

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

THIS INTERLOCAL AGREEMENT (the Agreement) is made and entered into by and between the CITY OF SAN ANTONIO ("CITY"), a Texas Home Rule Municipality, on behalf of the San Antonio Metropolitan Health District ("Metro Health") acting by and through the City Manager or designee pursuant to Ordinance No. _____ and THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT TYLER (UNIVERSITY), an institution of The University of Texas System, an agency of the state of Texas (UNIVERSITY). CITY and UNIVERSITY shall collectively be referred to as "the Parties."

WITNESSETH

WHEREAS, to increase efficiency and effectiveness, Texas Government Code, Chapter 791 authorizes local governments to contract to the greatest extent possible with one another and with agencies of the state; and

WHEREAS, Texas Government Code, section 791.011 provides that a local government may contract with another to perform governmental functions and services, and the definition of "governmental function and services" under Section 791.003(3) includes the areas of public health and welfare; and

WHEREAS, the City's Tuberculosis (TB) Prevention and Control Program within Metro Health provides examination, diagnosis and treatment for individuals suspected or confirmed with active tuberculosis disease and latent TB infections; and

WHEREAS, Metro Health also provides screening and preventive medicine for those with a known exposure to TB or those from high risk populations; and

WHEREAS, additional services offered include case management, contact investigation and community intervention with prevention measures in order to reduce the rates and control the spread of TB disease; and

WHEREAS, UNIVERSITY is one of four Centers of Excellence (COE) in the United States funded by the Center for Disease Control and Prevention's Division of TB Elimination; and

WHEREAS, UNIVERSITY provides medical consultation services related to various aspects of TB control; and

NOW THEREFORE, this Agreement defines the terms between the City and UNIVERSITY for the provision of physician medical services by UNIVERSITY for active TB cases; and

**I.
PURPOSE/DEFINITIONS**

1.1 The purpose of this Interlocal Agreement is to establish the terms and conditions under which UNIVERSITY will provide CITY with certain specified public health services for physician services as part of the Metro Health's Tuberculosis (TB) Prevention and Control Program. This Agreement shall also establish the CITY's and UNIVERSITY's obligations, costs, and the manner and method of payment for

provided services.

1.2 As used in this Agreement, the following terms shall have meanings as set out below:

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"UNIVERSITY" is defined in the preamble of this Agreement and includes its successors.

"Director" shall mean the director of City's San Antonio Metropolitan Health District.

"Project or Program" shall mean the general scope of services of this Agreement.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement shall commence on October 1, 2022, and shall terminate on September 30, 2023. This Agreement may be renewed by mutual consent of the Parties for up to four (4), one (1) year terms (a "Renewal Term"). Any renewals shall be in writing and signed by the Parties. The Director of the San Antonio Metropolitan Health District shall have the authority to execute renewals on behalf of the City without further City Council action, subject to appropriation of funds therefore.

2.2 If funding for the entire Agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any additional contract period beyond the initial term set forth in 2.1 is subject to and contingent upon subsequent appropriation.

2.3 It is expressly understood and agreed by the City and UNIVERSITY that City's obligations under this Agreement are contingent upon the actual receipt of adequate funds to meet the City's liability hereunder. Lack of funding is not and shall not be considered a breach of this Agreement. If City does not receive adequate funds to pay obligations under this Agreement, then this Agreement shall terminate and neither UNIVERSITY nor City shall have any further obligations hereunder.

III. SCOPE OF SERVICES

3.1 UNIVERSITY agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV Compensation.

3.2 UNIVERSITY agrees to provide a Licensed Medical Physician (Physician) specializing in the diagnosis and treatment of TB to provide services at the Metro Health City Chest Clinic (Clinic) as described in this Article III. UNIVERSITY may change Physicians but shall ensure one of its Physicians is available during clinic hours. UNIVERSITY shall ensure a Physician is available for consultations by telephone during periods when the physical presence of a Physician cannot be provided. UNIVERSITY agrees to provide a minimum of ten (10) business day notice if unable to provide coverage, with the exception of an unforeseen emergency.

3.3 UNIVERSITY agrees to notify City upon identifying the Physicians who shall provide services as described in this Article III so City may ensure any Physicians performing services are credentialed for filing claims and billing with Metro Health.

3.4 UNIVERSITY agrees to perform the following services:

3.4.1 UNIVERSITY shall provide through the services of a Physician specializing in the diagnosis and treatment of TB the following professional physician medical services to include:

- a. Providing clinical service coverage and patient care for the Clinic for all active TB cases and active TB case contacts referred to the Clinic which includes persons identified as having exposure to known active TB cases and are at risk for being infected or developing TB disease. Active TB case contacts identified as having a latent tuberculosis infection will be referred for services and treatment and shall not be provided treatment services under this Agreement. Medical and clinical services will include but not be limited to: guiding the treatment of active tuberculosis utilizing available resources including mycobacterial cultures, genotyping, drug susceptibility testing, radiographic facilities, first and second-line drugs. Services to be provided include organization and supervision of treatment, utilizing recommended treatment regimens, initiating treatment, conducting appropriate baseline and follow-up evaluations, identification and management of patients at increased risk of treatment failure and relapse, as well as providing treatment in special situations such as HIV infection, diabetes, children, extrapulmonary tuberculosis, pregnancy, or liver disease.
- b. Providing non-treatment activities to include but not limited to, Board and Cohort review. Non-treatment activities could also include professional guidance and recommendations for the investigation of contacts or persons with infectious tuberculosis. Examples could include input on decisions to initiate or expand a contact investigation, investigating sites of transmission, assigning priorities to contacts, and conducting contact investigations in special circumstances such as outbreaks, congregate settings, correctional facilities, health-care settings, schools, or shelters.

3.5 All work performed by UNIVERSITY hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by UNIVERSITY, which is not satisfactory to Director. City shall have the right to terminate this Agreement, in accordance with Article VII Termination, in whole or in part, should UNIVERSITY's work not be satisfactory to Director; however, City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, as stated herein, even should City elect not to terminate.

IV. COMPENSATION TO UNIVERSITY

4.1 In consideration of UNIVERSITY's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Agreement, City agrees to pay UNIVERSITY an amount not to exceed ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000.00) as total compensation to be paid to UNIVERSITY in the manner set forth in Section 4.2.

4.2 City agrees to pay UNIVERSITY upon receipt of an invoice submitted in accordance with this section. UNIVERSITY shall submit invoices monthly in the amount of \$10,000.00 throughout the term of this Agreement. Each invoice shall outline the work completed during the previous period in accordance with the stated scope of work for the contract term described in Article III above and the amount due and owing. City shall pay the invoice from UNIVERSITY within 30 days after the date on which City receives

the invoice. The total payments hereunder shall not exceed the amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, evidenced in writing.

4.3 Invoices shall include Purchase Order number provided by City and submit via email to City's Accounts Payable inbox (ap@sanantonio.gov) or by mail at the following address:

City of San Antonio
Attn: Accounts Payable
P.O. Box 839976
San Antonio, TX 78283-3976

4.4 No additional fees or expenses of UNIVERSITY shall be charged by UNIVERSITY nor be payable by City. The Parties hereby agree that all compensable expenses of UNIVERSITY have been provided for in the total payment to UNIVERSITY as specified in Section 4.1 above. Total payments to UNIVERSITY cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.5 Final acceptance of work products and services require written approval by City, as determined by the Director as the City's approval official. Payment will be made to UNIVERSITY following written approval of the final work products and services by Director. City shall not be obligated or liable under this Agreement to any party, other than UNIVERSITY, for the payment of any monies or the provision of any goods or services.

4.6 All services required under this Agreement will be performed to City's satisfaction, and City will not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been approved by City. The payment for services provided hereunder will not be paid until required reports, data, and documentation have been received and approved by the City, as determined by the Director as the City's approval official.

4.7 The Parties agree that any payment by either Party for the performance of governmental functions or services must make those payments from current revenues available to the paying Party.

V. OWNERSHIP OF DOCUMENTS

5.1 Ownership of Intellectual Property. UNIVERSITY and City agree that any and all writings, documents, maps or information in whatsoever form and character produced by UNIVERSITY pursuant to the provisions of this Agreement (the "Project") shall be and remain the sole and exclusive proprietary property of City. The Project shall be deemed a "work for hire" within the meaning of the copyright laws of the United States, and ownership of the Project and all rights therein shall be solely vested in City. UNIVERSITY hereby grants, sells, assigns, and conveys to City all rights in and to the Project and the tangible and intangible property rights relating to or arising out of the Project, including, without limitation, any and all copyright, patent, and trade secret rights. All intellectual property rights including, without limitation, patent, copyright, trade secret, trademark, brand name, color schemes, designs, screens, displays, user interfaces, data structures, organization, sequences of operation, trade dress, and other proprietary rights (the "Intellectual Property Rights") in the Project shall be solely vested in City. As owner of the tangible and intangible intellectual property, City shall have the right to reproduce, publish, authorize others to reproduce or publish, or otherwise use such material. UNIVERSITY agrees to execute all documents

reasonably requested by City to perfect and establish City's right to the Intellectual Property Rights. In the event City shall be unable, after reasonable effort, to secure UNIVERSITY'S signature on any documents relating to Intellectual Property Rights in the Project, including without limitation, any letters, patent, copyright, or other protection relating to Project, for any reason whatsoever, UNIVERSITY hereby irrevocably designates and appoints City and its duly authorized officers and agents as UNIVERSITY's agent and attorney-in-fact, to act for and in UNIVERSITY's behalf and stead to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of letters patent, copyright or other analogous protection thereon with the same legal force and effect as if executed by UNIVERSITY. Provided, however, nothing herein contained is intended nor shall it be construed to require UNIVERSITY to transfer any ownership interest in UNIVERSITY's best practice and benchmarking information to the City.

5.2 In the event that UNIVERSITY desires to copyright material or to permit any third-party to do so, UNIVERSITY must obtain City's prior written approval to do so and must appropriately acknowledge City's support in any such materials.

5.3 UNIVERSITY shall not use any City data or information collected or observed during the term of this Agreement for publication, or reviews or presentations unless approval is obtained in writing from the City.

5.4 In accordance with Texas law, UNIVERSITY acknowledges and agrees that all local government records as defined in Chapter 201, Section 201.003 (8) of the Texas Local Government Code created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, UNIVERSITY agrees that no such local government records produced by or on the behalf of UNIVERSITY pursuant to this Agreement shall be the subject of any copyright or proprietary claim by UNIVERSITY.

VI. REQUESTS FOR AND RETENTION OF RECORDS

6.1 UNIVERSITY and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Agreement period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 UNIVERSITY shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, UNIVERSITY shall retain the records until the resolution of such litigation or other such questions. UNIVERSITY acknowledges and agrees that City shall have access to any and all such documents at any and all times, as deemed necessary by City, during said retention period. City may, at its election, require UNIVERSITY to return said documents to City prior to or at the conclusion of said retention.

6.3 The Public Information Act, Government Code Section 552.021, requires the City to make public information available to the public. Under Government Code Section 552.002(a), public information means information that is collected, assembled or maintained under a law or ordinance or in connection with the transaction of official business: 1) by a governmental body; or 2) for a governmental body and the

governmental body owns the information or has a right of access to it. Therefore, if UNIVERSITY receives inquiries regarding documents within its possession pursuant to this Contract, UNIVERSITY shall within twenty four (24) hours of receiving the requests forward such requests to City for disposition. If the requested information is confidential pursuant to state or federal law, the UNIVERSITY shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of UNIVERSITY's receipt of such request. For the purposes of communicating and coordinating with regard to public information requests, all communications shall be made to the designated public information liaison for each Party. Each Party shall designate in writing to the other Party the public information liaison for its organization and notice of a change in the designated liaison shall be made promptly to the other Party.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Agreement may be terminated by either party upon 30 calendar days written notice, which notice shall be provided in accordance with Article VIII Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of one (1) or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting.

7.4 Defaults With Opportunity for Cure. Should UNIVERSITY default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. UNIVERSITY shall have ten (10) business days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If UNIVERSITY fails to cure the default within such ten-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new contractor against UNIVERSITY's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;

7.4.2 Bankruptcy or selling substantially all of company's assets;

7.4.3 Failing to perform or failing to comply with any covenant herein required;

7.4.4 Performing unsatisfactorily as determined by City;

7.4.5 The failure to meet reporting requirements as set out and determined by City;

7.4.6 Notification of any investigation, claim or charge by a local, state or federal agency involving fraud, theft or the commission of a felony.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, UNIVERSITY shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by UNIVERSITY, or provided to UNIVERSITY, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by UNIVERSITY in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at UNIVERSITY's sole cost and expense. Payment of compensation due or to become due to UNIVERSITY is conditioned upon delivery of all such documents, if requested.

7.7 Within thirty (30) calendar days of the effective date of completion, or termination or expiration of this Agreement, UNIVERSITY shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by UNIVERSITY to submit its claims within said thirty (30) calendar days shall negate any liability on the part of City and constitute a Waiver by UNIVERSITY of any and all right or claims to collect moneys that UNIVERSITY may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.8 Upon the effective date of expiration or termination of this Agreement, UNIVERSITY shall cease all operations of work being performed by UNIVERSITY or any of its subcontractors pursuant to this Agreement.

7.9 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue UNIVERSITY for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally or by electronic mail (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City to:

City of San Antonio
Director, San Antonio Metropolitan Health District
100 W. Houston, 14th floor
San Antonio, Texas 78205

metrohealthcontracts@sanantonio.gov

If intended for UNIVERSITY to:

Panda Powell, Director of
Office of Sponsored Programs OR
The University of Texas Health
Science Center at Tyler
11937 US HWY 271
Tyler, TX 75708
grants@uthct.edu

Halbert Brown, Executive Director
Heartland National TB Center
2303 SE Military Dr
San Antonio, TX 78223
halbert.brown@uthct.edu

**IX.
RESERVED**

**X.
AUDIT**

10.1 The City reserves the right to conduct or cause to be conducted an audit or review of all funds received under this Agreement during normal business hours with advanced written notice as deemed necessary by City, not to exceed two times per 12 month period. The City Internal Audit Staff, a Certified Public Accounting (CPA) firm, or other personnel as designated by the City, may perform such audit(s) or reviews. The City reserves the right to determine the scope of every audit. In accordance herewith, UNIVERSITY agrees to make available to City all accounting and Project records. UNIVERSITY acknowledges that this provision shall not limit the City from additional follow-up to audits or reviews, as necessary, or from investigating items of concern that may be brought to the City's attention which are other than routine.

10.2 UNIVERSITY shall during normal business hours with advance written notice, and not to exceed two times per twelve month period by City and/or the applicable state or federal governing agency or any other auditing entity, make available the books, records, documents, reports, and evidence with respect to all matters covered by this Agreement and shall continue to be so available for a minimum period of four (4) years or whatever period is determined necessary based on the Records Retention guidelines, established by applicable law for this Agreement. Said records shall be maintained for the required period beginning immediately after Agreement termination, save and except there is litigation or if the audit report covering such agreement has not been accepted, then the UNIVERSITY shall retain the records until the resolution of such issues has satisfactorily occurred. The auditing entity shall have the authority to audit, examine and make excerpts, transcripts, and copies from all such books, records, documents and evidence, including all books and records used by UNIVERSITY in accounting for expenses incurred under this Agreement, all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to matters covered by this Agreement.

10.3 When an audit or examination determines that the UNIVERSITY has expended funds or incurred costs which are questioned by the City and/or the applicable state or federal governing agency, the UNIVERSITY shall be notified and provided an opportunity to address the questioned expenditure or costs.

10.4 Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, the UNIVERSITY will promptly refund such amount to the City no later than thirty (30) business days from the date of notification of such disapproval or disallowance by the City. At its sole option, Metro Health may instead deduct such undisputed claims from subsequent

reimbursements under this Agreement; however, in the absence of prior notice by City of the exercise of such option, UNIVERSITY shall provide to City a full refund of such amount no later than thirty (30) business days from the date of notification of such disapproval or disallowance by the City. If UNIVERSITY is obligated under the provision hereof to refund a disapproved or disallowed cost incurred, such refund shall be required and be made to City by check, cashier's check or money order. Should the City, at its sole discretion, deduct such undisputed claims from subsequent reimbursements, the UNIVERSITY is forbidden from reducing Project expenditures and UNIVERSITY must use its own funds to maintain the Project.

10.5 UNIVERSITY agrees and understands that all expenses, fees, and penalties associated with the collection of delinquent debts owed by UNIVERSITY shall be the sole responsibility of the UNIVERSITY and shall not be paid from any Project funds received by the UNIVERSITY under this Agreement. Delinquent debts that would otherwise be identified as allowable costs may be paid with Project funds with approval of Metro Health.

XI. ADMINISTRATION OF AGREEMENT AND RESTRICTIONS ON USE OF FUNDS

11.1 Metro Health is assigned monitoring, fiscal control, and evaluation of certain projects funded by the City with general or grant funds, including the Project covered by this Agreement. Therefore, UNIVERSITY agrees to permit City and/or State to evaluate, through monitoring, reviews, inspection or other means, the quality, appropriateness, and timeliness of services delivered under this Agreement and to assess UNIVERSITY's compliance with applicable legal and programmatic requirements. At such times and in such form as may be required by Metro Health, the UNIVERSITY shall furnish to Metro Health and the Grantor of the Funds, if applicable, such statements, reports, records, data, all policies and procedures and information as may be requested by Metro Health and shall permit the City and Grantor of the Funds, if applicable, to have interviews with its personnel, board members and program participants pertaining to the matters covered by this Agreement. UNIVERSITY agrees that the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the UNIVERSITY of any liability to the City for failure to comply with the terms of the Project or the terms of this Agreement.

11.2 Unless disclosure is authorized by the City, UNIVERSITY agrees to maintain in confidence all information pertaining to the Project or other information and materials prepared for, provided by, or obtained from City including, without limitation, reports, information, project evaluation, project designs, other related information (collectively, the "Confidential Information") and to use the Confidential Information for the sole purpose of performing its obligations pursuant to this Agreement. UNIVERSITY shall protect the Confidential Information and shall take all reasonable steps to prevent the unauthorized disclosure, dissemination, or publication of the Confidential Information. If disclosure is required (i) by law or (ii) by order of a governmental agency or court of competent jurisdiction, UNIVERSITY shall, where possible, give the Director of Metro Health prior written notice that such disclosure is required with a full and complete description regarding such requirement. UNIVERSITY certifies that it has established specific procedures designed to meet the obligations of this Article, including, but not limited to execution of agreements regarding the treatment of Confidential Information with UNIVERSITY's employees and subcontractors prior to any disclosure of the Confidential Information. This Article shall not be construed to limit the State's or the City's or its authorized representatives' right to obtain copies, review and audit records or other information, confidential or otherwise, under this Agreement. Upon termination or expiration this Agreement, UNIVERSITY shall return to City all copies of materials related to the Project, including the Confidential Information. All confidential obligations contained herein (including those pertaining to information transmitted orally) shall survive the termination this Agreement for the period noted above. The Parties shall ensure that their respective employees, agents, and contractors are aware of

and shall comply with the aforementioned obligations. The foregoing shall not apply when, after and to the extent the Confidential Information disclosed, as documented by competent evidence:

- A. is not disclosed in writing or reduced to writing and marked with an appropriate confidentiality legend within thirty (30) days after disclosure; is already in the recipient party's possession at the time of disclosure as evidenced by written records in the possession of the receiving party prior to such time;
- B. is or later becomes part public domain through no fault of recipient party;
- C. is received from a third party having no obligations of confidentiality to the disclosing party;
- D. is independently developed by the recipient party by its personnel having no access to the Confidential Information.

11.3 UNIVERSITY shall comply with standard practices of confidentiality of patient information as required by Metro Health and mandated by The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Texas State privacy laws. UNIVERSITY will enter into a Business Associate Agreement with the City, which is attached hereto as **Attachment I** and incorporated herein as part of this Agreement for all purposes.

11.4 City policies regarding authorization for access to confidential information and review of medical records will be followed by UNIVERSITY. UNIVERSITY assumes full responsibility for any breach of confidence by its staff or its participating medical professionals with regard to activities under this Agreement.

11.5 Prohibited Political Activity. UNIVERSITY agrees that no funds provided from or through the City shall be contributed or used to conduct political activities for the benefit of any candidate for elective public office, political party, organization or cause, whether partisan or non-partisan, nor shall the personnel involved in the administration of the Project provided for in this Agreement be assigned to work for or on behalf of any partisan or non-partisan political activity.

11.6 UNIVERSITY agrees that no funds provided under this Agreement may be used in any way to attempt to influence, in any manner, a member of Congress or any other State or local elected or appointed official.

11.7 The prohibitions set forth in Sections 11.3 and 11.4 above include, but are not limited to, the following:

- (A) an activity to further the election or defeat of any candidate for public office or for any activity undertaken to influence the passage, defeat or final content of local, state or federal legislation;
- (B) working or directing other personnel to work on any political activity during paid for with City funds, including, but not limited to activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature;
- (C) coercing personnel, whether directly or indirectly, to work on political activities on their

personal time, including activities such as taking part in voter registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature; and

- (D) using facilities or equipment paid for, in whole or in part with City funds for political purposes, including physical facilities such as office space, office equipment or supplies, such as telephones, computers, fax machines, during and after regular business hours.

11.8 UNIVERSITY agrees that in any instance where an investigation of the above is ongoing or has been confirmed, fees paid to the UNIVERSITY under this Agreement may, at the City's discretion, be withheld until the situation is resolved, or the appropriate member of the UNIVERSITY's personnel is terminated.

11.9 Sections 11.4 through 11.8 shall not be construed to prohibit any person from exercising his or her right to express his or her opinion or to limit any individual's right to vote. Further, UNIVERSITY and staff members are not prohibited from participating in political activities on their own volition, if done during time not paid for with Agreement funds.

11.10 Adversarial proceedings. Except in circumstances where the following is in conflict with federal law or regulations pertaining to this grant, the UNIVERSITY agrees to that under no circumstances will the funds received under this Agreement be used, either directly or indirectly, to pay costs or attorney fees incurred in any adversarial proceeding against the City or any other public entity.

XII. INSURANCE

12.1 UNIVERSITY and the City each 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.

12.2 With respect to UNIVERSITY, it is the stated policy of the State of Texas not to acquire commercial general liability insurance for torts committed by employees of the State who are acting within the scope of their employment. Rather, Chapter 101 of the Civil Practice and Remedies Code states that a governmental unit in the state is liable for property damage, personal injury and death proximately caused by the wrongful act or omission or negligence of an employee acting within his scope of employment. Liability of the state government under this chapter is limited to money damages in a maximum amount of \$250,000.00 for each person and \$500,000.00 for each single occurrence for bodily injury or death and \$100,000.00 for each single occurrence for injury to or destruction of property. Employees of the University of Texas System are provided Workers' Compensation coverage under a self-insuring, self-managed program as authorized by the Texas Labor Code, Chapter 503.

XIII. INDEMNIFICATION

13.1 UNIVERSITY and the City acknowledge they are political subdivisions of the State of Texas and 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. UNIVERSITY and City shall each promptly notify the other in writing of any claim or demands that become known against them in relation to or arising out of activities under this Agreement.

XIV.

**SMALL MINORITY OR WOMAN OWNED
BUSINESS ADVOCACY POLICY**

14.1 UNIVERSITY is hereby advised that it is the policy of the City of San Antonio that Small, Minority or Woman owned Business Enterprises shall have the maximum practical opportunity to participate in the performance of public contracts. UNIVERSITY agrees that it will adhere to its established policies regarding small, minority, or women owned business policy regarding procurement, construction and professional service contracts.

14.2 In the event that the UNIVERSITY utilizes subcontractors to perform any part of this agreement the UNIVERSITY will ensure that each subcontractor is aware that they must comply with the City of San Antonio's Small Business Economic Development Advocacy Ordinance (the "SBEDA Program"), which is posted on the City's Economic Development Department website and is also available in hard copy form upon request to the City.

**XV.
ASSIGNMENT AND SUBCONTRACTING**

15.1 UNIVERSITY shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of UNIVERSITY. UNIVERSITY, its employees or its subcontractors shall perform all necessary work.

15.2 It is City's understanding that this Agreement is made in reliance thereon that UNIVERSITY does not intend to use subcontractors in the performance of this Agreement.

15.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of UNIVERSITY. City shall in no event be obligated to any third party, including any subcontractor of UNIVERSITY, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the City Council.

15.4 Except as otherwise stated herein, UNIVERSITY may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the City Council, as evidenced by passage of an ordinance. As a condition of such consent, if such consent is granted, UNIVERSITY shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor UNIVERSITY, assignee, transferee or subcontractor.

15.5 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void *ab initio* and shall confer no rights upon any third person. Should UNIVERSITY assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of UNIVERSITY shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by UNIVERSITY shall in no event release UNIVERSITY from any obligation under the terms of this Agreement, nor shall it relieve or release UNIVERSITY from the payment of any damages to City, which City sustains as a result of such violation.

**XVI.
INDEPENDENT CONTRACTOR**

16.1 UNIVERSITY covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that UNIVERSITY shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of *respondeat superior* shall not apply as between City and UNIVERSITY, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, collaborators or joint venturers between City and UNIVERSITY. The Parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the UNIVERSITY under this Agreement and that the UNIVERSITY has no authority to bind the City.

**XVII.
NONDISCRIMINATION POLICY**

17.1 Non-Discrimination. As a party to this contract, UNIVERSITY 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.

17.2 The UNIVERSITY shall comply with all federal, State, or local laws, rules, and orders prohibiting discrimination, and shall not engage in employment practices which have the effect of discriminating against any employee or applicant for employment, and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation. Consistent with the foregoing, UNIVERSITY agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented by regulations at 41 C.F.R. Part 60. Additionally, UNIVERSITY certifies that it will comply fully with the following nondiscrimination, minimum wage and equal opportunity provisions, including but not limited to:

- a) Title VII of the Civil Rights Act of 1964, as amended;
- b) Section 504 of the Rehabilitation Act of 1973, as amended;
- c) The Age Discrimination Act of 1975, as amended;
- d) Title IX of the Education Amendments of 1972, as amended; (Title 20 USC sections 1681-1688);
- e) Fair Labor Standards Act of 1938, as amended;
- f) Equal Pay Act of 1963, P.L. 88-38; and
- g) All applicable regulations implementing the above laws.

**XVIII.
CONFLICT OF INTEREST**

18.1 UNIVERSITY acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his- parent, child or spouse owns- ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a collaborator or a parent or subsidiary business entity.

18.2 Pursuant to the subsection above, UNIVERSITY warrants and certifies, and this Agreement is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. UNIVERSITY further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement compliance with the City's Ethics Code.

XIX. AMENDMENTS

19.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions or deletions to the terms hereof: shall be affected by amendment, in writing, executed by both City and UNIVERSITY.

XX. SEVERABILITY

20.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the Parties hereto that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as maybe possible, legal, valid and enforceable.

XXI. LICENSES/CERTIFICATIONS

21.1 UNIVERSITY warrants and certifies that UNIVERSITY 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.

XXII. COMPLIANCE

22.1 UNIVERSITY shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

**XXIII.
NONWAIVER OF PERFORMANCE**

23.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the City Council, as described in Article XIX. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

**XXIV.
LAW APPLICABLE**

24.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS.

**XXV.
LEGAL AUTHORITY**

25.1 The signer of this Agreement for UNIVERSITY represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of UNIVERSITY and to bind UNIVERSITY to all of the terms, conditions, provisions and obligations herein contained.

**XXVI.
PARTIES BOUND**

26.1 This Agreement shall be binding on and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

**XXVII.
CAPTIONS**

27.1 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.

**XXVIII.
DEBARMENT**

28.1 UNIVERSITY certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in any State or Federal Program.

28.2 UNIVERSITY shall provide immediate written notice to City, in accordance with Article VIII. Notice, if, at any time during the term of this Agreement, including any renewals here of, UNIVERSITY

learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

**XXVIX.
ENTIRE AGREEMENT**

29.1 This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the Parties hereto and contain 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 hereto, and duly executed by the Parties, in accordance with Article XIX. Amendments.

Executed to be effective _____ as signed by the Parties below.

CITY OF SAN ANTONIO

**THE UNIVERSITY OF TEXAS
HEALTH SCIENCE CENTER AT
TYLER**

Name: Claude A. Jacob
Title: Health Director
San Antonio Metropolitan Health District

Panda Powell
Panda Powell (Oct 11, 2022 13:36 CDT)

Name: Panda Powell
Title: Director, Office of Sponsored Programs

APPROVED AS TO FORM:

READ AND UNDERSTOOD:

City Attorney

Barbara Seaworth
Barbara Seaworth (Oct 11, 2022 12:46 CDT)

Barbara Seaworth, M.D.