

SERVICE AGREEMENT
San Diego County Office of Education
Agreement No:_____

Purpose

This Agreement ("Agreement") is entered into by and between the Sweetwater Union High School District ("District" or "Board") and the San Diego County Superintendent of Schools ("SDCOE") on behalf of the San Diego County Office of Education to support the District in its effort to conduct an executive search, and to recruit and employ administrative leadership.

1. Scope of Services.

SDCOE shall provide the following services and deliverables as delineated herein below:

A. Engagement Phase

1. SDCOE shall engage in a series of meetings and provide reports to determine the scope of the search, requirements, and Board objectives, including but not limited to, the following as agreed by parties:
 - a. Designate and assign staff or representatives of SDCOE to perform or provide services pursuant to this Agreement.
 - b. Meet with the Board President and Board designated staff to discuss the process for recruitment, timelines, and compliance with laws, rules, regulations, and board policies concerning hiring and recruitment and public meetings.
 - c. Meet with individual board members to discuss their desired goals and qualifications for a superintendent.
 - d. Meet with designated community stakeholders to receive their input (unions, parent groups, committees) and determine the appropriate steps to incorporate community input from stakeholders.
 - e. Survey community constituents electronically and provide a report of findings
 - f. Design a survey and/or vehicle for input and assist in developing survey questions. SDCOE may utilize Survey Monkey or any other survey vehicle it deems appropriate.

- g. Prepare and present a report to the Board and community at a designated scheduled board meeting, discussing the proposed desired characteristics based on the data from the survey, interviews with county and community representatives and other material made available to SDCOE.
 - h. Meet with Board President and staff designate by the Board to finalize engagement key points and review final search points and data.
- 2. Conduct a planning meeting with the Board and provide a summary of said meeting which will detail the timeline and steps of the search process and decisions made by the Board.
- 3. If SDCOE is contacted by local media regarding the search process and appointment of a superintendent, it shall defer to the District's community relations/public relations designee.

B. Recruitment Phase

SDCOE shall engage in the following recruitment activities:

- 1. Coordinate and place advertisements as selected and paid for by the District.
- 2. Recruit and contact candidates utilizing state and national networks
- 3. Correspond with candidates regarding the search process, timeline, qualifications, and desired characteristics.
- 4. Coordinate the Interviewing of candidates
- 5. Conduct reference checks
- 6. Identify qualified candidates
- 7. Prepare application materials for candidates for Board consideration

C. Selection Phase

- 1. Present candidates to the Board with the number of candidates to be determined by the Board with a recommendation from SDCOE
- 2. Solicit input from Board and assist with question development and format during interview(s)
- 3. Schedule interviews for the Board with selected semi-finalists and finalists
- 4. Facilitate Board discussion to narrow candidate pool for initial interviews and after each round of interviews to be held at dates and times determined by the parties.
- 5. Coordinate and provide investigative background check(s) of candidates as selected and paid for by the District.

6. Coordinate site visits as necessary for candidates being considered.

D. Transition Phase

1. Communicate with all unsuccessful candidates at the close of the search and the candidate selected as the new superintendent.
2. Hold a debriefing meeting with the Board regarding the search process and selection.
3. Offer other transitional services to be considered by the Board and if desired, paid for by the District.
4. Assist the District in negotiating, writing an employment agreement and facilitating transition date for new superintendent, if requested.

2. Term of Agreement.

This Agreement shall be effective from the period commencing February 1, 2021, and ending April 30, 2021, unless sooner terminated by SDCOE as provided in the section of this Agreement entitled "Termination." Upon expiration or termination of this Agreement, SDCOE shall return to District any and all equipment, documents or materials and all copies made thereof which SDCOE received from District for the purposes of this Agreement which are not otherwise privileged or confidential and not subject to disclosure under the law.

3. Termination.

This Agreement may be terminated with or without cause by either party. Termination without cause shall be effective only upon ten (10) days' written notice to District. During said ten-day period SDCOE shall perform all consulting services in accordance with this Agreement.

4. Guarantees.

- A. Throughout the search process the SDCOE will be available to counsel with the Board about the search. The SDCOE will assist the Board until the Board determines it has found the appropriate candidate for the position. This provision shall not extend beyond the initial search for a Superintendent.
- B. Should the District choose to end the search before a superintendent is selected, the District is responsible for all designated search fees, advertisement, background checks and all expenses incurred prior to their decision based on the fee and payment schedule outlined herein.

5. Fees and Payment Schedule.

The services provided herein shall be at no cost to the District, except as provided in this agreement.

6. Reimbursement Costs.

Should the District elect to reimburse candidate travel expenses, such expenses shall be paid directly by the District. All requests for reimbursement of expenses require receipts be provided and shall be reimbursed at actual costs.

7. Business Relationship.

- A. The District agrees that any and all intellectual property and technology designed, made, or conceived by SDCOE (solely or jointly with others) arising from SDCOE's work for the District, is the sole property of SDCOE, without royalty or other consideration to the District.
- B. All information, notes, interview sheets, lists, and other documents developed by SDCOE or in the search process shall remain the property of SDCOE and submitted to SDCOE upon request.
- C. The parties recognize that personnel and candidate documents utilized during a superintendent search may not subject to disclosure in accordance with law. However, the parties recognize SDCOE and District are subject to the California Public Records Act which allows for release of confidential documents as required by law and as defined below:
 1. Confidential Information. All documents, information, materials, and data provided by one party to the other and marked as such shall be considered confidential information ("Confidential Information") except as follows. Confidential Information of a Party shall not include any information that: i) is already known by or available to the receiving party without a confidentiality obligation; ii) is publicly known or available from other sources who are not under a confidentiality obligation to the source of the information; iii) has been made available by its owners to others without a confidentiality obligation; iv) is independently developed by or on behalf of the other Party without reference or access to Confidential Information; or v) relates to potential hazards or cautionary warnings associated with the performance of this project/Statement of Work; [or vi) is required to be disclosed under operation of law, or as otherwise required for compliance with applicable federal and/or state laws and regulations]. Receiving party shall have a duty to protect for 3 years only Confidential Information disclosed by the disclosing party which is either: (a) in writing and marked as confidential at the time of disclosure, or (b) disclosed orally or visually and summarized and designated as confidential in a written memorandum delivered to the receiving party within thirty (30) days of disclosure.

In consideration of the disclosure of Confidential Information, the other party agrees that, for a period of three years from the effective date of this agreement, it will take precautions as normally taken with the party's own confidential and proprietary information to prevent disclosure to third parties of the other's confidential and proprietary information.
 2. Public Records Act. Both parties acknowledge that the San Diego County Superintendent of Schools and District are public agency subject to the requirements of the California Public Records Act Cal. Gov. Code section 6250 et seq. The Parties acknowledges that both may submit information that the other considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to

the California Public Records Act (Government Code sections 6254 and 6255). Both parties acknowledge that they may submit to the other information that the other considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Agreement ("Requester") for production, inspection and/or copying of information designated by a Disclosing Party as Confidential Information, the Receiving Party as soon practical but within three (3) days of receipt of the request, shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via facsimile and/or by US Mail to the address and facsimile number listed at the end of the Agreement. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action, after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requester's demand and is not required to defend against it.

- D. District and SDCOE will comply with all applicable laws and/or regulations.
- E. Certificates of Insurance will be provided upon request if necessary.

8. No Assignments.

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which SDCOE, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void. This provision shall not preclude SDCOE from engaging the services of any and all persons or entities to assist with the search pursuant to this agreement.

9. Audit.

District agrees to maintain and preserve, until three (3) years after termination of the Agreement with the SDCOE and to permit the State of California or any of its duly authorized representatives, to have access to and to examine and audit any pertinent books, documents, papers, and records related to this Agreement.

10. Independent Contractor.

It is expressly understood that at all times, while rendering the services described herein, and in complying with any terms and conditions of this Agreement, SDCOE is acting as an independent agency and not as an officer, agent, or employee of the District. Except as SDCOE may specify in writing, District shall have no authority express or implied, to act on behalf of SDCOE or to bind SDCOE to any obligation whatsoever.

11. Insurance.

Each party as separate public entities, shall maintain Public Liability and Property Damage Insurance to protect themselves from all claims for personal injury, including accidental death, as well as from all claims for property damage arising from the operations under this Agreement.

12. Workers' Compensation.

Each party represents that as public entities each has workers' compensation insurance or shall self-insure their services in compliance with provisions of Section 3700 of the Labor Code of the State of California. A Certificate of Insurance may be provided, providing for such, or District

shall sign and file on company letterhead stationery with the SDCOE the following certificate:

“I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provision of that Code, and I will comply with such provision before commencing the performance of the work of this Agreement.”

13. Health Clearance.

The parties certify in writing that each agency’s employees, volunteers, and agents have clearance for TB and tested negative for COVID-19. In such cases where SDCOE does not have in-person contact with District, COVID-19 testing shall not be required. Each party shall comply with California and San Diego County health guidelines and orders.

14. Indemnification.

As the eventual decision to hire the candidate will be by the Board of District, the District hereby agrees to save, indemnify, and hold harmless the SDCOE for any decision(s) the Board makes in the employment process relative to the hiring or failure to hire of any candidate(s) recommended by the SDCOE. In addition, to the fullest extent allowable by law, each party agrees to hold harmless, defend, and to indemnify the other, accept any and all responsibility for loss or damage to any person or entity, including the other party, and to indemnify, hold harmless, and release the other party, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including the other party, that arise out of, pertain to, or relate to the performance or obligations under this Agreement.

15. Notices.

All notices, legal or otherwise, shall be provided as follows:

SDCOE: Michael Simonson, Deputy Superintendent, Chief Business Official
6401 Linda Vista Rd
San Diego, CA 92111
858-295-6662

With copy to:

Dr. Yolanda Rogers, Assistant Superintendent
SDCOE Human Resources
6401 Linda Vista Rd
San Diego, CA 92111

District: Nicholas Segura, President Board of Trustees,
1130 5th Avenue
Chula Vista, CA 91911

With copy to:

Jennifer Carbuccia, General Counsel
1130 5th Ave
Chula Vista, CA 91911

16. Amendment.

No oral or other agreements or understandings shall be effective to modify or alter the written terms of the agreement. This Agreement may be amended or modified only by a written instrument signed by the SDCOE and by a duly authorized representative of the District.

17. Governing Law/Venue.

In the event of litigation, the Agreement and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate state or federal court located in San Diego County.

18. Mediation.

In the event of any dispute, claim, question, or agreement or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith, recognize their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties. If the parties are unable to resolve the issue(s) within a period of thirty (30) days, then upon notice of either party to the other, all disputes, claims, questions, or disagreements shall be resolved through mediation. The parties will select a mediator by their mutual agreement, within 30 days. If there can be no such agreement, each party will submit a list of five mediator choices to the other, rank ordered by preference. The mediator will then be selected based on a further discussion unless an individual is on both lists and then that person would have preference. Each party shall bear its own costs, including without limitation one half of the cost of the fees and costs of mediation.

19. Compliance with Law.

The parties shall be subject to, and shall comply with, all federal, state, and local laws and regulations applicable to its performance under this Agreement including, but not limited to licensing, employment, purchasing practices, wages, hours, and conditions of employment, including non-discrimination.

To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, District and any subcontractor(s) shall comply with all applicable rules and regulations to which SDCOE is bound by the terms of such fiscal assistance program.

20. Authorization to Perform Services.

SDCOE is not authorized to perform services or incur costs under this agreement until executed by both the District and approved by signature of the SDCOE Superintendent of Schools or his designee, the Deputy Superintendent, Chief Business Officer.

21. Conflict of Interests.

SDCOE may serve other entities, but none whose activities or whose business, regardless of location, would place the SDCOE in a "conflict of interest" as the term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq. District shall not employ any SDCOE official to perform pursuant to this Agreement. No officer or employee of SDCOE shall have any financial interest in this Agreement that would violate California Government Code Sections 1029 et seq. District warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of SDCOE. District understands that if this Agreement is or was made in violation of Government Code 1090 et

seq. the entire Agreement is void and District will be required to reimburse SDCOE for any sums paid on behalf of District. District understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code 1090 and, if applicable, will be disqualified from holding public office in the State of California.

22. Counterparts.

This Agreement (and any amendments) may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Documents delivered electronically shall be valid and binding.

23. Severability.

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

24. Entire Agreement.

This Agreement represents the entire Agreement and understandings of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This Agreement may not be amended in any way except by a writing duly executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, such parties acting by their representatives being thereunto duly authorized.

**SAN DIEGO COUNTY SUPERINTENDENT
OF SCHOOLS**

**SWEETWATER UNION HIGH SCHOOL
DISTRICT**

By SDCOE (Authorized Signature)

By District (Authorized Signature)

Michael Simonson

Name (Type or Print)

Name (Type or Print)

Deputy Superintendent, Chief Business Officer

Title

Title

Date

Date