

**MEMORANDUM OF AGREEMENT
BETWEEN
THE CITY OF SAN ANTONIO
AND
THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO**

This Memorandum of Agreement (hereinafter MOA) is by and between The University of Texas Health Science Center at San Antonio, an institution of The University of Texas System and an agency of The State of Texas (hereinafter HSC) and the City of San Antonio (hereinafter City), on behalf of the San Antonio Metropolitan Health District (hereinafter Metro Health).

WHEREAS, in 1993 The Centers for Disease Control and Prevention established The Tuberculosis Trials Consortium (TBTC) to conduct programmatically relevant clinical, laboratory and epidemiologic research concerning the diagnosis, clinical management and prevention of tuberculosis infection (the Study); and

WHEREAS, on March 31, 2021 the U.S. Centers for Disease Control and Prevention announced the members of its Tuberculosis Trials Consortium (TBTC) for the 2021 - 2030 cycle and the San Antonio site (Site 63) is the only site recognized in Texas the only 1 of 6 sites in the entire United States; and

WHEREAS, the San Antonio Metropolitan Health District's collaboration with HSC and the Tuberculosis Trials Consortium (TBTC) goes back more than 20 years and includes three clinical studies of treatment with rifapentine based therapy for treatment of latent tuberculosis and a study to shorten treatment of active tuberculosis; and

WHEREAS, Dr. Jose Cadena, MD is a consortium member and is designated by the HSC as a Principal Investigator for TBTC studies; and

WHEREAS, the HSC shall appoint Dr. Cadena to be responsible for the conduct of the study by the HSC; and

WHEREAS, Metro Health is the primary public health entity serving the City of San Antonio and unincorporated Bexar County and charged with responsibility for health assessment, assurance and policy development; and

WHEREAS, the City, by and through Metro Health and HSC intend to collaborate on referral of treatment services for tuberculosis infected patients; and

WHEREAS, Metro Health will refer patients for continuation of care and treatment to the HSC under the care of Dr. Cadena for possible participation in said Study to be conducted by Dr. Cadena; and

WHEREAS, the parties understand that this MOA is to facilitate collaboration between the parties during the Study for the referral of potential participants to the Study and their continuing treatment; and

WHEREAS, Metro Health has access to a large number of patients and/or clients who may qualify for participation in the Study; and

WHEREAS, HSC by and through Dr. Cadena desires Metro Health's collaboration in the implementation of this Study and can provide continuing treatment for referred participants; and

WHEREAS, this MOA between the CITY and HSC will promote the coordination and access of treatment to these patients who may additionally qualify for participation in the Study; NOW THEREFORE:

- 1. Dr. Cadena on behalf of the HSC will:**
 - A. Provide the City with information on its services and Study to enable City to make referrals to Dr. Cadena.
 - B. Accept referrals from Metro Health for provision of treatment services and potential participation in the Study. If a participant does not complete the study, Dr. Cadena will refer participants to Metro Health for continuing care and treatment.

- C. Screen patients for Study eligibility and be responsible for collecting and having participants execute all authorization and consent forms as may be required.
- D. Communicate and update key Metro Health personnel on Study status.
- E. Include Metro Health in manuscript preparation and related publication endeavors. In the event that Dr. Cadena publishes as first (communicating) author the results of this Study or uses any of the Study materials for educational activities, Dr. Cadena will acknowledge the City's contribution to the project in any such materials. Such acknowledgement shall indicate the project was supported in part by Metro Health. If a third party uses the study results, then the standard policies of the Tuberculosis Trials Consortium (TBTC) of the Centers for Disease Control and Prevention will be followed, which generally acknowledges TBTC study sites that will include Metro Health.
- F. Allot time to meet with Metro Health to discuss Study findings and future collaboration in research studies or interventions.
- G. Have personnel performing activities under this MOA at the Metro Health clinic execute a Release and Indemnification Form concurrently with this MOA, a copy of which is attached hereto and incorporated herein for all purposes as **Attachment I**.
- H. Liaise with HSC Institutional Review Board and supervise the studies.
- I. HSC shall comply with standard practices of confidentiality of patient information as required by Metro Health and by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Texas State privacy laws. HSC shall execute a HIPAA Business Associate Agreement in substantially the same form as shown in **Attachment II**, which is intended to protect the privacy and provide for the security of Protected Health Information disclosed pursuant to this Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended, and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws.

2. City through Metro Health will:

- A. Make patient referrals with patient authorization to HSC under the direction of Dr. Cadena for continuation of care and treatment and who may qualify for the Study to be provided by Dr. Cadena.
- B. Inform patients of Study in clinical sites if identified as potentially eligible for Study participation.
- C. Give information sheet with contact telephone number to potential participant or directly contact Dr. Cadena if patient indicates willingness to participate at the time of the encounter.
- D. Facilitate communication between Metro Health and Dr. Cadena and his staff.
- E. Subject to availability allow Dr. Cadena's staff to conduct initial interview at the Metro Health clinic site and allow usage of a phone and computer.

3. Both parties agree:

- A. To maintain a self-insurance fund for general liability and worker's compensation claims and causes of action to meet their statutory obligations to each party's employees.
- B. That each party be responsible for the acts and negligence of its employees under state and federal law.

4. **Term/Termination.** This MOA will be effective on November 1, 2022 and will terminate on October 31, 2027 unless sooner terminated by the parties. The City shall have the option to renew this Agreement for

one, two-year term. The renewal shall be in writing and signed by the Director, or designee, without further action by the San Antonio City Council.

Either party may terminate this Agreement upon 30 days written notice to the other party. Notices to each party will be in accordance with Section 9. Notice.

5. **Indemnification.** HSC and City acknowledge they are subject to, and comply with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001, et. seq., and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accident, injury or death.

6. **Confidentiality:** HSC acknowledges that in connection with the services to be performed under this Agreement by HSC, HSC and its employees may be acquiring and making use of certain confidential information of the City and Metro Health which includes, but is not limited to, management reports, financial statements, internal memoranda, reports, patient lists/health information, and other materials or records of a proprietary nature ("Confidential Information"). Therefore, in order to protect the Confidential Information, HSC and its employees shall not use the Confidential Information except in connection with the performance of services pursuant to this Agreement, or divulge the Confidential Information to any third party, unless the City consents in writing to such use or divulgence or disclosure is required by law. In the event HSC receives a request or demand for the disclosure of Confidential Information, HSC shall immediately provide written notice to the City of such request or demand, including a copy of any written element of such request or demand. HSC further agrees to adequately instruct its employees, physicians and all personnel that may provide services pursuant to this Agreement regarding the confidentiality and privacy of patients and patients' medical records. All such instructions shall be in accordance with the formal policies and rules of the HSC and with all federal and state laws and regulations regarding patient and medical record confidentiality. HSC assumes full responsibility for any breach of confidence by its employees or its staff with regard to the provision of services under this Agreement.

7. **Ownership of Documents:** In accordance with Texas law, HSC acknowledges and agrees that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are declared public property and are subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code.

All documents, including any original drawings, estimates, specifications and all other documents and data, produced by HSC in the course of the Study shall remain the property of HSC. However, it is understood that City shall have access to all such HSC information and City is granted the right to make and retain copies of HSC's drawings, estimates, specifications and all other documents and data.

Any materials or data previously owned by City and provided to HSC pursuant to this Agreement shall remain property of City, and nothing herein shall be construed to grant any right or license to HSC in or to any material or data. HSC agrees and covenants to protect any and all proprietary rights of City in any materials and data provided to HSC. Additionally, any materials or data provided to HSC by City shall not be released to any third party without the consent of City and shall be returned intact to City, or destroyed if instructed by City to do so, upon termination or completion of this Agreement.

All previously owned intellectual property of HSC, including but not limited to any computer software (object code and source code), tools, systems, equipment or other information used by HSC or its suppliers hereunder, and any know-how, methodologies or processes used by HSC to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto, shall remain the sole and exclusive property of HSC or its suppliers.

8. **Compensation:** No fees or expenses shall be exchanged between the City and HSC for the activities set out under this Agreement. The City will not be charged for any services performed by HSC in connection with the activities covered by this Agreement or have any obligation to pay the salaries or expenses of any HSC personnel.

9. **Notice:** All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and

shall be sent by (a) personal delivery; (b) certified or registered United States mail, return receipt requested; or (c) overnight delivery service with proof of delivery. Notices shall be sent to the addresses below:

City:

City of San Antonio
San Antonio Metropolitan Health District
Attn: Claude A. Jacob, Health Director
100 W. Houston, 14th Floor
San Antonio, TX 78205

HSC:

University of Texas Health Science Center at
at San Antonio
Attn: Melissa Engle, Clinical Research Program Manager
7703 Floyd Curl Dr.
San Antonio, TX 78229

10. **Independent Contractor:** HSC is an independent contractor, and neither HSC nor any of its agents, representatives, staff or employees shall be considered agents, representatives, or employees of the City. In no event shall this Agreement be construed as establishing a partnership or joint venture or similar relations between the parties hereto. HSC shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes or benefits. City shall not provide HSC staff any salaries, insurance or other benefits.

11. **Non-Discrimination:** As a party to this contract, HSC 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

12. **Amendments:** 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 City and HSC.

It is understood and agreed by Parties hereto, that changes in local, state and federal rules, regulations or laws applicable hereto, may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

13. **Licenses/Certifications:** HSC warrants and certifies that HSC and any other person designated to provide services hereunder 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 herein.

14. **Compliance:** HSC shall provide and perform all services under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations and shall comply with standards, guidelines, and policies of the City and Metro Health.

Notwithstanding any other provisions contained in this Agreement, the Parties shall comply in all material respects with the applicable provisions, if any, of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (collectively, "HIPAA"), and agree to enter into any such other agreements between the Parties as may be required in order to evidence such compliance with HIPAA.

15. **Assignment:** This Agreement is not assignable by either party without the prior written consent of the other party. Any assignment without such written consent shall be void.

16. **Captions:** 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.

17. **Texas Law to Apply/Venue:** This Agreement shall be construed under and in accordance with the laws of the United States and the State of Texas. The obligations of the parties to this Agreement shall be performable in San Antonio, Bexar County, Texas, and if legal action is necessary in connection therewith, exclusive venue shall lie in Bexar County, Texas.

18. **Legal Construction:** In case 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 provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

19. **Entire Agreement:** The final and entire Memorandum of Agreement between the parties hereto and contains 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 hereto unless same be in writing, dated subsequent to the date hereof, and duly executed by the parties.

In witness whereof, the parties have caused this MOA to be executed as of the day and year listed below.

**The University of Texas Health
Science Center at San Antonio**

City of San Antonio

DocuSigned by:

EAA3B43A9DA7421...

Chris G. Green, CPA
Asst VP Sponsored Programs

Claude A. Jacob
Health Director
San Antonio Metropolitan Health District

10/20/2022

Date

Date

APPROVED AS TO FORM:

City Attorney

**CITY OF SAN ANTONIO
AGREEMENT INCLUDING RELEASE AND INDEMNIFICATION**

WHEREAS, the City of San Antonio (hereinafter referred to as "CITY") consents and agrees to permit employees of The University of Texas Health Science Center at San Antonio, to participate in the collaboration of Study referrals (hereinafter referred to as the "PROJECT"), subject to the adherence of the individual to any provisions set out in the rules and regulations of the City.

NOW, THEREFORE, for and in consideration of the premises and the mutual promises, covenants, and agreements set forth in this Agreement and subject in all ways to the extent authorized under the Constitution and laws of the State of Texas , the CITY and the individual agree that the CITY, its agents or employees, shall not be liable or responsible for, and shall be **SAVED, HELD HARMLESS, RELEASED and INDEMNIFIED** by the individual employer from and against any and all suits, actions, losses, damages, claims, or liability of any character, type, or description, including but not limited to all expenses of litigation, court costs, and attorney fees for injury or death to any person, or injury to any property received or sustained by any person or persons or property arising out of, or occasioned by, directly or indirectly, the participation of the individual in the PROJECT.

IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT IS AN INDEMNITY EXTENDED BY THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT SAN ANTONIO SUBJECT TO THE EXTENT AUTHORIZED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS TO INDEMNIFY AND PROTECT THE CITY FROM ANY AND ALL CLAIMS OR ACTIONS, AS SET FORTH ABOVE, OF ANY KIND, ARISING DIRECTLY OR INDIRECTLY FROM THE PARTICIPATION OF THE EMPLOYEE IN THE PROJECT.

It is further understood and agreed that the individual will participate solely as an individual on a voluntary basis and not as an employee, contractor or agent of the CITY or its agents or employees. Individuals who are employed by CITY acknowledge that this participation is outside the scope of their employment and is performed on a voluntary basis only. The Parties acknowledge that the individual is acting in their capacity as an employee of The University of Texas Health Science Center at San Antonio and as such are subject to the laws and Constitution of the State of Texas. Nothing contained herein is intended to waiver or reduce the rights or privileges of the State of Texas.

In making this Agreement, the individual relies wholly upon his/her own judgement, belief and knowledge and has not been influenced to any extent whatsoever by any representations or statements not contained in this Agreement.

I, the undersigned, do hereby release to and authorize the use of any photographs taken of the participants listed below by the City, my employer, any other sponsor, or their contractors for the purpose of developing public information materials.

SIGNATURE

DATE

PRINTED NAME

ADDRESS

CITY

STATE ZIP CODE

TELEPHONE NUMBER

EMERGENCY NUMBER