

## DELEGATE AGENCY AGREEMENT

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF KENDALL

This Agreement made effective the 1<sup>st</sup> day of October, 2016, by and between the CITY OF BOERNE, TEXAS, a home-rule municipal corporation located in Kendall County, Texas, hereinafter called CITY and the RAINBOW SENIOR CENTER, hereinafter called CENTER, each acting herein by and through its duly authorized officers.

**WHEREAS**, The City by authority of its general governmental powers reserved to it under the Texas Constitution, has provided certain public funds for the accomplishment of a public purpose; and

**WHEREAS**, the City has adopted a budget for the expenditure of such funds, and included therein is an allocation of Park Funds for programs of the Center; and

**WHEREAS**, the Center is a central resource center which provides available needed services to improve and maintain a high quality of life for senior citizens in the City of Boerne and Kendall County; and

**WHEREAS**, the Center's mission is to serve the need of the citizens of the City of Boerne and Kendall County, ages 60 and older; and

**WHEREAS**, the Center's function is to coordinate or provide resources, information and activities that will enrich the lives of senior citizens; and

**WHEREAS**, the Center provides nutritional programs, transportation services, and encourages social interaction among senior citizens to overcome the social isolation that often accompanies aging; and

**WHEREAS**, the City Council has found and determined that the above programs,

services, mission and functions of the Center accomplish a valuable and important public purpose for the citizens of Boerne.

NOW THEREFORE:

The parties hereto agree as follows:

1. The Center will provide, oversee, administer, and carry out all programs and services described above in a manner satisfactory to the City.
2. The Center agrees that any funds paid to it by the City shall be used only in the performance of programs and services described above.
3. The City hereby agrees to pay to the Center FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00) from the Park Fund. Payment shall be made in quarterly payments of \$3,750 beginning October, 2016 and ending September, 2017.
4. It is expressly understood and agreed by and between the parties that the Center is hired and engaged as an independent contractor and is not an officer, agent or employee of the City
5. It is understood and agreed by and between the parties that a fiduciary duty is created in the Center with respect to expenditure of revenue provided in accordance with the approved proposal.

Therefore:

- A. The Center shall provide to the City Manager periodic reports within thirty (30) days after the end of each three (3) month period beginning with the period ending December 31, 2016 on the activities that are conducted to benefit the City, and expenditures made hereunder, as well as an annual financial statement listing the expenditures made from the funds paid hereunder.
- B. The Center shall maintain complete and accurate financial records of each expenditure of funds paid hereunder and, upon request of the City Council or City

Manager shall make the records available for inspection and review.

- C. Further, the Center shall obtain and supply to the City on or before January 31, 2017, an accounting by numbers, samples, registrations or other method acceptable to the City Manager detailing the persons served by the Center's programs and functions described herein.

6. This Agreement shall begin on the execution date hereof and shall continue in force until September 30, 2017. This Agreement may be terminated by the City upon thirty (30) days notice for noncompliance with the terms of the Agreement.

7. Any notice necessary or appropriate relative to this Agreement shall be effective when deposited in the United States mail, either certified or registered mail, postage prepaid and addressed to the City Manager of the City of Boerne, City Hall, 402 East Blanco, Boerne, Texas 78006 or to the Rainbow Senior Center, 17 Old San Antonio Rd., Boerne, Texas 78006.

8. No part of this Agreement may be assigned or delegated, and any attempted assignment of benefits or rights of delegation of duties or obligations shall be a breach of this Agreement.

9. This Agreement shall be subject to the laws and statutes of the State of Texas.

10. **INDEMNITY CLAUSE.** The Center agrees to and shall indemnify and hold harmless and defend the City, its officers, agents, and employees from any and all claims, losses, causes of action and damages, suits, and liability of every kind including all expenses of litigation, court costs, and attorney fees, for injury to or death to any person, or for damage to any property, arising from or in connection with the operations of the Center, its officers, agents and employees carried out in furtherance of this Agreement. It is the expressed intention of the parties hereto, both the Center and the City, that the indemnity provided for in this paragraph is also Indemnity by the Center to indemnify and protect the City from the consequences of the City's own negligence, where the negligence is a concurring cause of the injury, death, or damage.

11. It is expressly agreed that by executing this Agreement with the Center, the City does not

bind itself in the future as to any action of the City Council in connection with the alteration or repeal or amendment of the City of Boerne, Texas budget, fund allocation, or appropriation of funds, and in the event, for any reason, that the funds are not available, the City shall not be obligated under this Agreement to pay any funds of the City to the Center. It is also understood between the parties to the Agreement that in the event that no funds are available from the City of Boerne, Texas budget for any reason, this Agreement shall terminate, any provisions contained herein notwithstanding, and that the Center shall have no right or demand upon the City for funds payable under this Agreement if such funds are not available, for any reason.

12. Each party warrants and represents that it has approved this Agreement by motion duly adopted at a meeting of its governing body by a majority of those present and voting and that the chief executive officer of each party is duly authorized to enter into this Agreement on behalf of such party.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

**CITY OF BOERNE, TEXAS**

BY: \_\_\_\_\_  
RONALD C. BOWMAN  
City Manager

ATTEST:

\_\_\_\_\_  
LORI CARROLL  
City Secretary

**RAINBOW SENIOR CENTER**

BY: \_\_\_\_\_  
Executive Director

ATTEST:

BY: \_\_\_\_\_  
PRINT NAME: \_\_\_\_\_  
OFFICE HELD: \_\_\_\_\_