

Resolution No. _____

THE STATE OF TEXAS §

COUNTY OF DENTON §

**AGREEMENT BETWEEN THE
CITY OF LEWISVILLE, TEXAS AND
SPECIAL ABILITIES OF NORTH TEXAS**

This Agreement is hereby entered into by and between the City of Lewisville, Texas, a Home Rule Municipal Corporation, (hereinafter referred to as City) and SPECIAL ABILITIES OF NORTH TEXAS, a Texas 501(c)(3) corporation (hereinafter referred to as Agency) (jointly, hereinafter referred to as the Parties);

WHEREAS, the City Council has reviewed the scope of services of the Agency and has determined that the Agency performs an important human service for the residents of Lewisville without regard to race, religion, color or national origin and therefore Council recommends funding the Agency; and

WHEREAS, the City Council finds that the services provided by the Agency under this Agreement are beneficial to the citizens of the City and serves a valid public purpose by achieving the objectives outlined in section III of this Agreement, below; and

WHEREAS, the City has determined that this Agreement contains sufficient controls to ensure that the above-mentioned 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 provided for \$7,500 in its budget for funding the Agency;

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

I. RECITALS INCORPORATED

The foregoing recitals stated above shall be and are hereby incorporated in this section I as if said recitals were fully set forth herein.

II. PROGRAM SUMMARY

The Agency shall in a satisfactory and proper manner perform the following tasks, and achieve the goals, for which the monies provided by the City may be used:

Special Abilities of North Texas provides the highest quality care, training and support to adults with special needs, giving them opportunities to succeed in life, family and the community, while offering respite to their caregivers.

III. SCOPE OF SERVICES

- A. Target Lewisville (Unduplicated) Clients: 4
- B. Service Unit 1: Provide 849 One hour of Day Habilitation Services. Each One hour of Day Habilitation Services will be reimbursed up to \$8.83 per service unit not to exceed \$7,500 for the entire Agreement.

IV. OUTCOME MEASURES

- A. Intermediate Outcome Measure:
 - 1. 90% of individuals served will remain out of institutionalized care.
- B. Long-Term Outcome Measure:
 - 1. 90% of individuals served will report a positive impact on their quality of life.
- C. Performance Measure –The City uses objectives (Suitable Living Environment, Decent Housing, or Creating Economic Opportunities) and outcomes (Availability, Accessibility, or Sustainability) matching the U.S. Department of Housing and Urban Development’s (HUD’s) performance reporting when setting up public services at the beginning of each program year.

The following objective and outcome are designated for SPECIAL ABILITIES OF NORTH TEXAS:

- 1. Objective – Suitable Living Environment
- 2. Outcome – Accessibility

V. OBLIGATIONS OF AGENCY

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

- A. It will establish, operate, and maintain an account system for this program that will allow for a tracking of funds and a review of the financial status of the program.
- B. It will provide reports to the City on a monthly basis. See Section VIII.
- C. It will indemnify and hold harmless the City from any and all claims and suits arising out of the activities of the Agency, its employees, and/or contractors.

- D. It shall retain all records pertinent to expenditures incurred under this Agreement for a period of three (3) years after the expiration or termination of the agreement.
- E. It will permit authorized officials of the City to audit its program performance and accounts upon request.
- F. It will not enter into any contracts that would encumber City funds disbursed under this Agreement for a period that would extend beyond the term of this Agreement.
- G. It will appoint a representative who will be available to meet with the Director of Finance and other city officials when requested.
- H. It will carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee.

VI. TIME OF PERFORMANCE

The services funded by the City shall be undertaken by the Agency within the following time frame:

OCTOBER 1, 2023 THROUGH SEPTEMBER 30, 2024

VII. METHOD AND TIMING OF PAYMENT

- A. Payment by the City for services provided hereunder will be reimbursed monthly within 21 days following timely receipt of proper reporting documents as outlined in Section VIII, below. Reimbursements will be made at the contracted cost per service unit(s) (See Section III – Scope of Services), as provided for in section VII.B., below.
- B. It is expressly understood and agreed that repayment shall be based on a cost per service unit delivered for services provided in the previous month, up to a maximum repayment per month not to exceed one-tenth of the total award amount, subject to the following:
 - 1. In the event that Agency would be eligible for repayment for services provided during a month but is unable to receive full repayment for those services due to the month maximum repayment, Agency may "roll over" the surplus services provided to a subsequent month during the term of this Agreement in which services provided have not reached the monthly maximum repayment limit, and they may be counted toward

that month's total services provided. The City reserves the right to request additional documentation if necessary to ensure that Agency does not receive duplicate payments for services.

2. The last month of the term of this Agreement shall not have a maximum repayment limit.
- C. It is expressly understood that no compensation will be reimbursed without submission the documentation required by Section VIII, below, outlining the services provided by the Agency to Lewisville residents under this Agreement.
- D. It is expressly understood and agreed that in no event under the terms of this Agreement will the total compensation to be paid hereunder exceed the maximum sum of \$7,500 for all the services rendered.

VIII. EVALUATION

The Agency agrees to participate in the programmatic and fiscal requirements outlined in the City of Lewisville City Fund Monitoring Guide (City has copy available for review or reproduction). The Agency agrees to make available its financial records for review by the City at the City's discretion. In addition, the Agency agrees to provide the City the following data and/or reports no later than the 15th of each month containing the previous month's data:

- A. Performance Objectives Report
- B. Client Services Summary Report
- C. Request for Reimbursement

Forms for these reports will be available on and submitted through the City's online grants portal. Multiple failures to submit timely reports will be reflected in the Agency file and may be considered during the renewal process.

IX. SUSPENSION OR TERMINATION

The City may suspend or terminate this Agreement and payments to the Agency, in whole or part, for cause. Cause shall include but not be limited to the following:

- A. Agency's improper, misuse, or inept use of funds.
- B. Agency's failure to comply with the terms and conditions of this Agreement.

- C. Agency's submission of data and/or reports that are inaccurate or incomplete in any material respect.
- D. If for any reason the carrying out of this Agreement is rendered impossible or unfeasible.

In the event the City determines that the provisions of this Agreement have been breached by the Agency, the City may suspend payment hereunder; and, in case of suspension, the City shall advise the Agency, in writing, as to conditions precedent to the resumption of funding and specify a reasonable date for compliance.

Either party may terminate this Agreement upon giving the other party sixty (60) days written notice of such termination.

X. MISCELLANEOUS

- A. 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.
- B. Notices. Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. 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:

<u>City</u>	<u>Agency</u>
Rachel Hiles, Grants Specialist	JaChel Redmond, President & CEO
City of Lewisville	Special Abilities of North Texas
151 W Church St	75-2480904
P.O. Box 299002	1511 Justin Rd. Ste B
Lewisville, TX 75029	Lewisville, TX 75077
972-219-5026	972-317-1515
rhiles@cityoflewisville.com	jachel@specialabilities.net

- C. "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.

- D. Compliance with Laws. The Agency shall comply with all applicable federal, state, and local statutes, regulations, ordinances, and other laws, including, but not limited to the Immigration Reform and Control Act (IRCA).
- E. 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.
- F. 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.
- G. Arbitration. In the event of a dispute which may arise under this Agreement, the City does not agree to arbitration.
- H. Amendment. This Agreement may be modified or rescinded only by a written instrument signed by both of the Parties or their duly authorized agents.
- I. 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.
- J. 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.
- K. Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party 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 party giving such notice, 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 acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, order of any kind of government of the United States or the State of Texas or any civil

military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability.

- L. 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.
- M. 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.
- N. 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.
- O. 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 Grantee and the Subrecipient with respect to this Agreement.
- P. Closure. By signature below, the parties to this Agreement hereby bind themselves to the terms stated herein, including all attachments referred to herein.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS THEREOF, the parties do hereby affix their signatures and enter into this funding Agreement as of the ____ day of _____, 2023.

CITY OF LEWISVILLE, TEXAS

SPECIAL ABILITIES OF NORTH TEXAS

BY: _____
Claire Powell
CITY MANAGER

BY: _____
JaChel Redmond
President & CEO

ATTEST: _____
Thomas Harris III, CITY SECRETARY

APPROVED AS TO FORM:

Lizbeth Plaster, CITY ATTORNEY