

**STATE OF TEXAS**

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**COUNTY OF BEXAR**

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**INTERLOCAL AGREEMENT FOR  
EARLY LEARNING LANDSCAPE  
STUDY AND ANALYSIS  
SERVICES**

This Agreement is entered into by and between the City of San Antonio (“City”), a Texas Municipal Corporation acting by and through its City Manager or his designee, pursuant to Ordinance No. 2023 \_\_\_\_\_ passed and approved on the \_\_\_\_ day of \_\_\_\_\_, 2023 and the Texas A & M University San Antonio (“TAMU-SA”), an Institution of Higher Education and State of Texas Agency, (collectively, the “Parties”). This Agreement is made and entered into by the Parties pursuant to the authority provided under the Interlocal Cooperation Act, Texas Government Code Chapter 791.

**RECITALS**

**WHEREAS**, Chapter 791 of the Texas Government Code (the “Interlocal Cooperation Act”) provides that a local government may contract with another local government to perform governmental functions and services in accordance with said chapter; and

**WHEREAS**, the Interlocal Cooperation Act defines local government as a county, municipality, special district, junior college district, or other political subdivision of this state or another state; and

**WHEREAS**, City is a municipal corporation and TAMU-SA is an Institution of Higher Education and State of Texas Agency, making each eligible to contract under the Interlocal Cooperation Act; and

**WHEREAS**, City recognizes the existence of childcare deserts across Bexar County resulting in extensive waitlists for childcare, further complicating economic recovery from the pandemic and impeding workforce development initiatives; and

**WHEREAS**, to fully understand access, quality and affordability, the City feels it is critical that new research be completed to examine the current enrollment capacity available to the San Antonio and Bexar County communities; and

**WHEREAS**, City wishes to partner with TAMU-SA to provide such study and analysis services; and

**WHEREAS**, the purpose of this Agreement is to set forth the objectives, understandings, and agreements of the Parties in connection with the services provided by TAMU-SA.

**NOW THEREFORE**; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

**I. DEFINITIONS**

As used in this Agreement, the following terms shall have meanings as set out below:

1.1 “City” is defined in the preamble of this Agreement and includes its successors and assigns.

1.2 “TAMU-SA” is defined in the preamble of this Agreement and includes its successors.

1.3 “Director” shall mean the executive director of City’s Workforce Development Office or his/her designee.

1.4 “Project Update Report” shall mean a monthly report reflecting a description of tasks performed by the TAMU-SA’s project staff and approved sub-contractors during the previous month as described in Exhibit I. It shall also include an estimate of the percentage of each task that has been completed to date, a detailed description of deliverables to be provided to the Director or Designee in accordance with this Agreement, and details of participant stipends or travel mileage utilized, if any, for which TAMU-SA shall conform to the stipend and mileage reporting templates provided by City. The report shall also include tasks projected to be performed in the proceeding reporting period, and any issues or problems that have arisen that may adversely impact the schedule for completion of the study or tasks. Whenever such contingencies arise, the TAMU-SA shall also state in its Project Update Report its plan for prompt resolution of such problems, as time is of the essence in this Agreement.

1.5 “Final Report” shall mean the clean and edited version submitted and accepted by the City.

## II. TERM

2.1. The term of this Agreement shall begin upon execution by all Parties and end on November 1, 2024 or upon completion of all obligations of this Agreement, whichever is sooner.

2.2 In accordance with Sec. 791.011. of the Local Government Code, City is providing funding under this Agreement from current revenues available to City, in part through sales tax funding collected in accordance with the voter-approved sales tax initiative related to workforce development. The City may terminate a contract at any time if funds are restricted, withdrawn or not approved.

## III. SCOPE OF SERVICES

3.1 TAMU-SA agrees to provide the services described in the **Study & Analysis Workplan**, attached hereto as **Exhibit I**, in exchange for the compensation described in Article IV, entitled “Compensation.” The services to be provided by the TAMU-SA and its subcontractors, if any, shall be performed in a professional manner in accordance and consistent with the scope of work, methodologies, work plans, and costs described by City and proposed by the TAMU-SA in **Exhibit I** and the Eligible Costs and Distribution Schedule, attached hereto as **Exhibit II**.

3.2 City shall have authority to inspect the TAMU-SA’s progress throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Services. All work performed by TAMU-SA and its subcontractors, if any, hereunder shall be performed to the satisfaction of the Director. The determination made by the Director shall be final, binding, and conclusive on all Parties. City shall be under no obligation to pay for any work performed by the TAMU-SA and its subcontractors, if any, which is not reasonably satisfactory to the Director. The City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should the TAMU-SA’s work or work of its subcontractors, if any, not be reasonably satisfactory to the Director; however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

## IV. COMPENSATION

4.1 In consideration of the TAMU-SA’s performance in a satisfactory and efficient manner, as determined solely by the Director, of all services and activities set forth in this Agreement, the City agrees to pay the TAMU-SA an amount up to NINETY-SIX THOUSAND SEVEN HUNDRED TWELVE DOLLARS AND

NO CENTS (\$96,712.00), of which \$25,000.00 has been allocated for stipends for study participants to be disbursed in accordance with the **Stipend Guidelines**, attached hereto as **Exhibit III**.

4.2 In order to receive drawdown payments the TAMU-SA shall submit its Update Reports as described in section 1.4 above along with its invoice. The City shall review the TAMU-SA's progress reports with deliverables submitted in accordance with this Agreement, and, after approval and acceptance pursuant to Section 4.4 below, of such reports, the City shall pay invoices within 30 days of receipt and approval by the Director, provided however, that in no event shall cumulative payments exceed the amount stated in Section 4.1 above, inclusive of mileage and participant stipends. Original invoices shall be submitted electronically directly to the Accounts Payable section of the Finance Department to the following e-mail address:

[accounts.payable@sanantonio.gov](mailto:accounts.payable@sanantonio.gov).

The TAMU-SA shall submit a copy of the invoice to the City of San Antonio, Workforce Development Department liaison. Please include the WDO liaison, at [workforce@sanantonio.gov](mailto:workforce@sanantonio.gov) in the correspondence to ensure the invoice is processed. Please include PO number to all invoices.

4.3 No additional fees or expenses of the TAMU-SA shall be charged by the TAMU-SA nor be payable by the City. The Parties agree that all compensable expenses of the TAMU-SA have been provided for in the total payment to the TAMU-SA as specified in section 4.1 above, including mileage and participant stipends. Total payments to the TAMU-SA for the original contract term cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefor.

4.4 Final acceptance of work products and services require written approval by the City through the Director. The City shall not be obligated or liable under this Agreement to any party, other than the TAMU-SA, for the payment of any monies or the provision of any goods or services.

4.5 Within twenty (20) working days of City's written request therefor, TAMU-SA shall refund to City any sum of money paid by City to TAMU-SA later determined to:

- 4.5.1 Have resulted in overpayment to TAMU-SA;
- 4.5.2 Have not been spent by TAMU-SA strictly in accordance with the terms of the Agreement; or
- 4.5.3 Not be supported by adequate documentation to fully justify the expenditure.

## **V. OWNERSHIP OF DOCUMENTS, INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

### **5.1 Intellectual Property Rights**

"Intellectual Property" means all intellectual property, including without limitation, electronic or otherwise, technical information, know-how, copyrights, patents and trade secrets, ideas, thoughts, concepts, processes, techniques, data, development tools, models, drawings, specifications, prototypes, inventions and software.

"Project IP" or "Project Intellectual Property" shall mean all Intellectual Property that is authored or conceived and reduced to practice in the performance of the Research.

Ownership of Project IP shall be as follows:

- (i) Title to any Project IP made or conceived solely by employees of TAMU-SA vests in TAMU-SA.
- (ii) Title to any Project IP made or conceived solely by employees of CITY vests in CITY.
- (iii) Title to any Project IP made or conceived jointly by employees of both TAMU-SA and CITY (hereinafter called "Joint IP") vests jointly in TAMU-SA and CITY.

TAMU-SA shall promptly disclose all Project IP and Joint IP in sufficient detail. Any such Invention Disclosure shall be considered Confidential Information.

For Joint IP conceived under this Agreement, TAMU-SA and CITY will be independent owners of any corresponding patent rights under 35 USC 262 with no obligation of accounting to one another, in the absence of a written agreement to the contrary.

To the extent TAMU-SA has the legal right to do so and in consideration of TAMU-SA's receipt of CITY's funding of the Research, TAMU-SA shall grant to CITY a non-exclusive, royalty-free license to any TAMU-SA Project Intellectual Property developed under this Agreement for non-commercial internal research and development use only.

5.2 Local Government Records. In accordance with Texas law, TAMU-SA and its subcontractors, if any, acknowledge and agree that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code.

5.3 The term "local government record" as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

5.4 TAMU-SA and its subcontractors, if any, acknowledge and agree that all records, as described in 5.3, collected or produced in the course of the work required by this contract, are government records and will belong to and be the property of the City. TAMU-SA and its subcontractors, if any, shall be required to turn over to the City all such records as required pursuant to this contract. TAMU-SA and its subcontractors, if any, shall not, under any circumstances, release any records created during the course of performance of the contract to any entity without the City's written permission, unless required to do so by a Court of competent jurisdiction.

5.5 TAMU-SA and its subcontractors, if any, understand and acknowledge that as to the writings, documents, reports or information produced by TAMU-SA and its subcontractors, if any, pursuant to this agreement, City has the right to use all such writings, documents, reports, and information as City desires, without restriction provided that it is for non-commercial use and provided that it has not been marked confidential as required under Section 5.7. City's rights in the materials include the right to change, edit, rearrange, subtract from, add to, and combine with any other material, in whole or in part as City and its successors and assigns determine in their sole discretion. City has no obligation to use the data, or to create, produce, distribute, exploit, advertise, or promote, or include, or to exercise any rights given by this Agreement. TAMU-SA and its subcontractors, if any, have no right

to review or approve edited materials before they are used by City or at any other time.

5.6 In accordance herewith, the TAMU-SA and its subcontractors, if any, agree to comply with all applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

5.7 Confidential Information. It is contemplated that the disclosing Party ("Disclosing Party") may be disclosing certain confidential and/or proprietary information to the receiving Party ("Receiving Party") unknown to the general public (hereinafter referred to as "Confidential Information"). The Parties agree the terms of this Article shall apply to any confidential and/or proprietary information that may be disclosed under this Agreement, and that such Confidential Information shall be used solely for the benefit of the Disclosing Party. Receiving Party acknowledges the above-described Confidential Information is confidential and/or proprietary to the Disclosing Party and is claimed to be a valuable, special, and unique asset of the Disclosing Party.

In order for the Parties to appreciate when Confidential Information is being conveyed, information disclosed in tangible form shall be clearly identified at the time of disclosure as being Confidential Information by an appropriate and conspicuous marking. Similarly, to the reasonable extent possible, information disclosed in intangible form (e.g., oral or visual) shall be identified as being Confidential Information at the time of disclosure, and shall be confirmed as such in writing to the Receiving Party within 30 days after such disclosure. Confidential Information shall include as examples, without limitation:

All information of a Disclosing Party which has been maintained as confidential, including draft publications, technical reports, research plans and results, processes, techniques, know-how, biological materials, computer source code, diagrams, electronic files, financial information, customer lists, trade secrets, invention disclosures, patent applications or test data; all existing and future plans of the Disclosing Party, which have been maintained as confidential, including plans relating to existing and planned products, research, development, engineering, manufacturing, marketing, servicing, or financing; all past, present and future business or commercial relationships of the Disclosing Party, which have been maintained as confidential, including suppliers, service providers, clients, customers, employees, or investors; or information that has generally been considered and treated by the Disclosing Party as confidential prior to the time of disclosure and is clearly identified as "Confidential" or "Proprietary" when disclosed to the other Party.

Exclusions from Confidential Information: Confidential Information shall not be deemed to include information that the Receiving Party can demonstrate by competent written proof:

- (i) is now, or hereafter becomes, publicly known or available through no act or failure to act on the part of the Receiving Party;
- (ii) was known by the Receiving Party at the time of receipt of such information as evidenced by its records;
- (iii) is hereafter furnished to the Receiving Party by a third party as a matter of right and without violating any confidentiality obligation to the Disclosing Party; or
- (iv) was independently developed by employees of the Receiving Party without use or knowledge of the Confidential Information of the Disclosing Party.

Use of Confidential Information: Each Party agrees it will use the Confidential Information of the other solely for the purposes of this Agreement. In particular, the Receiving Party shall not file any patent application

containing any claim to subject matter derived in whole or in part from the Disclosing Party's Confidential Information. The Confidential Information, including any documents, drawings, sketches, designs, materials or samples supplied hereunder, shall remain the property of the Party disclosing the same and no rights or licenses are granted to the other Party in the same, whether patented or not, except the limited right to use the Confidential Information as set forth above.

**Confidential Obligations:** For a period of 3 years from the date any such Confidential Information is disclosed, the Parties agree to exert reasonable efforts to maintain each other's Confidential Information in confidence and to take all necessary and reasonable precautions to prevent its unauthorized disclosure and to ensure it does not fall into the public domain or the possession of unauthorized third parties. Each Party shall restrict access to the Confidential Information of the other Party to those officers, employees, consultants, agents, and students (in the case of TAMU-SA) of the Receiving Party having a need to know the Confidential Information to fulfill the Purpose, provided that, each Party shall ensure that any individual having access to the Confidential Information is made expressly aware of the obligation of confidence according to the terms hereof prior to gaining access to the Confidential Information. To the extent that a Party perceives a need for disclosure of the Confidential Information it receives from the other Party to any third party, such third party shall be prospectively identified and written permission to disclose shall be obtained from Disclosing Party. A written non-disclosure agreement shall be obtained from the third party contractor and a copy shall be promptly provided to the Party whose Confidential Information is being disclosed.

**Required Disclosure:** If a Receiving Party is legally required by court order, law, or other governmental regulation or authority to disclose certain Confidential Information received from a Disclosing Party, such disclosure may be made only after giving written notice to the Disclosing Party and providing a reasonable opportunity for pursuit of appropriate process to prevent or limit such disclosure. In any event, required disclosure shall be limited to only that portion of the Confidential Information which is legally required to be disclosed. The Receiving Party is not however, required to pursue any claim, defense, cause of action, or legal process or proceeding on the Disclosing Party's behalf.

**Return of Documents:** It is understood that the Confidential Information disclosed by each Party shall remain the property of the Disclosing Party. All material or documents furnished by the Disclosing Party marked Confidential, including all copies, shall upon request of the Disclosing Party, or in any event at the termination of this Agreement, be promptly returned to the Disclosing Party or destroyed, except the Receiving Party may securely retain one copy in its files solely for record purposes of its obligations under this Agreement.

## **VI. RECORDS RETENTION**

6.1 TAMU-SA and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as the City may deem necessary during the Agreement period, including any extension or renewal, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by the City and any of its authorized representatives.

6.2 TAMU-SA and its subcontractors, if any, shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, the TAMU-SA shall retain the records until the resolution of such litigation or other such questions. TAMU-SA and its subcontractors, if any, acknowledge and agree that the City shall have access to any and all such documents at any and all times, as deemed necessary by the City, during

said retention period. City may, at its election, require the TAMU-SA and its subcontractors, if any, to return said documents to the City prior to or at the conclusion of said retention.

6.3 TAMU-SA and its subcontractors, if any, shall notify the City, within 48 hours, in the event the TAMU-SA or its subcontractors, if any, receives any requests for information from a third party, which pertain to the documentation and records referenced in this Agreement. ACD and its subcontractors, if any, understand and agree that the City will process and handle all such requests.

6.4 Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a given fiscal year, the TAMU-SA and its subcontractors, if any, acknowledge that the requirements of the Texas Public Information Act, pertaining to the preservation and disclosure of Contracting Information maintained by either party or sent between a party and a vendor or contractor, apply to this Agreement. TAMU-SA agrees that the Agreement can be terminated if TAMU-SA or its subcontractors, if any, knowingly or intentionally fails to comply with a requirement of that subchapter.

6.5 TAMU-SA certifies, and this Agreement is made in reliance thereon, and that it has not knowingly or intentionally failed to comply with the Texas Public Information Act in a previous contract. City hereby relies on the TAMU-SA's certification, and if found to be false, the City may terminate the Agreement for material breach.

## **VII. TERMINATION**

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions of this Agreement.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, the City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;

7.3.2 Violation by TAMU-SA and its subcontractors, if any, of any law, rule, or regulation to which the TAMU-SA is bound, or shall be bound, under the terms of this Agreement; or

7.3.3 Bankruptcy or selling substantially all of the TAMU-SA's assets.

7.4 Defaults With Opportunity for Cure. Should the TAMU-SA default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. TAMU-SA shall have thirty (30) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If the TAMU-

SA fails to cure the default within such thirty-day cure period, the City shall have the right, without further notice, to terminate this Agreement in whole or in part as the City deems appropriate, and to contract with another party to complete the work required in this Agreement.

7.4.1 Material failure to perform or to comply with any covenant or provision of this Agreement;  
or

7.4.2 Unsatisfactory performance.

7.5 Termination by Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under this Agreement, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, the TAMU-SA shall return all unearned payments to the City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by the City under Sections 3.2 and 4.4. For termination without cause or by law, City shall reimburse TAMU-SA for all non-cancellable commitments prior to the effective date of termination.

7.7 Regardless of how this Agreement is terminated, TAMU-SA shall affect effect an orderly transfer to the City or to such person(s) or firm(s) as the City may designate, at no additional cost to the City, all completed or partially completed documents, papers, records, charts, reports, and any other Non-Confidential and Non-Project

7.8 Intellectual Property materials or information produced as a result of or pertaining to the services rendered by TAMU-SA, or provided to TAMU-SA, hereunder, regardless of storage medium, if so requested by the City, or shall otherwise be retained by TAMU-SA in accordance with Article VI. Records Retention. Any record transfer shall be completed within 30 calendar days of a written request by the City and shall be completed at the TAMU-SA's sole cost and expense. Payment of compensation due or to become due to the TAMU-SA is conditioned upon delivery of all such documents, if requested.

7.9 Within 90 calendar days of the effective date of completion, or termination or expiration of this Agreement, the TAMU-SA shall submit to the City its claims, in detail, for the monies owed by the City for services performed under this Agreement through the effective date of termination. Failure by TAMU-SA to submit its claims within said 90 calendar days shall constitute a **Waiver** by TAMU-Sathe ACD of any and all right or claims to collect moneys that TAMU-SA may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.10 Upon the effective date of expiration or termination of this Agreement, TAMU-SA shall cease all operations of work being performed by TAMU-SA or any of its subcontractors pursuant to this Agreement.

7.11 Terminatin not sole remedy. In no event shall the City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of the City's remedies, nor shall such termination limit, in any way, at law or at equity, the City's right to seek damages from or otherwise pursue TAMU-SA for any default hereunder or other action.



## VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or 3 calendar days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either Party may from time to time designate in writing.

If intended for City, to:

City of San Antonio  
Attn: Michael Ramsey  
Workforce Development Office  
100 W. Houston Street, 18<sup>th</sup> Floor  
San Antonio, Texas 78205  
Email: [Michael.ramsey@sanantonio.gov](mailto:Michael.ramsey@sanantonio.gov)

If intended for TAMU-SA, to:

Sponsored Research Services, Texas A&M University  
Attn: Authorized Official  
400 Harvey Mitchell Pkwy S. Ste.300  
College Station, TX, 77845-4375

## IX. NONDISCRIMINATION

9.1 Non-Discrimination. As a party to this Agreement, TAMU-SA understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

## X. INSURANCE

10.1 TAMU-SA and City shall each maintain a self-insurance for liability claims and causes of action to meet their statutory obligations for their employees' acts, negligence and/or malpractice.

## XI. NON-INDEMNIFICATION

**11.1 TAMU-SA shall advise the City promptly in writing of any claim or demand against the City or TAMU-SA known to TAMU-SA related to or arising out of TAMU-SA'S activities under this Agreement.**

## XII. ASSIGNMENT AND SUBCONTRACTING

12.1 TAMU-SA shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of TAMU-SA. TAMU-SA, its employees or its subcontractors shall perform all necessary work.

12.2 The use of any subcontractor(s) requires the prior written approval of the Director.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of TAMU-SA. City shall in no event be obligated to any third party, including any subcontractor of TAMU-SA, for performance of services or payment of fees.

12.4 Except as otherwise stated, TAMU-SA may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the prior written consent of the Director. As a condition of such consent, if such consent is granted, TAMU-SA shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor TAMU-SA, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should TAMU-SA assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, the City may, at its option, cancel this Agreement and all rights, titles and interest of TAMU-SA shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to the City under this Agreement. The violation of this provision by TAMU-SA shall in no event release TAMU-SA from any obligation under the terms of this Agreement, nor shall it relieve or release TAMU-SA from the payment of any damages to the City, which the City sustains as a result of such violation.

### **XIII. INDEPENDENT CONTRACTOR**

13.1 TAMU-SA covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of the City; that TAMU-SA shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and Contractor; that the doctrine of respondeat superior shall not apply as between the City and TAMU-SA, its officers, agents, employees, contractors, subcontractors and Contractor, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between the City and TAMU-SA. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by TAMU-SA under this Agreement and that TAMU-SA has no authority to bind the City.

### **XIV. RESERVED**

### **XV. CONFLICT OF INTEREST**

15.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

- (A) a City officer or employee; his or her spouse, sibling, parent, child or other family member within the first degree of consanguinity or affinity;
- (B) an entity in which the officer or employee, or his or her parent, child or spouse directly or indirectly owns (i) 10 percent or more of the voting stock or shares of the entity, or (ii) 10 percent or more of the

- fair market value of the entity; or
- (C) an entity in which any individual or entity listed above is (i) a subcontractor on a City contract, (ii) a partner or (iii) a parent or subsidiary entity.

15.2 TAMU-SA warrants and certifies as follows:

- (i) TAMU-SA and its officers, employees and agents are neither officers nor employees of the City.

15.3 TAMU-SA acknowledges that the City's reliance on the above warranties and certifications is reasonable.

## **XVI. AMENDMENTS**

16.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both the City and TAMU-SA and subject to City Council approval, as evidenced by passage of an ordinance. Notwithstanding the foregoing, the City Manager or his/her designee may execute amendments that do not relate to City's funding under this Agreement.

## **XVI. SEVERABILITY**

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained; it is also the intention of the Parties that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

## **XVIII. LICENSES/CERTIFICATIONS**

18.1 TAMU-SA warrants and certifies that TAMU-SA and any other person designated to provide services under this Agreement has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided under this Agreement.

## **XIX. STATE PROHIBITION ON CERTAIN CONTRACTS**

19.1 This Article only applies to a contract that:

- (1) is between a governmental entity and a company with 10 or more full-time employees; and
- (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

19.2 "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

### 19.3 Prohibition on Contracts with Companies Boycotting Israel.

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

“Boycott Israel” means 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 specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

TAMU-SA hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company’s verification. If found to be false, City may terminate the contract for material breach.

### 19.4 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

“Boycott energy company” 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 in (A).

TAMU-SA hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City hereby relies on Company’s verification. If found to be false, City may terminate the contract for material breach.

### 19.5 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

“Discriminate against a firearm entity or firearm trade association”: (A) 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.

TAMU-SA hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

## **XX. NONWAIVER OF PERFORMANCE**

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of the City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

## **XXI. LAW APPLICABLE**

**21.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

21.3 The Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

## **XXII. LEGAL AUTHORITY**

22.1 The signer of this Agreement for TAMU-SA represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of TAMU-SA and to bind TAMU-SA to all of its terms, conditions, provisions and obligations.

## **XXIII. PARTIES BOUND**

23.1 This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for.

## **XXIV. CAPTIONS**

24.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

## **XXV. INCORPORATION OF EXHIBITS**

25.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

1. Exhibit I – Study & Analysis Workplan
2. Exhibit II – Eligible Costs and Distribution Schedule
3. Exhibit III – Stipend Guidelines

#### **XXVI. ENTIRE AGREEMENT**

26.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

-----*Signatures to follow*-----

**EXECUTED** and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

**CITY OF SAN ANTONIO**

\_\_\_\_\_  
Erik Walsh  
City Manager


\_\_\_\_\_  
Date

Approved as to Form:

\_\_\_\_\_  
Christina A. Ramirez  
Assistant City Attorney

\_\_\_\_\_  
Date

**TEXAS A&M UNIVERSITY – SAN ANTONIO**

  
\_\_\_\_\_  
Vijay Golla, Ph.D.  
Vice Provost for Research & Health Sciences

11/17/23  
\_\_\_\_\_

Date

  
DHZ

**Exhibit I.**  
**SCOPE OF WORK**  
**STUDY & ANALYSIS WORKPLAN**

The Childcare Landscape study is intended to provide a baseline assessment of the availability of affordable, high-quality early learning and care in San Antonio and Bexar County. The study will include a reliable estimate of the gap between licensed capacity and actual availability of seats by age category, cost, quality rating, special needs status, geographic location, and provider type. This study will also examine the current level of staffing and what affect, if any, staffing shortages affect the availability of affordable, high-quality early learning and care in San Antonio and Bexar County. The results of this study will inform the City's work to strengthen the early learning and care system in San Antonio and Bexar County expansion.

The services under the Agreement include, among others:

- a.) Development and deployment of survey instruments;
- b.) Interviews with demographically representative community members;
- c.) Summary reports on the current landscape inclusive of access, quality and affordability factors disaggregated by variables; and,
- d.) Policy recommendations and identification of targeted community response options to promote community empowerment. These activities are intended to position the City of San Antonio to leverage community assets while responding to the identified need.

**DESIGN**

The landscape analysis of licensed childcare centers, registered and licensed childcare homes, Head Start and Early Head Start Grantees, Pre-K 4 SA, and district-based early childhood services shall use a sequential, explanatory, mixed methods design featuring omnibus and stratified random sampling approaches. The function of the survey instrument provides universal representation, concomitant with the representative sampling to provide in-depth information on the state of early education from the stance of the:

- a.) childcare center/school/grantee,
- b.) teacher; and,
- c.) administrator.

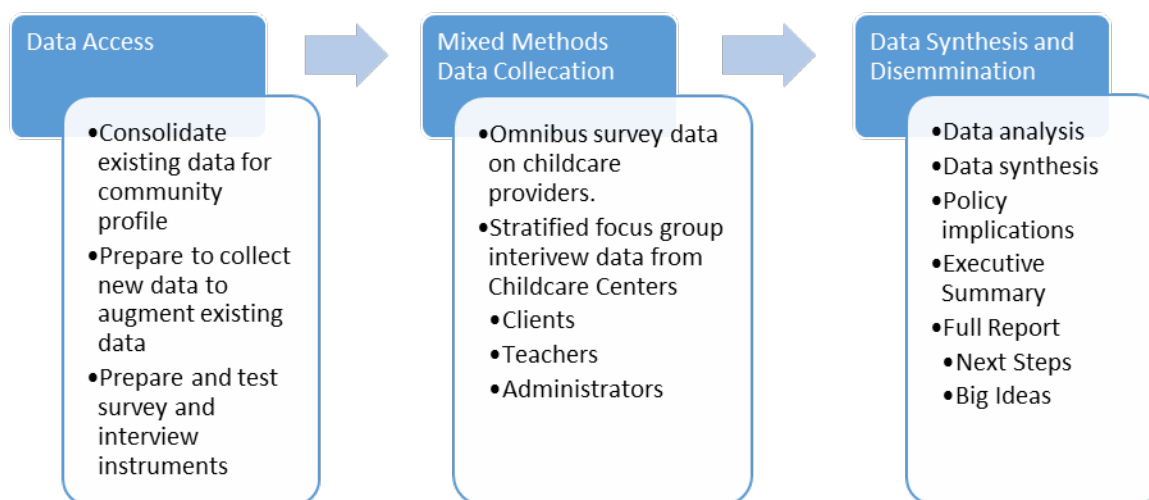
Analysis of the early learning landscape will be examined across the following Categories. The Categories are distinct, yet related.



CATEGORY							
Access	Age	Diversity	Quality	Staffing	Cost	Geography	Classification
Licensed Capacity	6 weeks-11 months	Children with IFSP	TRS Participant	Director	Tuition Cost	District 1	Licensed child-care centers
Actual Enrollment	12-23 months	Children with IEP	TRS Star Rating	Support director	Operating Cost	District 2	Licensed Before-After School
Active Openings	24-35 months	Dietary Needs	National Accreditation	Teacher	Child Care Subsidy (CCS)	District 3	Licensed School Age
Potential for Expansion	36-47 months	Medical Needs (non-IFSP/IEP)	Classroom Ratios	Support Teacher	Military Childcare Funding	District 4	Licensed Child-Care Home
	48-60 months	ADA Accessible	Maximum Group Size	Support Staff	External Income	District 5	Registered Child-Care Home
	School-age	Other		Training		District 6	Licensed Family Home
		24-hour care		Education		District 7	Head Start
		Drop – In		Experience		District 8	Early Head Start
		As Needed/Flexible				District 9	Early Head Start Community Childcare Partner
						District 10	City – PREK
						Zip Code	Charter School
						Census Tract	Public School District
							For Profit
							Non-Profit
							Faith -Based

Needs and assets will be identified and contextualized using Old Dominion University’s Method for conducting focus groups (Pickering, Danner & Paredes, 2018). Focus group information will be used to map similarities and differences throughout geographic areas. This approach enables actionable, big ideas (themes) to be explored and the first steps to influence those themes to be provided under recommendations. This approach advances recommendations that are global (e.g. big ideas) and actionable (e.g. next steps) by city council district. This mode of presentation both reflects and results in community empowerment as community members demonstrate their ability to shape what is known globally and locally about their community, as well as bridge City staff and policymakers to the community as recommendations directly respond to actual needs that differ by geographic area.

## **PROCEDURAL FRAMEWORK**



## **PROJECT TASKS AND TIMELINE**

<b><i>PROJECT TASKS</i></b>	<b><i>RELATED ACTIVITIES</i></b>	<b><i>RESPONSIBLE ENTITIES</i></b> <i>CP- Community Partners</i> <i>PI, Primary Investigator</i> <i>Co-Primary Investigators</i> <i>GA- Graduate Assistant</i>	<b><i>ACTIVITY DATE</i></b> <b><i>(2023-2024)</i></b>
Data Access Development	<ul style="list-style-type: none"> <li>• Meet with City of San Antonio team to verify key data inputs</li> <li>• Schedule data input</li> <li>• Online survey development and testing</li> <li>• GA hiring and training</li> <li>• Survey Development, piloting, and verification of content.</li> <li>• Focus Group profiles for city and county targets</li> </ul>	PI, Co-PI CP PI PI, Co-PI Co-PI Co-PI, GA PI, Co-PI, GA	December December January December February February-March
<b><i>Mitigating factors:</i></b> successfully importing data from partners. Delays in import will delay survey development and testing.			
Data Collection	<ul style="list-style-type: none"> <li>• Survey distribution</li> <li>• Focus Group Scheduling</li> <li>• Focus group moderator calibration</li> <li>• Survey data entry and analysis</li> <li>• Focus Group interviewing</li> </ul>	GA GA Co-PI, GA GA Co-PI, GA	February February February February-March March

	<ul style="list-style-type: none"> <li>• Interview transcription and analysis</li> </ul>	GA	March-April
	<ul style="list-style-type: none"> <li>• Community asset identification and mapping</li> </ul>	PI, Co-PI, CP	March-April
	<ul style="list-style-type: none"> <li>• Data confirmation</li> </ul>	CP	March-April
<b>Mitigating Factors:</b> Phase 2 success depends on survey and focus group participation and the ability of the CP to collaborate to promote completion.			
Data Synthesis	<ul style="list-style-type: none"> <li>• Quantitative and Qualitative Data layout</li> </ul>	PI, Co-PI, GA	April-May
	<ul style="list-style-type: none"> <li>• Policy, system and support implication identification</li> </ul>	PI, Co-PI	May
	<ul style="list-style-type: none"> <li>• Next Steps development of asset-based strategies</li> </ul>	PI, Co-PI	May
	<ul style="list-style-type: none"> <li>• Big Ideas strategies</li> </ul>	PI, Co-PI	May
<b>Mitigating Factors:</b> The Texas legislature is scheduled to convene for a Special Session in October 2023. The potential for legislative and policy changes occurring mid-analysis could result in reconsideration of policy recommendations.			
Report Development	<ul style="list-style-type: none"> <li>• Report layout and proofing <ul style="list-style-type: none"> <li>○ Full Report</li> <li>○ Executive Summary</li> <li>○ City Council Presentation</li> </ul> </li> </ul>	Co-PI, GA	May
	<ul style="list-style-type: none"> <li>• Final Report proofing <ul style="list-style-type: none"> <li>○ Goodness of Fit</li> <li>○ Support materials suitable/necessary for use on other platforms (e.g. website)</li> <li>○ Presentation Strategy</li> </ul> </li> </ul>	CG	May
	<ul style="list-style-type: none"> <li>• Stakeholder preview</li> </ul>	CG	May
	<ul style="list-style-type: none"> <li>• Report Submission</li> </ul>	PI	May

**EXHIBIT II.  
ELIGIBLE COSTS AND DISTRIBUTION SCHEDULE**

**Eligible Expenses**

Personnel	Researcher and Graduate Assistants	\$48,472.00
Travel	Focus Group Mileage	\$100.00
Materials & Supplies	Audio Recording Equipment	\$200.00
Stipends	Participant Stipends	\$25,000.00
Other	Analysis and Transcription	\$5,500.00
	Indirect	\$17,440.00
	<b>Total</b>	<b>\$96,712.00</b>

<b>Draw-down Timeline</b>	<b>Estimated Amount</b>	<b>Percent of Budget</b>
<b>December 1, 2023</b>	\$19,342	20%
<b>February 1, 2024</b>	\$58,028	60%
<b>Upon Delivery of “Final Report” by the City</b>	\$19,342	20%

- Actual amounts paid shall be subject to submission of invoice evidencing completion of deliverables in accordance with workplan and timeline.

### EXHIBIT III. STIPEND GUIDELINES

For Stipend reimbursements, Contractor should include documentation of stipend payments made to each participant (e.g., system payment report, cleared bank statement, copy of voided checks) utilizing a reporting template provided by City. Contractor should document participant attendance/contribution by obtaining the “Completion of Deliverable Statement” signed by participant and Contractor liaison. Contractor must submit signed “Completion of Deliverable statements” along with proof of payment (i.e. Stipend Worksheet) to justify invoiced stipend amounts.

Stipend payments may not exceed \$50.00 per study participant. The stipend is expected to be upon completion of the deliverable (survey form or interview session) in which the participant is partaking in the execution of the childcare study. Contractor should track stipend amounts and participant’s successful completion of the deliverable on the Stipend Worksheet. By including the specific deliverable for each participant on this worksheet, the Contractor attests that the related hours of work required for execution of the study have been met by submission of the deliverable or attendance at an event.

#### Draft Stipend Worksheet

Visa Gift Card Number	Participant’s Name	Center ID #	Confirmation of Deliverable	Issue Date	Issuing Person
4433-3394-7838-2292	Joan Smith	1661939	Survey Complete	12/7/2023	Melissa Jozwiak
4433-3394-7838-2293	Miranda Mele	1628695	Interview Complete	1/2/2024	Melissa Jozwiak

#### Draft Statement of Confirmation for Deliverable

The creators of this survey have estimated that completion of the full survey will take an average of one-hour per geographic site. Smaller sites with fewer staff may complete the survey in less time and larger centers may require additional time. Please review the two statements below and select the option that best reflects your choice:

- ☐ I confirm that by completing this survey I have contributed a minimum of one hour of time gathering, organizing, or reporting the information requested in the survey. I understand that if I spent more than one hour of time completing the survey, I will only receive compensation for the first hour. One hour of work is being compensated at a rate of \$25.00, paid using a Visa Gift Card. Cards will be mailed to the person and address reported, above, in your survey responses.
- ☐ I do not wish to confirm the time spent on the completion of this survey; and, therefore, understand that I will not receive monetary compensation for my time.

Signed: \_\_\_\_\_(electronic signature)\_\_\_\_\_