



MCIPHERSON *MJ* JACOBSON, LLC

EXECUTIVE RECRUITMENT & DEVELOPMENT

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CONTRACT FOR SERVICES

This Contract for Services (“Agreement”) is made and entered into as of the date set forth below by and between **McPherson & Jacobson, L.L.C.** (hereinafter referred to as “Consultant”) and the **Alum Rock Union Elementary School District, San Jose, California**, Board of Trustees (hereinafter referred to as the “District”).

1. **Services.** The Consultant agrees to provide the following services as outlined in detail in Consultant’s Proposal dated April 2024 and as summarized below, as specifically selected by the District in Section 3 below.

PHASE I

Working with the District, and any groups identified by the District, Consultant will:

- Using a group consensus, decision-making process with the District, identify the desirable characteristics of the future superintendent.
- Establish appropriate timelines and target dates for the selection process.
- Assist the District in establishing compensation parameters for final candidate.
- Determine with the District, media advertising venues

PHASE II

In Phase II, Consultant will:

- Identify and solicit input from various groups identified by the District.
- Prepare summaries of the various groups’ input and submit those summaries to the District.
- Develop an application form unique to your vacancy that reflects the criteria established by the District.

- Develop a promotional brochure (optional item, additional fee), which may include:
 - describing the demographics of the community
 - an overview of the school district and its outstanding features
 - listing the selection criteria that the District identified
 - outlining the timeline for the selection process
 - outlining the application procedures
- Develop a vacancy announcement and advertise the position with the appropriate media and professional organizations.
- Post application information and notify interested applicants.
- Actively recruit applicants who will meet the district's needs.
- Keep applicants informed of their status in the selection process.

PHASE III

In Phase III, Consultant will:

- Read and evaluate all completed applicant files.
- Evaluate each applicant based upon the criteria and characteristics established by the District.
- Conduct Internet searches on the final candidates.
- Conduct complete reference checks on final candidates.
- Develop a set of interview questions for the District to use that reflects the identified criteria and characteristics.
- Assist the District in establishing an interview schedule.
- Assist the District in establishing interview and visitation procedures.

PHASE IV

In Phase IV, Consultant will:

- Review the top candidates with the District.
- Assist the District members in determining which candidates it wishes to interview.
- Provide video interviews of the shortlist candidates to the District.
- Review interview questions with the District and provide an interview form.
- Review the interview and visitation procedures with the District.

- Coordinate and schedule meetings with the finalists and stakeholder groups identified by the District.
- Provide a process for the stakeholder groups to submit input to the District concerning all the finalists.
- Contact all final candidates and schedule interview times.
- Conduct criminal/financial/educational degree verification background checks on the candidates selected for interviews.
- Notify all applicants not selected for an interview.
- Assist the District and final candidates in making arrangements for visiting the school district.
- Establish and coordinate procedures for the significant other/partner's visitation to the district, if applicable.
- Keep all candidates informed of their status in the selection process.
- After the selection has been made, personally contact each finalist not selected.

PHASE V

In Phase V, Consultant will:

- Work with the District and the new superintendent to establish performance objectives for the superintendent.
- Provide a guarantee.** (Length of guarantee period: **two (2) years**).

The Consultant will provide the following guarantee: *Consultant will repeat the process at no additional charge, except for all actual expenses.*** The guarantee will be valid if:

- If the candidate ultimately selected by the District ends their employment with the District within the above-referenced guarantee period.
- If the District contracts for the Consultant's services through Phase V.
- If the district makes timely payments to the Consultant.
- The Phase V meeting is held within four (4) months of the start date of the candidate.
- The board has retained fifty (50) percent or more of the same membership that hired the candidate.

If the District chooses not to hold the meeting to Establish Performance Objectives for the new superintendent, the guarantee is null and void.

2. **Expenses.** In addition to the fee referenced in Section 3 below, District shall also reimburse Consultant for all expenses incurred by the Consultant, including, without limitation:

- All expenses for advertising the vacancy.
- Office expenses for the search.
- Telephone charges for reference checks and screening candidates.
- Travel and expenses of all applicants and consultant representatives for all trips to the District.
- Preparation of video interviews of semi-finalists/finalists (\$50/applicant).
- Criminal/financial/educational degree background checks on finalist candidates chosen for interviews (\$125/candidate).

All materials developed in this search shall remain the property of the District.

3. **Specific services contracted by the District:**

- Phase I
- Phase II
- Phase III
- Phase IV
- Phase V

Total Fee for The Contracted Services \$ 18,500

THE NOT TO EXCEED AMOUNT IS \$ 5,000 FOR EXPENSES
(per the parameters on page 53 of the proposal)

4. **Payment.** Payment of the fees and expenses shall be as follows:

- (a) One-half (1/2) of the contracted fee referenced in Section 3 above shall be due and owing upon the execution of this Agreement;
- (b) The District will reimburse Consultant up to the not-to-exceed amount for expenses actually incurred by Consultant and subject to submittal of receipts and invoices; All advertising/media expenses will be due and owing when the candidates are presented to the District for consideration; and
- (c) One-half (1/2) of the fee referenced in Section 3 above shall be due and owing, plus all remaining expenses shall be due and owing, upon the completion of the services by Consultant, in no event later than sixty (60) days after receipt of invoice. All amounts not timely paid shall bear interest

at a rate of ten percent (10%) per annum. Consultant reserves the right to suspend the performance of services during any period of delinquency.

5. Additional Terms and Conditions. By signing below, the parties also agree to the following additional terms and conditions:

Consultant shall, during the term of this Agreement, maintain in effect the insurance policy identified in Consultant's Proposal dated April 2024.

The Consultant reserves the right to use third-party services to conduct reference/background/criminal/degree verification checks on candidates. Consultant makes no guarantee as to the accuracy or completeness of any checks that are conducted, whether directly by Consultant or through a third-party service.

Neither party shall have the authority to enter into agreements of any kind on behalf of the other party, and neither party shall have the power or authority to bind or obligate the other party in any manner whatsoever. This Agreement is intended solely for the benefit of the parties, and it is not intended to confer third-party beneficiary rights upon any other person.

The provisions of this Agreement shall be interpreted and construed in accordance with their fair meanings and shall not be strictly construed for or against either party, regardless of which party may have drafted this Agreement or any specific provision herein.

Each party represents that it has full power and authority to enter into and perform this Agreement, and the person executing this Agreement has been properly authorized and empowered to take such action. Each party further acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms.

Regardless of the basis on which District may be entitled to claim damages from Consultant (including breach of contract, negligence, misrepresentation, or any other contract or tort claim), Consultant's liability, if any, will in the aggregate for all claims, causes of action or damages, be limited to any actual direct damages incurred by the District, subject in all events to a maximum of the total fees (but not expenses) paid by the District to Consultant hereunder. Under no circumstances shall Consultant be liable for special, punitive, incidental or indirect damages or for any consequential damages (including lost profits, loss of business, revenue or goodwill, or loss of anticipated savings), even if informed of the possibility.

CONSULTANT MAKES NO EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY REGARDING ANY OF THE CANDIDATES SUBMITTED TO THE DISTRICT FOR CONSIDERATION HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY RELATING TO QUALITY, LIKELIHOOD OF SUCCESS, FITNESS, PERFORMANCE OR FITNESS FOR ANY PARTICULAR PURPOSE.

No failure or delay in the exercise of any right, power, or privilege shall operate as a waiver of such right, power, or privilege. No waiver of any default on one occasion shall constitute a waiver of any subsequent or other default. No single or partial exercise of a right, power, or privilege shall preclude the further or full exercise thereof.

The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any of its provisions shall not affect the validity and enforceability of any other provisions and the rest of this Agreement shall continue in effect to the fullest extent possible.

This Agreement shall be governed by and shall be construed, interpreted, and enforced in accordance with the substantive laws of the State of California, without reference to principles of conflicts of law. All disputes arising out of or relating to this Agreement, or the breach or default of this Agreement, shall be determined solely by a state or federal court located in or whose jurisdiction includes Santa Clara County, California. EACH PARTY HEREBY WAIVES ITS RIGHT TO A JURY TRIAL FOR ALL CLAIMS, INCLUDING COUNTERCLAIMS AND TORT CLAIMS, WHICH IN ANY WAY RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT.

This Agreement is binding on the parties hereto and shall inure to the benefit of the parties and their respective successors, assigns, except District may not assign or transfer its rights or obligations hereunder without the express prior written consent of the Consultant.

This Agreement contains the entire agreement among the parties hereto with respect to its subject matter and supersedes all prior agreements, understandings, inducements or conditions, express or implied, oral or written, and any course of dealing or usage of the trade inconsistent with its terms. This Agreement may not be modified or amended except by a written amendment signed by both parties. No terms that are additional to or different from the terms of this agreement (including, without limitation, the terms of an invoice, acceptance, or acknowledgment of the District) shall be binding on either party hereto.

In witness whereof, the parties have signed and entered into this Agreement as of the date set forth below.

Alum Rock Union Elementary School District, San Jose, California ("District")

By: _____
Its: Authorized Representative

Date

McPherson & Jacobson, L.L.C. ("Consultant")

By: _____
Its: Authorized Representative

Date