

STATE OF TEXAS
COUNTY OF FALLS

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**SHARED SERVICES AGREEMENT FOR FALLS EDUCATION COOPERATIVE
DISCIPLINARY ALTERNATIVE EDUCATIONAL PROGRAM/THE LEARNING
CENTER**

This Agreement is entered into by, between, and among MARLIN INDEPENDENT SCHOOL DISTRICT ("Marlin ISD"), CHILTON INDEPENDENT SCHOOL DISTRICT ("Chilton ISD"), ROSEBUD-LOTT INDEPENDENT SCHOOL DISTRICT ("Rosebud-Lott ISD"), WESTPHALIA INDEPENDENT SCHOOL DISTRICT ("Westphalia ISD"), RIESEL INDEPENDENT SCHOOL DISTRICT ("Riesel ISD"), HALLSBURG INDEPENDENT SCHOOL DISTRICT ("Hallsburg ISD"), and MART INDEPENDENT SCHOOL DISTRICT ("Mart ISD"), hereinafter referred collectively as "Member Districts", as well as the Falls Education Cooperative ("Cooperative"). The Member Districts and Cooperative hereby agree to provide and operate a joint Disciplinary Alternative Education Program and The Learning Center (hereinafter referred to as "JDAEP/TLC") to their eligible students, under the authority of Texas Education Code §37.008(d) and Texas Government Code Chapter 791, as provided below under the name Falls Education Cooperative Disciplinary Alternative Educational Program. The Member Districts and Cooperative agree to the following terms and conditions:

Purpose and Authority

1. The purpose of this Agreement is to effectively provide and operate a joint disciplinary alternative educational program for eligible students of the Member Districts, and to ensure that the parties are aware of their responsibilities and obligations to each other and to eligible students with respect to the JDAEP/TLC.
2. The Texas Interlocal Cooperation Act, codified as Chapter 791 of the Texas Government Code, authorizes local governments to contract or agree with other local governments in accordance with the Act to perform governmental functions and services that each party to the contract is authorized to perform individually, and the Member Districts and Cooperative agree that the educational services of the JDAEP/TLC can be administered most efficiently at a centralized location.
3. The JDAEP/TLC created under this Agreement will be operated in compliance with all applicable federal and state laws and regulations, and any applicable requirements for other categorically specially funded programs in which the parties may participate. The students that are eligible to participate in the JDAEP/TLC shall be students enrolled in any of the Member Districts.

Term

4. Upon execution, this Agreement will become effective as of August 1, 2018, and will create and put into operation the Falls Education Cooperative Disciplinary

Alternative Education Program/The Learning Center. Thereafter, this Agreement will be automatically renewed each subsequent August 1, with any amendments as mutually agreed by the Member Districts and Cooperative.

Management Board & Fiscal Agent

5. The Management Board of the Cooperative shall also operate as the Management Board of the JDAEP/TLC, under the same meeting schedule and governance procedures applicable to the Cooperative pursuant to its Shared Services Agreement dated April 19, 2017, which is incorporated herein by reference, to the extent applicable.
6. For purposes of discipline of students while at the JDAEP/TLC, the Management Board shall adopt a JDAEP/TLC Student Code of Conduct, which shall apply to students upon their placement in the JDAEP/TLC and during the entirety of their placement at the JDAEP/TLC. Any disciplinary due process applicable to offenses committed while a student is placed at the JDAEP/TLC shall be provided by the home district.
7. If the need arises, the Management Board may allocate a maximum number of JDAEP/TLC slots or openings for each Member District.
8. Marlin ISD shall operate as the Fiscal Agent of the JDAEP/TLC.

Responsibilities of Fiscal Agent

9. The Fiscal Agent shall prepare the budget and shall receive and disburse funds applicable to education services. The Fiscal Agent shall be responsible for supervision and oversight of the educational programs and supervising educational personnel serving the JDAEP/TLC and also shall be responsible for maintaining all education records applicable to the JDAEP/TLC, correspondence with assigned students' home districts with regard to status and ultimate disposition of each assigned student, and provision of necessary curriculum and other such responsibilities normally associated with administration and provision of educational services. The Fiscal Agent shall maintain a separate, stand-alone budget for the JDAEP/TLC. The JDAEP/TLC and the funds used to operate said program may be audited, and the written audit made available upon request to the Member Districts.
10. The JDAEP/TLC shall be located at 203 Green Street, Marlin TX 76661, within a facility owned and operated by Marlin ISD that is appropriate in size and structure for that purpose. Marlin ISD shall:
 - a. Furnish normal teaching supplies and set up the classroom(s).
 - b. Establish the school day, including the beginning, ending and education times in accordance with applicable state laws, performance goals and objectives of the JDAEP/TLC.
 - c. Designate a JDAEP/TLC Administrator to oversee the educational services provided by the JDAEP/TLC.

- d. Implement the Student Code of Conduct and JDAEP/TLC rules and procedures approved by the Management Board.
- e. Supervise students assigned to the JDAEP/TLC in accordance with applicable state and federal law.
- f. Report grades to Member Districts.
- g. Provide special education and related services to students placed at the JDAEP/TLC that are also eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA, at 20 U.S.C. 33 §§1400 et seq.). To the extent possible, Marlin ISD shall implement the Students' IEPs that are in effect at the time they are placed at the JDAEP/TLC. At their discretion, Marlin ISD staff and/or Cooperative staff may participate in Admission, Review and Dismissal ("ARD") Committee meetings convened to accomplish placements of special education students in the JDAEP/TLC. ARD committee meetings that may become necessary for special education students during their placement at JDAEP/TLC shall be the responsibility of the sending Member District with the participation of JDAEP/TLC or Cooperative staff, as appropriate. Nothing herein shall require any Member District other than the student's home school district to pay the expense necessary to address or accommodate any additional needs of students with disabilities. Such services, costs and expense incurred because of special services required by a student's IEP or accommodation plan shall remain the responsibility of the home school district recommending the placement.

Responsibilities of Member Districts

11. Each Member District seeking to place one of its students in the JDAEP/TLC shall be solely and individually responsible for properly undergoing the disciplinary process leading to the placement of its student in the JDAEP/TLC. The Member Districts are responsible for making the initial recommendation for JDAEP/TLC placement, providing any due process required under Texas law and their respective Student Codes of Conduct, and setting the term for JDAEP/TLC placement within the guidelines set forth by the Management Board pursuant to section 7 of this Agreement. The Member Districts hereby covenant and agree that they will comply with both their respective Student Codes of Conduct and the provisions of Chapter 37 of the Texas Education Code in recommending JDAEP/TLC student placements and providing applicable due process protections to students undergoing the disciplinary process.
12. Each Member District will provide the following to the JDAEP/TLC for each of the Member District's students participating in the JDAEP/TLC:
 - a. All necessary textbooks, including teacher's editions and all teacher resource materials and tests for students working at grade level.
 - b. All necessary services for students with disabilities not provided by the JDAEP/TLC, including, but not limited to the following: Special Education assessment services and responsibility for notification and conducting of ARD meetings in accordance with state and federal law; IEP services and

special education personnel to implement and monitor IEPs; requirements concerning programs and accommodations for Section 504 students; assistive technology, supplementary aids and services and related services, determination necessary for a student with a disability/ies by the student's ARD Committee or 504 Committee.

- c. Borrowing privileges, such as library and equipment usage.
- d. Standardized testing.
- e. Standardized preparation materials for individual grade equivalencies.
- f. Transportation of students to and from the JDAEP/TLC. For special education students whose IEP calls for special transportation as a related service, the sending Member District shall be responsible for special transportation to and from the JDAEP/TLC.

Funding & Attendance

13. The Member Districts' contributions to the funding of the JDAEP/TLC shall be equal to \$9000 per seat and can be used at their discretion as a TLC or DAEP seat. Currently, only Rosebud-Lott ISD, Riesel ISD, Mart ISD, and Chilton ISD have seats at the JDAEP/TLC. If a student requires mandatory placement at the JDAEP/TLC mid-year, the amount per seat will be prorated based on the entire school year (August – June). The Management Board, may, at its discretion, change this funding formula by adopting an addendum to this Agreement and shall provide notice to the Member Districts. In accordance with the Texas Interlocal Cooperation Act, each party paying for the performance of the services outlined in this Agreement shall make those payments from current revenues available to the paying party.
14. Each Member District will retain all average daily attendance (“ADA”) funding for students participating in the JDAEP/TLC to the extent permitted by law. For purposes of accountability under Chapter 39 of the Texas Education Code and the Foundation School Program, a student enrolled in the JDAEP/TLC shall be reported as if the student were enrolled at the student's home district in the student's regularly assigned education program, including a special education program, where applicable and to the extent permitted by law. The Member District of each such student shall cooperate fully in making such reports and accepting such accountability. All Public Education Information Management System (“PEIMS”) reporting requirements for the students placed in the JDAEP/TLC shall remain the responsibility of the home district.

Legal Costs & Liability

15. Legal costs, actual damages, court costs, and attorneys' fees accrued or awarded in litigation that are not covered by insurance will be the sole responsibility of the Member District within which the student originating the litigation is a resident, with no joint and several liability of the remaining Member Districts. Each Member District shall be responsible for any and all costs incurred as a result of

the acts of any one of their students, or as a result of any of their students or their student's families or guardians, including, but not limited to, filing any claim or due process hearing challenging placement, or services or implementation of those services pursuant to 20 U.S.C. sections 1400-1485 (IDEA), 29 U.S.C. section 794 (Section 504 of the Rehabilitation Act of 1973), or Chapter 37 of the Texas Education Code. "Costs" shall include, but not limited to, damage to or loss of personal or real property, costs of administrative hearings, litigation expenses, awards of damages, court costs, attorneys' fees and settlement costs.

Termination & Withdrawal

16. If any party fails to perform its obligations under this Agreement, the parties agree to resolve the issue informally to the extent possible. The parties will consider the details of the non-performance issue, assess if there are past issues of non-performance, determine duration and level of non-performance, and negotiate in good faith a mutually agreeable solution. If the parties cannot agree on a solution, the parties may terminate the non-performing party's participation in this Agreement by providing sixty (60) days' written notice to the non-performing party. The non-performing party shall ensure all outstanding balances have been paid or settled. The non-performing party will be invoiced for any expenses incurred prior to the date of termination.
17. A Member District may withdraw from the JDAEP/TLC arrangement and this Agreement by notifying in writing the remaining Member Districts of its intention to withdraw from the JDAEP/TLC by January 1, the withdrawal will take effect on August 1st of the fiscal year on which the January notice has been properly provided and approved by the Management Board.

Notices

18. All notices given under this Agreement will be made in writing. Each party will appoint an employee to serve as its Contact Person for purposes of this Agreement and provide their name, title, address, telephone number, and e-mail address to the other parties. Any party may from time to time designate by written notice to the other parties a new address or Contact Person for purposes of this Agreement. All notices will be sent to the parties as follows:

Marlin ISD

Chilton ISD

Rosebud-Lott ISD

Westphalia ISD

Riesel ISD

Hallsburg ISD

Mart ISD

Falls Education Cooperative

Miscellaneous

19. The failure of a party to insist upon strict adherence to any term of this Agreement will not be considered a waiver or deprive the party of the right thereafter to insist upon the strict adherence to that term of the Agreement.
20. This Agreement may be modified, amended, extended, or augmented, only by written amendment signed by the parties.
21. This Agreement will be governed by, and construed in accordance with the laws of the State of Texas. Venue for any dispute shall be in Falls County, Texas. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or

provisions, and the rights and obligations of the parties hereto shall be construed and enforced in accordance therewith. The parties hereto acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed on such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

22. The parties will comply with all current and future laws, rules, and regulations as well as with all applicable state and local laws.
23. The parties will not be responsible for any failure to perform hereunder due to unforeseen circumstances or causes beyond the non-performing party's reasonable control, including without limiting the generality of the foregoing, acts of God, war, riot, embargoes, acts of government, civil or military authorities, catastrophe, fire, floods, accidents, strikes, shortages of transportation, facilities, fuel, energy, labor or material acts of a public enemy.
24. This Agreement may not be assigned by any party without the written consent of the other parties.
25. If any term, covenant or condition of this Agreement or its application to any person or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected, and each term shall be valid and enforceable to the fullest extent permitted by law.
26. This Agreement is expressly made subject to each party's governmental immunity under state and federal law. The parties hereto expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that a party has by operation of law.
27. This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this Agreement.
28. Notwithstanding any provision of this Agreement, there are no third party beneficiaries to this Agreement. The parties do not intend to confer any rights to this Agreement, including, without limitation, the right to sue to enforce this Agreement, to any third party.
29. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be transmitted by facsimile machine or by

electronic scanning and electronic mail, and the parties intend that faxed or scanned signatures shall constitute original signatures. A facsimile copy or any counterpart or conformed copy of this Agreement with the signature, original, faxed, or scanned, of all of the parties shall be binding on the parties.

30. This Agreement will apply to, and bind, the representatives and Successors in interest of the parties to this Agreement.

IN WITNESS WHEREOF, after approval of this Agreement by the Board of Trustees of each school district and the Management Board of the Cooperative, the parties hereto have executed this Agreement to take effect as of August 1, 2018.

Signature Pages Follow

MARLIN ISD'S COUNTERPART SIGNATURE PAGE

**SHARED SERVICES AGREEMENT FOR FALLS EDUCATION COOPERATIVE
DISCIPLINARY ALTERNATIVE EDUCATIONAL PROGRAM/THE LEARNING
CENTER**

MARLIN INDEPENDENT SCHOOL DISTRICT:

By: _____
Kevin Benjamin
President, Board of Trustees

Date: _____

ATTEST:

Byrleen Terry
Secretary, Board of Trustees

Date: _____

