

THE STATE OF TEXAS
COUNTY OF DALLAS

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**Program Funding Agreement: Impact Child
Homelessness in Farmers Branch**

This **Program Funding Agreement** (“Agreement”) is made and entered into as of the Effective Date by and between the **City of Farmers Branch, Texas**, hereinafter referred to as the “City,” acting by and through its City Manager, and **Metrocrest Services, Inc.**, hereinafter referred to as “Provider,” acting by and through its duly authorized representative. (City and Provider collectively referred to hereafter as “Parties” or sometimes individually as “Party”).

WITNESSETH:

WHEREAS, Provider is an independent nonprofit corporation established under the laws of the State of Texas for the purpose of providing direct material assistance as well serving as an information and referral service regarding children who experiencing homelessness or who are on the verge of homelessness in the City of Farmers Branch, Texas; and

WHEREAS, City is charged with the responsibility of promoting and preserving the health, comfort, safety, peace, good government, and welfare of all its residents, including children; and

WHEREAS, City desires to provide funds to Provider in order to better enable Provider to provide its services to children within the City who are homeless or on the verge of being homeless, which services City may otherwise be required to provide directly; and

WHEREAS, the cycle of child homelessness is well documented in inhibiting the physical, emotional, cognitive, social, and behavioral development of children that sets the tempo for success academically as well as an adult; and

WHEREAS, there is an increasing number of homeless children and children on the verge of homelessness including 43 students identified by the Carrollton-Farmers Branch ISD that are currently experiencing homelessness within the City.

NOW THEREFORE, in consideration of all mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

ARTICLE 1- Term

This Agreement shall be effective upon execution by the Parties (“the Effective Date”) and shall expire on the September 30, 2020, unless terminated sooner as provided herein.

ARTICLE 2 – Programs, Projects, and Tasks

Pursuant to Provider’s mission to provide support and direct services to children within Farmers Branch that will enable City’s children to improve their quality of life, Provider agrees to

design, develop and/or implement projects or programs serving Farmers Branch, including, but not limited to, the following:

A. Information and Referral: Provide information and referral services including, but not limited to, referrals to services related to:

- (1) Physical and mental health, and social service programs;
- (2) Job opportunities and education to increase income stability and potential for parents;
- (3) Support Group programs related to the child's/parent's situation and needs; and
- (4) Mentoring program referral.

B. Direct Material Assistance: Implement a direct assistance program to provide goods and services to children and their families who meet need qualifications established by Provider including, but not limited to:

- (1) Healthy food and food education;
- (2) Housing stability necessary to break the cycle of homelessness and housing education;
- (3) Utility payment assistance and utility education;
- (4) Clothing;
- (5) Medical bill and/or prescription payment assistance;
- (6) Transportation assistance;
- (7) Assistance with acquiring and/or paying for other basic life needs;
- (8) Financial literacy programs; and
- (9) School Supplies.

C. Indirect Assistance: Provide indirect assistance to clients through:

- (1) Collaboration with other agencies in the community for awareness of need and maximum utilization of resources including partnerships to provide mental health services;
- (2) Community education about issues, needs and resources;

- (3) Inquiry into the causes of identified problems;
- (4) Participation in the development of plans and strategies to address these causes;
- (5) Provision of volunteer opportunities for community-wide involvement in the programs of the Metrocrest Services Inc.

D. Build Formal Partnerships: Provider will make reasonable efforts to negotiate and enter into formal relationships with other community organizations and local governments to provide resources and/or assistance to Provider or Provider's clients including, but not limited to:

- (1) Brookhaven College;
- (2) Carrollton-Farmers Branch Independent School District;
- (3) Metrocrest Chamber of Commerce;
- (4) Farmers Branch Chamber of Commerce; and
- (5) Dallas Independent School District.

E. Program Outcomes:

- (1) Provider will create a program management plan with a phased-approach to reduce child homelessness within Farmers Branch, which plan, upon request, will be provided to City for review and comment prior to adoption by Provider.
- (2) Provider will implement the initial phase of the adopted program in Farmers Branch;
- (3) Provider will provide quarterly written project updates and, upon request, oral presentations, on the status of the program and the impact on child homelessness in Farmers Branch.

ARTICLE 3 – Service Fee; Payment; Audit

3.1 Service Fee; Payment. For the design, development and implementation of the programs enumerated in Article 2, City agrees to pay Provider an amount not to exceed \$215,000.00 ("the Service Fee"). The Service Fee shall be paid in six (6) installments, the initial installment, which shall be used to build the program, to be in the amount of \$90,000 and paid not later than ten (10) days after the Effective Date, with the remaining five installments to be in the amount of \$25,000.00 each, and paid not earlier than July 1, 2019, October 1, 2019, January 2, 2020, April 1, 2020, and July 1, 2020, respectively, subject to Section 3.2, below. The foregoing payment schedule may be accelerated by request of Provider and approval by the City Manager, subject to current funds being available.

3.2 Invoice and Supporting Documents. Except for the initial installment, Payment of each installment of the Service Fee shall be made only following receipt of a statement from Provider, and, then, only if Provider is current on delivery of all quarterly financial statements to City. Not later than 60 days after the end of each calendar quarter, Provider shall deliver to City a quarterly financial report which shall, as a minimum, include statements of revenues and expenses and program results for the calendar quarter covered by the report and year to date. Expenditure information shall include donated (in-kind) services and materials related to funded projects or programs. Not later than 60 days after the end of each calendar quarter, Provider shall deliver to City a quarterly project management report which shall, as a minimum, include an updated project summary, deliverables, timelines, notes, issues/risks/recommendations, and overall project metrics showing the impact of the program on our goal to reduce and eliminate child homelessness in Farmers Branch. All materials are preferred in an electronic format.

3.3 Annual Audit. City shall not be required to make any payment pursuant to this Agreement while there is pending any uncured defaults of this Agreement for which the City has provided notice to the Provider. Within 90 days of the Provider fiscal year ending October 31, 2019, a financial statement prepared by a Certified Public Accountant of all activities funded by this agreement shall be provided to the City. Such statement shall provide sufficient information so as to support the accuracy of the quarterly financial report. This section shall survive the expiration of the term of this Agreement. All materials are preferred in an electronic format.

3.4 City Facility Use. City agrees children within the City participating in Provider's programs or receiving Provider's services pursuant to this Agreement and their families will be provided free access and use to the Farmers Branch Manske Library and City's Recreation Center during the term of this Agreement.

ARTICLE 4 –Assumption of Liability; Indemnification

Provider agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, in connection with the performance of services performed and to be performed hereunder. **Provider covenants and agrees to, and does hereby indemnify and hold harmless City and all of its officers, agents, and employees from all suits, action, or claims of any character brought for or on account of any injuries or damages, whether real or asserted, sustained by any person or property by or in consequence of any negligent omission, act or conduct of Provider, its agents, servants or employees.** The covenants and liabilities of Provider pursuant to this Article 4 shall not terminate with the termination or expiration of this Agreement.

ARTICLE 5 - Notice of Termination; Refunds

This Agreement may be canceled and terminated by either Party upon giving thirty (30) days written notice to the other Party. Said thirty (30) days shall commence upon receipt of such notice by the addressee and shall conclude at midnight of the 30th day thereafter. Prorated funding returned to City by Provider or additional funds due the Provider (not to exceed the budgeted amounts set forth in Section 3.1 shall be determined on the basis of the actual services provided

and the actual costs incurred as of the effective date of the termination. Upon payment or tender of such amount, all of City's obligations hereunder shall be discharged and terminated and no action shall lie or accrue for additional benefit, consideration or value for, or based upon the services performed under or pursuant to, this Agreement.

ARTICLE 6 – Compliance with Laws

Provider shall observe and abide by all applicable federal and state laws and regulations and City's Charter and Ordinances, and all rules and regulations of any lawful regulatory body acting thereunder in connection with the services performed hereunder.

ARTICLE 7 – No Conflicts

No officer or employee of City or Provider shall have any interest, direct or indirect, in this Agreement or the proceeds thereof that violates relevant provisions of the City Charter, City Ordinances or State laws dealing with conflict of interest.

ARTICLE 8 –Miscellaneous Provisions

8.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

8.2 Assignment. Provider may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by Provider to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

8.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective successors and assigns.

8.4 Governing Law; Venue. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in a state court of competent jurisdiction in Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

8.5 Amendments. This Agreement may be amended only by the mutual written agreement of the Parties.

8.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

8.7 Independent Contractor. It is understood and agreed by and between the Parties that Provider in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Provider pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of City. Provider shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

8.8 Notices. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed or facsimile to the address specified below, or to such other party or address as either Party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein:

If intended for City, to:

Charles S. Cox, City Manager
City of Farmers Branch, Texas
13000 William Dodson Parkway
Farmers Branch, Texas 75234

With copy to:

Peter G. Smith
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Ross Tower
500 N. Akard
Dallas, Texas 75201

If intended for Provider:

Tracy Eubanks, Chief Executive Officer
Metrocrest Services, Inc.
13801 Hutton Drive, Suite 150
Farmers Branch, Texas 75234

8.9 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

8.10 Exhibits and Recitals. The recitals and exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

8.11 Prohibition of Boycott Israel. Provider verifies that it does not Boycott Israel, and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended

(signatures on following page)

SIGNED AND AGREED this _____ day of _____, 2019.

CITY OF FARMERS BRANCH, TEXAS

By: _____
Charles S. Cox, City Manager

Attest:

Amy Piukana, City Secretary

Approved as to Form:

City Attorney

SIGNED AND AGREED this _____ day of _____, 2019.

METROCREST SERVICES, INC.

By: _____
Tracy Eubanks, Chief Executive Officer