such activities shall be reported in advance to the Superintendent or his/her designee and shall be subject to approval. Subject to the exception set forth below, any compensation or honoraria received by General Counsel for these outside professional activities shall belong to General Counsel if they are completed on General Counsel's vacation or non-work day. In addition, the General Counsel may serve as a lecturer, as long as such teaching does not interfere with her job duties.

- 6.1 *Exception to Receipt of Compensation or Honoraria:* Pursuant to the District's Conflict of Interest Code, General Counsel is a designated employee of the

District. As such, General Counsel is prohibited from accepting compensation or honorarium from any source that General Counsel would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

7. **Goals & Objectives.** Within sixty days of the commencement of this Contract, the Board President of the Mt. Diablo Unified School District and the General Counsel shall meet to establish goals and objectives for the ensuing school year. The goals and objectives shall be reduced to writing and shall be among the criteria by which the General Counsel is evaluated. Each school year the Board President and General Counsel will meet to establish goals and objectives for the next succeeding school year, in the same manner and with the same effect as described. The goals and objectives will be monitored and reviewed regularly during the school year for progress and revisions, as necessary.

8. **Evaluation.** The Board President of the Mt. Diablo Unified School District and the General Counsel shall mutually agree on an assessment instrument and format for evaluations; the aforementioned goals and objectives shall be included in the evaluation instrument. Beginning in the 2025 calendar year, the Board shall evaluate and assess in writing the performance of the General Counsel at least once a year, by June 30<sup>th</sup> during each year of this Contract. A copy of the written evaluation shall be delivered to the General Counsel. The General Counsel shall have the right to make a written response to the evaluation, which shall become a permanent attachment to the General Counsel's evaluation placed in the personnel file. Within thirty (30) days of delivery of the written evaluation to the General Counsel, the Board shall meet and discuss the evaluation with the General Counsel. If documented unsatisfactory performance occurs:

The Board of Trustees of the Mt. Diablo Unified School District shall prepare a plan for remediation; The General Counsel shall have a period of 90 days to remediate the performance. If remediation is successful, the regular evaluation timeline and conditions for evaluation shall be re-implemented.

9. **General Terms**

9.1 **Delivery of Notices.** All notices permitted or required under this Agreement shall either be personally delivered or mailed to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

General Counsel: address on file with the District's Human Resources Department.

District:  
Chief of Human Resources                      With a copy to:  
1936 Carlotta Drive                              Superintendent  
Concord, CA 94519

Such notice shall be deemed received when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepared and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

- 9.2 Conflict of Laws. This Agreement shall be governed by the laws of the State of California.
- 9.3 Integration and Modification. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. Neither of the parties has relied upon any oral or written representation or written information given to the party by any representative of the other party. No change or modification of the terms or provisions of this Agreement shall be deemed valid unless set forth in writing and signed by both parties.
- 9.4 Severability. If one or more of the provisions of this Agreement are hereafter declared invalid or unenforceable by judicial, legislative or administrative authority of competent jurisdiction, then the parties hereto agree that the invalidity or unenforceability of any of the provisions shall not in any way affect the validity or enforceability of any other provisions of this Agreement.
- 9.5 Construction of Agreement. This Agreement will be liberally construed to effectuate the intention of the parties with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, neither this Agreement nor any uncertainty or ambiguity herein will be construed or resolved against either party (including the party primarily responsible for drafting and preparation of this Agreement), under any rule of construction or otherwise, it being expressly understood and agreed that the parties have participated equally or have had equal opportunity to participate in the drafting hereof.
- 9.6 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
- 9.7 Headings. The headings of sections of this Agreement have been inserted for convenience of reference only and shall not affect the interpretation of any of the provisions of this Agreement.
- 9.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the

same instrument.

9.9 Indemnity. In accordance with the provisions of Government Code §§ 825 and 995, the District shall defend General Counsel from any and all demands, claims, suits, actions, and legal proceedings brought against General Counsel in General Counsel’s individual capacity, or official capacity as an agent and employee of the District, provided that the incident giving rise to any such demand, claim, suit, action, or legal proceeding arose while General Counsel was acting within the scope of employment.


IN WITNESS WHEREOF, this Agreement has been executed this day of January\_ , 2024.

**MT. DIABLO UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_  
MDUSD Board President

Dated: \_\_\_\_\_

**GENERAL COUNSEL**

  
\_\_\_\_\_  
Susanne Starecki Kim

Dated: 1/25/2024

Approved or Ratified by the Board of Education on: \_\_\_\_\_  
\_\_\_\_\_