

**JEFFERSON COUNTY PUBLIC SCHOOLS
CONTRACT FOR THE PROCUREMENT OF PROFESSIONAL SERVICES**

THIS CONTRACT FOR PROCUREMENT OF PROFESSIONAL SERVICES (hereinafter "Contract") is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION (hereinafter "Board"), a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 and Texthelp Inc. (hereinafter "Contractor"), with its principal place of business at 600 Unicorn Park Drive, Woburn, MA 01801.

WITNESSETH:

WHEREAS, the Board desires to procure the particular services of Contractor, which are more fully defined below; and

WHEREAS, Contractor has held itself out to be competent and capable of performing the services contracted for herein;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter set forth, the Board and Contractor (hereinafter "Parties") agree as follows:

ARTICLE I

Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations, either oral or written, between the Parties before the effective date of this Contract. This Contract may not be amended or modified except in writing as provided in Article VIII. This Contract is supplemented by the Board's Procurement Regulations currently in effect (hereinafter "Regulations") that are incorporated by reference into and made a part of this Contract. In the event of a conflict between any provision of this Contract and any provisions of the Regulations, the Regulations shall prevail.

ARTICLE II

Services

Contractor agrees to perform the following services (hereinafter "Services") of a quality and in a manner that is within the highest standards of Contractor's profession or business. The Services are as follows:

The Contractor will provide training to General and Special Education Teachers from Jefferson County Public Schools (JCPS) within the contract period of August 15, 2014 to June 30, 2015. The cost for the six one-day on-site trainings and two webinar sessions lasting three hours each shall be \$12,000. Dates and locations of all trainings to be agreed upon by JCPS and Contractor. The quote containing cost and details of the training is attached and incorporated herein by reference.

ARTICLE III Compensation

The Board shall pay Contractor the total amount stated below (hereinafter "Contract Amount"). The Contract Amount shall be paid in a lump sum upon completion of the Services, unless a schedule of progress payments is stated below. The Contract Amount shall be for total performance of this Contract and includes all fees, costs and expenses incurred by Contractor including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs and other costs, unless otherwise stated below. To receive payment, Contractor must submit an itemized invoice or invoices. If progress payments are authorized, each invoice must specify the actual work performed. If payment of costs or expenses is authorized, receipts must be attached to the invoice.

Contract Amount:	<u>"\$12,000"</u>
Progress Payments (if not applicable, insert N/A):	<u>N/A</u>
Costs/Expenses (if not applicable insert N/A):	<u>N/A</u>
Fund Source:	<u>IDEA Part B CEIS</u>

ARTICLE IV Term of Contract

Contractor shall begin performance of the Services on August 15, 2014 and shall complete the Services no later than June 30, 2015, unless this Contract is modified as provided in Article VIII.

ARTICLE V Performance of Services by Contractor

The Services shall be performed by Contractor, and in no event shall Contractor subcontract with any other person to aid in the completion of the Services without the prior written approval of the Contract Administrator defined below.

Contractor shall appoint one person who shall be responsible for reporting to the Board on all Services performed under the terms of this Contract and who shall be available for consultation with the Contract Administrator.

Contractor is an independent contractor, not an employee. Contractor is responsible for the payment of all federal, state and local payroll taxes and providing unemployment insurance and workers compensation coverage to Contractor's employees. Contractor shall provide all equipment, materials and supplies necessary for the performance of the Services.

Contractor shall at all times during the term of this Contract comply with all applicable laws, regulations, rules and policies. Contractor shall obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

Contractor agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation, including the Contractor himself, in connection with the performance

of this Contract. Contractor also agrees to hold harmless, indemnify, and defend the Board and its members, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to Contractor in connection with the performance of this Contract. This provision survives termination of this Contract.

Unless waived in writing by the Contract Administrator, Contractor shall maintain during the term of this Contract policies of primary insurance covering the following risks and in at least the following amounts: commercial general liability, including bodily injury, property damage, personal injury, products and completed operations, and contractual, \$1,000,000; and automobile liability, \$1,000,000. Contractor shall furnish to the Contract Administrator certificates of insurance evidencing this coverage and naming the Board as an additional insured. Additionally, Contractor shall maintain workers compensation coverage with limits required by law; and professional errors and omissions coverage with minimum limits of \$1,000,000. Contractor shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

ARTICLE VI Equal Opportunity

During the performance of this Contract, Contractor agrees that Contractor shall not discriminate against any employee, applicant or subcontractor because of age, color, creed, disability, marital or parental status, national origin, race, sex, veteran status, religion, or political opinion or affiliation. If the Contract Amount is paid from federal funds, this Contract is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is hereby incorporated by reference into this Contract as if set forth in full herein.

ARTICLE VII Prohibition of Conflicts of Interest

It shall be a breach of this Contract for Contractor to commit any act which is a violation of the provisions of Article XI of the Regulations entitled "Ethics and Standards of Conduct," or to assist or participate in or knowingly benefit from any act by any employee of the Board which is a violation of such provisions.

ARTICLE VIII Changes

The Board and Contractor may at any time, by mutual agreement set forth in a written addendum, make changes in the definition of the Services; the scope of the Services; and the Contract Amount. The Contract Administrator and Contractor may, at any time, by mutual agreement set forth in a written addendum, make changes in the time within which the Services are to be performed; the schedule of Progress Payments; and mutual Termination of the Contract.

ARTICLE IX Termination for Convenience of the Board

The Board may terminate this Contract in whole or in part at any time by giving written notice to Contractor of such termination and specifying the effective date thereof, at least thirty (30) days before the specified effective date. The Board shall compensate Contractor for Services satisfactorily performed through the effective date of termination.



ARTICLE X

Termination for Default

The Board may, by written notice of default to Contractor, terminate the whole or any part of this Contract, if Contractor breaches any provision of this Contract, or so fails to make progress as to endanger performance of this Contract, and in either of these circumstances, does not cure the breach or failure within a period of five (5) days after receipt of notice specifying the breach or failure. In the event of termination for default, the Board may secure the required services from another contractor. If the cost to the Board exceeds the cost of obtaining the Services under this Contract, Contractor shall pay the additional cost. The rights and remedies of the Board provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE XI

Disputes

Any differences or disagreements arising between the Parties concerning the rights or liabilities under this Contract, or any modifying instrument entered into under Article VIII of this Contract, shall be resolved through the procedures set out in the Regulations.

ARTICLE XII

Contractor's Work Product

Unless waived in writing by the Contract Administrator, the Board shall retain ownership in and the rights to any reports, research data, creative works, designs, recordings, graphical representations or other works of a similar nature (hereinafter "Works") produced or delivered by Contractor under this Contract. Contractor agrees that the Works are "works for hire" and Contractor assigns all right, title and interest in the Works to the Board.

Any reports, information, data, etc. given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of the Board. Provided, nothing in this Article may be used to violate the provisions of any Kentucky or Federal statute or regulation which requires reporting of information.

ARTICLE XIII

Contract Administrator

The Board shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to the Contract. If Contractor and the Contract Administrator disagree on any circumstance or set of facts pertaining to the administration or execution of this Contract, the Board shall resolve the matter after notification by either the Contract Administrator or the Contractor in the manner prescribed by the Regulations. If the Board fails to give notice to Contractor of the appointment of a Contract Administrator, the Contract Administrator shall be the Board's Chief Financial Officer.

ARTICLE XIV

Right to Audit

The Board shall have the right to inspect and audit all accounting reports, books or records which concern the performance of the Services. Inspection shall take place during normal business

hours at Contractor's place of business. Contractor shall retain all records relating to the performance of this Contract for five (5) years after the end of the term of this Contract.

ARTICLE XV
Miscellaneous

- A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.
- B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.
- C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.
- D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky.
- E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.
- F. At all times during the term of this Contract, Contractor shall comply with the Family Educational Rights and Privacy Act of 1974. If Contractor has access to student records, Contractor shall limit its employees' access to those records to persons for whom access is essential to perform this Contract.
- G. Contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Contractor or subcontractor for the duration of this Contract and shall reveal any final determination of a violation by the Contractor or subcontractor of the preceding KRS Chapters.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of September 9, 2014.

Contractor's Social Security Number or Federal Tax ID Number: 061622277

JEFFERSON COUNTY BOARD OF
EDUCATION

Texthelp, Inc.
CONTRACTOR

By: _____

By: _____

Title: Donna M. Hargens, Ed.D.
Superintendent

Title: Jack Dolan
President

Cabinet Member: Dewey Hensley



(Initials)

Jefferson County Public Schools
**NONCOMPETITIVE NEGOTIATION
DETERMINATION AND FINDING**

1. An emergency exists which will cause public harm as a result of the delay in competitive procedures (Only the Superintendent shall declare an emergency.) —

State the date the emergency was declared by the superintendent: _____

2. There is a single source for the items within a reasonable geographic area —

Explain why the vendor is a single source: _____

3. The contract is for the services of a licensed professional, education specialist, technician, or an artist —

State the type of service: Educational Software Consultant

4. The contract is for the purchase of perishable items purchased on a weekly or more frequent basis —

State the item(s): _____

5. The contract is for proprietary item(s) for resale: This can include the buying or selling of item(s) by students when it is part of the educational experience —

State the type(s) of item(s): _____

6. The contract is for replacement parts when the need cannot be reasonably anticipated and stockpiling is not feasible —

State the item(s): _____

7. The contract or purchase is for expenditures made on authorized trips outside the boundaries of Jefferson County Public Schools —

State the location: _____

8. The contract is for a sale of supplies at reduced prices that will afford Jefferson County Public Schools a savings (Purchase must be approved by Director of Purchasing) —

Explain the logic: _____

9. The contract is for the purchase of supplies which are sold at public auction or by receiving sealed bids —

State the items: _____

I have determined that, pursuant to K.R.S. 45A. 380, the above item(s) should be obtained by the Noncompetitive Negotiation Methods since competition is not feasible.

Terry Ray, Director

Print name of person making Determination

Exceptional Child Education

School or Department

Terry Ray

Signature of person making Determination

8/22/14

Date

Texthelp

Name of Contractor (**Contractor Signature Not Required**)

Requisition Number

Explanation of Noncompetitive Negotiation Methods can be found under K.R.S. 45A.380 and on page 15 in the Procurement Regulations

F-471-1

Revised 05/2011



Literacy ■ Language ■ Learning

Quote

Quote must be attached to Purchase Order
F.O.B. Shipping Point

Vendor: Texthelp Inc.
600 Unicorn Park Drive
Woburn, MA 01801
Phone: 888-248-0652
Fax: 866-248-0652

Federal Tax ID# 06-1622277

Sales Person: Jon McPeters
Danielle McPartland
Date: July 31, 2014

School: Jefferson County Public Schools

ATTN: Terry Ray

Address: 332 Newburg Road
Louisville, KY 40218

Phone: 502-485-6270

Prices Effective Until: August 30, 2014

ITEM	Description	Quantity	Price	Extended Price
Read&Write GOLD Training	1 day on-site Professional Development, includes expenses. Training must be scheduled within 12 months of receipt of purchase order. -Hands on training -Maximum 25 participants -Training resource materials will be provided 25% discount applied; for Software Maintenance	6	\$1,875.00	\$11,250.00
Read&Write GOLD Training	One 3-hour webinar training. Webinar must be scheduled within 12 months of receipt of purchase order. 25% discount applied; for Software Maintenance	2	\$375.00	\$750.00

Note1: A copy of the Tax Exempt ID Certificate must accompany Purchase Order if applicable, otherwise sales tax may be charged.

Note2: If paying by credit card, a fee of 2.95% will be assessed on all credit card orders over \$1,000.

Training

\$12,000.00

Approved by customer representative

Texthelp Inc. representative

Rationale for Professional Service Contract with Texthelp, Inc. for Professional Development and Training for the Read & Write Gold Software

Read & Write GOLD (RWG) is a literacy support software tool for students struggling with reading and writing. However, it has other exciting components that can help many students - ECE, ESL, slow learners or even students in the advanced program. This software positively impacts student achievement – giving students the ability to access content and show what they know. This software is being purchased to primarily serve ECE students, however, the license for each school allows RWG to be installed on every computer in the building, allowing all students and especially struggling readers to access the many features offered.

Read & Write GOLD was originally purchased in 2010 with ARRA stimulus funding to support ECE students with disabilities affecting the ability to read appropriately and on grade level. Due to turn over and product changes, it is important to revisit the training supports for RWG. In partnership with TextHelp, training will be presented to teachers and district level school support to ensure appropriate implementation in the classroom. This training will include ECE and regular education teachers, ESL district office support, and ECE district office support. Our Assistive Technology Liaisons will serve as our district trainers and support for the product. Staff will partner with TextHelp to offer face-to-face and web-based training and support. Trainings will focus on the intermediate level to highlight some of the more advanced features including the research and study components.

Read & Write GOLD is very simply a toolbar that floats on the desktop that interacts with any MS Office document, PDF file or internet page. RWG will read text word by word, sentence by sentence or continuously throughout an entire page. This feature works in English or in several other Languages. Any textbook or written document that is in a digital format can become accessible for students with reading disabilities, ESL students or for students who learn best through hearing.

Read & Write GOLD has word completion and word prediction features that help students put their thoughts on paper. This is can be very powerful in helping students show what they truly know.

Read & Write GOLD has many features including Fact Mapper – an outlining tool, Fact Finder – a tool to keep tract of information gathered on the internet and create a bibliography, highlighters that organize content, a talking calculator including a scientific calculator, etc.

These are just a few examples of the potential impact Read & Write GOLD software will have on student achievement in our district. With continuous usage and growth in the number of students and staff accessing the software, students will become more confident with learning new content and ultimately, displaying their knowledge during assessments. Schools should expect to see the achievement gap between general education students and students with disabilities continue to close.

The proposed Professional Service Contract for the training and support is for one fiscal year with the option for three renewals.