

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

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

WHEREAS, there is an urgent need for improved diagnostics to identify congenital syphilis at birth and understand the long-term effects of congenital syphilis; and

WHEREAS, UTHSCH is proposing a multicenter, prospective cohort trial to directly compare test performance of novel molecular tests to current Centers for Disease Control and Prevention (CDC) guidelines for the diagnosis of congenital syphilis in a prospective observational cohort of women and their newborns at risk for infection (the “Study”); and

WHEREAS, through this Study, UTHSCH will leverage the resulting cohort to more accurately define adverse neurodevelopmental outcomes associated with congenital syphilis; and

WHEREAS, this Study will be one of the first large prospective studies evaluating a potential new diagnostic test that can bring equity to the underserved populations that often lack the resources to return to all recommended follow up for their newborns; and

WHEREAS, participation in this Study will give us an opportunity to be part of the effort to identify a highly sensitive diagnostic test and more accurately define adverse neurodevelopmental outcomes associated with congenital syphilis because of congenital syphilis follow up and Bayleys neurodevelopmental testing at 18 months with contracted experts; and

WHEREAS, Bexar County is one of the high incidence regions and failure to successfully be a part of this National Institutes of Health (NIH) funded Study will greatly impact our efforts to have a test with good diagnostic sensitivity and have the appropriate neurodevelopment testing and follow up for infected newborns; and

WHEREAS, UTHSCH shall appoint Dr. Irene Stafford (“Principal Investigator”) to be responsible for the conduct of the Study by UTHSCH; 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, Metro Health will refer pregnant women who have executed a consent to the UTHSCH for possible participation in said Study to be conducted by Principal Investigator; 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

WHEREAS, Metro Health has access to clients who may qualify for participation in the Study; and

WHEREAS, UTHSCH, by and through Principal Investigator, desires Metro Health's collaboration in the implementation of this Study; and

WHEREAS, this MOA between the CITY and UTHSCH will promote the coordination and access to these clients who may qualify for participation in the Study; **NOW THEREFORE**:

1. **UTHSCH agrees that Principal Investigator will:**

- A. Contact the interested clients that have executed consents for disclosure of information and obtain required consents for enrollment in the Study.
- B. Perform the appropriate follow up and testing of the newborns for up to 18 months consistent with Study protocols.
- C. Adhere to and treat all Study enrollees according to standard of care.
- D. Share all data collected by UTHSCH investigators from Metro Health clients with Metro Health – including contacts, infection related data and all newborn data in order to assist with public health surveillance.
- E. Communicate and update key Metro Health personnel on Study status.
- F. Liaise with UTHSCH Institutional Review Board and supervise the studies.
- G. UTHSCH 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. UTHSCH shall execute a HIPAA Business Associate Agreement in substantially the same form as shown in **Attachment I**, 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:**

Present a flyer or one-pager with Study information to pregnant clients with syphilis. If the client is interested and the client executes a consent form, Metro Health will provide the client information (name & contact information) to the UTHSCH study coordinator via weekly phone calls.

3. **Both parties agree:**

- A. To maintain a commercial or 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 upon execution by the Parties and will terminate on September 30, 2024 unless sooner terminated by the parties. The City shall have the option to renew this Agreement for three, one-year terms. The renewals shall be in writing and signed by the Health 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.** UTHSCH 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:** UTHSCH acknowledges that in connection with the activities or services to be performed under this Agreement by UTHSCH, UTHSCH 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, UTHSCH and its employees shall not use the Confidential Information except in connection with the performance of activities or 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 UTHSCH receives a request or demand for the disclosure of Confidential Information, UTHSCH 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. UTHSCH further agrees to adequately instruct its employees, physicians and all personnel that may provide services or engage in activities 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 UTHSCH and with all federal and state laws and regulations regarding patient and medical record confidentiality. UTHSCH 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, UTHSCH 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 UTHSCH in the course of the Study shall remain the property of UTHSCH. However, it is understood that City shall have access to all such UTHSCH information and City is granted the right to make and retain copies of UTHSCH's drawings, estimates, specifications and all other documents and data in connection with the activities or services to be performed under this Agreement.

Any materials or data previously owned by City and provided to UTHSCH pursuant to this Agreement shall remain property of City, and nothing herein shall be construed to grant any right or license to UTHSCH in or to any material or data. UTHSCH agrees and covenants to protect any and all proprietary rights of City in any materials and data provided to UTHSCH. Additionally, any materials or data provided to UTHSCH 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 UTHSCH, including but not limited to any computer software (object code and source code), tools, systems, equipment or other information used by UTHSCH or its suppliers hereunder, and any know-how, methodologies or processes used by UTHSCH 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 UTHSCH or its suppliers.

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

UTHSCH:

The University of Texas Health Science Center at
at Houston
Sponsored Projects Administration
7000 Fannin St., UCT 1000
Houston, TX 77030

10. **Independent Contractor:** UTHSCH is an independent contractor, and neither UTHSCH 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. UTHSCH 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 UTHSCH staff any salaries, insurance or other benefits.

11. **Non-Discrimination**: As a party to this contract, UTHSCH 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 affected by amendment, in writing, executed by both City and UTHSCH.

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**: UTHSCH warrants and certifies that UTHSCH 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**: UTHSCH shall provide and perform all activities and 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**: This Agreement shall be construed under and in accordance with the laws of the United States and the State of Texas. 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 Houston**

City of San Antonio

DocuSigned by:

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Valerie Bomben, Ph.D.
Director, Sponsored Contracts

Claude A. Jacob
Health Director
San Antonio Metropolitan Health District

12/6/2022

Date

Date

APPROVED AS TO FORM:

City Attorney

