

## INTERLOCAL COOPERATION CONTRACT

THE STATE OF TEXAS  
COUNTY OF TRAVIS

This Interlocal Cooperation Contract (this "Contract") is entered into by and between the Contracting Parties shown below pursuant to authority granted in and in compliance with the *Interlocal Cooperation Act, Chapter 791, Texas Government Code*.

### I. Contracting Parties

The Receiving Party: Ector County Independent School District, a local government of the State of Texas ("ECISD")  
Hector Mendez, Superintendent  
Tom Pace, ECISD Board President  
PO Box 3912, Odessa, Texas 79760-3912  
(432) 332-9151

The Performing Party: The University of Texas at Austin, an institution of higher education and agency of the State of Texas ("University")  
Institute for Public School Initiatives  
220 W. 7th Street, LAV 1.100, Austin, TX 78701-3020  
(512) 232-4217

### II. Statement of Services to be Performed

Performing Party will perform the following services:

1. Provide up to four trainers for professional development for all Elementary Principals, Success Coaches and designated Elementary teachers with the following topics at a designated ECISD location following administration of the Texas Primary Reading Inventory at the Beginning of the Year (BOY), Middle of the Year (MOY), and End of Year (EOY), hereinafter "Professional Development":
  - a. Instructional Leadership utilizing ECISD BOY level data as part of the LACIR model to support ECISD Strategic Plan number 1.6 in all core subject areas. Participants include Elementary Principals and Success Coaches.
  - b. Instructional Leadership utilizing ECISD MOY level data as part of the LACIR model to support ECISD Strategic Plan number 1.6 in all core subject areas. Participants include Elementary Principals and Success Coaches.
  - c. Instructional Leadership utilizing ECISD EOY level data as part of the LACIR model to support ECISD Strategic Plan number 1.6 in all core subject areas. Participants include Elementary Principals and Success Coaches.
2. Arrange and provide invoices for all personnel costs, preparation, travel, food, and lodging for trainers of the Professional Development, not to exceed \$44,000.00.
3. Submit invoices with all receipts to ECISD designee within thirty (30) days after end of performance.

4. Facilitate in planning, organizing, providing, and assembling appropriate training materials for the Professional Development, not to exceed \$2,000.00.

Receiving Party will perform the following services:

1. Provide technology with contact person and arrange campus facility for each trainer.
2. Provide and register trainees, to include Elementary Principals, Success Coaches and designated teachers.
3. Provide appropriate data of designated campuses for Professional Development Trainers.
4. Pay all invoices within 30 days of receipt.

**III. Basis for Calculating Reimbursable Costs**

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|--|--------------------|
| Services of Personnel ( <i>salaries, wages, fringe benefits, travel &amp; consultant fees</i> ): | \$37,800.00        |
| Training & Materials Supplies:   | \$ 2,000.00        |
| Miscellaneous Supplies & Material ( <i>supplies, materials, telephone &amp; duplication</i> ):   | \$200.00           |
| Services of equipment ( <i>computer services, equipment usage</i> ):                             | \$ 0.00            |
| TOTAL DIRECT COSTS:  | \$ 40,000.00       |
| Indirect costs (15%):  | \$ 6,000.00        |
| <b>TOTAL AMOUNT DUE</b>  | <b>\$46,000.00</b> |

**IV. Contract Amount**

The total amount of this Contract shall not exceed \$46,000.00 (Forty-Six Thousand Dollars).

**V. Payment of Services**

Receiving Party will remit payments to Performing Party for services satisfactorily performed under this Contract in accordance with the *Texas Prompt Payment Act, Chapter 2251, Texas Government Code*.

Performing Party will submit invoices to the Receiving Party monthly. Invoices will be prepared on entity letterhead, will certify that all payments requested are for appropriate purposes and in accordance with this Contract, will set the period for which reimbursement is being requested, will itemize the costs by major budget category per the budget summary, will show current costs and cumulative cost-to-date, and will be signed by Performing Party's authorized representative. Relevant receipts will be attached to each invoice.

Payments made under this Contract will (1) fairly compensate Performing Party for the services performed under this Contract, and (2) be made from current revenues available to Receiving Party.

Performing Party and Receiving Party shall abide by the rules of OMB A-21, which can be found at [www.whitehouse.gov/omb/circulars/a021/a21\\_2004.html](http://www.whitehouse.gov/omb/circulars/a021/a21_2004.html).

All invoices should be mailed to:

Ector County Independent School District  
Reading Coordinator  
Attn: Frances "Fannie" Wright  
PO Box 3912, Odessa, Texas 79760-3912  
Phone: (432) 332-9151, Ext. 7267 / Facsimile: (432) 331-7849

Upon receipt of each invoice, ECISD shall make payment thereof, except as provided herein. Final invoice shall be submitted within thirty (30) days after the end of the period of performance and shall be marked "Final."

#### **VI. Warranties**

Performing Party warrants that (1) it has authority to perform the services under authority granted in Section 65.31, *Texas Education Code*, and Chapter 791, *Texas Government Code*; (2) it has all necessary power and has received all necessary approvals to execute and deliver this Contract; and (3) the representative signing this Contract on its behalf is authorized by its governing body to sign this Contract.

Receiving Party warrants that (1) the services are necessary and authorized for activities that are properly within its statutory functions and programs; (2) it has the authority to contract for the services under authority granted in Chapter 62, *Texas Education Code*, and Chapter 771, *Texas Government Code*; (3) it has all necessary power and has received all necessary approvals to execute and deliver this Contract; and (4) the representative signing this Contract on its behalf is authorized by its governing body to sign this Contract.

#### **VII. Term of the Agreement**

This Contract is effective October 1, 2010 ("Effective Date") and shall terminate on June 30, 2011.

#### **VIII. Termination**

Either Party may terminate this Contract without cause or penalty upon 30 (thirty) days' advance written notice of termination.

#### **IX. Miscellaneous Provisions**

**Audit of Records.** The ECISD agrees to comply with the requirements of OMB Circular A-133, which can be found at [www.whitehouse.gov/omb/circulars/a133/a133.pdf](http://www.whitehouse.gov/omb/circulars/a133/a133.pdf). Notwithstanding any other conditions of this Contract, the ECISD's books and records, which pertain to this Contract, will be made available upon request at the ECISD's regular place of business for audit by personnel authorized by University or by the Texas State Auditor. Additionally, the books and records will be retained for a period of three (3) years following final payment.

**Copyright © Notice.** The materials subject to this Contract are copyrighted © and trademarked ™ as the property of the Texas Education Agency (TEA) and The University of Texas at Austin (University) and may not be reproduced without the express written permission of TEA and University except under the following conditions:

- 1) Texas public school districts, charter schools, and Education Service Centers may reproduce and use copies of the Materials and Related Materials for the districts' and schools' educational use without obtaining permission from TEA.
- 2) Residents of the state of Texas may reproduce and use copies of the Materials and Related Materials for individual personal use only without obtaining written permission of TEA.
- 3) Any portion reproduced must be reproduced in its entirety and remain unedited, unaltered and unchanged in any way.
- 4) No monetary charge can be made for the reproduced materials or any document containing them; however, a reasonable charge to cover only the cost of reproduction and distribution may be charged.

Private entities or persons located in Texas that are not Texas public school districts, Texas Education Service Centers, or Texas charter schools or any entity, whether public or private, educational or non-educational, located outside the state of Texas MUST obtain written approval from TEA and will be required to enter into a license agreement that may involve the payment of a licensing fee or a royalty. For information contact: Office of Intellectual Property, Texas Education Agency, Room 2-186, 1701 N. Congress Ave., Austin, TX 78701-1494; phone (512) 463-9270 or (512) 463-9713; email: copyrights@tea.state.tx.us.

**Intellectual Property.** All training materials subject to this Contract contain the intellectual property of the University and TEA as per the Amended and Restated Memorandum of Understanding between The Texas Education Agency ("TEA") and The University of Texas System ("UTS") Regarding Copyrights in Works Created by UTS Component Institutions with TEA Funding dated August 30, 2006 and attached as **Exhibit A** and are subject to the copyright notice above.

**Executed effective as of the Effective Date by the following duly authorized representatives of the Contracting Parties:**

Receiving Party  
Ector County Independent School District

Performing Party  
The University of Texas at Austin

By: \_\_\_\_\_

By: Debra Y. Stevens

Hector Mendez  
Superintendent

Name: Debra Y. Stevens  
Business Contracts Administrator  
Office of the Vice President and Chief  
Financial Officer

Date: \_\_\_\_\_

Date: 9-15-10

By: \_\_\_\_\_  
Tom Pace  
ECISD Board President

Date: \_\_\_\_\_

## EXHIBIT A

### AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING Between THE TEXAS EDUCATION AGENCY ("TEA") and THE UNIVERSITY OF TEXAS SYSTEM ("UTS") Regarding Copyrights in Works Created by UTS Component Institutions with TEA Funding

#### PURPOSE:

The purpose of the Memorandum of Understanding (MOU) is to establish the respective responsibilities and roles of each participating agency with respect to ownership and use of copyrights in works created with funding through TEA.

#### BACKGROUND:

The parties have previously entered into one or more agreements detailing how copyrights in materials created by a UTS component institution with funding through TEA would be owned and managed. They now desire to consolidate and amend the terms of their earlier agreements. This document describes their consolidated and amended agreement, and hereby terminates the earlier agreements, superseding the earlier terms.

#### PARTICIPATING AGENCIES:

UTS and TEA are the participants in this MOU regarding copyright.

#### BINDING:

All aspects of this agreement regarding copyrights are binding upon TEA, UTS and UTS's component institutions.

#### AREAS OF AGREEMENT IDENTIFIED IN DETAIL BELOW:

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- Ownership of existing copyrights
  - Copyright of new course content
  - Distribution and pricing
  - Licensing
  - Dispute resolution
  - Royalties
  - Revisions
  - Enforcement
  - Audit rights; records; reports
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- FURTHER DETAILS REGARDING THE ABOVE AREAS OF AGREEMENT:

- **Ownership of Existing Copyrights**

UTS or its component institutions shall maintain exclusive ownership of their pre-existing content, including but not limited to the materials described in any funding agreement or amendment thereto executed by a component institution and TEA.

- **Copyright and Use of New Course Content, Materials, and Products**

All course content, materials and products created by a UTS component, its employees, agents, consultants or subcontractors arising out of a contract project as may be specifically described in any funding agreement or amendment thereto executed by a UTS component institution and TEA shall be the joint property of UTS or its component and TEA, and any use thereof must be licensed as set forth herein. Unless otherwise provided, UTS shall be responsible for all administrative responsibilities associated with the activities set forth herein. UTS shall be responsible for filing all copyright and trademark, etc. registrations for materials jointly owned by the parties.

- **Faculty and Graduate Student Research Results**

In accordance with UTS's mission to publish the results of its research and its Intellectual Property Policy, which allocates ownership of publications containing research results to their authors, the faculty and students who conduct research pursuant to this agreement shall own and be free to publish the results.

- **Commercial Activity Not Expected**

UTS and TEA do not anticipate any use for the deliverables hereunder outside the work-scope. The parties agree, however, that they shall jointly own the copyright therein and that if it appears likely that a work whose creation was funded through this contract may be commercialized by either of them, in consideration of the funding provided hereunder by TEA and the work performed by UTS, they will agree upon royalty-sharing and other provisions as set forth in this MOU. For purposes of this section, commercialized shall mean commercial sales or licenses of a work product to entities for their independent use outside the scope of uses contemplated by the project receiving TEA funding.

- **Distribution and Pricing**

All course content for which TEA and UTS or its component institutions hold joint copyright ownership shall be distributed within the State of Texas in accordance with instructions set forth in the funding agreement for that particular project.

- **Royalties**

TEA and UTS shall share Net Royalties (defined below) from the licensing

of all materials for which TEA and UTS hold joint copyright ownership evenly (50/50); provided that such royalty-sharing percentage shall be equitably adjusted by mutual agreement of the parties when TEA funding supports the further development, significant modification or improvement of preexisting materials that were created with non-TEA funding.

Net Royalties shall mean gross royalties received by UTS from the sale or license of products covered hereunder, less amounts UTS actually paid or allowed for direct costs to manufacture, distribute, print or otherwise create the product sold or licensed, direct costs for intellectual property protection and enforcement and costs to service licensees, if any.

- **Licensing**

Parties acknowledge that UTS or its component institutions may provide course content to secondary school students or students enrolled in a degree program at a UT System component institution, and charge tuition and fees. Such tuition does not constitute commercial activity to which royalty-sharing provisions would apply. Any transfer of materials, including but not limited to course content, jointly owned by TEA and UTS or a component institution to a third party giving that party the right to provide access to such content to said students independently of the component institution, would constitute commercial activity to which the royalty sharing provisions below would apply. UTS shall exclusively hold the right to license rights to materials for which TEA and UTS or a component institution hold joint copyright ownership. UTS, in its discretion, may grant back to TEA a limited right to license rights in jointly owned materials. Final authority with respect to decisions affecting licensing shall remain with UTS.

- **Dispute Resolution**

Disputes between TEA and UTS relating to contract interpretation or performance shall be resolved by a committee with one member appointed by TEA, one member appointed by UTS, and one member agreed upon by TEA and UTS.

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- **Revisions**

UTS shall retain the right to revise the materials for which TEA and UTS hold joint copyright ownership in accordance with academic standards. UTS further agrees to update materials for which TEA and UTS or a component institution hold joint copyright ownership upon the receipt of a written request and appropriate funding. In the event that UTS agrees that the revision of jointly owned materials is needed in order to maintain the academic integrity of the materials, but is unable or unwilling within a reasonable time specified by TEA to provide the revision after TEA has requested it, TEA may arrange for such revisions and may display, in the revised work and in any promotional materials, the name of the person or persons who performed the revision. All revisions to materials that will be

distributed to Texas public and charter schools must be approved by UTS and TEA.

For purposes of this section, a revision subject to the provisions of this section includes changes to the jointly owned course materials based on research findings that update or modify it to keep it current, accurate and appropriate for its intended purpose. Revisions expressly do not include changes to UTS's or a component's pre-existing content, including but not limited to the materials described in a funding agreement or amendment thereto as pre-existing, or changes that would create a work fundamentally different from the materials originally created pursuant to this contract, or that change the character of the work, its overall scope or its philosophical basis.

- **Enforcement**

UTS shall enforce the copyrights in the materials for which TEA and UTS hold joint copyright ownership. If UTS refuses or fails to enforce a copyright in the materials, TEA may take legal action to enforce the copyright.

- **Audit Rights; Records; Reports**

The parties anticipate that UTS, as the party with the exclusive right to license the materials, will likely be the party that would commercialize the materials subject to royalty-sharing provisions, but it is possible that TEA could do so also, if permitted by UTS. Regardless of who commercializes materials, during the term of this Agreement and for 3 years thereafter, the Licensing Party agrees to keep complete and accurate records of its and its sublicense(s)' sales of products covered by this Agreement in sufficient detail to enable the amounts payable hereunder to be determined. Licensing Party agrees to permit the party receiving a share of royalty income ("Royalty Recipient") or its representatives, at Royalty Recipient's expense, to periodically examine Licensing Party's books, ledgers, and records during regular business hours, with 14 days advance notice, for the purpose of and to the extent necessary to verify any report required under this Agreement. Licensing Party agrees to make available to Royalty Recipient the Licensing Party's personnel who are familiar with the books and records to explain the books and records as needed for audit or inspection. If the amounts due to Royalty Recipient are determined to have been underpaid by three percent (3%) or more, Licensing Party will pay the cost of the examination up to a maximum amount of \$5000.00, and accrued interest at three percent (3%) above the current Prime Rate or, if not permissible under state law, that amount that is permissible under state law.

Beginning immediately after the effective date of this Agreement, Licensing Party will deliver to Royalty Recipient true and accurate written reports, even if no payments are due, within 60 days after Licensing Party receives sales reports from its sublicensee(s) (in most cases, quarterly), giving the

particulars of the business conducted by Licensing Party and its sublicensee(s), if any exist, as are pertinent to calculating payments hereunder. This report will include at least:

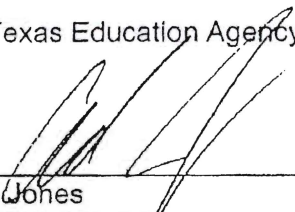
- a. the total sales of products covered by this Agreement;
- b. the calculation of Net Royalties, as set forth above;
- c. the calculation of Royalty Recipient's royalty share based on Net Royalties.

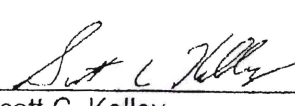
Simultaneously with the delivery of each report, Licensing Party will pay to Royalty Recipient the amount, if any, due for the period of each report.

In witness whereof, the parties have caused their duly authorized representatives to sign this Agreement.

The Texas Education Agency

The University of Texas System

  
\_\_\_\_\_  
Adam Jones  
Associate Commissioner  
Finance and Information Technology

  
\_\_\_\_\_  
Scott C. Kelley  
Executive Vice Chancellor for  
Business Affairs

Date: 08/30/06

Date: 8/18/06