

## SEPARATION AND RELEASE AGREEMENT

This Separation and Release Agreement (the "Agreement") is entered into by Pima County Community College District (the "College") and Erica Holmes ("Holmes").

Holmes is currently employed by College as an administrator, specifically to perform the duties of Provost, pursuant to a contract effective July 1, 2015 through June 30, 2016. Due to personal circumstances, Holmes will leave the position prior to the expiration date of her contract. College and Holmes wish to assure an amicable separation and post-separation relationship. Accordingly, the parties agree on the following terms.

- 1) Separation Date: Holmes' last day of employment with the College shall be October 1, 2015 and her employment contract with the College shall no longer be in effect at the close of business on that same day.
- 2) Separation Documentation: College personnel and Holmes shall cooperate to complete all documentation necessary to effectuate the separation.
- 3) Agreement Not an Admission: This Agreement shall not in any way or at any time be construed for any purpose as an admission or evidence by either Holmes or College that either party acted wrongly or improperly during the employment relationship or in connection with the separation. To the contrary, this Agreement is not to be considered as anything other than a separation based upon an amicable employment relationship.
- 4) Reference: Upon written request signed by Holmes, the Chancellor will provide a professional reference for Holmes confirming her positive contributions to the College and such additional other form of reference, if any, as mutually agreed upon by the Chancellor and Holmes.
- 5) Mutual Release of Claims: Holmes agrees to release College's Board of Governors, officers, agents, employees, and representatives from any and all claims and liabilities relating to her employment and/or separation from employment, which she may now have, or ever has had, including but not limited to any cause of action, charges, and damages arising under federal or state law. This release includes the Age Discrimination in Employment Act, Older Workers Benefits Protection Act, Title VII of the Civil Rights Act of 1964, the Arizona Civil Rights Act, and wage claims under A.R.S. §23-355.
  - a. Holmes expressly acknowledges and agrees that she is waiving any and all claims that she may have under the Age Discrimination in Employment Act and that, in return for this Agreement:
    1. Holmes will receive consideration beyond that to which she was entitled to receive before entering into this Agreement;
    2. Holmes has been informed that she has up to twenty-one (21) days to consider this Agreement;
    3. Holmes has up to twenty-one (21) days to decide whether to waive any rights she may have under the Age Discrimination in Employment Act and Older Workers Benefits Protection Act, but may waive the twenty-one (21) day



review period. Her signature on the Agreement prior to the expiration of twenty-one (21) days from the date of receipt shall constitute a waiver of the review period;

4. Holmes has been advised to consult with an attorney before signing this Agreement; and

5. Holmes has been informed that she has seven (7) days following the date of signing this Agreement in which to revoke this Agreement, in writing, by delivering the revocation by mail to Jeff Silvyn at the District Central Office, 4905 E. Broadway Blvd., Bldg. C, Tucson, AZ 85709.

b. College agrees to release Holmes and her successors and assigns from any and all charges, complaints, claims, liabilities and/or lawsuits relating to her employment and/or separation from employment, which the College may now have or ever has had including any cause of action, charges or damages under federal or state law.

It is expressly understood and agreed that this Agreement is binding and is a legal obligation on College and on Holmes to release all claims either might have except for a violation of this Agreement, which shall be construed under the laws of the State of Arizona.

5) Non-disparagement: The parties agree to refrain from making derogatory statements about the other. In response to any question regarding the reason for the separation, the parties will state that Holmes decided to resign for personal reasons, or similar words to that effect. The parties recognize that calculating damages from a breach of this provision may be difficult. Accordingly, in the event of a breach, the non-breaching party shall be entitled to seek injunctive and all other available forms of relief in Pima County Superior Court, in addition to economic damages.

6) Services by Holmes:

Through June 30, 2016, Holmes will make herself reasonably available and respond to requests for information from the College related to the duties she performed while serving as Provost. In addition, Holmes shall provide substantive feedback on drafts of the Notice Report to be submitted by the College to the Higher Learning Commission by July 1, 2016.

7) Compensation:

As part of the consideration for this Agreement, Holmes shall receive two payments. The first payment shall be equal to six months' compensation under the employment contract effective July 1, 2015, specifically \$90,405.51, less any applicable withholding required by state and federal law and six months equivalent of COBRA premiums to continue Holmes current medical and dental coverage, specifically \$10,446.30, less any applicable withholding required by state and federal law. The payment shall be due by October 9, 2015 or 14 days following the expiration of the revocation period for this Agreement, whichever is later.

The second payment shall be equal to three month's compensation under the employment contract effective July 1, 2015, specifically \$45,202.76, less any applicable withholding


required by state and federal law and three months equivalent of COBRA premiums to continue Holmes current medical and dental coverage, specifically \$ 5,223.15, less any applicable withholding required by state and federal law. The second payment shall be due by June 30, 2016.

- 8) Confidentiality: Except as required by applicable law, no details of this Agreement will be shared with other parties except with legal counsel, for tax advice and/or with a financial planner for financial advice, as necessary. In the event disclosure is required, it shall be limited to the maximum extent possible.
- 9) Return of Property and Confidential Information: By her last date of employment with the College, Holmes will return to College, all College confidential information and related reports, maps, files, memoranda and records; credit cards, door and file keys; computer equipment; software; and other physical or personal property which Holmes received, prepared, or helped to prepare in connection with her employment. Holmes represents that she has not retained and will not retain any copies, duplicates, reproductions or excerpts of confidential information. The term "confidential information" means (a) information pertaining to a student's records; and (b) information received from third parties under confidential conditions.
- 10) Entire Agreement: This Agreement sets forth the entire agreement between the College and Holmes with respect to the subject matter hereof. It may not be modified or terminated except by a written instrument signed by an officer or other authorized representative of the College.
- 11) Severability: The provisions of this Agreement are severable, and if any part of it is found to be unenforceable by a court of competent jurisdiction, the other paragraphs shall remain fully valid and enforceable. This Agreement shall survive the termination of any arrangements contained herein.
- 12) Holmes hereby agrees that she has read and understood the terms of the Agreement, and she has been advised to consult with an attorney of her own choice prior to executing this Agreement.

For Pima County Community College District

 Date 9/24/15

Lee D. Lambert, Chancellor

 Date 9/24/15

Erica Holmes