

Mutual Confidentiality and Nondisclosure Agreement

This Mutual Confidentiality and Nondisclosure Agreement (this “Agreement”) is entered into and effective as of 6th day of June, 2023 (the “Effective Date”), between Community Training and Assistance Center, Incorporated, with offices located at One Boston Place, Suite 2606, Boston, MA 02108 (“CTAC”) and Ector County Independent School District, with offices located at 802 N. Sam Houston, Odessa, TX 79761 (“ECISD”). The parties, for their mutual benefit, desire to disclose to each other confidential information in connection with discussions between their authorized representatives for the purposes of exploring, collaborating, writing, reviewing and preparing a Federal grant proposal for the Teacher and School Leader Incentive Program. To that end, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Confidential Information

“Confidential Information” shall mean with respect to a party hereto (the “Disclosing Party”), collectively, all technical, financial and business information of any kind whatsoever, and including, where appropriate and without limitation, all data, specifications, research projections, financial information, processes, techniques, technology, ideas, know-how, improvements, inventions, (whether or not patentable or copyrightable), trade secrets or formulae, information concerning research or development by or for the Disclosing Party, information which is or has been generated or received in confidence by or for the Disclosing Party by or from any person, and any other information as well as any and all tangible and intangible embodiments thereof of any kind whatsoever; in each case disclosed by the Disclosing Party to the other party hereto (the “Receiving Party”), or obtained by the Receiving Party through observation or examination of the foregoing, regardless of whether such information or embodiment has been marked as confidential. Confidential Information shall include disclosures in any form, whether orally, in writing, by demonstration, an electronic format or any other media.

Both parties shall follow copyright rules and not use, reproduce, distribute, or create derivatives of either party’s copyrighted material without the consent of the Disclosing party.

The confidentiality obligations of this Agreement shall not apply to any information which (a) is already in the public domain through no breach of this Agreement; (b) was, as between the parties, lawfully in the Receiving Party’s possession prior to receipt from the Disclosing Party; (c) is obtained by the Receiving Party independently from a third party free to disclose such information to the Receiving Party lawfully; or (d) is independently developed by the Receiving Party without reliance on Confidential Information or reliance on individuals who have had access to Confidential Information.

2. Limited Use and Access

All Confidential Information:

(a) shall not be copied, distributed or disseminated in any way or form to any third parties by the Receiving Party without the prior written consent of the Disclosing Party, except as required by a valid legal process or a court order or other lawful order; provided, however, that the Receiving Party shall first have given notice to the Disclosing Party and shall have provided reasonable assistance at the Disclosing Party's expense to contest or limit the scope of such legal process;

(b) shall be maintained in confidence and may be only disclosed to those employees and agents of the Receiving Party or of its affiliates who have a need to know;

(c) shall not be used by the Receiving Party for any purpose, except as otherwise expressly stated in this Agreement, without the prior written consent of the Disclosing Party; and

(d) shall remain the property of the Disclosing Party and be either destroyed or returned to the Disclosing Party (along with all paper, electronic, or other copies thereof) within 30 days of the completion of the Project, or within 30 days of receipt by the Receiving Party of a written request from the Disclosing Party setting forth the Confidential Information to be destroyed or returned. For any Confidential Information to be destroyed, the Receiving Party shall certify in writing to the Disclosing Party the destruction of any and all documents, papers and materials containing such Confidential Information, and notes thereon in the Receiving Party's possession, including paper, electronic, or other copies thereof.

Each Party shall protect the confidentiality of Confidential Information through the exercise of the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized duplication, use, or disclosure of the Confidential Information as each Party uses to protect its own confidential information of a like nature. If the Receiving Party discloses Confidential Information to any of its employees or agents, the Receiving Party shall inform such employees or agents of the restrictions under this Agreement on duplication, use, and disclosure to third parties and dissemination within its organization, and shall take other actions necessary to maintain the confidence of such Confidential Information (including executing agreements with employees that are materially similar to those set forth herein).

3. Duration of Confidentiality Obligations

The obligations of each party hereunder shall commence as of the Effective Date, and shall continue until September 30, 2026, or when the Grant ends, whichever is later. This Agreement may be terminated at any time by either party without cause, with respect to further disclosures, upon thirty (30) days' written notice (see Item 16) to the other party. Any early termination of this Agreement in accordance with the foregoing sentence shall not relieve the Receiving Party of its obligations hereunder with respect to Confidential Information disclosed by the Disclosing Party prior to the effective date of such early termination. For the avoidance of doubt, each party's obligations under this Agreement will survive any termination of discussion between parties regarding the Project, and continue for the period set forth in the first sentence of Section (3).

4. Injunctive Relief

Each party understands and agrees that, because of the unique nature of the Confidential Information, the Disclosing Party will suffer irreparable harm if the Receiving Party fails to comply with any of its obligations under this Agreement, and monetary damages will be inadequate to compensate the Disclosing Party for such breach. Accordingly, the Receiving Party agrees that the Disclosing Party shall, in addition to any other remedies available to the Disclosing Party at law or in equity, be entitled to injunctive relief, to the extent permitted by Texas law and constitution, the Parties agree to enforce the terms to this Agreement (without posting a bond or other undertaking) in the event of a breach or threatened breach by the Receiving Party.

5. Competition

The receipt of Confidential Information under this Agreement will not in any way limit the receiving party from (a) providing products or services which may be competitive with products or services of the disclosing party; or (b) providing products or services to others who compete with the disclosing party; provided, however, that in the event the receiving party provides products or services which may be competitive with products or services of the disclosing party, or provides products or services to others who compete with the disclosing party, the receiving party will not use Confidential Information of the disclosing party in performing such activities.

6. Non-Solicitation

Both parties acknowledge that effective performance of the Services will require close and frequent contact between each company's personnel, who are an invaluable resource of each party. Each party has invested substantial time and resources in the development of its personnel and has granted to them access to its proprietary and confidential information. Accordingly, so the parties and their personnel may work freely together, the parties agree as follows:

During the term of this engagement, and for a period of one year immediately following the expiration or termination of the engagement for any reason (the "Non-Solicitation Restricted Period"), neither party will, directly or indirectly, for its own benefit or for the benefit of any other individual or entity: (a) employ or hire any Personnel of the other in any capacity (whether as an employee, contractor, consultant or otherwise); (b) solicit or attempt to solicit for employment or hire any Personnel of the other in any capacity; or (c) entice or induce any Personnel of the other to leave his or her or their employment with the other party. Notwithstanding the foregoing, a general solicitation or advertisement for job opportunities that is published without targeting a party's Personnel shall not be considered a violation of 6(b) above.

The term "Personnel" means any individual who is or was, at any time during the six-month period prior to solicitation or other activity prohibited above, employed by a party.

7. No License

The parties acknowledge and agree that: (a) each party maintains that its Confidential Information contains valuable trade secrets; and (b) all rights to Confidential Information are reserved by the Disclosing Party. The parties also understand that no patent, copyright, trademark or other proprietary right or license is granted by this Agreement.

8. Right to Disclose

Each party warrants that it believes that (i) it is the owner or licensee of its Confidential Information and (ii) it has the right to enter into this Agreement without any breach of its obligations to others. Each party (a) makes no other warranty relating to its Confidential Information and the use to be made thereof by the other party and (b) disclaims all implied warranties.

9. No Warranty

Neither the Disclosing Party nor its representatives make any representation or warranty, express or implied, as to the accuracy or completeness of its Confidential Information. The Receiving Party agrees that neither the Disclosing Party nor its representatives shall have any liability to the Receiving Party relating to or resulting from the use of the Disclosing Party's Confidential Information or any errors or omissions therein.

10. Use of Name

Neither party shall use the name of the other party, or any staff member or other employee of such other party, in advertising or other promotional material, without such other party's prior written consent.

11. No Assignment

Neither party may assign this Agreement, whether by operation of law or otherwise, without the prior written consent of the other party. Each party's rights and obligations under this Agreement will bind and inure to the benefit of its respective successors, heirs, executors, administrators, and permitted assigns.

12. Entire Agreement

This Agreement constitutes the entire agreement between the parties. All prior agreements, understandings, and proposals, oral or written, between the parties relating to Confidential Information are superseded by this Agreement. This Agreement may only be modified or amended by a writing signed by both parties. Both parties explicitly acknowledge and agree that any subsequent oral agreements, oral understandings, and oral proposals are null and void.

13. Waiver and Severability

No provision of this Agreement will be waived and no breach excused unless the waiver or consent is in writing and is signed by the party that is claimed to have waived or consented. If any provision of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, in whole or in part, the remaining provisions will continue in full force and effect as if the Agreement has been executed without the invalid provision.

14. Governing Law

This Agreement shall be governed and construed in accordance with the laws of Texas, without regard to conflict of law principles. Any controversy or claim arising out of or relating to this Agreement or the breach thereof, whether involving remedies at law or in equity, shall be

adjudicated in Ector County, Texas, or in Federal courts with jurisdiction over Ector County, Texas.

15. Future Agreements

This Agreement is not intended to and does not obligate either party to enter into negotiations, discussions, or any other activities regarding any opportunities, arrangements, or agreements with the other party. Any decision to enter into such activities shall be made by each party in its sole discretion. Any such decisions to enter into arrangements, agreements, or contracts will be negotiated and recognized under separate contractual documentation.

16. Notices

Any notices or other communication shall be in writing, and will be considered to have been given if delivered by hand or sent by certified United States mail, return receipt requested, or by commercial courier service to the other party at the address stated above or to such other address as may be specified by either party in a notice to the other. Notice is effective upon receipt.

17. Negotiation and Execution

This Agreement has been negotiated by both parties and shall not be strictly construed against either party. This Agreement may be executed in one or more original, or faxed or electronically transmitted counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

For: Community Training and Assistance Center

For: Ector County Independent School District

William J. Slotnik
Chief Executive Officer

Scott Muri
Superintendent

Date

Date