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## Letter of Understanding December 2019

The School Board of Duluth ISD 709 (hereinafter "Board") and BWP & Associates (hereinafter "Consultants") agree as follows;

1. Representing BWP & Associates as Co - Consultants are Drs. Kathleen Williams and Nicholas Wahl.
2. The Consultants will secure information about the District by gathering data from interviews with each member of the Board and any other person or groups the Board so directs. Consultants will share with the Board their findings as to perceived strengths of the District, peoples' perceptions of issues facing the District, and qualifications those interviewed believe are important in a superintendent.
3. The Consultants will draft an advertising fact sheet describing the vacancy; the draft shall be reviewed by Human Resources and Public Relations and approved by a representative of the Board prior to its publication.
4. The Consultants are directed to advertise the vacancy in regional and national publications as determined at the planning meeting. A fact sheet will be published on BWP & Associates' website as soon as permission is granted with a complimentary Internet link to your school district web site, if desired.
5. The Consultants will work with the Board and Human Resources to establish a timeline for each step of the search process.
6. The Consultants will actively recruit qualified candidates to apply for the position and solicit nominations from knowledgeable people in the education profession.
7. The Consultants will gather data on candidates applying for the position. Those candidates best matching the desired profile will be interviewed by the Consultants to ensure they meet the required criteria. The Consultants will present a list of candidates for Board consideration. References of recommended candidates will be checked by Consultants.

8. All documents produced and received by the Consultants will remain the property of BWP & Associates. The Consultants shall turn over to the Board and Human Resources copies of all documents relating to candidates recommended by BWP & Associates at the time the recommendation is made. With respect to this search, the Board and Human Resources will receive a copy of all documents sent out on behalf of the Board.
9. The Consultants will inform the Board and other groups, if appropriate, on items related to search protocols, establishing an interview format, developing interview questions, interviewing candidates, conducting site visits, and other matters related to the search process. The Consultants will be available during the search process to advise the Board and Human Resources on search related issues.
10. The Consultants will make salary and compensation package recommendations to the Board, if requested.
11. The fee for these consulting services will be \$20,000.00 plus expenses. However, consultant expenses for travel are not to exceed \$6,000 unless otherwise directed by the Board. Candidate expenses will be forwarded as incurred to the District's Chief Financial Officer or its designee.

Other anticipated expenses are travel costs for candidates and costs associated with their travel. It is the Board's responsibility to authorize the reimbursement candidates interview expenses, such as travel and hotel accommodations, as arranged. The District's travel policies will be followed (Policy 412 and 412R – Expense Reimbursement) with the focus being limitations on air travel (no first-class tickets) and meal per diems (\$47/day). The candidates will seek reimbursement using the District's forms (Form 412R – Reimbursement Claim for Actual Travel Expenses). Copies of these policies and forms will be provided to the Consultant. The Consultant agrees to work with the District's designee to ensure candidates are aware of this expectation.

There may be additional expenses for the search relate to advertisement and recruitment. Advertisements in appropriate regional and national publications and websites are estimated as ranging from \$2,000 to \$4,000, depending on size, number of advertisements, and where placed. These costs are not included in the Consultant fee and will be billed directly from the printer, publisher, website, or through the Consultants. These additional expenses will be pre-approved by the District's Chief Financial Officer before they are ordered.

Additional fees may be assessed for services and requests of the Board not originally included and may involve items not outlined in the Cost Proposal, including development of unique data/reports and associated clerical expenses, special postage/shipping requests, and additional travel requests. Estimates of those fees will be provided to the District's Chief Financial Officer prior to initiating any designated services.

12. The Consultants' fee will be billed in three installments, the first after the signing of the Letter of Understanding, the second after the presentation of the slate of finalist candidates, and the third upon appointment of the new superintendent. Expenses will be forwarded to the District's Chief Financial Officer as they are incurred.

13. Candidate and Consultants' final expenses will be billed within 90 days of completion of the search.
14. The Consultants agree to comply with all relevant federal, state, and local legal requirements, as well as applicable District financial policies and procedures.
15. The School Board acknowledges that its decision to appoint and employ or not to employ is solely its decision.
16. If the Board is dissatisfied with the Superintendent selected within two years from the date of employment of the Superintendent, and if either party dissolves that relationship by resignation or termination within a two-year period of initial employment, and the Superintendent selected was one of the slate of candidates recommended by BWP & Associates, BWP agrees to conduct a new Superintendent Search at no cost to the District except for expenses.
17. Both the Board and Consultants agree that they will act as an independent Consultants in the performance of its duties under this Agreement. Nothing contained in this Agreement shall be construed as in any manner creating a relationship of joint venture between the parties, which shall remain independent Consultants with respect to all actions performed pursuant to this Agreement.

Accordingly, Consultants shall be responsible for payment of all taxes, including Federal, State, and local taxes, arising out of Consultants' activities in accordance with this Agreement, including by way of illustration, but not limited to, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, workers compensations, and any other taxes or business license fees as required.

18. Consultants hereby agrees to defend, indemnify and hold the District harmless from all claims relating to its work pursuant to this Agreement.

In the event that Consultants breaches its obligation to defend, indemnify and hold the District harmless, then in addition to its other damages the District shall be entitled to recover its attorney's fees and costs and disbursements incurred in enforcing this Agreement.

19. Consultants shall not in any way assign or transfer any of its rights, interests or obligations under this Agreement in any way whatsoever without the prior written approval of the District.
20. No amendment, change or modification of this Agreement shall be valid unless in writing signed by the parties' hereto.
21. This Agreement, together with all its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

22. Consultants shall not commence work under the contract until they have obtained all the insurance described below and Duluth Public Schools has approved such insurance. Consultants shall maintain such insurance in force and effect throughout the term of the contract.

Consultants is required to maintain and furnish satisfactory evidence of the following insurance policies:

**Workers' Compensation Insurance:** Consultants must provide Workers' Compensation insurance for all its employees and, in case any work is subcontracted, Consultants will require the sub-consultants to provide Workers' Compensation insurance in accordance with the statutory requirements of the State of Minnesota including Coverage B, Employer's Liability.

**Commercial General Liability:** Consultants is required to maintain insurance protecting it from claims for damages for bodily injury, including sickness or disease, death, and for care and loss of services as well as claims for property damage, including loss of use which may arise from operations under the Contract whether the operations are by the Consultants or sub-consultants or by anyone directly or indirectly employed under the contract.

23. All Consultants doing business with the District agree to follow Policy 307 - Conflicts of Interest and Fiduciary Duty. This policy is located on the District's website.

24. Upon execution of this Agreement, the Consultants shall commence services.

This Letter of Understanding constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements, negotiations, representations, or communications relating the subject matter.

Approved: 12/16/20 (Date)

Duluth (MN) ISD 709 and BWP & Associates, Ltd.

Rosalie A. Loeffler-Kemp

School Board Chair, Board of Education

Kathleen Williams

BWP Consultant

Nikola D. Wahl

BWP Consultant