

**INTERLOCAL AGREEMENT BETWEEN TARRANT COUNTY AND
CITY OF ARLINGTON FOR THE TARRANT COUNTY EXPANSION CHILDCARE
FACILITY PROJECT**

This Interlocal Agreement ("Agreement") is between Tarrant County (the "COUNTY"), a political subdivision of the State of Texas, and City of Arlington, a Texas local unit of government (collectively, the "Parties"), and shall be effective upon signature by the Parties ("Effective Date"). The Parties have reviewed this Agreement and agree to the following:

WHEREAS, on March 11, 2020, the World Health Organization declared COVID-19 a worldwide pandemic; and

WHEREAS, on March 11, 2021, President Joseph Biden signed the American Rescue Plan Act ("ARPA") to provide support to state and local governments to respond to the financial impacts of the COVID-19 pandemic; and

WHEREAS, the State and Local Fiscal Recovery Funds ("FRF Funds") authorized through ARPA (C.D.F.A. #21.027) are to be used to mitigate the ongoing effects of COVID-19 and support the nation's pandemic recovery; and

WHEREAS, the COUNTY has received FRF Funds to respond to the continuous impact of COVID-19 as outlined in the Interim Final Rule promulgated by the Department of Treasury ("Treasury"); and

WHEREAS, Treasury has issued guidance for the use of FRF Funds in the form of Frequently Asked Questions and will continue to issue guidance and clarification on the appropriate use of these funds; and

WHEREAS, the COUNTY and City of Arlington both find FRF Funds distributed in accordance with this Agreement meet the eligible uses outlined in the Treasury's Interim Final Rule and additional guidance; and

WHEREAS, the COUNTY and City of Arlington find that the program(s) and related expenditures outlined in this Agreement are eligible under current FRF Funds guidance and rules promulgated by the Treasury and find that the program(s) outlined herein will mitigate the ongoing effects of COVID-19 and support pandemic recovery in Tarrant County; and

WHEREAS, the Interlocal Cooperation Act contained in Chapter 791 of the Texas Government Code provides legal authority for the Parties to enter into this Agreement; and

WHEREAS, during the performance of the government functions and the payment for the performance of those governmental functions under this Agreement, the Parties will make the performance and payment from the current revenues legally available to that Party.

THEREFORE, the Parties agree as follows:

I. SCOPE OF WORK

City of Arlington will construct a childcare facility as outlined in APPENDIX A.

II. DISTRIBUTION OF FUNDS

The COUNTY shall make available up to **\$4,700,00.00 (FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS AND NO CENTS)** to City of Arlington from the COUNTY'S FRF Funds for eligible expenses reflected in APPENDIX A and in accordance with the terms and conditions outlined below.

COUNTY approves and pays reimbursement requests within thirty (30) days of receipt of a complete and accurate request form. Errors in the request form, including insufficient documentation, may result in payment delays. City of Arlington is responsible for submitting a complete and accurate request. Payment is considered made on the date postmarked.

Requests for payment may be submitted no more than once monthly and must contain the following supporting documentation:

- i. Signed Request for Reimbursement form.
- ii. Invoice or draw request from City of Arlington contractor pertaining to request for payment.

City of Arlington must provide to COUNTY, within 30 days of receipt of payment, the following:

- i. Proof of payment of invoice or draw request provided with request for payment.
- ii. Copy of General Ledger reflecting receipt of payment from COUNTY and payment of same amount to City of Arlington contractor.
- iii. Subsequent requests for payment/draw requests may not be submitted until previous requests have been substantiated with the supporting documentation outlined above.

City of Arlington agrees that COUNTY shall have the right to require City of Arlington to repay in full up to **\$4,700,00.00 (FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS AND NO CENTS)** to COUNTY should City of Arlington fail to fulfill the requirements as outlined herein and in APPENDIX A by the Agreement's termination date.

By July 31, 2024, City of Arlington shall provide to the COUNTY a plan to obligate any and all remaining funds by December 31, 2024. Any funds not expected to be obligated by December 31, 2024, shall be recaptured by the COUNTY.

III. TERM AND TERMINATION

This Agreement shall become effective upon signature by both Parties and shall continue in full force and effect until the termination date of June 30, 2026, unless terminated earlier in accordance with this Agreement. If at any time City of Arlington becomes excluded, debarred, or suspended

from any state or federal program, this Agreement automatically terminates effective on the date of the suspension, revocation, or exclusion, and City of Arlington must submit a final, formal statement in the manner set out above and below requesting payment.

The COUNTY may immediately terminate this Agreement, without prior notice, if City of Arlington fails to perform any obligation found herein and the failure:

- i. Creates a potential threat to health or safety: or
- ii. Violated a law, ordinance, or regulation designed to protect health or safety.

Either party may terminate this Agreement without cause giving thirty (30) days written notice to the other party. Upon receipt of notice to terminate, City of Arlington shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Upon termination of the Agreement, all assets purchased under this Agreement shall transfer to the COUNTY.

Within thirty (30) days after receipt of a notice of termination, City of Arlington agrees to submit an invoice showing, in detail, the costs incurred under this Agreement up to and including the date of termination.

Force Majeure: In the event that either Party is unable to perform any of its obligation under the Agreement or to enjoy any of the benefits because of natural disaster, global pandemic, actions or decrees of governmental bodies or communication line failure not the fault of the affected party (referred to as a "Force Majeure Event"), the Party who has been so affected immediately agrees to give notice to the other party and agrees to do everything possible to resume performance. Upon receipt of such notice, the Agreement is immediately suspended. If the period of nonperformance exceeds ten (10) calendar days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been affected may terminate the Agreement immediately by giving written notice to the other Party.

IV. STANDARDS FOR FINANCIAL MANAGEMENT

In accordance with 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, City of Arlington will develop, implement and maintain financial management and control systems, which include at a minimum accurate payroll, accounting and financial reporting records, cost source documentation, effective internal and budgetary controls, and determination of reasonableness, allowability and allocability of costs, and timely and appropriate audits and resolution findings.

City of Arlington shall maintain an effective accounting system, which will:

- i. Identify and record valid transactions.
- ii. Record transactions to the proper accounting period in which transactions occurred.
- iii. Describe transactions in sufficient detail to permit proper classification.

- iv. Maintain records that permit the tracing of funds to a level of detail that establishes that the funds have been used in compliance with Agreement requirements.
- v. Adequately identify the source and application of funds of each grant agreement.
- vi. Generate current and accurate financial reports in accordance with agreement requirements.

V. GENERAL COMPLIANCE REQUIREMENTS

City of Arlington shall observe and comply with all applicable local, state, and federal laws, rules, regulations, ordinances, and requirements, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, non-discrimination laws and regulations, and those set forth in 31 CFR Part 35. City of Arlington shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

VI. DAVIS-BACON REPORTING AND ADDITIONAL REQUIREMENTS

City of Arlington must comply with all Federal and State regulations, including Davis-Bacon and Related Acts Compliance and Monitoring.

Additionally, 2 CFR 200.322 notes that City of Arlington should provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States, including but not limited to, iron, aluminum, steel, cement, and other manufactured products.

VII. MONITORING

City of Arlington agrees that COUNTY will, until the expiration of the federal retention period as referenced in 2 CFR 200.334, have access to and the right to examine at reasonable times any directly pertinent books, papers, and records (e.g., hard copies, computer-generated data) of the City of Arlington involving transactions related to this Agreement. This right to audit also extends to any obligations assigned to any subcontracts or agreements formed between City of Arlington and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of City of Arlington obligations to COUNTY under this Agreement. The City of Arlington agrees that COUNTY will have access during normal working hours to all necessary facilities, staff, and workspace to conduct audits. The COUNTY will provide the City of Arlington with reasonable advance notice of intended audits. The City of Arlington must provide records within ten (10) business days or a mutually agreed upon timeline. City of Arlington may withhold any information that it is mandated to withhold to comply with state or federal law.

VIII. ALLOWABLE COSTS AND AVAILABILITY OF FUNDS

COUNTY payment to City of Arlington does not preclude COUNTY from determining that certain costs were ineligible for reimbursement. If the COUNTY determines that a cost the COUNTY has paid for is ineligible for reimbursement, the City of Arlington will refund the ineligible amount to the COUNTY. COUNTY will determine whether costs submitted by City of Arlington are allowable and eligible for reimbursement. If COUNTY has paid funds to City of Arlington for unallowable or ineligible costs, COUNTY will notify City of Arlington in writing, and City of Arlington shall return the funds to COUNTY within thirty (30) calendar days of the date of this written notice. COUNTY may withhold all or part of any payments to City of Arlington to offset reimbursement for any unallowable or ineligible expenditure that City of Arlington has not refunded to COUNTY, or if required financial report(s) are not submitted by the due date(s).

Further, if at any time, FRF Funds are insufficient or unavailable, then COUNTY, upon providing written notice to City of Arlington, may terminate this agreement without penalty.

IX. INDEPENDENT SINGLE OR PROGRAM SPECIFIC AUDIT

If City of Arlington, within City of Arlington fiscal year, expends a total amount of at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) in federal funds awarded, City of Arlington shall have a single audit or program-specific audit in accordance with 2 CFR Part 200 Subpart F. This federal threshold amount includes federal funds passed through by way of State and local agency awards. City of Arlington must provide a copy of completed single audit, if applicable, to COUNTY no later than 60 days after filing with federal audit clearing house.

X. EQUIPMENT AND REAL PROPERTY

Any purchase of equipment must be consistent with the Uniform Guidance at 2 CFR Part 200 Subpart D. Equipment and real property constructed or acquired under this Agreement must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property constructed or acquired using federal funds shall vest in the non-federal entity.

Procedures for managing equipment and real property must meet the following requirements:

- i. Property records must be maintained that include a description of the equipment or property, a serial number or other identification number, the source of funding for the equipment or property, name of title holder, acquisition date, cost of the equipment or property, percentage of federal participation in the project costs for the federal award under which the equipment or property was acquired, the location, use and condition of the equipment or property, and any ultimate disposition data including the date of disposal and sale price of the equipment or property;
- ii. A physical inventory of the equipment or property must be taken, and the results reconciled with the property records at least once every two (2) years;

- iii. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the equipment or property. Any loss, damage, or theft must be investigated;
- iv. Adequate maintenance procedures must be developed to keep the equipment or property in good condition; and
- v. If the non-federal entity is authorized or required to sell the equipment or property, proper sales procedures must be established to ensure the highest possible return.

When original or replacement equipment or real property acquired under this Agreement is no longer needed or in use for the project or program outlined herein, City of Arlington must request disposition instructions from the COUNTY.

XI. PERFORMANCE MEASUREMENT AND REGULAR REPORTING

City of Arlington shall provide monthly reports to COUNTY as outlined in APPENDIX B. Additional measures may be established and reported on as mutually agreed to by City of Arlington and COUNTY. City of Arlington will submit fiscal, progress, programmatic, and other reports as requested by COUNTY in the approved format.

XII. DEBARMENT AND SYSTEM FOR AWARD MANAGEMENT

City of Arlington is not entitled to receive payment under this Agreement for services performed by any personnel who have been excluded, debarred, or suspended under a federal program, unless given explicit permission by the COUNTY. City of Arlington agrees to maintain an active registration in the System for Award Management (SAM.gov).

XIII. SUBCONTRACTING AUTHORITY

City of Arlington may enter contracts as necessary for the performance of the scope of services outlined in this Agreement. City of Arlington agrees to comply with all applicable purchasing laws in choosing subcontractors and executing any contracts pursuant to this Agreement. City of Arlington must ensure that all subcontractors have not been excluded, debarred, or suspended under a federal program and all subcontractors must maintain an active registration in the System for Award Management (SAM.gov).

XIV. ASSIGNMENT

City of Arlington may not assign all or any part of its rights, privileges, or duties under this Agreement without the prior written approval of the COUNTY. Any attempted assignment of same without approval shall be void and shall constitute a breach of this Agreement. It is agreed that the COUNTY has the right to inspect and approve in writing any proposed subcontracts between City of Arlington and any subcontractor engaged in any activity in conjunction with projects contemplated under this Agreement prior to any changes being incurred.

XV. DOCUMENTATION

City of Arlington shall keep and maintain, for a period not less than five (5) years after December 31st, 2026, all records relating to use of the FRF Funds described herein.

XVI. FORM 1295 COMPLIANCE

Form 1295 Certificate of Interested Parties is not required because this agreement is with a governmental entity.

XVII. ANTI-BOYCOTT STATUTES

City of Arlington must adhere to Anti-Boycott Statutes if City of Arlington is a for-profit entity or business; City of Arlington has ten (10) or more full-time employees; and/or this Agreement has a value of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) or more that is to be paid wholly or partly from public funds of the government entity.

i. Boycott of Energy Companies Prohibited

In compliance with Section 2276.02 of the Texas Government Code, City of Arlington verifies that it does not boycott energy companies and will not boycott energy companies during the term of the above-described agreement. "Boycott energy company" is defined in Section 809.001(1) of the Texas Government Code (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

ii. Boycott of Israel Prohibited

In compliance with Section 2271.002 of the Texas Government Code, City of Arlington verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement. "Boycott Israel" is defined by the Texas Government Code in Section 808.001(1).

iii. Discrimination Against Firearm Entities or Firearm Trade Associations (FTAs)

In compliance with Section 2274.002 of the Texas Government Code, City of Arlington verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or FTA; and will not discriminate during the term of the above-described Agreement against a firearm entity or FTA. "Discriminate against a firearm entity or firearm trade association" is defined in Section 2274.001(3) of the Texas Government Code and means, with respect to the entity or association, to: (i) refuse to

engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

iv. Scrutinized Business Operations Prohibited

In compliance with Section 2252.152 of the Texas Government Code, City of Arlington warrants and represents that: neither City of Arlington nor any of its affiliates engages in scrutinized business operations in Sudan, Iran, or with designated foreign terrorist organizations. "Scrutinized business operations in Sudan" is defined in Section 2270.0052 of the Texas Government Code. "Scrutinized business operations in Iran" is defined in Section 2270.0102 of the Texas Government Code. "Scrutinized business operations with designated foreign terrorist organizations" is defined in Section 2270.0152 of the Texas Government Code. City of Arlington further represents and warrants that neither City of Arlington nor any of its affiliates appears on any of the Texas Comptroller's Scrutinized Companies Lists.

XVIII. NOTICE

Any notice required or permitted to be delivered hereunder shall be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the Parties hereto at the respective addresses set forth below, or at such other addresses as they shall specify by written notice delivered to the following addresses:

TO THE COUNTY:

County Administrator
100 E Weatherford, Ste 404
Arlington, Texas 76010

TO THE CITY OF ARLINGTON:

Dr. Nikky Lewis, Grants Manager
101 W. Abram St.
Fort Worth, Texas 76102

XIX. SEVERABILITY

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become

valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

XX. APPLICABLE LAW AND VENUE

This Agreement is governed by the laws of the State of Texas. This exclusive venue for any action arising out of, in connection with, or in any way relating to this Agreement shall be in Tarrant County, Texas if filed in state court or the Northern District of Texas, Fort Worth Division if filed in federal court.

XXI. ENTIRE AGREEMENT

This Agreement represents the entire understanding between the Parties and supersedes all prior representations.

XXII. EXECUTION

This agreement may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument.

SIGNED AND EXECUTED this ____ day of _____, 2024.

**COUNTY OF TARRANT
STATE OF TEXAS**

Tim O'Hare
County Judge

APPROVED AS TO FORM:


CERTIFICATION OF
AVAILABLE FUNDS:

Criminal District Attorney's Office

Tarrant County Auditor

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead, those parties should seek contract review from independent counsel.

CITY OF ARLINGTON



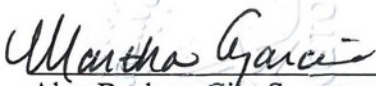
Jennifer Wichmann
Deputy City Manager
Date: 6/12/24

APPROVED AS TO FORM:
Molly Shortall, City Attorney

BY: 

City Attorney's Office

ATTEST BY:



Alex Busken, City Secretary

*By law, the Arlington City Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead, those parties should seek contract review from independent counsel.

APPENDIX A SCOPE OF WORK

Property Address:	Proposed Address: D J S ADDITION Lot 3, located at 696 North Fielder Road Arlington, TX 76010.
Project Description:	Proposed 14,802 square foot childcare facility with 10 classrooms.
Planned Total Construction Cost	\$6,501,239.80
Allowable Use(s) of FRF Funds	FRF Funds may be used toward pre-construction costs including site preparation, testing, engineering, and design, as well as for construction costs, including FF&E.
FRF Assistance	\$4,700,000.00

Projects must meet the following requirements:

- Minimum 12,200 square feet (sq. ft.) facility
- Minimum of 9 program areas, each ranging from 360 sq. ft. to 1800 sq. ft. (Early Head Start requirement)
- Minimum of 25% of classrooms will be used for Early Head Start services
- Minimum of 80 sq. ft. times 25% licensed capacity of designated outdoor play area
- Parking to accommodate a minimum of 22 employees
- Building will need to be eligible for an Education or Education/Institutional Certificate of Occupancy

APPENDIX B
PROGRAMMATIC REPORTING

Required Reporting Dates, as per U.S. Treasury:

Q1	July 1 – September 30	Due: October 15
Q2	October 1 – December 31	Due: January 15
Q3	January 1 – March 30	Due: April 15
Q4	April 1 – June 30	Due: July 15
Annual Report	July 1 – June 30	Due: July 15

Resolution No. 24-150

A resolution authorizing the execution of an Interlocal Agreement with Tarrant County relative to the funding for constructing a childcare center to be located at 696 North Fielder Road, Arlington, Texas

- WHEREAS, on March 11, 2021, President Joseph Biden signed the American Rescue Plan Act (“ARPA”) to provide support to state and local governments to respond to the financial impacts of the COVID-19 pandemic; and
- WHEREAS, the State and Local Fiscal Recovery Funds (“FRF Funds”) authorized through ARPA (C.D.F.A. #21.027) are to be used to mitigate the ongoing effects of COVID-19 and support the nation’s pandemic recovery; and
- WHEREAS, Tarrant County has received FRF Funds to respond to the continuous impact of COVID-19 as outlined in the Interim Final Rule promulgated by the Department of Treasury (“Treasury”); and
- WHEREAS, Treasury has issued guidance for the use of FRF Funds in the form of Frequently Asked Questions and will continue to issue guidance and clarification on the appropriate use of these funds; and
- WHEREAS, Tarrant County and the City find that the use of FRF Funds distributed in accordance with this Interlocal Agreement meet the eligible uses outlined in the Treasury’s Interim Final Rule and additional guidance; and
- WHEREAS, the Interlocal Cooperation Act contained in Chapter 791 of the Texas Government Code provides legal authority for Tarrant County and the City to enter into this Interlocal Agreement; and
- WHEREAS, during the performance of the governmental functions and the payment for the performance of those governmental functions under this Agreement, the Parties will make the performance and payment from the current revenues legally available to that Party; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

I.

That all of the recitals contained in the preamble of this resolution are found to be true and are adopted as findings of fact by this governing body and as part of its official record.

II.

That the City Manager or his designee is hereby authorized to execute an Interlocal Agreement with Tarrant County relative to the funding for constructing a childcare center to be located at 696 North Fielder Road, Arlington, Texas. Tarrant County will provide \$4,700,000 in state and local Fiscal Recovery Funds authorized through the American Rescue Plan Act to the City to help manage the construction of the childcare center. The Interlocal Agreement establishes the distribution of FRF funds from the County to the City, and the City's responsibility to assist in the management and execution of the construction project. The planned total cost of the project is \$6,501,229.80, with a target completion date of summer 2025. Construction escalation costs above the obligated amount shall be allocated from subsequent Community Development Block Grant (CDBG) entitlement funds with no impact to the general fund. The City will contribute \$1,750,000 of its previously allocated CDBG PY 2023 funds towards the planned total cost of the project.

III.

A substantial copy of the Interlocal Agreement is attached hereto and incorporated herein for all intents and purposes.

PRESENTED AND PASSED on this the 11th day of June, 2024, by a vote of 6 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



JIM R. ROSS, Mayor

ATTEST:



ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY 