

## SERVICES AGREEMENT

THIS SERVICES AGREEMENT (“Agreement”), executed the 1<sup>st</sup> day of July, 2021 (the “Effective Date”), is made by and between National Board for Professional Teaching Standards, a Delaware non-stock corporation (“NBPTS”) and **Ector County Independent School District (ECISD), TX**, (the “Consultant”), with NBPTS and Consultant each, a “party” and, collectively, the “parties”.

WHEREAS, NBPTS desires to engage the Consultant to perform the services described in Section 1 below (the “Services”), and Consultant is experienced in providing the Services and wishes to perform the Services as set forth in this Agreement;

NOW, THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Services. Consultant agrees provide the following Services to NBPTS in a professional manner acceptable to NBPTS:

- As detailed in Exhibit A, Consultant will provide appropriate staffing to provide day-to-day operations of the project; supporting approximately 5% of the district’s teachers in ECISD (TX) in pursuing National Board Certification.
- As detailed in Exhibit A, Consultant will manage virtual or in-person candidate support, select, train, and coordinate candidate mentors, facilitate planning of school principal training, and integrate Professional Learning Facilitator mentors, Professional Learning Facilitators, and candidates into NBPTS programming for the district
- Consultant is responsible for receiving payment from NBPTS for Project work, monitoring and reporting budget expenditures and progress toward deliverables, and maintaining appropriate records and documentation as described in the Agreement.

2. Term and Termination. The term of this Agreement (“Term”) commences on the Effective Date and, unless earlier terminated, expires on the date Consultant provides all of the Services in accordance with Section 1, but in no event later than **June 30, 2022**. Consultant agrees that time is of the essence in performance of the Services. Notwithstanding the scheduled expiration of the Term, either party may voluntarily terminate this Agreement at any time prior to the expiration of the Term on the provision to the other party of 30 days’ written notice. In addition, NBPTS may, by written notice to Consultant, immediately terminate this Agreement for cause if Consultant materially breaches or defaults under this Agreement (other than by reason of a material breach or default by NBPTS under this Agreement). In the event of any termination prior to the scheduled expiration of the Term, NBPTS shall have no further obligation to Consultant to pay any remaining Fees and, to the extent the Services are not yet rendered, Consultant shall immediately return any unapplied portion of the Fees already paid by NBPTS pursuant to Section 3 of this Agreement.

3. Compensation and Reimbursement of Expenses. In consideration for performance of the Services, within 30 days receipt of Consultant’s invoice, NBPTS shall pay Consultant in accordance with Exhibit A attached hereto, up to a maximum amount of **\$162,620.00** (the “Fees”). Consultant will provide NBPTS with a Form W-9 and necessary bank information to facilitate payments. At NBPTS’ discretion, payments to Consultant may be made by ACH transfer. In addition to the Fees, to the extent approved in advance and in writing by NBPTS, and reflected on Consultant’s invoice, NBPTS shall reimburse Consultant for reasonable and necessary out-of-pocket expenses actually incurred on behalf of NBPTS and directly related to the Services.

4. Travel. Travel will be reimbursed in accordance with NBPTS’s Travel Policy, which will be made available upon request. Consultant shall obtain prior approval from NBPTS prior to traveling on NBPTS’s expense. NBPTS will reimburse reasonable and necessary expenses incurred in connection with approved travel. Expenses will be only be reimbursed when not reimbursed from other sources. When making arrangements, Consultant shall incur the lowest reasonable travel expenses available. For purposes of this Agreement, “lowest reasonable travel expense” means coach or economy designation for airfare or train travel, mid-size or smaller rental vehicles, taxi services or airport shuttles, and moderately priced hotels (i.e., daily rate not to exceed \$150/night). It does not require a “red-

eye” or similar means of travel. The following expenses are unallowable unless pre-authorization has been provided: round trip flights in excess of \$600; accommodations in excess of \$150; meals in excess of \$50. Car services are only allowable if less costly than taxi service or airport shuttle. Train, bus and automobile mileage (at the prevailing Internal Revenue Service reimbursable rate) expenses will be reimbursed only when such travel does not exceed the cost of the lowest roundtrip airfare. NBPTS reserves the right to withhold reimbursement if in NBPTS’s sole discretion, it believes that the expenditures are inappropriate or extravagant. In the event that an exception to the policy is necessary, such request must be made in writing and approved by a member of NBPTS Senior Staff at least five days in advance of the expected travel. For reimbursement, Consultant shall submit all original **itemized** receipts along with a completed NBPTS Expense Report Form with the invoice. Expense reimbursements must be submitted monthly for the prior month. Untimely reimbursement requests may be rejected by NBPTS.

5. Relationship of Parties. The parties hereto expressly agree they are not partners or joint venturers of each other, and that the relationship created hereunder is that of independent contractor and not of employer-employee. In particular (and not by way of limitation), Consultant expressly agrees that NBPTS has no responsibility whatsoever to collect or withhold any monies from Consultant for purposes of complying with any worker’s compensation laws, disability and unemployment insurance laws, Social Security tax laws, wage and hour laws, State or Federal income tax laws, or any other applicable employment-related tax laws.

6. Quality Control. In order to protect NBPTS’s goodwill, name, reputation and image, Consultant covenants and agrees to conduct its activities relating to the performance of the Services and its obligations under this Agreement in accordance with (a) the highest professional and ethical standards, (b) the law, (c) the terms and conditions of this Agreement, and (d) a manner that otherwise upholds and maintains the goodwill, name, reputation and image of NBPTS.

7. Ethics Compliance. NBPTS is committed to the highest standards of ethical conduct and does not intend to create even the appearance of impropriety or a perceived conflict of interest when providing a payment or other benefits to an individual who works for a government entity, school, or school district (or similar entity), and NBPTS recognizes that Consultant is committed to the same standards. NBPTS also recognizes that some States and/or schools or school districts may have laws, policies, regulations, or rules, including with respect to potential conflicts of interest, prohibiting or limiting employees of schools or school districts from receiving compensation for services or reimbursement for food, beverage, transportation, and other expenses (collectively “Regulations”). Certain of these Regulations may also require disclosure of Consultant’s relationship to third-party providers, such as NBPTS, or create a potential conflict of interest when deciding about the adoption or purchase of NBPTS’s products and services. Consultant agrees that Consultant’s participation in the Services complies with all Regulations, does not require disclosure by Consultant or by NBPTS, that Consultant is authorized to make these representations, and that Consultant will notify NBPTS at any time if Consultant is, or becomes subject to, any Regulations. Consultant also agrees to consult with the appropriate district official, superintendent, designated ethics official, or legal counsel with Consultant’s institution of employment to verify that Consultant may engage in the work pursuant to this Agreement and receive payment and items of value from NBPTS. If NBPTS becomes aware that Consultant’s receipt of these items violates any applicable Regulations or otherwise requires disclosure, Consultant understands that NBPTS may request reimbursement from Consultant for the value of the items provided.

8. Ownership and Non-Disclosure and Non-Use of Confidential Information. Consultant acknowledges and agrees that all “Confidential Information” and “Trade Secrets” (each as defined below) of NBPTS, and all physical embodiments thereof, are confidential to and shall be and remain the sole and exclusive property of NBPTS. Upon request by NBPTS, and in any event upon termination of this Agreement for any reason, as a prior condition to receiving any final payment of Fees or reimbursements, the Consultant shall promptly deliver to NBPTS all property belonging to NBPTS including, without limitation, all Confidential Information and Trade Secrets of NBPTS (and all embodiments thereof) then in the Consultant’s custody, control or possession; provided, however, that

any withholding of payment shall not be considered as satisfaction or a release of or liquidated damages for any claims for damages against the Consultant which may accrue to NBPTS as a result of any breach of this Section 6 by the Consultant. For purposes of this Agreement, “Confidential Information” means any and all confidential and/or proprietary knowledge, data or information of NBPTS and includes (but is not limited to): (i) inventions, technical information, technical drawings and designs, or schematics; (ii) proposal or marketing information, prospects and market research data; research, research plans, marketing strategies (including economic and market data and research selection and analysis strategies); (iii) financial information, cost and performance; (iv) information concerning NBPTS personnel, skills or compensation of other personnel or contractors, personnel lists, resumes, organizational structure, or performance evaluations; (v) client, vendor or supplier information, information regarding the existence or terms of any agreement or relationship between NBPTS and any client, vendor, supplier or any other party; and (vi) any other information of whatever nature or kind, which gives to NBPTS an opportunity to obtain an advantage over its competitors who or which do not have access to such information. Notwithstanding the foregoing, Confidential Information shall not include: (a) information which is or becomes generally available to the public, provided that it does not become generally available to the public as a result of Consultant’s action or failure to act, or (b) information that was in Consultant’s possession or known to Consultant without restriction prior to receipt from NBPTS. For purposes of this Agreement, the term “Trade Secrets” shall have the same meaning as “trade secret” as defined in the Virginia Uniform Trade Secrets Act. Consultant agrees, in the case of Confidential Information, for five (5) years following the expiration or earlier termination of this Agreement and, in the case of Trade Secrets, for the life of the trade secret, without the prior written consent of NBPTS, that Consultant shall not disclose or make available any Confidential Information or Trade Secret to any person or entity or make or cause to be made or permit or allow, either on Consultant’s behalf or on behalf of others, any use of any Confidential Information or Trade Secret other than in the proper performance of the Consultant’s duties hereunder. NBPTS agrees that the Consultant is not prohibited hereby from disclosing or using any Confidential Information or Trade Secret which the Consultant is required to disclose pursuant to a requirement of a governmental agency or of law without similar restrictions or other protections against public disclosure, provided, however, that the Consultant shall first have given written notice of such required disclosure to NBPTS and have taken reasonable steps to allow NBPTS to seek to protect the confidentiality of the information required to be disclosed.

9. Ownership of Work Product. Consultant hereby assigns and transfers to NBPTS any right that Consultant may have or acquire in such Confidential Information, work product, deliverables, and inventions that Consultant uses or develops individually, jointly, or with others, in whole or in part, during the course of Consultant’s performance under this Agreement (“Developed Works”), and any worldwide intellectual property rights therein, including, but not limited to, patents, trademarks and goodwill associated therewith, copyrights, trade secrets and other intellectual property rights including the right to sue and collect damages for past infringements of the same (hereinafter collectively referred to as “Intellectual Property Rights”) and including, but not limited to improvements, derivative works, continuations, continuations-in-part, reissues thereof and/or all other changes and/or improvements thereof, whether in existence at the time of the execution of this Agreement and/or created by Consultant during the course of

Consultant's performance under this Agreement, without further remuneration or royalty and shall be and remain the exclusive property of NBPTS, its successors and assigns; provided, however, the foregoing shall not apply to any work product developed solely and entirely on Consultant's own time and which is unrelated to Consultant's performance of this Agreement ("Unrelated Developed Works"); provided that, Consultant agrees to immediately disclose to NBPTS of all Unrelated Developed Works. Consultant agrees to immediately disclose and provide copies to NBPTS (in a mutually agreeable format) of all Developed Works as they are created. Consultant further agrees to execute any and all documents and/or instruments requested by NBPTS, both during and after Consultant's performance under this Agreement, to vest NBPTS with all ownership rights in the Developed Works, including but not limited to, all papers and documents necessary or advisable for the preparation, filing, prosecution, procurement and maintenance of Intellectual Property Rights for such Developed Works to which NBPTS is entitled pursuant to this Agreement. Consultant understands that all expenses in connection with Intellectual Property Rights, any and all applications related thereto, and the enforcement thereof shall be borne by NBPTS, but NBPTS shall be under no obligation to protect by any Intellectual Property Rights with regard to any such Developed Works, except to such extent as NBPTS shall deem desirable in its sole and absolute discretion. If any Developed Works can be protected by copyright, (a) as to that which falls within the designation of "work made for hire" as defined in 17 U.S.C. §101, the copyright of such Developed Works shall be solely, completely, and exclusively for NBPTS, and (b) as to any Developed Works which do not constitute "work made for hire", the copyright to such Developed Works shall be deemed to be assigned and transferred completely and exclusively by Consultant to NBPTS pursuant to this section of this Agreement. NBPTS shall have no claim to Unrelated Developed Works. In addition, Consultant does hereby represent and warrant to NBPTS that (i) Consultant is the original author, inventor or otherwise the sole and exclusive creator and owner of the Intellectual Property Rights in the Developed Works; (ii) the Developed Works do not infringe upon the copyright, trademark, or any other Intellectual Property Rights or other proprietary rights of any third party; and (iii) to the extent that the Developed Works contain any names, images, likenesses, or work of any student or other individual, Consultant has secured written permission from that student or individual, or if the student or individual is a minor, then from such person's parent or guardian, to use and permit NBPTS to use such names, images, likenesses, or work of any student or other individual in Developed Works.

10. Limitation on Liability, Indemnification [and Set-Off]. NBPTS shall not be liable under any contracts or obligations of Consultant, apart from this Agreement, or for any acts or omissions of Consultant or its officers, employees and agents. Consultant agrees to indemnify and hold harmless NBPTS and its affiliates or subsidiaries, all of its or their directors, officers, agents, contractors, volunteers, employees and/or other related parties, from any and all claims, losses, damages, demands or liabilities, and costs (including reasonable attorneys' fees) in any manner caused by or arising out of Consultant's performance of this Agreement, except to the extent that such claims, losses, damages, demands, liabilities or costs, are caused by or arise from the gross negligence or willful misconduct of NBPTS or its affiliates or subsidiaries. In the event that the Consultant shall breach any of the covenants set forth in this Agreement and incur damages, NBPTS shall have the right to set off against any Fees otherwise due to Consultant.

11. Agreements Supporting Federal Government Prime Contracts. If this Agreement is in support of a federal government prime contract, then the following shall apply: **This contractor and any subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), 60-741.5(a), and Executive Order 13496 (29 CFR Part 471, Appendix to Subpart A). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, gender identity, sexual orientation, national origin, protected veteran status or disability.**

12. Books and Records. Consultant shall maintain complete and accurate books and records, including of actual hours spent by Consultant to perform the Services. NBPTS shall have the right to examine such books and records during regular business hours.

13. N/A.

14. Contracts or Other Agreements with Former Employers or Clients of Consultant. Consultant warrants and represents that its performance under this Agreement is not in violation of, and will not violate, any contract, covenant or agreement of any kind (a) with any other person or entity (including any former client or employer); or (b) any obligation to keep in confidence proprietary information acquired in confidence prior to entering into this Agreement

15. Certain Funded Services. In certain cases, NBPTS may receive funding for the Services through one or more grants from one or more governmental agencies (hereinafter collectively "Concerned Funding Agency or Agencies"). In connection therewith, Consultant shall comply with all applicable policies and regulations of NBPTS and any Concerned Funding Agencies. In the case of such funded Services, upon reasonable advance notice to Consultant during the Term of this Agreement and for a period of three (3) years after termination or expiration thereof, the NBPTS, its independent accountants, any Concerned Funding Agencies, and the Comptroller General of the United States, or their designated representatives, shall have the right, during normal business hours, to audit and inspect Consultant's books and records to verify any and all fees paid or payable pursuant to this Agreement, and to verify compliance with the terms and conditions of this Agreement. Consultant shall cooperate with any such inquiry, audit, review, or investigation. The foregoing three-year period above shall be tolled during the pendency of any such inquiry, audit, review, or investigation, or any dispute arising in connection therewith. In the event of any termination or suspension of any contract, work order, or agreement between NBPTS and any other person under which Consultant is performing or shall perform Services, NBPTS may terminate this Agreement or suspend performance.

16. Miscellaneous:

(a) Waiver of Breach: The waiver by NBPTS of a breach of any provision of this Agreement by Consultant shall not operate or be construed as a waiver of any subsequent breach by the Consultant.

(b) Governing Law and Forum: This Agreement shall be construed and administered pursuant to the laws of the Commonwealth of Virginia, exclusive of its conflict of laws rules. The parties agree and stipulate any claim or cause of action arising out of or connected with this Agreement shall be brought solely and exclusively in the U. S. District Court for the Western District of Texas, Ector County, Texas, or the Circuit or General District Court of Ector County, Texas, and the parties consent to submit to personal jurisdiction of such courts, and waive all objections to such jurisdiction and venue.

(c) Assignment: This Agreement may not be assigned by Consultant without the advance written permission of NBPTS.

(d) Survival. It is the express intention and agreement of the parties that all covenants, agreements, statements, representations and warranties made in this Agreement shall survive the execution and delivery of this Agreement, and those set forth in Sections 6, 7, 8, [9], 10, [12], 13, [16](b), [16](g), and in this Section [16](d) shall survive the termination of this Agreement for any reason whatsoever.

(e) Severability: In the event that any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and shall continue in full force and effect.

(f) Limitation on Powers and Benefits: Consultant shall not have, nor shall hold itself out as having, the power to make contracts in the name of, or binding on, NBPTS, or pledge NBPTS's credit or to extend credit in the name of NBPTS or to take any act which might bind or otherwise obligate NBPTS in any manner whatsoever. It is the explicit intention of the parties that no person or entity other than the parties hereto is or shall be entitled to bring any action to enforce any provision of this Agreement against any party, and that the covenants, undertakings and agreements set forth in this Agreement shall be solely for the benefit of, and shall be enforceable only by, the parties hereto.

(g) Construction: This Agreement shall be interpreted in accordance with its plain meaning, and the rule that ambiguities shall be construed against the drafter of the document shall not apply in connection with

the construction or interpretation hereof. The parties expressly agree that the principle of contract interpretation that ambiguities are construed against the drafting party shall not apply.

(h) Entire Agreement: This Agreement (inclusive of any exhibits or attachments that may be referenced and are thereby incorporated herein and made a part hereof) contains the entire understanding of the parties with respect to the subject matter hereof. All prior promises, understandings, or agreements are merged herein. It may not be changed orally, but only by written agreement of the parties.

IN WITNESS WHEREOF, the parties have set their hands and seals on the day and year first above written. This Agreement may be executed by counterparts.

**NBPTS, Inc.**

**Ector County Independent School District  
(ECISD), TX**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Peggy Brookins

\_\_\_\_\_  
Name

Name

President and CEO

\_\_\_\_\_  
Title

Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Michael Harris

Name

V.P. Finance, People, and Administration

Title

\_\_\_\_\_  
Date

NB Approver (initials) \_\_\_\_\_

EXHIBIT A

STATEMENT OF WORK

Dated: 5/31/2021

- 1) Background. The National Board for Professional Teaching Standards (National Board) in partnership with the Permian Strategic Partnership and Ector County ISD (ECISD), TX will expand and accelerate the work of ensuring all students in the Permian Basin region are taught by accomplished teachers. The day-to-day operations of the initiative will be carried out locally by Ector County ISD. The initiative will support approximately 5% of district teachers in Ector County ISD in Texas in pursuing National Board Certification. The result of this partnership will be a significant increase in the number of accomplished, Board-certified teachers in the targeted districts. In turn, this will lead to increased student learning; enhanced instructional practice, collaboration and community; and increased attraction among local families to local schools and to the community.
- 2) Description of Project and Results to Be Achieved. NBPTS will engage the Consultant to provide the day-to-day operations of the *Recruiting, Retaining, and Supporting National Board Certified Teachers in Southeast New Mexico and West Texas* project. The Scope of Work for the Project is:

- a. Consultant will attend regular status update calls, and other meetings as requested by NBPTS.
- b. Consultant will provide staffing capacity for project planning, coordination, and implementation

i. ECISD Staff Coordinator	\$35,000
ii. PLF Mentor Stipend	\$2,500

- c. Consultant will engage in programmatic work to inform and advance the Project objectives as specified in the Background section above by utilizing the following strategies:

PLF Mentor Travel	\$5,000
Host PLF Training for 12 PLFs	\$5,000
Contract Candidate Support through Stanford National Board Resource Center \$800 per candidate up to	\$88,000
Professional Development/New Mexico National Board Conference Attendance	\$7,320
Host Principal Training	\$7,000
ECISD Network Travel or Virtual Resource Development and Delivery	\$7,500
Miscellaneous Costs, including but not limited to printing, shipping, general recruitment materials	\$3,300
Unallocated Site Funds	\$2,000

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Total contract amount (b and c) \$162,620

- d. Ector County ISD will submit a list of candidates from Ector County ISD undergoing the National Board certification process (Name, Candidate ID, Component selection(s)) to NBPTS to provide monetary support from the Permian Strategic Partnership (PSP) project. NBPTS will be responsible for submitting the payment information to Pearson via third-party-payer web form and will let ECISD know when completed.

- 3) Deliverables. Consultant will be responsible for reporting progress towards identified accomplishments and milestones in a monthly report. NBPTS will verify the report has been completed before processing the invoice for payment. In addition, Consultant will provide support, as necessary, to NBPTS in the preparation and development of reports and updates, including reports to the NBPTS Board of Directors and updates to the Permian Strategic Partnership.
- 4) Billing and Payment.
  - a. Payment Process. Consultant shall be responsible for submitting timely and valid invoices monthly to NBPTS for payment. NBPTS will pay the Consultant within 30 days of receipt of a valid invoice. Each invoice shall identify the expenses, associated budget activity, and all applicable documentation. Payment and acceptance will be made in accordance with Sections 2 and 4 of this Agreement.
  - b. Total Payments. A total amount of up to \$162,620 is expected to be paid to the Consultant over the course of the expected Project Year. All activities must be completed by June 30, 2022 in order to be reimbursed.
- 5) Expected Project Year: July 1, 2021 to June 30, 2022
- 6) Project Changes. Any changes to the project scope and objectives issued or requested by NBPTS, or requested by the Consultant and approved by NBPTS in accordance with this provision, that impact the project cost, the project deliverables, or the percentage billed will be adjusted by written agreement of all Parties.