

Resolution No. _____

THE STATE OF TEXAS

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COUNTY OF DENTON

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**FUNDING AGREEMENT BETWEEN THE
CITY OF LEWISVILLE, TEXAS AND
CUMBERLAND YOUTH & FAMILY SERVICES**

This funding agreement (the “Agreement”) is hereby entered into by and between the City of Lewisville, Texas, a home rule municipal corporation, (hereinafter referred to as “City”) and Cumberland Youth & Family Services, a Texas nonprofit corporation (hereinafter referred to as “Agency”) (jointly, hereinafter referred to as the “Parties”).

WHEREAS, the City determined there were gaps in federal funding provided for responding to the COVID-19 pandemic, including gaps in aiding mental health services; and

WHEREAS, on January 25, 2021, City Council approved \$250,000 to be allocated to mortgage assistance and mental health programs in response to the COVID-19 pandemic in order to help fill these funding gaps; and

WHEREAS, on September 16, 2024, City Council approved \$240,000 to be allocated to the Social Service Agency Fund to provide important human services for the residents of Lewisville without regard to race, religion, color, or national origin; and

WHEREAS, an agency that was awarded a portion of the FY2024-2025 Social Service Agency funding declined the award; and

WHEREAS, this funding will benefit Lewisville residents by providing mental health services that were previously only available on a limited basis; and

WHEREAS, the Agency will provide mental health services in Lewisville to uninsured or underinsured Lewisville residents; and

WHEREAS, the City Council has reviewed the scope of services, detailed in section I, below, and has determined that the Agency performs an important service which improves the health, safety, and welfare of the residents of Lewisville without regard to race, religion, color, or national origin, and therefore City Council recommends providing funding to the Agency in order to support the provision of certain services as outlined herein; and

WHEREAS, the City has determined that this Agreement contains sufficient controls to ensure that the above-stated public purposes are carried out in all transactions involving the use of public funds and resources; and

WHEREAS, the City has determined that the Agency merits assistance and has allocated \$71,741.66 in its budget for a grant to the Agency as outlined herein.

NOW, THEREFORE, the Parties hereto mutually agree as follows:

I. PROGRAM SUMMARY

The Agency shall utilize the funding provided under this Agreement to provide the following services in a satisfactory and proper manner:

- The Agency shall provide a part time Licensed Professional Counselor, Therapist, or Social Worker to provide one-hour counseling sessions weekly to Lewisville residents who are uninsured, receive Medicaid, or are insured but earn an annual household income at or below 50% of the Area Median Income (AMI) as defined by the HUD Metro FMR Area income levels ("Clients"). Current HUD Metro FMR Area Income Levels update annually. Clients served under this Agreement should be deemed income eligible by referring to the currently effective income levels for the Dallas, TX HUD Metro FMR Area, which includes Denton County. A copy of the current HUD Metro FMR Area Income Levels will be provided to Agency by the City following execution of this Agreement and the City will notify Agency when new HUD Metro FMR Area Income Levels are in effect and will provide an updated copy at that time.
- Counseling sessions shall be held at First United Methodist Church at 907 W. Main St., Lewisville, TX, 75067. Counseling sessions may only be moved to a different location with prior written approval by the City.
- The Agency shall serve, at a minimum, 20 unique Clients with these funds during the timeframe provided in section III, below. While Clients may receive services from the Agency multiple times under this Agreement, Clients may only be counted once toward the minimum number of unique Clients set forth herein.
- The Agency shall provide, at a minimum, 1,040 hours of counseling sessions with these funds during the timeframe provided in section III, below.

Eligible expenses for reimbursement under this Agreement are limited to staffing costs for the Licensed Professional Counselor, Therapist, or Social Worker providing the services described above, space rental costs, and administrative costs specific to provision of services described above. An invoice of detailed expenditures for the provision of services under this Agreement shall be required monthly as described in

section V, below. The City reserves the right to determine final approval on what expenses are considered an actual cost of providing the services.

II. OBLIGATIONS OF AGENCY

In consideration of the receipt of funds from the City, Agency agrees to the following terms and conditions:

- A. Agency shall establish, operate, and maintain an account system for the services outlined in section I, above, that will allow for a tracking of funds and a review of the financial status of the services.
- B. Agency shall provide reports to the City on a monthly basis. See section V.
- C. Agency shall meet with City Neighborhood and Inspection Services staff ten (10) months into the time of performance described in section III. At this meeting, Agency shall provide a program update outlining the unique Clients served and counseling sessions provided under this Agreement to date. If fewer than four hundred and sixteen (416) counseling sessions have been provided by the tenth (10) month of the time of performance, Agency shall work with Neighborhood and Inspection Services staff to create an action plan to increase service levels or the Agreement shall be suspended or terminated based on failure to provide services as outlined in section VI.A.2, below, or unfeasibility of the program as outlined in section VI.A.4, below.
- D. Agency shall permit the City's Director of Neighborhood and Inspection Services or his designee to audit its performance and accounts upon request.
- E. Agency shall not enter into any contracts that would encumber City funds disbursed under this Agreement.
- F. Agency shall appoint a representative who will be available to meet with the City's Director of Finance and other city officials upon request.
- G. Agency shall retain all records relating to services funded by this Agreement for three (3) years after funds have been exhausted.
- H. Agency shall maintain, at its expense, insurance throughout the term of the Agreement, in accordance with Attachment A— Insurance Requirements. All Certificates of Insurance shall be kept current and shall be forwarded to the Grants Specialist of the City by cover letter from the Agency. Insurance certificate must be received and approved by the City **prior to**

Agency submitting the first invoice of expenditures as outlined in section V, below.

III. EFFECTIVE DATE AND TIME OF PERFORMANCE

The effective date of this Agreement shall be the date upon which it is executed by a duly authorized representative of both Parties. The services funded by the City shall be undertaken by the Agency within the following time frame:

JUNE 16, 2025 THROUGH DECEMBER 16, 2026

Or until program funds are exhausted, unless earlier terminated under the terms of this Agreement.

IV. METHOD AND TIMING OF PAYMENT

- A. Funding under this Agreement shall be disbursed on a reimbursement basis based on the eligible expenses outlined in section I, above, for the previous month as shown in the monthly report required under section V, below. Funding will be disbursed within 21 days following timely receipt of proper reporting documents as outlined in section V, below.
- B. It is expressly understood that no funds will be disbursed without submission and acceptance by City staff of the monthly data and report provided by the Agency, as outlined in section V, below.
- C. The final 5% of the allocated funding will not be disbursed, regardless of the reported staffing hours for the Licensed Professional Counselor, Therapist, or Social Worker providing the services, until the minimum number of counseling sessions described in section I have been provided and reported.
- D. It is expressly understood and agreed that in no event will the total funding disbursed hereunder exceed the maximum sum of **SEVENTY-ONE THOUSAND SEVEN HUNDRED FORTY-ONE AND 66/100 DOLLARS (\$71,741.66)**.

V. EVALUATION

- A. The Agency agrees to make its financial records available for review by the City at the City's discretion.

- B. The Agency agrees to provide the City the following data and/or reports no later than the 15th of the reporting month containing the previous month's data:
1. Number of Clients served through this Agreement. Clients included in reports must be reported as Unduplicated the first time they are included in a report during the Term and that the client is then reported as Duplicated in all subsequent reports where the client received services.
 2. Number of counseling hours provided to each Client through this Agreement.
 3. Receipt of rental payment for use of space for counseling sessions.
 4. Timesheet for staff person providing counseling services to Clients.
 5. Invoice of detailed expenditures of eligible expenses as outlined in section I, above, for services provided under this Agreement to Clients.
- C. Multiple failures to submit timely reports will be reflected in the Agency file and may be considered during any future grant proposals.

VI. SUSPENSION OR TERMINATION

- A. The City may suspend payments to the Agency, in whole or part, or terminate this Agreement, for cause. Cause shall include but not be limited to the following:
1. Agency's improper use, misuse, or inept use of funds.
 2. Agency's failure to comply with the terms and conditions of this Agreement, including but not limited to failure to provide the services that have been identified herein as fulfilling an eligible public purpose in accordance with the requirements for such services as herein set forth.
 3. Agency's submission of data and/or reports that are inaccurate or incomplete in any material respect.
 4. If for any reason the carrying out of this Agreement is rendered impossible or unfeasible.

- B. In case of suspension of payments, the City shall provide the Agency with written notice of such suspension and the conditions precedent to the resumption of funding and specify a reasonable date for compliance. City, in its sole discretion, shall determine what is a reasonable date for compliance. Suspension shall become effective as of the date of such written notice. Once all conditions for compliance have been met, as determined by the City Manager or her designee, in her sole discretion, funding shall be resumed and Agency may submit the documentation required by section V, above, for reimbursement of services provided during the suspension period within thirty (30) days of the end of such suspension period.
- C. In case of termination for cause, the City shall provide the Agency with written notice of termination and the reasons therefor, and Agency shall have thirty (30) days to cure ("Cure Period"). If the cause/s of termination is/are not cured, as determined by the City Manager in her sole and absolute discretion, within the Cure Period, this Agreement shall terminate. The City Manager shall have the authority, but not the obligation, to extend the Cure Period at her sole and absolute discretion for a period up to sixty (60) additional days, if she determines that substantial progress is being made toward curing the cause/s of termination.
- D. In case of termination for cause due to inaccurate reports or data that are discovered after reimbursement of funds based on those reports or data, the City shall provide the Agency with a written invoice for repayment of all funds provided based on incorrect reports or data in the notice of termination, and the Agency shall reimburse such funds in full within the Cure Period.
- E. Either Party may terminate this Agreement without cause upon giving the other party sixty (60) days written notice of such termination.
- F. In case of termination for any reason, the Agency shall provide the City with a final report for disbursement as required by section V, above. Termination or disbursement of funds shall not constitute a waiver of any claim the City may otherwise have arising out of this Agreement.

VII. MISCELLANEOUS

- A. Amendment. This Agreement may be modified or rescinded only by a written instrument signed by both of the Parties or their duly authorized agents.

- B. Successors and Assigns. Agency binds itself and its partners, successors, executors, administrators and assigns to this Agreement in respect to all covenants of this Agreement. Agency shall not assign, sublet or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as giving any right or benefits hereunder to anyone other than the City and the Agency.
- C. Severability. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.
- D. Waiver. The City's failure to act with respect to a breach by the Agency does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.
- E. Confidential Information. To the extent allowed by law, City will safeguard and keep from release any documents marked "proprietary" or information not generally available to the public. However, City will, if required, comply with all requirements of the Texas Public Information Act with regard to any documents in its possession at the time of a request made under that Act.
- F. Notices. Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid and registered or certified with return receipt requested), commercial courier, or personal delivery or sent by facsimile or other electronic means. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. All notices and other written communications under this Agreement shall be addressed to the individuals indicated below, unless otherwise modified by subsequent written notice.

Communication, details, and notices concerning this Agreement shall be directed to the following representatives:

City

Rachel Hiles
Grants Specialist
City of Lewisville
151 W Church St
P.O. Box 299002
Lewisville, TX 75029
972.219.5026
rhiles@cityoflewisville.com

Agency

Courtney Banatoski
President & CEO
Cumberland Youth &
Family Services
Q4HUT225DUN2
909 Greenlee St.
Denton, TX 76201
940.382.5112
cbanatoski@cumberlandservices.org

- G. Compliance with Laws. The Agency shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws.
- H. Independent Contractor. Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the Parties. The Agency shall at all times remain an “independent contractor” with respect to the services to be performed under this Agreement.
- I. **Indemnification, Defense, and Hold Harmless. THE AGENCY AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY AGENCY’S BREACH OF ANY OF THESE TERMS AND CONDITIONS OR BY ANY NEGLIGENT OR STRICTLY LIABLE ACT OR OMISSION, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY AGENCY, ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE SERVICES FUNDED BY THIS AGREEMENT; EXCEPT THAT THE INDEMNITY PROVIDED FOR IN THE PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OR FAULT OF THE CITY, ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND IN THE EVENT OF JOINT AND CONCURRING NEGLIGENCE OR FAULT OF THE AGENCY AND THE CITY, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH THE LAW OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW AND THE CITY’S REASONABLE ATTORNEY’S FEES SHALL BE REIMBURSED IN PROPORTION TO THE AGENCY’S LIABILITY. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.**

- J. Governing Law and Venue. This Agreement is governed by the laws of the State of Texas. Exclusive venue for any dispute arising out of this Agreement is in Denton County, Texas.
- K. Governmental Immunity. Unless otherwise required under the law, the Parties agree that the City has not waived its governmental immunity by entering into and performing their obligations under this Agreement.
- L. Arbitration. In the event of a dispute which may arise under this Agreement, the City does not agree to arbitration.
- M. Force Majeure. If by reason of Force Majeure, the Agency shall be rendered unable wholly or in part to carry out its obligations under this Agreement then the Agency shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the Agency, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as employed herein, shall mean any contingency or cause beyond the reasonable control of the Agency created by acts of God or the public enemy, war, riot, terrorism, civil commotion, insurrection, governmental or de facto governmental action including, but not limited to, government actions pertaining to the determination of flood zones or FEMA actions (unless caused by acts or omissions of the Agency), fire, explosion or flood, strikes; provided, however, that (a) the event giving rise to Force Majeure was not caused by the act or omission of the Agency and makes the performance of any obligation created under this Agreement illegal or impossible; and (b) the Agency gives reasonable notice of the event giving rise to Force Majeure and exercises all reasonable diligence to remove the cause of Force Majeure.
- N. Waiver. The City's failure to act with respect to a breach by the Agency does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.
- O. Representations. Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its counsel.
- P. Miscellaneous Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be

construed against any party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

- Q. Entire Agreement. This Agreement constitutes the entire Agreement between the City and the Agency for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Agency with respect to this Agreement.
- R. Survival of Terms. The obligations of the City and the Agency under this Agreement that by their nature would continue beyond expiration or termination of this Agreement shall survive any such expiration or cancellation.
- S. Funding Out. The continuation of this Agreement after the close of any given fiscal year of the City, which fiscal year ends on September 30 of each year, shall be subject to city council budget approval providing for or covering such expenditure therein. The City does not represent that said budget item will actually be adopted as this determination is within the sole discretion of the city council. Should funding not be approved by the city council for any given budget year, the City shall notify the Agency, and this Agreement shall automatically terminate. In the event of such termination, the City will not be considered to be in default or breach under this Agreement, nor shall it be liable for any further payments ordinarily due under this Agreement, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.
- T. Closure. By signature below, the Parties to this Agreement hereby bind themselves to the terms stated herein, including any and all attachments referred to herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

IN WITNESS THEREOF, the Parties do hereby affix their signatures and enter into this funding Agreement as of the ____ day of _____, 2025.

CITY OF LEWISVILLE, TEXAS

CUMBERLAND YOUTH & FAMILY
SERVICES

BY: _____
Claire Powell,
CITY MANAGER

BY:  _____
Courtney Banatoski,
PRESIDENT & CEO

ATTEST: _____
Jennifer Malone,
ACTING CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster,
CITY ATTORNEY

ATTACHMENT A

INSURANCE REQUIREMENTS
GENERAL CONTRACTS FOR SERVICES

A. MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage "occurrence" form CG 00 01 (10 01). "Claims Made" form is unacceptable.
2. Workers' Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.

B. MINIMUM LIMITS OF INSURANCE

Vendor shall maintain limits throughout contract not less than:

1. Commercial General Liability: \$500,000 per occurrence/\$1,000,000 aggregate for bodily injury, personal injury and property damage. Policy will include coverage for:
 - a. Premises – Operations
 - b. Broad Form Contractual Liability
 - c. Products and Completed Operations
 - d. Personal Injury
 - e. Broad Form Property Damage
 - f. If applicable, Explosion Collapse and Underground (XCU) Coverage, Fire Damage, and Medical Expense.

NOTE: The aggregate loss limit applies to each project.

2. Workers' Compensation and Employer's Liability: Workers' Compensation Statutory limits as required by the Labor Code of the State of Texas and Employer's Liability minimum limits of \$500,000 per injury, \$500,000 per occurrence, and \$500,000 per occupational disease.

C. OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability Coverage

- a. The City, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "Additional Insured" as respects liability arising out of activities performed by or on behalf of the vendor, products and completed operations of the vendor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2. Waiver of Subrogation - All Coverages

- a. Each insurance policy required by this exhibit shall waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed by the vendor for the City.

3. Notice of Cancellation - All Coverages

- a. Each insurance policy required by this exhibit shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given the City, or ten (10) days prior written notice for non-payment of premium.