

**CONSULTING AGREEMENT BY AND BETWEEN
EDGILITY CONSULTING AND RAVENSWOOD CITY SCHOOL DISTRICT**

This agreement (the "Agreement") is made on August 22, 2019 by and between Edgility Consulting LLC, a New Hampshire limited liability company ("**Consultant**") and the Ravenswood City School District ("**Client**") (collectively referred to as "**Parties**"). Client wishes to retain Consultant to provide recruitment support related to its search for a Chief Business Officer and as such, the Parties agree as follows:

1. Background and Purpose. Consultant provides human resources consulting and executive search services. Client desires to retain Consultant and Consultant agrees to provide to Client services on the terms and conditions set forth herein.

2. Services. Consultant shall provide to Client the services set forth on **Exhibit A ("Services")**, which is attached hereto and expressly incorporated herein by this reference. **Exhibit A** may be amended from time to time by the Parties pursuant to a written amendment signed by both parties pursuant to the terms of this Agreement.

3. Duties of Client.

3.1 Client agrees to cooperate with Consultant in the performance of Consultant's services and, specifically, Client agrees to the duties assigned to Client within this Agreement and as set forth in **Exhibit A** hereto.

4. Term. The Term of Services shall commence as of the date first written above and shall terminate on the earliest of the following events:

(a) If an offer of employment from Client for the position of Chief Business Officer (the "Search Position") is accepted by any individual, then the Search shall be deemed successfully completed as of the date of said acceptance and the Term of Services shall end. As such, payment of all final fees or portion(s) of fees due to Consultant shall be paid as of that date pursuant to Section 5 herein, and the term of the Agreement will end naturally thereupon;

(b) If and when Consultant presents to Client four "suitable" candidates for client interviews, then the Term of Services shall be deemed completed. A candidate shall be deemed "suitable" only if: (i) the Client agrees that a candidate is suitable, or (ii) an interview with the Candidate (by any means, including telephone, video conference, or in person) is conducted by the Client or any of its employees, directors, contractors, or other affiliates (not including Consultant itself).

(c) If a period of 6 weeks elapses from the date that this Agreement is executed by Client, then Parties agree that the reasonable time period for the Search will

have elapsed and the Term of Services shall end (even if none of the triggering events specified in Sections 4(a) or 4(b) have occurred), such that further work by Consultant shall cease and the payment of all final fees or portion(s) of fees due to Consultant shall be paid pursuant to Section 5 herein.

(d) On a date pursuant to the Early Termination provisions set forth in Section 7 herein, which shall be considered "Early Termination."

5. Compensation. As consideration for providing the Services, Client shall pay to Consultant as follows:

Client shall pay Consultant a consulting fee in the amount of \$30,000 according to the following schedule:

- A. \$15,000 due upon execution of this Agreement; and
- B. \$15,000 due upon the end of the initial Term of Services, including pursuant to any of the triggering events set forth in Sections 4(a), 4(b), 4(c), or 4(d), whichever date comes earlier in time.
- C. If, upon the end of the Term of Services, Client wishes to continue to utilize the services of Consultant for a further "Extended Term of Services," then, subject to mutual written agreement of the parties, Consultant shall continue to provide services to the Client, which shall be billed on an hourly basis at the rate of \$125 per hour and a flat fee of \$1,000 to repost the position on job boards (not including fees charged by job boards which will be expensed to the client for reimbursement);

Client shall reimburse Consultant for all approved expenses necessary to the performance of Consultant's duties, including but not limited to any advertising reimbursements, within 30 days of Consultant's submission of an invoice or reimbursement request with supporting documentation to Client. Other possible expenses include, but are not limited to, necessary travel, meals and lodging, long distance telephone charges, photocopying, messenger and delivery services and postage.

Client agrees that Consultant reserves the right to charge an interest rate of 5% percent per month for payments of fees or other compensation over 30 days late and 10% per month for payments of fees or other compensation over 60 days late. In the event Consultant must refer any unpaid invoice for collection, Client shall pay all collection costs, including reasonable attorney's fees.

6. Hiring of Candidates for Other Positions. Client agrees that if, during the Term of Services or within six (6) months thereafter, it fills any role or position other than

the Search Position, through the hiring as an employee, or engagement as an independent contractor, of any individual identified or introduced to it by Consultant, then Client shall pay Consultant a referral payment of ten thousand (\$10,000) dollars (the "Referral Payment"). A Referral Payment shall be individually triggered by each applicable individual so hired or engaged in a non-Search Position by Client. Any such Referral Payment shall be in addition to, and shall not supersede or replace, any other payments or compensation due or owing pursuant to this Agreement.

7. Early Termination.

7.1. Consultant and Client shall each have the right to end the Term of Services early by providing written notice to the other party at least 10 days in advance of the termination date, and such termination shall be subject to the Early Termination Payments set forth in Section 8 herein.

7.2. Consultant shall have the right to immediately end the Term of Services by written notice to Client if Client breaches any material provision of this Agreement, including, without limitation, the duties set forth in Section 3 above, or the making of payments to Consultant when due under the terms of this Agreement, and such termination shall be subject to the Early Termination Payments set forth in Section 8 herein.

8. Early Termination Payments.

8.1. In the event that the Term of Services, or any Extended Term of Services, specified within this Agreement is terminated pursuant to Section 7.1 or Section 7.2, Client shall pay any and all fees, expenses, and costs incurred by Consultant, or otherwise due and owing, as of the effective date of the termination, including any fees, expenses, or costs which may be due pursuant to Section 8.2 herein.

8.2. If Client wishes to end the Term of Services pursuant to Section 7.1 without making a hire of any kind for the Search Position the fees, expenses and costs due and owing to Consultant as of the effective date of termination shall include the following:

(a) If the Search is terminated by Client within 30 days of Client signing this Agreement, without Client making a hire of any kind for the Search Position then the second installment of the consulting fee, as set forth in Section 5(B), will be waived in its entirety, but any other outstanding fees, expenses, and costs shall be paid as of the effective date of termination.

(b) If the search is terminated by Client more than 30 days after Client signed this Agreement (but prior to another triggering event for ending the initial Term of Service), without Client making a hire of any kind for

the Search Position then one half of the second installment of the consulting fee set forth in Section 5(B) (\$7,500) will be waived, but the remainder of the second installment (\$7,500) shall be paid as of the effective date of the termination, along with any other outstanding fees, expenses, and costs. Notwithstanding the foregoing, if the Client fills the Search Position with an external candidate within 12 months following the Early Termination of the Term of Services, then the full remainder of the consulting fee set forth in Section 5(B) shall be immediately due and paid to Consultant.

9. Conflict of Interest. Consultant agrees to devote the time and resources necessary to perform the services for Client provided for in this Agreement, but shall be free to work for any other client(s) during the term of this Agreement as long as that work does not prohibit Consultant from performing services for Client.

10. Confidential Information; Non-Disclosure.

10.1 During the term of this contract, Consultant may have access to and become acquainted with information of a confidential or proprietary nature ("Confidential Information"), which may be either applicable or related to the present or future business of Client or the business of its members and/or donors. Such Confidential Information shall be denoted as such by Client and includes, but is not limited to, donor's personal information, giving history, financial information, member's financial information, strategic plans and other information concerning donors, members and/or vendors. Consultant shall (i) not use for its own benefit or knowingly disclose to or use for the benefit of any other person, any Confidential Information without Client's prior written consent; (ii) use at least the same degree of care and precautions to protect Client's Confidential Information from disclosure that it employs with respect to its own confidential information; (iii) disclose Confidential Information only to those of its employees or contractors who require access to perform its obligations under this Agreement; and (iv) take appropriate action by instruction, agreement or otherwise with Client's employees or other persons allowed such access to satisfy the foregoing obligations.

10.2 This Section shall not apply to any information which (i) is or becomes publicly available through no fault of Consultant; (ii) is already in Consultant's possession without restriction on disclosure when disclosed by Client; (iii) is independently developed by Consultant without use of Confidential Information; or (iv) is rightfully obtained from third parties without restriction on disclosure.

11. Independent Contractor. This Agreement will not render Consultant an employee, partner, agent of, or engaging in a joint venture with Client for any purpose. Consultant is and will remain for all purposes an independent contractor. Client shall

furnish Consultant a copy of IRS Form 1099, setting forth Consultant's annual income no later than the end of January of the year following any year during which services were rendered.

12. Indemnity. Client will indemnify, defend, and hold Consultant free and harmless from any obligations, costs, claims, judgments, attorneys' fees, and attachments arising from, growing out of, or in any way connected with services provided by Consultant for Client under the terms of this Agreement, unless and only to the extent that an arbitrator finds that Consultant has committed gross negligence or willful misconduct in the conduct of the Services and holds Consultant liable in whole or in part. Notwithstanding anything to the contrary in the foregoing sentence, Consultant shall indemnify, defend, and hold Client free and harmless from any obligations, costs, claims, judgments, attorneys' fees, and attachments suffered by Client as a result of a third party legal action caused by the gross negligence or willful misconduct of Consultant; provided that such acts or omissions by Consultant were taken without the approval or acquiescence of the Client or an agent designated for this purpose by the Client.

13. Dispute Resolution. Any dispute, controversy or claim arising out of or relating to this Agreement, including any dispute relating to interpretation of or performance under the Agreement ("**Dispute**"), shall be resolved in the manner set forth in this Section 13, which shall be in lieu of litigation in any court, and the Parties specifically waive any right to a jury trial of any dispute between them.

13.1. Negotiation. The Parties will attempt in good faith to resolve the Dispute promptly by negotiations between senior representatives of the Parties who have authority to settle the Dispute (each, a "**Representative**").

13.2. Mediation. If a dispute arises between the parties to this agreement, whether arising from or related to the Agreement itself or arising from alleged extra-contractual facts prior to, during, or subsequent to the agreement, including, without limitation, fraud, misrepresentation, negligence, or any other alleged tort, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures before resorting to the arbitration proceedings laid out in section 13.3.

13.3. ARBITRATION AGREEMENT.

(a) If mediation is unsuccessful, any dispute arising between the parties, whether arising from or related to the Agreement itself or arising from alleged extra-contractual facts prior to, during, or subsequent to the agreement, including, without limitation, fraud, misrepresentation, negligence, or any other alleged tort, the dispute shall be decided by arbitration in accordance with Title 9 of the United States Code and Chapter 542 of the New Hampshire

Revised Statutes Annotated. The arbitration proceeding shall be conducted under the Commercial Rules of the American Arbitration Association (hereinafter, "AAA"), or, if the AAA has ceased to exist, its successor organization or a similar organization at the time demand is made.

(b) Notice of the demand for arbitration must be provided, in writing, to the other Party at the locations specified in section 14 of this Agreement and to the AAA. Demand must be made within one hundred and eighty (180) days after the dispute has arisen, time is of the essence. Said arbitration will occur within thirty (30) consecutive days after the Party demanding arbitration delivers the written demand on the other Party, unless impracticable or the Parties mutually agree otherwise in writing. Arbitration shall be initiated and conducted in Boston, Massachusetts or at such other location mutually agreed by the Parties.

(c) The arbitrator shall be selected by Consultant from a list of five (5) arbitrators provided by the American Arbitration Association. The arbitrators will be bound to adjudicate all disputes in accordance with the laws of the State of New Hampshire.

(d) The arbitrator shall have the power to grant all legal and equitable remedies, including, but not limited to, injunction, specific performance, cancellation, accounting, attorney fees, and compensatory damages, except only that punitive damages shall not be awarded. The arbitrator may also award prejudgment interest as applicable under New Hampshire RSA 336.

(e) The arbitrator shall issue a binding decree within thirty (30) days of the conclusion of arbitration.

(f) The decision of the arbitrator shall be final and binding on both parties.

(g) This section 13 provides the sole recourse for the settlement of any disputes arising out of, in connection with, or related to this Agreement.

14. Notice. Any notice under this Agreement shall be in writing, and any written notice or other document shall be deemed to have been duly given (i) on the date

of personal service on the Parties, (ii) three days after deposit in the United States Mail, certified or registered mail, return receipt requested, postage prepaid, (iii) one day after being sent by professional or overnight courier or messenger service guaranteeing one day delivery, with receipt confirmed by the courier. Unless otherwise provided in writing, any such notice shall be delivered or addressed to the Parties as follows:

Consultant:

Edgility Consulting, LLC

17 Elm Street
Suite C211
Keene, NH 03431

Attn: Christina Greenberg

Client:

Ravenswood City School District

2120 Euclid Avenue
East Palo Alto, CA 94303

Attn: Gina Sudaria

Failure to conform to the requirement that mailings be done by registered or certified mail shall not defeat the effectiveness of notice actually received by the addressee.

15. Entire Agreement. This document constitutes the entire agreement between the Parties, with all oral agreements being merged in this document, and supersedes all prior representations. There are no representations, agreements, arrangements, or understandings, oral or written, between or among the Parties relating to the subject matter of this Agreement that are not fully expressed herein.

16. Waiver. Any of the terms or conditions of this Agreement may be waived at any time by the party entitled to the benefit thereof, but no such waiver shall affect or impair the right of the waiving party to require observance, performance or satisfaction either of that term or condition as it applies on a subsequent occasion or of any other term or condition hereof.

17. Amendment. The provisions of this Agreement may be modified at any time by written agreement of the Parties. Any such agreement hereafter made shall be ineffective to modify this Agreement in any respect unless in writing and signed by the Parties against whom enforcement of the modification or discharge is sought.

18. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement which can be given effect without the invalid provision shall continue in full force and effect and shall in no way be impaired or invalidated.

19. Binding Effect. The Parties expressly agree that this Agreement is binding on each other's successors, heirs, assigns, beneficiaries, executors, administrators, and trustees.

20. Effective Date. This Agreement is effective as of the date signed by all Parties.

21. Governing Law. The rights and obligations of the Parties and the interpretation and performance of this Agreement shall be governed by the laws of the State of New Hampshire, excluding its conflicts of laws rules.

22. Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action against any party to this Agreement.

23. Captions. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

24. Construction. This Agreement shall not be construed against any party, and instead shall be construed as though all Parties have participated in its drafting. No promises or inducements have been made to the Parties to this Agreement. This Agreement is entered into freely and voluntarily.

25. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

"Consultant"

"Client"

Edgility Consulting, LLC
17 Elm Street
Suite C211
Keene, NH 03431

Ravenswood City School District
2120 Euclid Avenue
East Palo Alto, CA 94303

By: _____

By: _____

Name: Christina Greenberg

Name: Gina Sudaria

Title: Partner

Title: Interim Superintendent

Date: _____

Date: _____

EXHIBIT A

DESCRIPTION OF SERVICES

In order to manage this recruitment campaign, Consultant will perform the following activities:

- Review and make any recommended changes to candidate profiles, selection criteria and/or the job description for the opening.
- Posting support on up to 10 online sites to maintain a healthy presence on major databases, job boards, listserves, and other resources.
- Recruitment outreach for up to **8 weeks** from the date this contract is executed, focused on high potential prospect research and nominator contact through email blasts and personalized phone calls and email outreach.
- Communication with Client's representatives, including regular conference calls and other conversations as needed.
- Presentation of a minimum of **four** candidates that the client wishes to advance to client interviews.

In order to support the recruitment work, the Client will:

- Have pertinent staff available for regular conversations and meetings as needed.
- Remain responsible for any advertising or posting costs associated with the search. (Consultant will receive permission from Client in advance of securing any paid online or print advertisements.)
- Notify Consultant immediately of any changes in the positions or hiring plan.

Search Risk Factors. Client has retained Consultant to provide services in connection with Client's effort to hire one or more executive level employees. Consultant shall use its good faith professional efforts in performing these Services. Notwithstanding the foregoing, Client acknowledges and agrees that the outcome of this search is speculative, and success is subject to a wide variety of factors that cannot be predicted in advance. While Consultant shall work to assist Client in its search efforts, Client acknowledges that Consultant makes no promises or warranties, express or implied as to the results of the search.