

THE STATE OF TEXAS
COUNTY OF EL PASO

§ INTERLOCAL AGREEMENT
§ CONDUCTING EVALUATION OF AFTER-HOURS
§ CHILDCARE NEEDS IN THE EL PASO REGION

This Interlocal Agreement (“Agreement”) is made this 28th day of August, 2023 (“Effective Date”), by and between **EL PASO COUNTY** (“County”), a political subdivision of the State of Texas, and **WORKFORCE SOLUTIONS BORDERPLEX** (“WSB”), acting by and through their respective signatories. Each of the County and WSB are also referred to herein as a “Party” and collectively as the “Parties”.

RECITALS

WHEREAS, The Bill and Melinda Gates Foundation has executed a Grant Agreement/Prime Award to International City/County Management Association (hereinafter referred to as “ICMA”), to implement the Local Government Network Public Good Dissemination/, hereafter referred to as the “Gates Economic Mobility Project.”; and

WHEREAS, the County has been identified as a Subgrantee to the IMCA Gates Economic Mobility Project, which will including working with other subgrantees across the county including identification and prioritization of existing economic mobility tools and needs identified by ICMA members and local governments, adding to the evidence base for effective policies and practices for improving economic mobility; outreach and dissemination of economic mobility resources and leading practices to ICMA members and networks; creation and facilitation of a peer learning cohort on economic mobility policies, programs, and activities; expanding the body of knowledge through network crosswalks and peer learning; measurement and learning to inform future programming; and

WHEREAS, as a subgrantee to ICMA, the County wishes to enter into an agreement with WSB to ensure reliable childcare providers in the region are able to upgrade childcare environments to early childhood education centers to help meet growing demands, with the ultimate objective of evaluating and developing goals, strategies, and efforts that will enhance resilience of the childcare industry in the community; and

WHEREAS, the lack of accessible after-hours care for workers in various industries with shift-based or extended-hour operations significantly impacts workforce availability and productivity, and this issue poses challenges for employers and employees, particularly parents, who struggle to secure reliable childcare arrangements during non-traditional working hours, and addressing this problem is essential to ensure a sustainable and efficient workforce, promote employee well-being, and support a conducive work environment in industries heavily reliant on non-standard working schedules; and

WHEREAS, the WSB, as the local workforce board representing the Texas Workforce Commission, has agreed to complete the general Purpose and Scope of Work described in **Attachment A** for the County;

WHEREAS, Texas Government Code, Chapter 791, authorizes local governments of the state to enter into contracts for governmental functions and services to increase their efficiency and effectiveness;

WHEREAS, the County and WSB specify that each party paying for the performance of these governmental functions or services must make those payments from current revenues available to the paying party;

NOW, THEREFORE, in consideration of the covenants, conditions, and provisions set forth herein, the Parties hereto agree as follows:

SECTION 1. ADOPTION OF RECITALS

The above stated recitals are incorporated herein by reference, are hereby made a part of this Agreement, and shall be as effective as if repeated verbatim.

SECTION 2. PURPOSE AND SCOPE OF SERVICES

- A. **Shared Initiative.** This Agreement defines the cooperative and mutually beneficial relationship among the Parties. Under this Agreement, the Parties seek to achieve the goal of addressing the need for after-hours childcare throughout the El Paso region (hereinafter referred to as the “Shared Initiative”).
- B. **Strategies.** The Parties, through matching County funds as a subgrantee of the IMCA Gates Economic Mobility Project, propose to achieve the Shared Initiative, and promote the public purpose of addressing the need for after-hours childcare throughout the El Paso region through a rigorous research effort as described in Attachment A (“Services”).

Term: The Term of this Agreement is six (6) months, beginning on the Effective Date and ending February 28, 2024, or upon final completion of the study and final disbursement of payment from the County to WSB, whichever occurs first (“Term”).

C. **County Obligations.**

- a. The County will provide a total amount not to exceed thirty thousand dollars (\$30,000.00) (“County Funds”) for the Term of the agreement.
- b. The County shall make one initial payment of twenty thousand dollars (\$20,000.00) to WSB upon submission of a draft report to the County within thirty (30) days. WSB shall invoice the County for the full amount (\$30,000) and the County shall then provide final payment of ten thousand dollars (\$10,000) upon receipt of the final grant funds from ICMA that are associated with the project.
- c. WSB is responsible for providing an invoice to the County that shall be accompanied with supporting documentation in the form of copy of cancelled check, paid invoices, bank account statements, and other documents provided by any vendor. This is not an exhaustive list of documents and WSB shall comply with all requests for documents made by the County.
- d. The County may audit the project for compliance with the Agreement.

D. **WSB Obligations.**

- a. WSB will accept the funds associated with this contract.

- b. WSB will progress according to the timeline and reach the milestones as described in **Attachment B**. Amendments to the timeline and milestone dates may be sent by the WSB to the County for administrative review and concurrence.
- c. WSB will establish and maintain effective internal controls over the use of the County Funds.
- d. WSB will account for the County Funds separately within WSB's general ledger or via separate bank account.
- e. WSB will comply with all municipal ordinances, state and federal laws, and rules and regulations.
- f. WSB commits to providing all requested information and documentation and to fully cooperating with the County's Office of County Administration, El Paso County Auditors, and any other County department for the purpose of monitoring, auditing, and managing the County Funds.
- g. WSB must maintain documentation supporting its procurement practices and purchases. Such supporting documentation must include but it is not limited to:
 - i. Written procurement procedures.
 - ii. Vendor performance monitoring to ensure compliance with the corresponding agreement terms and conditions.
- h. WSB will repay the County any funds that WSB accepts or disburses under the Agreement in violation of this Agreement or in violation of any local ordinance or federal or state law. WSB will have fifteen (15) calendar days from the County's Notice to cure any violation of this Agreement. If WSB fails to cure any such violation within the fifteen (15) calendar days, then WSB will submit repayment to the County on the 15th calendar day from being notified of a violation or demand for repayment is made by the County.
- i. WSB agrees to adhere to the Public Information Act, as is applicable, and maintain the government records as related to the Shared Initiative.
- j. WSB understands that the Public Information Act applies to the Shared Initiative and the Parties of this Agreement.
- k. WSB agrees to preserve and have available all records, receipts, contracts, or documents relating to the Shared Initiative for 5 years after the Termination of this Agreement, or February 28, 2029, whichever occurs first.
- l. WSB commits to cooperating, maintaining, and providing records and information requested by the County for purposes of grant reporting or other accounting needs without unduly delaying. Acceptable time frame for responding to this type of records or information request is four (4) business days.

- m. WSB commits to completing the Shared Initiative in accordance with the description of Services provided in Attachment A: Purpose and Scope of Work.
- n. WSB agrees to follow the closeout procedures below:
 - i. Upon completion of the Shared Initiative and receipt of full payment from the County, WSB shall provide the County with a report (“Report”) documenting the results of the services performed under this Agreement. The Report shall be delivered to the County no later than thirty (30) days after completion of the Services or termination of this Agreement, whichever is earliest.
 - ii. If WSB fails to provide the Report within the timeframe specified in the above listed paragraph, the County may, at its sole discretion, either terminate this Agreement immediately, and seek to recapture any amount paid to WSB, or extend the timeframe for Report delivery upon written agreement of both Parties.
 - iii. Upon delivery of the Report, WSB shall provide the County with any and all data, materials, and other information collected or generated during the Term of this Agreement.
 - iv. The County’s acceptance of the Report shall be deemed to be final and conclusive evidence of WSB’s performance of the Services under this Agreement. Upon receipt of full payment and acceptance of the Report by the County, WSB shall have no further obligations or liabilities under this Agreement.
- E. **Notices.** Any notice required or permitted to be delivered hereunder shall be deemed received when sent in writing, postmarked, and delivered by certified mail, or by hand-delivery or email, with confirmed receipt if via email. All notices are considered received three (3) business days after the postmark date. Parties may change their address by sending a written notice to the other Party. A new address is not official until the change of address notice is received by the other Party, as provided in this section. Upon receipt of proper notification of change of address, the notified Party will send all further notifications to the new address. Parties will address notices as follows:

To the County:

El Paso County
Attn: Betsy C. Keller
El Paso County – County Administration
500 East San Antonio Ave. Suite 302
El Paso, Texas 79901
Email: ChiefAdministrator@EPCounty.com

The County of El Paso Auditors Office
Attn: Auditors Office
800 E. Overland, Room 406

El Paso, Texas 79901
Email: b.parker@epcountytexas.gov

To WSB:

Workforce Solutions Borderplex
Attn: Leila Melendez, CEO
304 Texas Ave. Suite 1400
El Paso, TX 79901

SECTION 3. TERMINATION

- A. The Parties may terminate the Agreement before the expiration of the Term for any of the following reasons:
- a. **For Cause or Convenience.** Either Party may terminate performance under this Agreement, for any or no reason, in whole or in part, upon thirty (30) days' prior written notice to the other Party. Termination of this Agreement does not affect the rights and obligations of the Parties accrued prior to termination. If either Party terminates under this subsection, then WSB will send one final invoice and proof as provided in this Agreement for the Services performed by WSB up to the date of the notice by the County. The County agrees that it will reimburse WSB for any non-cancelable commitments incurred for the Services up to the date of notice as long as the Services comply with this Agreement. In the event that the County terminates this Agreement or, in lieu of termination, continues the Agreement on the condition that certain breaches or defaults of said Agreement are remedied within a period of thirty (30) days, the County will reserve and retain the right to demand reimbursement of funds improperly allocated or spent by WSB.
 - b. **Appropriation of Funds.** The County may terminate this Agreement if the County fails to appropriate sufficient funds necessary to carry out the obligations under this Agreement. If the County terminates under this subsection, then WSB will send one final invoice and proof as provided in this Agreement for the Services performed by WSB up to the date of the notice by the County. The County agrees that it will reimburse WSB for any non-cancellable commitments incurred for the Services up to the date of notice as long as those Services comply with this Agreement.
 - c. **Mutual Agreement.** The Parties may terminate this Agreement pursuant to a mutual agreement signed by both Parties.

SECTION 3. CONTACT REPRESENTATIVES

- A. Each party shall appoint a contact person to serve as the party's point of contract. These representatives shall communicate as needed to ensure the success of this Shared Initiative.
- B. If either party wishes to change the contact representative, that party shall notify the other party immediately within five (5) calendar days and provide the updated information to the other party in writing via e-mail.
- C. The following are the individuals designated as representatives for each party and to be included in all notices.

Workforce Solutions Borderplex

Alma Aranda
Director of Innovation and Development
304 Texas Ave. Suite 1400
El Paso, TX 79901
alma.aranda@borderplexjobs.com

El Paso County

Jose M. Landeros
Director of Strategic Development
El Paso County – County Administration
500 East San Antonio Ave. Suite 302
El Paso, Texas 79901
JLanderos@EPCounty.com

Lorena Rodriguez
Chief Aide
El Paso County – County Administration
500 East San Antonio Ave. Suite 302
El Paso, Texas 79901
LoRodriguez@EPCounty.com

SECTION 4. INDEMNIFICATION

- A. THE COUNTY WILL HAVE THE RIGHT TO INDEMNIFICATION AND/OR CONTRIBUTION FROM ANY OTHER PARTY FOR ANY LOSSES, COSTS, EXPENSES, OR DAMAGES ARISING OUT OF THIS AGREEMENT.**
- B. WSB will not have the right to indemnification or contribution from the County for any losses, costs, expenses, or damages arising from this Agreement.
- C. Each Party must handle any claims resulting from their actions in this Agreement.
- D. WSB agrees that it will be responsible for the acts or omissions of its representatives.

SECTION 5. GENERAL PROVISIONS

- A. No Waiver.** A Party may waive any default without waiving any prior or subsequent defaults. A Party's failure to exercise or delay in exercising any right under this Agreement will not operate as a waiver of such right.
- B. Independent Contractor Relationship.** This Agreement does not create an employee-employer relationship among the Parties. As such, any Party is not subject to the liabilities or obligations another Party obtains under the performance of this Agreement.
- C. Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- D. Confidentiality.** The Parties acknowledge that this Agreement is subject to Chapter 552 of the Texas Government Code (Texas Public Information Act). The release of the Agreement as a whole

or in part must comply with Chapter 552 of the Texas Government Code (Texas Public Information Act).

- E. **Governing Law.** This Agreement is governed by Texas law.
- F. **Venue.** The venue for disputes regarding this Agreement among the Parties will be El Paso County, Texas.
- G. **Severability.** A future finding of invalidity of any provision of this Agreement does not affect the validity of any remaining provisions of this Agreement.
- H. **Headings.** The headings and subheadings of this Agreement are for information purposes only and are not substantive terms.
- I. **Compliance with the Laws.** The Parties will comply with all applicable laws, administrative orders, and any rules or regulations relating to the obligations under this Agreement.
- J. **Force Majeure.** There is no breach of contract should any Party's obligations within this Agreement be delayed due to an act of God, outbreak of hostilities, riot, civil disturbance, acts of terrorism, the act of any government or authority, fire, explosion, flood, theft, malicious damage, strike, lockout, or any cause or circumstances whatsoever beyond any Party's reasonable control. The delayed Party must resume performing its obligations in this Agreement after the reason for the delay is resolved.
- K. **Successors and Assigns.** This Agreement is binding on the Parties and the Parties' successors and assigns. No Party may assign, sublet, or transfer its interest or obligations in this Agreement without the written consent of the other Party.
- L. **Third-Party Beneficiaries.** There are no third-party beneficiaries for this Agreement.
- M. **Provisions Surviving this Agreement.** Representations, releases, warranties, covenants, indemnities, and confidentiality survive past the execution, performance, and termination of this Agreement.
- N. **Representations and Warranties.** The person executing this Agreement on behalf of the Parties have the authority to sign on behalf of their respective Party.

IN WITNESS WHEREOF the Parties have executed this Agreement effective on ____ day
of _____, 2023.

COUNTY OF EL PASO, TEXAS

**WORKFORCE SOLUTIONS
BORDERPLEX**

Ricardo A. Samaniego
El Paso County Judge

Leila Melendez, CEO

APPROVED AS TO CONTENT

Jose M. Landeros
Director of Strategic Development

APPROVED AS TO LEGAL FORM

Claudia J. Aranda
Claudia J. Aranda
Assistant County Attorney