

INTERLOCAL AGREEMENT AND PLAN FOR WORKERS' COMPENSATION SELF-INSURANCE JOINT FUND

WHEREAS, school districts, as political subdivisions of the State of Texas, are authorized by law to self-insure and to create joint funds for workers' compensation benefits for their employees as a part of the districts' governmental functions;

WHEREAS, certain school districts desire to establish a plan for a self-insurance joint fund to provide workers' compensation benefits for their employees;

WHEREAS, such school districts have determined that a cooperative effort is an efficient and cost-effective means to provide those benefits and serves an important public purpose; and

WHEREAS, such school districts desire to retain a third party administrator to provide the professional services necessary to administer such a plan.

NOW, THEREFORE, in consideration of the provisions of this agreement, the school districts named below hereby establish this Interlocal Agreement and Plan for Workers' Compensation Self-Insurance Joint Fund, effective September 1, 2011 as amended by Participants as shown upon the execution page hereof.

Article I: Definitions

- 1.1 The following terms and definitions shall apply throughout this Plan.
- 1.2 "Division" means the Department of Insurance Division of Workers Compensation.
- 1.3 "Employee" means a person who is in the service of a Plan Sponsor pursuant to appointment or express contract of hire.

"Employee" does not include a person in the service of a Plan Sponsor who is paid on a piecework basis or on a basis other than by the hour, day, week, month or year; who is a volunteer; an elected official; or a child. Provided, however, a Plan Sponsor may by a majority vote of its governing body include specifically named persons who are volunteers; who are elected officials; or children in a program established to assist children in rendering personal services to a charitable or educational institution pursuant to Texas Family Code § 54.041(b).

- 1.4 "Fixed Costs" means the amount a Plan Sponsor must pay to the Plan Supervisor for the administration of claims, loss control, record keeping and the cost of Excess Insurance, as set forth in the Plan Sponsor Addendum.
- 1.5 "Loss Fund Maximum" means the amount a Plan Sponsor must set aside from available appropriations, other than itemized salary appropriations, in a separate account in the records of the Plan Sponsor for the Plan Sponsor's Self-Insurance liability not covered by Excess Insurance, as set forth in the Plan Sponsor Addendum.
- 1.6 "Plan Sponsor" means each school district that has adopted this Plan by executing a Plan Sponsor Addendum in accordance with this agreement.
- 1.7 "Plan Supervisor" means CAS - Claims Administrative Services, Inc., a Texas corporation, with its principal office located at 501 Shelley Drive, Tyler, Texas 75701.
- 1.8 "Proportionate Contribution" means the total amount a Plan Sponsor must contribute in Fixed Costs and in the Loss Fund Maximum.
- 1.9 "Excess Insurance" as set forth in the original Interlocal Agreement meant an insurance contract between the Plan and a duly qualified insurance company providing coverage to indemnify the Plan for a claim in excess of the single occurrence self-insurance retention maximum from any one Plan Sponsor's employee(s) or total claims that exceed the combined Loss Fund Maximums of all Plan Sponsors, within the aggregate limits of the insurance contract.

The aggregate limits in past policies have never come into play. The Plan Supervisor and Plan Sponsors desire to lower costs to participants. The Plan Supervisor and Plan Sponsors desire to continue full coverage under this Plan. Participants have agreed that the combined Loss Fund Maximum component will be reduced based on the difference between the Actuary's 95 confidence level of possible ultimate losses and the estimated required reserves with a phased in plan of three years. Participants agree that in the first year there will be a 50 reduction followed by a 25 reduction in the second year and a 25 reduction in the third year. For all future years the Participants will rely upon the Actuarial pick for estimated Ultimate Losses.

- 1.10 "School district" means a school district that is a political subdivision of the State of Texas as defined by law.
- 1.11 "Self-Insurance" means a Plan Sponsor's assumption of liability for the payment of workers' compensation benefits to its employees directly and not through insurance.

Article 2: Self-Insurance Joint Fund

- 2.1 The Plan Sponsors hereby establish this Plan for a Workers' Compensation Self-Insurance Joint Fund pursuant to Texas Labor Code Annotated Ch. 504 (Workers' Compensation Insurance Coverage for Employees of Political Subdivisions) and Texas Government Code Ch. 791 (the Interlocal Cooperation Act).
- 2.2 The Proportionate Contributions of all Plan Sponsors shall be combined into a Self-Insurance Joint Fund. Each Plan Sponsor agrees to make its Proportionate Contribution available to all other Plan Sponsors for the payment of workers' compensation benefits and the administration of this Plan. A Plan Sponsor's Proportionate Contribution may be used for the payment of benefits and the administration of claims of that Plan Sponsor's employees or another Plan Sponsor's employees.
- 2.3 The Plan Sponsors hereby establish a Board of Trustees to supervise the operation of the Plan. The Board of Trustees shall be empowered to take all actions necessary or desirable for the proper administration of the Plan.
- (a) Number, Election and Tenure. The number of Trustees shall be no less than seven (7) members. Each Trustee shall hold office for a two year period and until his or her successor is elected. Elections for Trustees shall be staggered so that no more than one-half of all Trustees are elected each year. Elections shall be held each year at the annual meeting of Plan Sponsors. Trustees whose terms are expiring may be re-elected and may vote for successor Trustees.
- (b) Qualification. Each Plan Sponsor with an annual payroll in excess of \$50 million as of September 1, 2006 that has an employee that is currently serving as a trustee will continue to have an employee elected as a Trustee. The Plan Supervisor shall have two (2) employees that will be nonvoting members serve as trustees. Each Region that has five (5) or more members shall have at least one (1) member serve as a trustee. All Plan Sponsor Trustees must be an employee of a Plan Sponsor in good standing with the fund.
- (c) Annual Meeting. The Plan Sponsors shall hold an annual meeting in January in conjunction with the mid-winter conference of each year. The President of the Board of Trustees shall notify the Plan Sponsors of the time, date and place for the annual meeting.
- (d) Regular and Special Meetings. The Board of Trustees may hold a regular meeting at the Fall Education Seminar for School Boards or special meetings as needed at a time, date and place specified by the President. Special meetings may be held by

teleconference.

- (e) Quorum. Seven duly elected Trustees shall constitute a quorum for the transaction of business at any annual, regular or special meeting.
- (f) Manner of Acting. The act of a majority of Trustees present at a meeting at which seven Trustees are present shall be the act of the Board of Trustees, unless the act of a greater number is required by law.
- (g) Vacancies. The Board of Trustees shall fill any vacancy occurring in the Board of Trustees. A Trustee elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.
- (h) Compensation. A Trustee shall not receive any compensation from the Plan for his or her service as a Trustee. An individual who serves as a Trustee may be compensated by the individual's employer for services as a Trustee.
- (i) Informal Action by Trustees. Any actions permitted or required by law to be taken in a meeting may be taken without a meeting if all Trustees sign a written consent setting forth the action taken.
- (j) Resignation and Removal. A Trustee may resign by filing a written resignation with any officer, who shall inform the Board of Trustees of such resignation. The Board of Trustees by majority vote may remove any Trustee when the Board of Trustees in its sole discretion determines removal would be in the best interests of the Plan.
- (k) Officers. The Plan Sponsors shall elect a President, Vice President, and Secretary-Treasurer of the Board of Trustees at the annual meeting. The President shall preside at all meetings of the Board of Trustees and shall perform all duties as the principal executive officer of the Plan. In the President's absence or inability to act, the Vice President shall perform the duties and possess the powers of the President. The Secretary-Treasurer shall provide proper notices of Board meetings, shall maintain minutes of Board meetings, shall in general supervise all financial matters, and shall supervise the maintenance of all books and records of the Plan.

Article 3: Plan Sponsors

- 3.1 Each Plan Sponsor shall retain all power and authority provided by law for a self-insured

school district, including but not limited to the following powers:

- (a) to select a Board of Trustees for the Plan as provided in paragraph 2.3;
- (b) to make rules and regulations and to create forms as may be necessary to the effective administration of the Plan and to the prevention of accidents and injuries;
- (c) to approve or disapprove its employees' claims, to pay or not pay benefits to its employees, and to adjudicate its employees' claims or otherwise handle its employees' claims for workers' compensation benefits;
- (d) to provide that during the time that a Plan Sponsor's employee is receiving weekly compensation benefits, the employee may elect to receive previously accrued sick leave benefits, whether statutory or contractual, in an amount equal to the difference in the weekly payments of compensation the employee was receiving prior to the injury or illness resulting in the claim, with a proportionate deduction in the employee's sick leave balance;
- (e) to retain counsel to prosecute or defend actions in connection with workers' compensation benefits.

3.2 Each Plan Sponsor shall comply with all requirements of the Texas Department of Insurance, Division of Workers Compensation (TDIDWC) applicable to a self-insured school district, including but not limited to the following:

- (a) notifying TDIDWC of the method by which the Plan Sponsor's employees will receive benefits, the approximate number of employees covered, and the estimated amount of payroll;
- (b) notifying the Plan Sponsor's employees of the provision made for benefits and the effective date thereof;
- (c) furnishing executed copies of any documents required by TDIDWC;
- (d) completing and properly filing an Employer's First Report of Injury or Illness with the Plan Supervisor and TDIDWC within eight days after the Plan Sponsor's employee's absence from work more than one day, or after receipt of notice of occupational disease;

- (e) completing and properly filing an Employer's Wage Statement with the Plan Supervisor and the TDIDWC within thirty (30) days of the date of receipt of the notice of injury, if the Plan Sponsor's employee is disabled for at least eight days.
- 3.3 Each Plan Sponsor shall pay its Proportionate Contribution as provided in its Plan Sponsor Addendum.
- 3.4 Each Plan Sponsor shall pay any and all taxes, licenses and fees, if any, levied by any governmental authority relating to the actions of the Plan Sponsor or Plan Supervisor under this Plan.
- 3.5 Each Plan Sponsor shall provide annual payroll before October 1 for the previous plan year. Failure to provide actual payroll by the deadline may result in a physical payroll audit. Payment for physical audits may be the responsibility of the Plan Sponsor.
- 3.6 Each of the following events will constitute a default by a Plan Sponsor:
 - (a) the failure to pay all or part of the Plan Sponsor's Proportionate Contribution as set forth in its Plan Sponsor Addendum;
 - (b) the failure to comply with a loss control recommendation of the Plan Supervisor;
 - (c) the failure to provide before June 1 estimates of payroll for the next Plan year to the Plan Supervisor;
 - (d) the failure to comply with any lawful requirement of the TDIDWC; and
 - (e) a breach of any obligation of the Plan Sponsor under this Plan.
- 3.7 In the event of default, the Board of Trustees shall provide the Plan Sponsor with written notice specifying the default and advising that if the default is not cured within fifteen days after the notice is received, the Plan Sponsor will be terminated from the Plan. If the default is not cured within such time, the Board of Trustees shall provide the Plan Sponsor with a second written notice advising that the Plan Sponsor has been terminated from the plan, effective thirty days after the date of the second notice. Within such thirty days after the date of the second notice, the Plan Sponsor may deliver a written request for reinstatement to the Plan Supervisor. The Board of Trustees will conduct a reinstatement hearing within fifteen days of the Plan Supervisor's receipt of the written request for reinstatement. The decision of the Board of Trustees on reinstatement shall be final.

Article 4: Plan Supervisor

- 4.1 The Plan Supervisor is CAS - Claims Administrative Services, Inc., a Texas corporation, located at 501 Shelley Drive, Tyler, Texas 75701.
- 4.2 The Plan Supervisor:
- (a) shall be a duly qualified third-party administrator under applicable law;
 - (b) shall develop and employ a system of procedures, forms, computer applications and safety engineering programs designed for the efficient administration of this Plan;
 - (c) shall be the agent for the Plan for investigating, processing and resolving claims of employees of each Plan Sponsor;
 - (d) shall administer this Plan in accordance with the instructions of the Board of Trustees and Plan Sponsors;
 - (e) shall provide each Plan Sponsor with a professional safety engineering program, including written guidelines for safety and loss control procedures;
 - (f) shall adjust claims, set reserves, file all reports with the TDIDWC, handle all hearings before the TDIDWC, monitor medical charges, pay medical providers, pay employees benefits, compute statistical data for experience modification, and otherwise administer the Plan;
 - (g) shall provide regular loss runs and an annual summary to each Plan Sponsor stating the name of the Plan Sponsor's employee, the total paid for medical expenses, the total paid for weekly benefits, and the reserve set for the total estimated cost to conclude the claim.
- 4.3 Each Plan Sponsor shall pay its share of Fixed Costs to the Plan Supervisor in the amounts and according to the schedule contained in the Plan Sponsor Addendum.
- 4.4 The Plan Supervisor shall not be liable for a Plan Sponsor's breach of any obligation arising under this Plan or under law, such as, but not limited to, fines levied by any governmental agency that supervises or regulates the handling of claims. The Plan Supervisor shall be liable for any errors, omissions, fines or other breaches of law due solely to the conduct of the Plan Supervisor, its agents, or employees.

- 4.5 The Plan Supervisor shall maintain General Liability, Automobile Liability, Workers' Compensation, Fidelity Bond and/or Crime and Professional Liability insurance coverages each of which with limits acceptable to the Board of Trustees. The Plan Supervisor shall provide certificates of such insurance coverages to the President of the Board of Trustees. The Plan Supervisor shall also provide such certificates to any Plan Sponsor who makes a written request for same.
- 4.6 The parties agree that the services provided by the Plan Supervisor in connection with the Plan require predominantly mental or intellectual, rather than physical or manual skills; that years of education and service are necessary for a practitioner to attain competence as a third party administrator; and the Plan Supervisor belongs to a discipline with widely accepted standards of required study or specified attainments in special knowledge as distinguished from mere skill. Thus, the Plan Sponsors have each determined that the services provided by the Plan Supervisor are "Professional Services" as that term is used in Texas Education Code Annotated § 44.031(f).

Article 5: Plan Administration

- 5.1 The Board of Trustees, with the assistance of the Plan Supervisor, shall establish the Proportionate Contribution of each Plan Sponsor annually based upon the actual loss experience and claims (including reserves for future claims payments) of each Plan Sponsor, the experience rating modification of each Plan Sponsor, the prorata costs or savings to the Plan from the loss experience of all Plan Sponsors, the cost of Excess Insurance, and all reasonable and necessary administrative expenses of the Plan, to maintain as nearly as possible an equitable and reasonable Self-Insurance administration of the Plan as applied to each Plan Sponsor.
- 5.2 The Board of Trustees, with the assistance of the Plan Supervisor, shall obtain Excess Insurance with a duly qualified insurance company to provide coverage to each Plan Sponsor for Self-Insurance liability as follows:
- (a) Excess Insurance shall indemnify the Plan for a claim in excess of the single occurrence self-insurance retention maximum from any one Plan Sponsor's employee(s).
 - (b) Each Plan Sponsor's Loss Fund Maximum shall be combined into a Self-Insurance Joint Fund.

- (c) Claims less than the self-insured retention from any one employee or occurrence shall be paid first from the Loss Fund Maximum of the Plan Sponsor responsible for the employee or occurrence and then from the Self-Insurance Joint Fund.
- (d) Claims in excess of the self-insured retention from any one employee or occurrence shall be paid by Excess Insurance up to statutory limits.
- (e) The Board of Trustees, with the assistance of the Plan Supervisor, shall annually negotiate Excess Insurance coverage with a duly qualified insurance company.
- (f) All Plan Sponsors agree and acknowledge that the Plan Supervisor is not an insurer or underwriter of the Plan.

5.3 Claims shall be administered as follows:

- (a) If a claim is denied, in whole or in part, the Plan Supervisor will give written notice of the denial to the employee within sixty days after the claim is received by the Plan Supervisor. Notice will be transmitted through the Plan Sponsor to the TDIDWC. Notice will include specific reasons for denial and will advise the employee of the procedures for review of the denial.
- (b) The Plan Supervisor will maintain a file on every claim reported by a Plan Sponsor and will make every file available to the Plan Sponsor for review upon reasonable notice during business hours at the Plan Supervisor's office.

5.4 The Plan Supervisor shall make disbursements on behalf of and upon request from each Plan Sponsor according to the following requirements:

- (a) Each Plan Sponsor shall maintain a separate bank account at a financial institution of its choice maintaining a zero balance and signature authority for the Plan Supervisor.
- (b) Each Plan Sponsor shall designate four employees of the Plan Supervisor as authorized drawers on such account.
- (c) Upon approving a disbursement from such account, the Plan Sponsor shall deposit into the account an amount necessary to cover the disbursement and shall instruct the Plan Supervisor to issue a check against the account in the amount of the disbursement.

- (d) The Plan Supervisor will furnish a statement reflecting all disbursements from the Plan Sponsor's account within fifteen days after the end of each month.
 - (e) The Plan Sponsor retains all power and authority in the disbursement of benefits to its employees. The Plan Supervisor does not have any discretionary power or authority in the disbursement of benefits, but shall pay or deny benefits based solely upon applicable law and the decision of the Plan Sponsor.
- 5.5 Each Plan Sponsor's payroll figures will be subject to an audit to determine the Plan Sponsor's Proportionate Contribution.
- 5.6 The Plan Sponsors, Board of Trustees, and Plan Supervisor agree to cooperate and to exchange any and all information required for the proper administration of this Plan.

Article 6: General Provisions

- 6.1 A school district may become a Plan Sponsor under the Plan only upon:
- (a) approval of the school district's participation by the Plan's Board of Trustees and Plan Supervisor; and
 - (b) the school district's adoption of its Plan Sponsor Addendum by the duly authorized act of the governing body of the school district.
- 6.2 The initial term of this Plan shall be from September 1, 2011 through August 31, 2012. Thereafter, the Plan will automatically renew for successive one year terms unless terminated by action of the Plan's Board of Trustees or as provided in Article 6.3.
- 6.3 After the initial period the Plan Supervisor may resign and terminate its Plan obligations by giving written notice to all Plan Sponsors on or before the first day of July preceding any successive term. After the initial term, a Plan Sponsor also may terminate its participation in the Plan by giving the Plan Supervisor and the Board of Trustees written notice on or before the first day of July preceding any successive term. Such timely termination will be effective at the end of the one year term in which such written notice was given. A Plan Sponsor who attempts to terminate its participation in the plan without giving timely and proper notice of termination, shall be liable to the Plan for all Fixed Cost and all liabilities due under Article 6.4 through the end of the next full successive term.
- 6.4 Upon termination of a Plan Sponsor's participation in the Plan, or upon termination of the Plan, the following shall apply:

- (a) "All liabilities at the time of termination" means all liabilities of the Plan Sponsor or its Loss Fund Maximum for all claims, whether known, unknown, accrued, unaccrued, reported, unreported, fixed, contingent, reserved, unreserved, or under-reserved; the Plan Sponsor's Self-Insurance liability; all liabilities of the Self-Insurance Joint Fund, including any liabilities for benefits for employees of another Plan Sponsor; and any other liabilities of the Plan Sponsor or its Loss Fund Maximum for workers' compensation benefits arising under this Plan; occurring, arising, or existing prior to midnight on the date the Plan Sponsor's participation is voluntarily or involuntarily terminated, or occurring, arising, or existing prior to midnight on the date the Plan is terminated.
- (b) Each Plan Sponsor's Loss Fund Maximum shall remain obligated after termination to satisfy all liabilities at the time of termination until such Loss Fund Maximum is exhausted or until all liabilities at the time of termination are satisfied, whichever occurs first, as determined by the Board of Trustees for the Plan. Consistent with the provisions of Article 5 of this Plan, each Plan Sponsor's Loss Fund Maximum (whether or not the Plan Sponsor is terminating) shall not be used to pay liabilities of another Plan Sponsor that should be first paid by that Plan Sponsor's Loss Fund Maximum or by Excess Insurance.
- (c) Each Plan Sponsor shall pay to the Plan Supervisor all Fixed Cost, fees, commitments, and obligations through the date of termination, plus any attorney's fees and collection costs incurred by the Plan Supervisor.
- (d) Each Plan Sponsor shall receive copies of all claim files and other documents applicable to its employees.
- (e) The Plan Supervisor shall continue to administer all claims of a terminating Plan Sponsor that arose during the term of the Plan. The terminating Plan Sponsor shall pay the Plan Supervisor an annual fee of \$600.00 for each claim that remains open or is reopened after the date of termination.

6.5 This agreement supersedes any and all prior oral or written agreements, representations, proposals, or understandings between the parties directly or indirectly relating to a workers' compensation self-insurance joint fund. This Plan and each Plan Sponsor Addendum adopting this Plan constitutes one agreement and the complete agreement between the parties.

6.6 This Plan can be modified only by a writing executed by the Plan Supervisor and a majority of the Board of Trustees.

6.7 Texas law shall govern all aspects of this Plan, including its interpretation and performance.

EXECUTED on the dates shown below but effective as of September 1, 2016.

PLAN SUPERVISOR

CAS - CLAIMS ADMINISTRATIVE
SERVICES, INC.

DATE: _____

PLAN SPONSORS

Adopt this Agreement and Plan Sponsor Addendum
Attached

DATE: 8-18-16

Sunray ISD
(Name of Plan Sponsor)

BY: _____
(Signature)

(Printed Name)

BY: _____
(Signature)

(Printed Name)