

**STATE OF TEXAS**  
**COUNTY OF BEXAR**

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**CITY OF SAN ANTONIO**  
**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is entered into by and between the City of San Antonio, a Texas Municipal Corporation (hereinafter referred to as "City"), on behalf of the San Antonio Metropolitan Health District (hereafter referred to as "Metro Health"), acting by and through the Director of Metro Health, pursuant to Ordinance 2021-\_\_\_\_\_, and The University of Texas Health Science Center at Tyler (hereinafter referred to as "UTHSC" or "subrecipient"), an institution of The University of Texas System ("System") and an agency of the State of Texas, City and UTHSC may be referred to herein collectively as the "Parties."

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

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 (LTBI); and

WHEREAS, Metro Health has received funding from the Texas Department of State Health Services (DSHS) in order to provide support services for the DSHS' Health Services Region 8 TB Waiver Project for the prevention and control of TB; and

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

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

NOW THEREFORE, this Agreement defines the terms between the City and UTHSC for the provision of services by UTHSC primarily related to LTBI associated with the DSHS' Health Services Region 8 TB Waiver Project.

## **I.** **DEFINITIONS**

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.

"CGUS," shall be defined as the Comptroller General of the United States.

"UTHSC" is defined in the preamble of this Agreement and has an address of 2303SE Military Drive, San Antonio, Texas 78223 and includes its successors.

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

"DSHS" shall be defined as the Texas Department of State Health Services, the agency that funds and oversees the Health Services Region 8 TB Waiver Project.

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

"SAO," shall be defined as the Texas State Auditor's Office.

"System Agency" means Health and Human Services Commission (HHSC) or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under State law and the officers, employees, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

"Tuberculosis (TB) Waiver Project Grant" shall be defined as the DSHS' Health Services Region 8 TB Waiver Project which is the funding source for 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, 2021 and shall terminate on July 31, 2022. The City shall have the option to renew and extend the term of this Agreement for a term of one year in length. The renewal shall be in writing and signed by the Director, or designee, without further action by the San Antonio City Council.

2.2 It is expressly understood and agreed by the City and UTHSC 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 UTHSC nor City shall have any further obligations hereunder.

2.3 UTHSC further agrees and understands that the City expects to pay all obligations of this Agreement from the TB Waiver Project Grant. Accordingly, if TB Waiver Project Grant funding is not received by City in a sufficient amount to pay any of City's obligations under the terms of this Agreement, then this Agreement will terminate and neither City nor UTHSC will have any further obligations hereunder. Lack of funding is not and will not be considered a breach of this Agreement.

**III.**  
**SCOPE OF SERVICES**

3.1 UTHSC 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 UTHSC 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. UTHSC may change Physicians, but shall ensure one of its Physicians is available to provide the services herein.

UTHSC agrees to perform the following specific services:

3.2.1 UTHSC shall provide through the services of Physician specializing in the diagnosis and treatment of TB the following services to include:

- a. Performing initial clinical evaluation to determine latent TB infection (LTBI) or active TB disease among clients screened and found to have a positive interferon gamma release assay (IGRA) result.
- b. Treating clients with a positive IGRA and ensuring clients receive a chest x ray and has it read by a radiologist.
- c. Referring clients with an abnormal chest x ray to the Clinic and provide routine treatment for LTBI through a 12 dose, 12 week regimen administered by directly observed therapy (DOT) to improve client adherence and completion of treatment For clients diagnosed with LTBI (positive IGRA and normal CXR), UTHSC shall draw blood for baseline labs including a complete metabolic panel (CMP) and a complete blood count (CBC) and send to the designated Metro Health laboratory.
- d. Providing alternate recognized treatment regimens for treating LTBI may be used if the 12 dose, 12 week regimen is not appropriate.
- e. Providing monthly toxicity screening for client's being treated for LTBI.
- f. Providing review and input related to policy development utilizing an Isoniazid-Rifapentine Regimen for 3 months (3HP) with weekly Direct Observation Therapy (DOT) to treat latent Mycobacterium tuberculosis infections to improve patient adherence and

completion of LTBI therapy.

- g. Providing recommendations for protocols to increase targeted testing in homeless, refugee, diabetic, substance-abuse user, and other high-risk populations.
- h. Providing LTBI activities associated with the TB Waiver Project Grant to include meeting and consulting with local outside collaborating agencies as needed in order to  
1) address referrals being made to the City's TB Prevention and Control Program 2) promote a change in screening tests from tuberculin skin testing (TST) to IGRA testing, and 3) assist in strategically enhancing Metro Health's TB services with local agencies.
- i. Maintaining and updating Metro Health patient records.
- j. Administrative time associated with the completion of time keeping records (Grant Time Sheet) and reporting documentation (Physician Activity Log) for the purpose of satisfying this Agreement for compensation as described in Article IV.

3.3 UTHSC agrees to perform all activities in accordance with the DSHS Contract Statement of Work and Uniform Terms and Conditions for the TB Waiver Project Grant which are attached hereto and incorporated herein for all purposes as **Attachment I**. If this Agreement is renewed, UTHSC shall perform all activities in accordance with the DSHS Contract Statement of Work and Uniform Terms and Conditions applicable during the renewal period.

3.4 All work performed by UTHSC 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 UTHSC, 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 UTHSC'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 UTHSC**

4.1 In consideration of UTHSC'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 UTHSC an amount not to exceed NINETY NINE THOUSAND SEVEN HUNDRED THIRTY NINE DOLLARS (\$99,739.00) which is budgeted for such payment, as set forth in a comprehensive budget which is affixed hereto and incorporated herein for all purposes as **Attachment II**, and compensated according to the terms set out in section 4.2 of this Agreement. UTHSC

4.2 UTHSC agrees to submit bi-monthly invoices during the term of this Agreement on the following dates: December 6, 2022, February 6, 2022, April 6, 2022, June 6, 2022, August 6, 2022. If this Agreement is renewed, the City will provide UTHSC the invoicing dates for the renewal period of the Agreement. Each invoice shall show documented itemized costs in accordance with the attached sample invoice attached hereto and incorporated herein for all purposes as **Attachment III**. Reimbursement of eligible expenses, as determined by the City, shall be made according to standard procedures followed by City, as requested upon receipt of billing invoices from UTHSC.

4.2.1 With every invoice submitted, UTHSC shall attach the following:

- A. A monthly time sheet for every Physician providing services described in Article III of this Agreement signed by the Physician, City TB Health Program Manager and UTHSC'S Physician Supervisor. UTHSC shall include copies of payments made to its Physicians providing services under this Agreement to include copies of employee pay stubs as applicable. City will pay UTHSC based on work performed in accordance with a percentage of the UTHSC Physician's annual pay rate at the time services were provided.

$$\text{Reimbursement} = \frac{1115 \text{ hours worked}}{2080} \times \text{Annual Pay (\$)}$$

$$\sum 1115 \text{ Total hours worked} \leq 2080$$

- B. A monthly reporting worksheet for each Physician which satisfies the reporting requirements set out in Attachment I.
- C. Provide a copy of the current indirect cost agreement.
- 4.2.2 UTHSC understands that due to the requirements of the funding agency, invoices submitted for reimbursement that are received by the City more than 30 calendar days following the end of the six month reporting period may be rejected by City or the Funder and not be subject to reimbursement.
- 4.2.3 Invoices shall include Purchase Order number provided by City and submit via email to City's Accounts Payable inbox ([accounts.payable@sanantonio.gov](mailto:accounts.payable@sanantonio.gov)) and copy [SAMHDInvoices@sanantonio.gov](mailto:SAMHDInvoices@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

4.3 No additional fees or expenses of UTHSC shall be charged by UTHSC nor be payable by City. The parties hereby agree that all compensable expenses of UTHSC have been provided for in the total payment to UTHSC as specified in section 4.1 above. Total payments to UTHSC 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.

4.4 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to UTHSC 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 UTHSC, for the payment of any monies or the provision of any goods or services.

4.5 Due to the requirements of the funding agency, an invoice documenting annual expenses associated with the Agreement shall be submitted to the City by no later than August 6, 2022. Additional documentation requirements of costs associated with this Agreement may be amended by City as needed. UTHSC agrees to provide any and all documentation required for inclusion in any report concerning the TB Waiver Project Grant. All services required under this Agreement shall be performed to City's satisfaction, and City shall 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 shall not be paid until required reports, data, and documentation have been received and approved by the City.

## V. OWNERSHIP OF DOCUMENTS

5.1 City shall retain all rights, title and interest in and to all medical records, and any other materials and intellectual property previously existing and owned by City prior to this engagement, including all derivations therefrom and improvements and modifications thereon. City and DSHS reserve a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Intellectual Property invented or created by UTHSC in the performance of the project including each and every copyright, to use and reproduce all reports, data and

materials delivered pursuant to this Agreement (the Project Materials) and reserve the right to authorize others to use or reproduce such Project Materials asset out in the attached **Attachment I**. Nothing herein is intended nor shall it be construed to prohibit UTHSC or its faculty access to the Project Materials or to transfer any ownership in UTHSC's best practice and benchmarking information to the City.

5.2 Subject to the provisions set out in **Attachment I**, UTHSC has the right to use Project Materials to produce scholarly works for publication. In the event that UTHSC or its faculty contributors publishes the results or uses any of the Project Materials for educational activities, or permits any third party to do so, UTHSC or its faculty contributors shall acknowledge City and DSHS' contribution to the Project in any such publication.

5.3 In accordance with Texas law, UTHSC 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, UTHSC agrees that no such local government records produced by or on the behalf of UTHSC pursuant to this Contract shall be the subject of any copyright or proprietary claim by UTHSC.

## **VI.** **REQUESTS FOR and RETENTION of RECORDS**

6.1 UTHSC 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 UTHSC 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, UTHSC shall retain the records until the resolution of such litigation or other such questions. UTHSC 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 UTHSC 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 UTHSC receives inquiries regarding documents within its possession pursuant to this Contract, UTHSC 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 UTHSC shall submit to City the list of specific statutory authority mandating confidentiality no later than three (3) business days of UTHSC'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 UTHSC 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. UTHSC shall have ten (10) business days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If UTHSC 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 UTHSC'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 of the TB Waiver Project Grant as setout 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, 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, UTHSC 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 UTHSC, or provided to UTHSC, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by UTHSC 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 UTHSC's sole cost and expense. Payment of compensation due or to become due to UTHSC 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, UTHSC 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 UTHSC to submit its claims within said thirty (30) calendar days shall negate any liability on the part of City and constitute a Waiver by UTHSC of any and all right or claims to collect moneys that UTHSC 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, UTHSC shall cease all operations of work being performed by UTHSC 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 UTHSC for any default hereunder or other action.

7.10 City shall pay UTHSC for conforming services provided prior to the date of termination, offset by any amounts due and owing from the UTHSC to City.

**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 (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 conflicted 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 Clerk  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

AND

Director  
City of San Antonio  
San Antonio Metropolitan Health District  
100 W. Houston, 8<sup>th</sup> Floor  
San Antonio, Texas 78205

If intended for UTHSC, to:

Jeff Levin, MD  
Vice President for Clinical and Academic Affairs  
c/o Heartland National TB Center  
11937 US Hwy 271  
Tyler, Texas 75708

**IX.**  
**CONTRACT PROVISIONS REQUIRED BY DSHS**

9.1 UTHSC acknowledges that funds for this Agreement are from federal funds provided to the City through the DSHS Contract under the DSHS Tuberculosis Waiver Project Grant (Contract No. HHS000068600001). UTHSC agrees to comply with and be subject to all applicable provisions as outlined in the current Statement of Work, the HHSC Uniform Terms and Conditions and as applicable, the HHS Data Use Agreement (TACCHO Version) as well as applicable Uniform Grant Management Standards (UGMS) cost principles, audit requirements and administrative requirements incorporated herein by reference. UTHSC agrees to comply with all terms and conditions associated with said funds as directed by the City in order to enable City to comply with its obligations under the DSHS Contract to include, but not limited to the following:

#### **Access to records, books, and documents**

In addition to any right of access arising by operation of law, UTHSC and any of UTHSC's affiliate or subsidiary organizations, or Subcontractors will permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, UTHSC will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. UTHSC will include this provision concerning the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

#### **Response/compliance with audit or inspection findings**

UTHSC must act to ensure its and its Subcontractor's compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the goods or services provided hereunder. Any such correction will be at UTHSC or its Subcontractor's sole expense. Whether UTHSC's action corrects the noncompliance will be solely the decision of the System Agency.

As part of the Services, UTHSC must provide to HHSC upon request a copy of those portions of UTHSC's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided under the Contract.

#### **SAO Audit**

UTHSC understands that acceptance of funds directly under the Contract or indirectly through a Subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. UTHSC agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. UTHSC will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through UTHSC and the requirement to cooperate is included in any Subcontract it awards.

#### **Requirements for pass-through entities per OMB Circular, section 200.331**

UTHSC acknowledges that this agreement constitutes a subaward from the DSHS Health Services Region 8 TB Waiver Project Grant for which the following data elements apply. If any of these data elements change or are currently unavailable, City will subsequently provide UTHSC changes and updated information.

Subrecipient Name - The University of Texas Health Science Center at Tyler  
Subrecipient's Unique Entity - Vendor #1046356  
Federal Award Date – N/A  
Period of Performance - 10/1/2021 through 7/31/2022  
Funds Obligated - \$99,739.00.  
Total Amount Obligated - \$99,739.00  
Total Amount of Federal Award Committed – N/A  
Federal Award Project Description – DSRIP 1115 Waiver Project initiative by developing and providing services and associated activities for the prevention and control of tuberculosis (TB) in accordance with Center for Medicare and Medicaid Services (CMS) funding requirements.  
Name of Awarding Agency – Health and Human Services Commission (HHSC),  
Department of State Health Services (DSHS)  
CFDA # - N/A  
R&D - N/A  
Indirect Cost Rate: 25.94%

## **X. AUDIT**

10.1 As an agency of the State of Texas, UTHSC is subject to the auditing requirements of the State of Texas including Statewide Single Audit, a copy of which is available through the <http://www.sao.state.tx.us/reports/Default.aspx>.

10.2 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, UTHSC agrees to make available to City all accounting and Project records. UTHSC 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.

10.3 UTHSC 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 UTHSC 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 UTHSC 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.

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

10.5 Should any expense or charge that has been reimbursed be subsequently disapproved or disallowed as a result of any site review or audit, the UTHSC will immediately 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, UTHSC 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 UTHSC 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 UTHSC is forbidden from reducing Project expenditures and UTHSC must use its own funds to maintain the Project.

10.6 UTHSC agrees and understands that all expenses, fees, fines and penalties associated with the collection of delinquent debts owed by UTHSC shall be the sole responsibility of the UTHSC and shall not be paid from any Project funds received by the UTHSC 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, UTHSC 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 UTHSC's compliance with applicable legal and programmatic requirements. At such times and in such form as may be required by Metro Health, the UTHSC 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. UTHSC agrees that the failure of the City to monitor, evaluate, or provide guidance and direction shall not relieve the UTHSC 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, UTHSC 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 UTHSC 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) bylaw or (ii) by order of a governmental agency or court of competent jurisdiction, UTHSC 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. UTHSC 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 UTHSC'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 of this Agreement, UTHSC 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 of 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:

- (i) Is not disclosed in writing or reduce do writing and marked with an appropriate confidentiality legend within thirty (30) days after disclosure;
- (ii) 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;
- (iii) is or later becomes part of the public domain through no fault of the recipient party;
- (iv) is received from a third party having no obligations of confidentiality to the disclosing party;
- (v) is independently developed by the recipient party by its personnel having no access to the Confidential Information.

UTHSC 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. The parties agree that

- (a) UTHSC and Metro Health are covered entities for purposes of the Health Insurance Portability and Accountability Act (HIPAA) and subject to 45 C.F.R. Parts 160 and 164 ("the HIPAA Privacy Regulation");
- (b) to the extent that UTHSC faculty, staff and employees are providing services to Metro Health pursuant to this Agreement, UTHSC faculty, staff and employees will:
  - 1. be considered part of the Metro Health workforce for HIPAA compliance purposes in accordance with 45 CFR §164.103, but will not be construed to be employees of Metro Health;
  - 2. receive training by Metro Health on, and subject to compliance with, all of Metro Health's privacy policies adopted pursuant to the Regulations; and
  - 3. not disclose any Protected Health Information, as that term is defined by 45CFR §160.103, to UTHSC which UTHSC faculty, staff or employees accessed through provision of services to Metro Health that has not first been de-identified as provided in 45 CFR§164.514(a).

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

In addition, UTHSC must take reasonable measures to safeguard protected personally identifiable information and other information the funding agency or City designates as sensitive or the City considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

11.3 Prohibited Political Activity. UTHSC 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.

11.4 UTHSC 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.

11.5 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; registration drives, voter transportation activities, lobbying, collecting contributions, making speeches, organizing or assisting at meetings or rallies, or distributing political literature;
- (B) 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
- (C) 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.

11.6 UTHSC agrees that in any instance where an investigation of the above is ongoing or has been confirmed, fees paid to the UTHSC under this Agreement may, at the City's discretion, be withheld until the situation is

resolved, or the appropriate member of the UTHSC's personnel is terminated.

11.7 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, UTHSC 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.

11.8 Adversarial proceedings. Except in circumstances where the following is in conflict with federal law or regulations pertaining to this grant, the UTHSC 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 UTHSC and the City each maintain a self-insurance fund for general liability and worker's compensation claims and cause of action to meet their statutory obligations to each party's employees.

12.2 With respect to UTHSC, 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 UTHSC 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. UTHSC and City shall each promptly notify the other in writing of any claim or demand 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 UTHSC 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. UTHSC 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 UTHSC utilizes subcontractors to perform any part of this agreement the UTHSC 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 UTHSC 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 UTHSC. UTHSC, its employees or its subcontractors shall perform all necessary work.

15.2 It is City's understanding that this Agreement is made in reliance there on that UTHSC 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 UTHSC. City shall in no event be obligated to any third party, including any subcontractor of UTHSC, 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, UTHSC 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, UTHSC shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor UTHSC, 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 UTHSC 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 UTHSC 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 UTHSC shall in no event release UTHSC from any obligation under the terms of this Agreement, nor shall it relieve or release UTHSC from the payment of any damages to City, which City sustains as a result of such violation.

## **XVI. INDEPENDENT CONTRACTOR**

16.1 UTHSC covenants and agrees that it is an independent contractor and not an officer, agent, servant or employee of City; that UTHSC 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 UTHSC, 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 UTHSC. 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 UTHSC under this Agreement and that the UTHSC has no authority to bind the City.

## **XVII. NONDISCRIMINATION POLICY**

17.1 UTHSC hereby acknowledges that it is the policy of the City of San Antonio to assist in increasing the competitiveness and qualifications of small, women, African American, and minority-owned business enterprises in order to afford greater opportunities for obtaining and participating in contracts, related subcontracts, and leases and concessions awarded by the City. UTHSC agrees that UTHSC shall not discriminate against any individual or group 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 and will not engage in employment practices which have the effect of discriminating against employees or prospective employees because of race, color, religion, national origin, sex, sexual

orientation, gender identity, veteran status, age or disability.

17.2 The UTHSC 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, UTHSC 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. UTHSC further agrees to abide by all applicable provisions of San Antonio City ordinance number 69403 on file in the City Clerk's Office. Additionally, UTHSC 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 20USC 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 UTHSC 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, UTHSC 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. UTHSC further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in 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 UTHSC.

**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 may be possible, legal, valid and enforceable.

## **XXI.** LICENSES/CERTIFICATIONS

21.1 UTHSC warrants and certifies that UTHSC 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 UTHSC shall provide and perform all services required under this Agreement in compliance with all applicable federal, state and local laws, rules and regulations.

22.2 UTHSC acknowledges that funds for this Agreement are from federal funds provided to the City through the DSHS. As such, the UTHSC agrees to comply with applicable terms and conditions associated with said funds as directed by the federal funding entity, DSHS or as required in this Agreement, including but not limited to: 2 C.F.R. Part 200, entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards incorporated herein by reference. UTHSC agrees to comply with terms and conditions as applicable, including but not limited to the provisions and certifications set out below:

**A. Clean Air Act and the Federal Water Pollution Control Act.** Clean Air Act & Federal Water Pollution Control Act - (1) UTHSC agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§1251-1387), as amended. UTHSC agrees to report each violation to the City and understands that the City will, in turn, report each violation as required to the federal agency providing funds for this contract and the appropriate EPA Regional Office. (2) UTHSC agrees to include these requirements in each subcontract to this contract exceeding \$150,000 financed in whole or in part with federal funds.

**B. Debarment and Suspension.** (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, UTHSC is required to verify that none of UTHSC's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) UTHSC must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by City. If it is later determined that the UTHSC did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) UTHSC agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this contract. UTHSC further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**C. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended).**

**Certification Regarding Lobbying.**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

UTHSC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, UTHSC understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

**D. Procurement of Recovered Materials.**

UTHSC and its subcontractors shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

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 AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

24.2 Unless this Agreement provides otherwise, all claims, counterclaims, disputes, and other matters in question between City and UTHSC arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction.

24.3 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

**XXV.**  
**LEGAL AUTHORITY**

25.1 The signer of this Agreement for UTHSC represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of UTHSC and to bind UTHSC 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.

UTHSCUTHSCUTHSC

**XXVIII.**  
**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 and AGREED to this the \_\_\_\_\_ day of \_\_\_\_\_.

CITY OF SAN ANTONIO

UNIVERSITY OF TEXAS HEALTH  
SCIENCE CENTER AT TYLER  
[Vendor Identification number: 175601354A1]

\_\_\_\_\_  
Claude A. Jacob, DrPH(c), MPH  
Health Director  
San Antonio Metropolitan Health District

\_\_\_\_\_  
Kris Kavasch  
Vice President, Finance, Chief Financial Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

# ATTACHMENT A

## GRANT STATEMENT OF WORK

### **I. GRANTEE RESPONSIBILITIES**

- A. Grantee, with guidance from the Department of State Health Services (DSHS) and in collaboration with other project contractors or partners, will focus on the development and execution activities to support achievement of goals and metrics to implement Delivery System Reform Incentive Payment (DSRIP) 1115 Medicaid Waiver Project 133257904.2.1 (the "Project"). The Project's long-term goal is to reduce tuberculosis (TB) disease by increasing regional capacity to identify TB through targeted screening of high-risk populations using interferon gamma release assay (IGRA) and engaging those with identified tuberculosis infection (TBI) into treatment.
- B. Grantee will implement the following activities:
1. Work with the DSHS, Bexar County Hospital District dba University Health System, and other Project subcontractors or partners in the systematic identification of, outreach to and enrollment of Project subcontractors or partners to provide TBI testing for populations at high risk for TB and treatment to persons with confirmed TBI. Examples of subcontractors or partners that should be targeted for participating in the Project include: Federally Qualified Health Centers (FQHCs), rural health centers, rural hospitals, clinics, dialysis centers, drug rehabilitation facilities, mental health and substance abuse centers, and other facilities that serve persons at high risk for developing TB (collectively referred to herein as "providers", "subcontractors" or "partners").
  2. Educate potential and existing subcontractors and partners about the benefits of IGRA tests to minimize false positives in Bacillus Calmette-Guérin (BCG) vaccinated individuals as well as the benefits of the new shortened TBI regimens such as the 12 week doses of isoniazid and rifapentine (3HP) and the continued use of traditional regimens for those not eligible for 3HP. Tuberculin skin testing may be used for patients not eligible for IGRA testing.
  3. Grantee and its subcontractors or partners will target their TB testing activities on those at high risk for TB disease. Generally, persons at high risk for developing TB disease fall into two categories: 1) persons who have been recently infected with TB bacteria; and, 2) persons with medical conditions that weaken the immune system. The following sites describe these populations:  
<http://www.cdc.gov/tb/topic/basics/risk.htm>;  
<http://www.cdc.gov/tb/topic/populations/>; and,  
<https://www.cdc.gov/mmwr/preview/mmwrhtml/00001642.htm>.
  4. Increase targeted testing for TBI in high-risk populations. Targeted population will include populations residing in congregate settings such as homeless shelters or drug rehabilitation centers, individuals living with HIV and diabetes, the homeless, refugees or persons in high-risk groups seeking TB testing from Grantee.

## **ATTACHMENT A GRANT STATEMENT OF WORK**

5. Focus on working with providers who serve persons who are covered by Medicaid or are low-income or are uninsured.
- C. To support successful implementation of IGRA testing, treatment for TBI, and reporting by subcontractors and partners, Grantee will implement the following training and technical assistance activities:
1. Educate and train subcontractors or partners and their staffs on the following topics: TBI and TB disease and its management; available regimens; benefits of IGRA tests; Project logistics; referral processes for treatment of those with TBI; and Project data reporting processes. Educational and training needs of subcontractors should be systematically identified and documented.
  2. Assist with development and documentation of processes necessary for successful implementation of IGRA testing at Grantee and partner testing sites.
  3. Provide follow-up training or assistance as requested by subcontractors or partners or as identified by Grantee.
  4. Encourage subcontractors to participate in Project learning collaborative activities.
  5. Monitor, document and report subcontractor or partner performance with a specific focus on establishment of screening processes that systematically identify persons at risk for TBI with IGRA tests as well as work with subcontractors/partners to correct identified performance issues.
  6. Provide testing supplies for collecting blood for IGRAs and for placing TB skin tests (TST). The cost to run the test and medications will be covered by DSHS. Grantee or their subcontractor may charge a fee for performing phlebotomy.
  7. Use incentives (“tangible reinforcement”) to encourage patient participation and retention in treatment only as permitted under applicable federal or state law.
- D. Grantee will ensure that TBI in patients identified through screening activities is appropriately treated and managed. Grantee will:
1. Ensure that patients with a positive IGRA receive a chest x-ray that is read by a radiologist. DSHS will reimburse x-ray and reading costs.
  2. Ensure that patients with an abnormal chest x-ray are referred to San Antonio Metropolitan Health District’s Chest Clinic if Bexar County residents or the DSHS Region 8 TB Program if not residents of Bexar County.

## **ATTACHMENT A GRANT STATEMENT OF WORK**

3. Perform clinical evaluation to determine TBI or active TB disease among persons screened and found to have a positive IGRA result.
  4. Refer patients with active TB that cannot be successfully treated as an outpatient to DSHS for hospitalization.
  5. Ensure that for patients diagnosed with Latent Tuberculosis Infection (positive IGRA and normal chest x-ray), blood is drawn for baseline labs including a) a complete metabolic panel (CMP) and b) a complete blood count (CBC). These samples should be sent to the South Texas Lab. DSHS will provide reimbursement associated with supplies and lab fees.
  6. Ensure that patients being treated for TBI receive monthly toxicity screening.
  7. Provide routine treatment for TBI through a 12 dose, 12-week regimen administered by directly observed therapy (DOT) to improve patient adherence and completion of treatment.
  8. Alternate recognized treatment regimens for treating TBI may be used if the 12 dose, 12-week regimen is not appropriate.
- E. Grantee will collect, data-enter, quality assure and manage data collected during Grantee Project activities. Data collected and managed may be from Grantee testing activities or from partner organizations activities. Grantee will:
1. Collect and submit monthly data sets to the Project Grantee responsible for aggregating and reporting Project-level data and provide a copy of this data to the Region 8 Project Manager. Grantee must assure that data submitted has been quality assured in accordance with processes established by DSHS and the Project data Grantee. Grantee will receive formal communications related to identified problems associated with Grantee's data and is expected to assure that data issues are corrected and processes put in place to assure that issues are not recurring.
- The DSHS Project Manager and the Project data Grantee will provide direction and guidance on Project data structure, content/data elements and format(s). Grantee understands that Project data structure, content, and elements are subject to change based on evolving Project needs.
2. Manage Project data in a manner that assures protection of protected health and personal participant information.
  3. Provide quality and timely reports on schedules and in formats specified by DSHS and/or Project Grantee responsible for data management. These reports may include but are not limited to: monthly data reports used to plan and assess Project performance; special or ad hoc reports needed to address emerging Project

## ATTACHMENT A GRANT STATEMENT OF WORK

questions or to support dissemination activities; or, reports needed for DSRIP-related reporting.

- F. Grantee agrees to participate in and support the following Project activities:
1. Meetings;
  2. Annual work plan development;
  3. Evaluation;
  4. Sustainability planning;
  5. Continuous Quality Improvement (CQI);
  6. Learning Collaborative(s); and
  7. Dissemination.
- G. Grantee agrees that the data and findings gathered and obtained through activities supported by this Contract are the exclusive intellectual property of DSHS.
- H. Grantee agrees that Grantee-initiated dissemination activities associated with this Project should be reviewed and approved by DSHS prior to submission. All disseminated products should note that this is a DSHS project and cite DSHS as the funding source.
- I. Grantee will not exceed the total amount of this Contract without DSHS prior approval and the Parties executing a written amendment.
- J. Grantee will comply with all applicable federal and state laws, rules, and regulations including, but not limited to, the following, as amended:
1. Texas Tuberculosis Code, Health and Safety Code, Chapter 13, Subchapter B;
  2. Communicable Disease Prevention and Control Act, Texas Health and Safety Code, Chapter 81; and,
  3. Texas Administrative Code (TAC), Title 25, Part 1, Chapter 97, Subchapter A, Control of Communicable Diseases.
- K. Grantee will comply with all applicable regulations, standards and guidelines in effect on the beginning date of the term of this Contract. Grantee will provide the services outlined above in compliance with the following, as amended:
1. DSHS Standards of Performance for the Prevention and Control of Tuberculosis: <http://www.dshs.texas.gov/IDCU/disease/tb/publications/SOP->

## ATTACHMENT A GRANT STATEMENT OF WORK

[2008-final.doc](#);

2. DSHS Standards for Public Health Clinic Services:  
<http://www.dshs.texas.gov/qmb/dshsstndrds4clinicservs.pdf>;
  3. DSHS TB Policy and Procedures Manual:  
<http://www.dshs.texas.gov/idcu/disease/tb/publications/>;
  4. American Thoracic Society (ATS) and Centers for Disease Control and Prevention (CDC) joint statements on diagnosis, treatment and control of TB: <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5211a1.htm>;
  5. Diagnostic Standards and Classification of Tuberculosis in Adults and Children, American Journal of Respiratory and Critical Care Medicine, Vol. 161, pp. 1376-1395, 2000: <http://ajrccm.atsjournals.org/cgi/reprint/161/4/1376>;
  6. Treatment of Tuberculosis (ATS/CDC/IDSA), 2003:  
<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5211a1.htm>;
  7. Targeted Tuberculin Testing and Treatment of Latent TB Infection (LTBI), Morbidity and Mortality Weekly Report, Vol. 49, No. RR-6, 2000:  
<https://www.cdc.gov/mmwr/pdf/rr/rr4906.pdf>;
  8. Updated: Adverse Event Data and Revised ATS/CDC Recommendations Against the Use of Rifampin and Pyrazinamide for Treatment of Latent Tuberculosis Infection – United States, 2003, MMWR 52 (No. 31):  
<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5231a4.htm>;
  9. Controlling Tuberculosis in the United States, MMWR, Vol. 54, No. RR-12, 2005: <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5412a1.htm>; and
  10. Guidelines for the Prevention and Treatment of Opportunistic Infections Among HIV- Exposed and HIV-Infected Children:  
<https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6244a6.htm>
- L. Grantee must receive written approval from DSHS before varying from the procedures outlined herein and must update its implementation documentation within forty-eight (48) hours of making approved changes so that staff working on activities under this Contract knows of the change(s).
- M. Grantee will adhere to reporting requirements documented in the CDC Tuberculosis Surveillance Data Training Report of Verified Case of Tuberculosis (RVCT) Instruction Manual, available at <http://www.cdc.gov/tb/programs/rvct/InstructionManual.pdf>.

## **ATTACHMENT A GRANT STATEMENT OF WORK**

- N. Grantee will develop, implement and maintain a timekeeping system for accurately documenting staff time and salary expenditures for all staff funded through this Contract, including partial full-time employees and temporary staff.
- O. Grantee will not use DSHS funds for:
  - 1. Entertainment; or
  - 2. Sectarian worship, instruction, or proselytization.
- P. Grantee activities will take place in Bexar County, which is one of 20 1115 Waiver Regional Healthcare Partnership 6 (RHP 6) counties. RHP 6 boundaries can be found at: <https://www.hhsc.state.tx.us/1115-docs/Regions-Map-Aug12.pdf>.
- Q. Grantee will submit a monthly report to the DSHS HSR 8 Project Manager and the assigned DSHS Contract Manager by the 20th of every month. Format and content will be specified by DSHS.
- R. Grantee will submit financial and any other reports that DSHS determines necessary to accomplish the objectives of this Contract and to monitor compliance. If Grantee is legally prohibited from providing such reports, Grantee will immediately notify DSHS in writing.
- S. Grantee will provide services in Regional Healthcare Partnership 6 (RHP6) counties or additional counties that may be approved by HHSC or DSHS.
- T. DSHS reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfalls. DSHS will monitor Grantee's expenditures on a quarterly basis. If expenditures are below that projected in Grantee's total Contract amount, Grantee's budget may be subject to a decrease for the remainder of the term of the Contract. If applicable, vacant positions existing after ninety days may result in a decrease in funds.

### **II. PERFORMANCE MEASURES**

The System Agency will monitor the Grantee's performance of the requirements in Attachment A and compliance with the Contract's terms and conditions.

Grantee activities will support achievement of DSRIP Project-level measures and metrics specified in the most current approved HHSC DSRIP RHP 6 project plan. These measures will be finalized in late 2017 or early 2018 after they are approved by HHSC. Once these measures are approved, DSHS will work with Grantee to set their DSRIP performance targets. There is a possibility that a contract amendment will be required once these measures are approved.

## ATTACHMENT A GRANT STATEMENT OF WORK

### **III. INVOICE AND PAYMENT**

A. Grantee will request payment by submitting the State of Texas Purchase Voucher (Form B-13) on a monthly basis and acceptable supporting documentation for reimbursement of the required services/deliverables. Additionally, the Grantee will submit the Financial Status Report (FSR-269a) on a quarterly basis. Vouchers, supporting documentation, and Financial Status Reports should be emailed to the addresses below.

B. Department of State Health Services

Claims Processing Unit, MC 1940

1100 West 49<sup>th</sup> Street

P.O. Box 149347

Austin, TX 78714-9347

FAX: (512) 776-7442

EMAIL: [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov) & [yolanda.cantu@dshs.texas.gov](mailto:yolanda.cantu@dshs.texas.gov)

B-13 and supporting documentation should be sent to: [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov) & [Yolanda.cantu@dshs.texas.gov](mailto:Yolanda.cantu@dshs.texas.gov)

FSRs should be sent to: [invoices@dshs.texas.gov](mailto:invoices@dshs.texas.gov), [yolanda.cantu@dshs.texas.gov](mailto:yolanda.cantu@dshs.texas.gov) & [FSRGrants@dshs.texas.gov](mailto:FSRGrants@dshs.texas.gov)

C. Grantee will be paid on a cost reimbursement basis and in accordance with the Budget in Attachment B of this Contract.

**DEPARTMENT OF STATE HEALTH SERVICES  
CONTRACT NO. HHS000068600001  
AMENDMENT NO. 1**

The **DEPARTMENT OF STATE HEALTH SERVICES** (“**DSHS**” or **System Agency**”) and **SAN ANTONIO METROPOLITAN HEALTH DISTRICT** (“**Grantee**”), each a “Party” and collectively the “Parties,” to that certain Tuberculosis Waiver Project contract effective January 1, 2018, and denominated DSHS Contract No. **HHS000068600001** (the “Contract”), now desire to amend the Contract.

**WHEREAS**, the System Agency has chosen to exercise its option to renew the Contract in accordance with Section III, Duration, of the Contract Signature Document;

**WHEREAS**, the Parties desire to revise the Budget to add funds for the period beginning October 1, 2019, through September 30, 2021 (hereinafter referred to as “Fiscal Year 2020” or “FY2020” and “Fiscal Year 2021” or “FY2021”);

**WHEREAS**, the Parties desire to revise the Statement of Work; and

**WHEREAS**, the Parties desire to add to the Supplemental and Special Conditions.

**NOW, THEREFORE**, the Parties hereby amend and modify the Contract as follows:

1. **SECTION III** of the Signature Document, **DURATION**, is hereby amended to reflect a revised termination date of September 30, 2021.
2. **SECTION IV** of the Signature Document, **BUDGET**, is hereby amended to add **\$2,144,688.00** in state funds. For the budget period October 1, 2019, through September 30, 2020, the amount is not to exceed **\$1,072,344.00**. For the budget period October 1, 2020, through September 30, 2021, the amount is not to exceed **\$1,072,344.00**. The total Contract amount is not to exceed **\$3,971,685.00**. All expenditures under the Contract will be in accordance with **ATTACHMENT B, BUDGET**.
3. **SECTION I.B.1.** of **ATTACHMENT A, STATEMENT OF WORK**, is hereby amended to delete “Bexar County Hospital District dba University Health System.”
4. **SECTION I.C.5.** of **ATTACHMENT A, STATEMENT OF WORK**, is hereby deleted and replaced with the following:
  - “5. Monitor, document and report subcontractor or partner performance to assure established screening processes systematically identify persons at risk for TBI using IGRA tests as well as work with subcontractors/partners to correct identified performance issues.”

5. **SECTION I.E.1.-I.E.3. of ATTACHMENT A, STATEMENT OF WORK**, is hereby deleted and replaced with the following:

"1. Collect and submit monthly data sets to the Region 8 Project Manager. Grantee must assure that data submitted has been quality assured in accordance with processes established by DSHS and the Project data Grantee. Grantee will receive formal communications related to identified problems associated with Grantee's data and is expected to assure that data issues are corrected and processes put in place to assure that issues are not recurring.

The DSHS Project Manager will provide direction and guidance on Project data structure, content/data elements and format(s). Grantee understands that Project data structure, content, and elements are subject to change based on evolving Project needs.

2. Manage Project data in a manner that assures protection of protected health and personal participant information.
3. Provide quality and timely reports on schedules and in formats specified by DSHS. These reports may include but are not limited to: monthly data reports used to plan and assess Project performance; special or ad hoc reports needed to address emerging Project questions or to support dissemination activities; or, reports needed for DSRIP-related reporting."

6. **SECTION I.F.3. of ATTACHMENT A, STATEMENT OF WORK**, is hereby deleted and replaced with the following:

"3. Evaluation and cost studies;"

7. **SECTION I.K.1.-I.K.3. of ATTACHMENT A, STATEMENT OF WORK**, is hereby deleted and replaced with the following:

"K. Grantee will comply with all applicable regulations, standards and guidelines in effect on the beginning date of the term of this Contract. Grantee will provide the services outlined above in compliance with guidance found at:

1. DSHS TB Control Standards:  
<https://www.dshs.texas.gov/idcu/disease/tb/policies/>;
2. Diagnostic Standards and Classification of Tuberculosis in Adults and Children, American Journal of Respiratory and Critical Care Medicine, Vol. 161, pp. 1376-1395, 2000:  
<http://ajrccm.atsjournals.org/cgi/reprint/161/4/1376>;
3. Treatment of Tuberculosis (ATS/CDC/IDSA), 2003:  
<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5211a1.htm>;"

8. **SECTION I.Q. of ATTACHMENT A, STATEMENT OF WORK**, is hereby deleted and replaced with the following:

“Q. Grantee will submit a monthly report to the DSHS HSR 8 Project Manager and the assigned DSHS Contract Manager by the 20th of every month. Format and content will be specified by DSHS and is subject to change based on evolving Project needs.”

9. **SECTION II. of ATTACHMENT A, STATEMENT OF WORK**, is hereby deleted and replaced with the following:

**“II. PERFORMANCE MEASURES**

The System Agency will monitor the Grantee’s performance of the requirements in Attachment A and compliance with the Contract’s terms and conditions.

Grantee activities will support achievement of DSRIP Project-level measures and metrics specified in the most current approved HHSC DSRIP RHP 6 project plan. These measures are subject to change based on evolving Waiver requirements. DSHS and Grantee will work together to assure that performance targets are met. Contract amendment/s may be required based on state level changes to the Waiver.”

10. The Parties agree to add to the Contract **ATTACHMENT B-1, BUDGET SUMMARY**, which is attached to this Amendment and incorporated into the Contract as if fully set forth therein. All FY2020 expenditures shall be made in accordance with **ATTACHMENT B-1**.

11. **ATTACHMENT D, SUPPLEMENTAL AND SPECIAL CONDITIONS**, is hereby amended to add the following new Sections 1.05 and 1.06 under the Special Conditions:

**SECTION 1.05 GRANTEE'S CERTIFICATION OF MEETING OR EXCEEDING TOBACCO-FREE WORKPLACE POLICY MINIMUM STANDARDS**

Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:

- a) Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookahs), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
- b) Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Contract are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
- c) Applying to all employees and visitors in this designated area; and
- d) Providing for or referring its employees to tobacco use cessation services.

If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

**SECTION 1.06 CONTRACTOR'S PROPERTY INVENTORY REPORT**

Grantee shall maintain an inventory of equipment, supplies defined as Controlled Assets, and real property and submit an annual cumulative report of the equipment and other property on HHS System Agency's Contractor's Property Inventory Report to the assigned DSHS Contract Manager and DSHS Contract Oversight and Support (email address: [COSequip@dshs.texas.gov](mailto:COSequip@dshs.texas.gov)) by electronic mail no later than October 15 of each year. The Grantee's Property Inventory Report may be found at: <http://www.dshs.texas.gov/contracts/forms.shtm>.

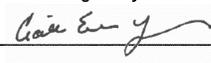
12. The Parties agree to add to the Contract **ATTACHMENT E, DATA USE AGREEMENT**, which is attached to this Amendment and incorporated into the Contract as if fully set forth therein.
13. This Amendment No. 1 shall be effective as of October 1, 2019.
14. Except as amended and modified by this Amendment No. 1, all terms and conditions of the Contract shall remain in full force and effect. In the event of a conflict between the Contract and the terms of this Amendment, the terms of the Amendment shall control.
15. Any further revisions to the Contract shall be by written agreement of the Parties.

**SIGNATURE PAGE FOLLOWS**

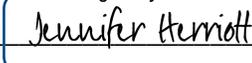
**SIGNATURE PAGE FOR AMENDMENT NO. 1  
SYSTEM AGENCY CONTRACT NO. HHS000068600001**

**DEPARTMENT OF STATE HEALTH SERVICES**

**SAN ANTONIO METROPOLITAN HEALTH  
DISTRICT**

DocuSigned by:  
  
C80071B769504E9...  
Cecile Young

Chief Deputy Executive Commissioner

DocuSigned by:  
  
CCEd86FA566349A...  
By: \_\_\_\_\_  
Name: Jennifer Herriott

Title: Interim Director of Health

Date of Execution: May 17, 2019

Date of Execution: May 17, 2019

**THE FOLLOWING ATTACHMENTS ARE ATTACHED AND INCORPORATED AS PART OF THE  
CONTRACT:**

**ATTACHMENT B-1 – BUDGET SUMMARY  
ATTACHMENT E – DATA USE AGREEMENT**

HHSC Uniform Terms and Conditions Version 2.15  
Published and Effective: September 1, 2017  
Responsible Office: Chief Counsel



# TEXAS

## Health and Human Services

**Health and Human Services Commission**  
**HHSC Uniform Terms and Conditions - Grant**  
**Version 2.15**

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## ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

### 1.01 Definitions

As used in this Contract, unless the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

“Amendment” means a written agreement, signed by the parties hereto, which documents changes to the Contract other than those permitted by Work Orders or Technical Guidance Letters, as herein defined.

“Attachment” means documents, terms, conditions, or additional information physically added to this Contract following the Signature Document or included by reference, as if physically, within the body of this Contract.

“Contract” means the Signature Document, these Uniform Terms and Conditions, along with any Attachments, and any Amendments, or Technical Guidance Letters that may be issued by the System Agency, to be incorporated by reference herein for all purposes if issued.

“Deliverable” means the work product(s) required to be submitted to the System Agency including all reports and project documentation.

“Effective Date” means the date agreed to by the Parties as the date on which the Contract takes effect.

“Federal Fiscal Year” means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

“GAAP” means Generally Accepted Accounting Principles.

“GASB” means the Governmental Accounting Standards Board.

“Grantee” means the Party receiving funds under this Contract, if any. May also be referred to as "Contractor" in certain attachments.

“Health and Human Services Commission” or “HHSC” means the administrative agency established under Chapter 531, Texas Government Code or its designee.

“HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“Intellectual Property” means inventions and business processes, whether or not patentable; works of authorship; trade secrets; trademarks; service marks; industrial designs; and creations that are subject to potential legal protection incorporated in any Deliverable and first created or developed by Grantee, Grantee's contractor or a subcontractor in performing the Project.

“Mentor Protégé” means the Comptroller of Public Accounts' leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>.

“Parties” means the System Agency and Grantee, collectively.

“Party” means either the System Agency or Grantee, individually.

“Program” means the statutorily authorized activities of the System Agency under which this Contract has been awarded.

“Project” means specific activities of the Grantee that are supported by funds provided under this Contract.

“Public Information Act” or “PIA” means Chapter 552 of the Texas Government Code.

“Statement of Work” means the description of activities performed in completing the Project, as specified in the Contract and as may be amended.

“Signature Document” means the document executed by both Parties that specifically sets forth all of the documents that constitute the Contract.

“Solicitation or "RFA"” means the document issued by the System Agency under which applications for Program funds were requested, which is incorporated herein by reference for all purposes in its entirety, including all Amendments and Attachments.

“Solicitation Response” or “Application” means Grantee’s full and complete response to the Solicitation, which is incorporated herein by reference for all purposes in its entirety, including any Attachments and addenda.

“State Fiscal Year” means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

“State of Texas Textravel” means Texas Administrative Code, Title 34, Part 1, Chapter 5, Subchapter C, Section 5.22, relative to travel reimbursements under this Contract, if any.

“System Agency” means HHSC or any of the agencies of the State of Texas that are overseen by HHSC under authority granted under State law and the officers, employees, and designees of those agencies. These agencies include: HHSC and the Department of State Health Services.

“Technical Guidance Letter” or “TGL” means an instruction, clarification, or interpretation of the requirements of the Contract, issued by the System Agency to the Grantee.

## **1.02 Interpretive Provisions**

- a. The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- b. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, Attachment, or schedule of this Contract unless otherwise specified.
- c. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to

any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

- d. Any references to “sections,” “appendices,” or “attachments” are references to sections, appendices, or attachments of the Contract.
- e. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Contract are references to these documents as amended, modified, or supplemented from time to time during the term of the Contract.
- f. The captions and headings of this Contract are for convenience of reference only and do not affect the interpretation of this Contract.
- g. All Attachments within this Contract, including those incorporated by reference, and any Amendments are considered part of the terms of this Contract.
- h. This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each will be performed in accordance with its terms.
- i. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- j. Time is of the essence in this Contract.

## **ARTICLE II PAYMENT METHODS AND RESTRICTIONS**

### **2.01 Payment Methods**

Except as otherwise provided by the provisions of the Contract, the payment method will be one or more of the following:

- a. cost reimbursement. This payment method is based on an approved budget and submission of a request for reimbursement of expenses Grantee has incurred at the time of the request;
- b. unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports; or
- c. advance payment. This payment method is based on disbursement of the minimum necessary funds to carry out the Program or Project where the Grantee has implemented appropriate safeguards. This payment method will only be utilized in accordance with governing law and at the sole discretion of the System Agency.

Grantees shall bill the System Agency in accordance with the Contract. Unless otherwise specified in the Contract, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

### **2.02 Final Billing Submission**

Unless otherwise provided by the System Agency, Grantee shall submit a reimbursement or payment request as a final close-out invoice not later than forty-five (45) calendar days following the end of the term of the Contract. Reimbursement or payment requests received in the System

Agency's offices more than forty-five (45) calendar days following the termination of the Contract may not be paid.

### **2.03 Financial Status Reports (FSRs)**

Except as otherwise provided in these General Provisions or in the terms of any Program Attachment(s) that is incorporated into the Contract, for contracts with categorical budgets, Grantee shall submit quarterly FSRs to Accounts Payable by the last business day of the month following the end of each quarter of the Program Attachment term for System Agency review and financial assessment. Grantee shall submit the final FSR no later than forty-five (45) calendar days following the end of the applicable term.

### **2.04 Debt to State and Corporate Status**

Pursuant to Tex. Gov. Code § 403.055, the Department will not approve and the State Comptroller will not issue payment to Grantee if Grantee is indebted to the State for any reason, including a tax delinquency. Grantee, if a corporation, certifies by execution of this Contract that it is current and will remain current in its payment of franchise taxes to the State of Texas or that it is exempt from payment of franchise taxes under Texas law (Tex. Tax Code §§ 171.001 et seq.). If tax payments become delinquent during the Contract term, all or part of the payments under this Contract may be withheld until Grantee's delinquent tax is paid in full.

### **2.05 Application of Payment Due**

Grantee agrees that any payments due under this Contract will be applied towards any debt of Grantee, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

### **2.06 Use of Funds**

Grantee shall expend funds provided under this Contract only for the provision of approved services and for reasonable and allowable expenses directly related to those services.

### **2.07 Use for Match Prohibited**

Grantee shall not use funds provided under this Contract for matching purposes in securing other funding without the written approval of the System Agency.

### **2.08 Program Income**

Income directly generated from funds provided under this Contract or earned only as a result of such funds is Program Income. Unless otherwise required under the Program, Grantee shall use the addition alternative, as provided in UGMS § \_\_.25(g)(2), for the use of Project income to further the Program, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report this income in accordance with the Contract, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Contract term and may not carry Program Income forward to any succeeding term. Grantee shall refund program income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using it for the purposes and under the conditions specified in this Contract.

## **2.09 Nonsupplanting**

Grantee shall not use funds from this Contract to replace or substitute for existing funding from other but shall use funds from this Contract to supplement existing state or local funds currently available. Grantee shall make a good faith effort to maintain its current level of support. Grantee may be required to submit documentation substantiating that a reduction in state or local funding, if any, resulted for reasons other than receipt or expected receipt of funding under this Contract.

## **ARTICLE III. STATE AND FEDERAL FUNDING**

### **3.01 Funding**

This Contract is contingent upon the availability of sufficient and adequate funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the Texas General Appropriations Act, agency consolidation, or any other disruptions of current funding for this Contract, the System Agency may restrict, reduce, or terminate funding under this Contract. This Contract is also subject to immediate cancellation or termination, without penalty to the System Agency, if sufficient and adequate funds are not available. Grantee will have no right of action against the System Agency if the System Agency cannot perform its obligations under this Contract as a result of lack of funding for any activities or functions contained within the scope of this Contract. In the event of cancellation or termination under this Section, the System Agency will not be required to give notice and will not be liable for any damages or losses caused or associated with such termination or cancellation.

### **3.02 No debt Against the State**

The Contract will not be construed as creating any debt by or on behalf of the State of Texas.

### **3.03 Debt to State**

If a payment law prohibits the Texas Comptroller of Public Accounts from making a payment, the Grantee acknowledges the System Agency's payments under the Contract will be applied toward eliminating the debt or delinquency. This requirement specifically applies to any debt or delinquency, regardless of when it arises.

### **3.04 Recapture of Funds**

The System Agency may withhold all or part of any payments to Grantee to offset overpayments made to the Grantee. Overpayments as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Contract, including any unapproved expenditures. Grantee understands and agrees that it will be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Contract. Grantee further understands and agrees that reimbursement of such disallowed costs will be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Contract.

## ARTICLE IV ALLOWABLE COSTS AND AUDIT REQUIREMENTS

### 4.01 Allowable Costs.

System Agency will reimburse the allowable costs incurred in performing the Project that are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Contract. The System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. If the System Agency has paid funds to Grantee for unallowable or ineligible costs, the System Agency will notify Grantee in writing, and Grantee shall return the funds to the System Agency within thirty (30) calendar days of the date of this written notice. The System Agency may withhold all or part of any payments to Grantee to offset reimbursement for any unallowable or ineligible expenditure that Grantee has not refunded to the System Agency, or if financial status report(s) required under the Financial Status Reports section are not submitted by the due date(s). The System Agency may take repayment (recoup) from funds available under this Contract in amounts necessary to fulfill Grantee's repayment obligations. Applicable cost principles, audit requirements, and administrative requirements include-

Applicable Entity	Applicable Cost Principles	Audit Requirements	Administrative Requirements
State, Local and Tribal Governments	2 CFR, Part 225	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Educational Institutions	2 CFR, Part 220	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
Non-Profit Organizations	2 CFR, Part 230	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS
For-profit Organization other than a hospital and an organization named in OMB Circular A-122 (2 CFR Part, 230) as not subject to that circular.	48 CFR Part 31, Contract Cost Principles Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the federal or state awarding agency	2 CFR Part 200, Subpart F and UGMS	2 CFR Part 200 and UGMS

OMB Circulars will be applied with the modifications prescribed by UGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

#### **4.02 Independent Single or Program-Specific Audit**

If Grantee, within Grantee's fiscal year, expends a total amount of at least SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) in federal funds awarded, Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The \$750,000 federal threshold amount includes federal funds passed through by way of state agency awards. If Grantee, within Grantee's fiscal year, expends a total amount of at least \$750,000 in state funds awarded, Grantee must have a single audit or program-specific audit in accordance with UGMS, State of Texas Single Audit Circular. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and UGMS. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or UGMS, as applicable, for their program-specific audits. HHSC Single Audit Services will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the Single Audit Determination Form within thirty (30) calendar days after notification by HHSC Single Audit Services to do so, Grantee shall be subject to the System Agency sanctions and remedies for non-compliance with this Contract. Each Grantee that is required to obtain a single audit must competitively procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with the provisions of UGMS.

#### **4.03 Submission of Audit**

Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit electronically, one copy of the Single Audit or Program-Specific Audit to the System Agency as directed in this Contract and another copy to: [single\\_audit\\_report@hhsc.state.tx.us](mailto:single_audit_report@hhsc.state.tx.us)

### **ARTICLE V AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS**

#### **5.01 General Affirmations**

Grantee certifies that, to the extent General Affirmations are incorporated into the Contract under the Signature Document, the General Affirmations have been reviewed and that Grantee is in compliance with each of the requirements reflected therein.

#### **5.02 Federal Assurances**

Grantee further certifies that, to the extent Federal Assurances are incorporated into the Contract under the Signature Document, the Federal Assurances have been reviewed and that Grantee is in compliance with each of the requirements reflected therein.

#### **5.03 Federal Certifications**

Grantee further certifies, to the extent Federal Certifications are incorporated into the Contract under the Signature Document, that the Federal Certifications have been reviewed, and that Grantee is in compliance with each of the requirements reflected therein. **In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, or regulations, as they may pertain to this Contract.**

## **ARTICLE VI OWNERSHIP AND INTELLECTUAL PROPERTY**

### **6.01 Ownership**

The System Agency will own, and Grantee hereby assigns to the System Agency, all right, title, and interest in all Deliverables.

### **6.02 Intellectual Property**

- a. The System Agency and Grantee will retain ownership, all rights, title, and interest in and to, their respective pre-existing Intellectual Property. A license to either Party's pre-existing Intellectual Property must be agreed to under this or another contract.
- b. Grantee grants to the System Agency and the State of Texas a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Intellectual Property invented or created by Grantee, Grantee's contractor, or a subcontractor in the performance of the Project. Grantee will require its contractors to grant such a license under its contracts.

## **ARTICLE VII RECORDS, AUDIT, AND DISCLOSURE**

### **7.01 Books and Records**

Grantee will keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state and federal rules, regulations, and statutes. Unless otherwise specified in this Contract, Grantee will maintain legible copies of this Contract and all related documents for a minimum of seven (7) years after the termination of the contract period or seven (7) years after the completion of any litigation or dispute involving the Contract, whichever is later.

### **7.02 Access to records, books, and documents**

In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors will permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings. Grantee will include this provision concerning

the right of access to, and examination of, sites and information related to this Contract in any Subcontract it awards.

### **7.03 Response/compliance with audit or inspection findings**

- a. Grantee must act to ensure its and its Subcontractor's compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Contract and the goods or services provided hereunder. Any such correction will be at Grantee or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance will be solely the decision of the System Agency.
- b. As part of the Services, Grantee must provide to HHSC upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the Services and Deliverables provided to the State under the Contract.

### **7.04 SAO Audit**

Grantee understands that acceptance of funds directly under the Contract or indirectly through a Subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Grantee agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through Grantee and the requirement to cooperate is included in any Subcontract it awards.

### **7.05 Confidentiality**

Any specific confidentiality agreement between the Parties takes precedent over the terms of this section. To the extent permitted by law, Grantee agrees to keep all information confidential, in whatever form produced, prepared, observed, or received by Grantee. The provisions of this section remain in full force and effect following termination or cessation of the services performed under this Contract.

### **7.06 Public Information Act**

Information related to the performance of this Contract may be subject to the PIA and will be withheld from public disclosure or released only in accordance therewith. Grantee must make all information not otherwise excepted from disclosure under the PIA available in portable document file (".pdf") format or any other format agreed between the Parties.

## **ARTICLE VIII CONTRACT MANAGEMENT AND EARLY TERMINATION**

### **8.01 Contract Management**

To ensure full performance of the Contract and compliance with applicable law, the System Agency may take actions including:

- a. Suspending all or part of the Contract;

- b. Requiring the Grantee to take specific corrective actions in order to remain in compliance with term of the Contract;
- c. Recouping payments made to the Grantee found to be in error;
- d. Suspending, limiting, or placing conditions on the continued performance of the Project;
- e. Imposing any other remedies authorized under this Contract; and
- f. Imposing any other remedies, sanctions or penalties permitted by federal or state statute, law, regulation, or rule.

### **8.02 Termination for Convenience**

The System Agency may terminate the Contract at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in HHSC's notice of termination.

### **8.03 Termination for Cause**

Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Contract, in whole or in part, upon either of the following conditions:

#### **a. Material Breach**

The System Agency will have the right to terminate the Contract in whole or in part if the System Agency determines, at its sole discretion, that Grantee has materially breached the Contract or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction and such violation prevents or substantially impairs performance of Grantee's duties under the Contract. Grantee's misrepresentation in any aspect of Grantee's Solicitation Response, if any or Grantee's addition to the Excluded Parties List System (EPLS) will also constitute a material breach of the Contract.

#### **b. Failure to Maintain Financial Viability**

The System Agency may terminate the Contract if, in its sole discretion, the System Agency has a good faith belief that Grantee no longer maintains the financial viability required to complete the Services and Deliverables, or otherwise fully perform its responsibilities under the Contract.

### **8.04 Equitable Settlement**

Any early termination under this Article will be subject to the equitable settlement of the respective interests of the Parties up to the date of termination.

## **ARTICLE IX MISCELLANEOUS PROVISIONS**

### **9.01 Amendment**

The Contract may only be amended by an Amendment executed by both Parties.

### **9.02 Insurance**

Unless otherwise specified in this Contract, Grantee will acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee will provide evidence of insurance as required

under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee will secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage.

These and all other insurance requirements under the Contract apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

### **9.03 Legal Obligations**

Grantee will comply with all applicable federal, state, and local laws, ordinances, and regulations, including all federal and state accessibility laws relating to direct and indirect use of information and communication technology. Grantee will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them. In addition to any other act or omission that may constitute a material breach of the Contract, failure to comply with this Section may also be a material breach of the Contract.

### **9.04 Permitting and Licensure**

At Grantee's sole expense, Grantee will procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or Services required by this Contract. Grantee will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee agrees to be responsible for payment of any such government obligations not paid by its contactors or subcontractors during performance of this Contract.

### **9.05 Indemnity**

**TO THE EXTENT ALLOWED BY LAW, GRANTEE WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE STATE OF TEXAS AND ITS OFFICERS AND EMPLOYEES, AND THE SYSTEM AGENCY AND ITS OFFICERS AND EMPLOYEES, FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES, AND LIABILITIES, INCLUDING ATTORNEYS' FEES AND COURT COSTS ARISING OUT OF, OR CONNECTED WITH, OR RESULTING FROM:**

- a. GRANTEE'S PERFORMANCE OF THE CONTRACT, INCLUDING ANY NEGLIGENT ACTS OR OMISSIONS OF GRANTEE, OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF GRANTEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF GRANTEE, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- b. ANY BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, RULE, OR BREACH OF CONTRACT BY GRANTEE, ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF GRANTEE, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF GRANTEE, IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT; OR**
- c. EMPLOYMENT OR ALLEGED EMPLOYMENT, INCLUDING CLAIMS OF DISCRIMINATION AGAINST GRANTEE, ITS OFFICERS, OR ITS AGENTS; OR**

- d. WORK UNDER THIS CONTRACT THAT INFRINGES OR MISAPPROPRIATES ANY RIGHT OF ANY THIRD PERSON OR ENTITY BASED ON COPYRIGHT, PATENT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS.**

**GRANTEE WILL COORDINATE ITS DEFENSE WITH THE SYSTEM AGENCY AND ITS COUNSEL. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING SOLELY FROM THE GROSS NEGLIGENCE OF THE SYSTEM AGENCY OR ITS EMPLOYEES. THE PROVISIONS OF THIS SECTION WILL SURVIVE TERMINATION OF THIS CONTRACT.**

#### **9.06 Assignments**

Grantee may not assign all or any portion of its rights under, interests in, or duties required under this Contract without prior written consent of the System Agency, which may be withheld or granted at the sole discretion of the System Agency. Except where otherwise agreed in writing by the System Agency, assignment will not release Grantee from its obligations under the Contract.

Grantee understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. This assignment will only be made to another State agency or a non-state agency that is contracted to perform agency support.

#### **9.07 Relationship of the Parties**

Grantee is, and will be, an independent contractor and, subject only to the terms of this Contract, will have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the System Agency any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Grantee or any other Party.

Grantee will be solely responsible for, and the System Agency will have no obligation with respect to:

- a. Payment of Grantee's employees for all Services performed;
- b. Ensuring each of its employees, agents, or Subcontractors who provide Services or Deliverables under the Contract are properly licensed, certified, or have proper permits to perform any activity related to the Work;
- c. Withholding of income taxes, FICA, or any other taxes or fees;
- d. Industrial or workers' compensation insurance coverage;
- e. Participation in any group insurance plans available to employees of the State of Texas;
- f. Participation or contributions by the State to the State Employees Retirement System;
- g. Accumulation of vacation leave or sick leave; or
- h. Unemployment compensation coverage provided by the State.

#### **9.08 Technical Guidance Letters**

In the sole discretion of the System Agency, and in conformance with federal and state law, the System Agency may issue instructions, clarifications, or interpretations as may be required during Work performance in the form of a Technical Guidance Letter. A TGL must be in

writing, and may be delivered by regular mail, electronic mail, or facsimile transmission. Any TGL issued by the System Agency will be incorporated into the Contract by reference herein for all purposes when it is issued.

### **9.09 Governing Law and Venue**

This Contract and the rights and obligations of the Parties hereto will be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract will be in a court of competent jurisdiction in Travis County, Texas unless otherwise elected by the System Agency. Grantee irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

### **9.10 Severability**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract will be construed as if such provision did not exist and the non-enforceability of such provision will not be held to render any other provision or provisions of this Contract unenforceable.

### **9.11 Survivability**

Termination or expiration of this Contract or a Contract for any reason will not release either party from any liabilities or obligations in this Contract that the parties have expressly agreed will survive any such termination or expiration, remain to be performed, or by their nature would be intended to be applicable following any such termination or expiration, including maintaining confidentiality of information and records retention.

### **9.12 Force Majeure**

Except with respect to the obligation of payments under this Contract, if either of the Parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected Party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected Party's obligation to comply with such covenant will be suspended, and the affected Party will not be liable for damages for failure to comply with such covenant. In any such event, the Party claiming Force Majeure will promptly notify the other Party of the Force Majeure event in writing and, if possible, such notice will set forth the extent and duration thereof.

### **9.13 No Waiver of Provisions**

Neither failure to enforce any provision of this Contract nor payment for services provided under it constitute waiver of any provision of the Contract.

### **9.14 Publicity**

Except as provided in the paragraph below, Grantee must not use the name of, or directly or indirectly refer to, the System Agency, the State of Texas, or any other State agency in any media release, public announcement, or public disclosure relating to the Contract or its subject

matter, including in any promotional or marketing materials, customer lists, or business presentations.

Grantee may publish, at its sole expense, results of Grantee performance under the Contract with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

#### **9.15 Prohibition on Non-compete Restrictions**

Grantee will not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

#### **9.16 No Waiver of Sovereign Immunity**

Nothing in the Contract will be construed as a waiver of sovereign immunity by the System Agency.

#### **9.17 Entire Contract and Modification**

The Contract constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Contract will be harmonized with this Contract to the extent possible by the System Agency.

#### **9.18 Counterparts**

This Contract may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Contract.

#### **9.19 Proper Authority**

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Any Services or Work performed by Grantee before this Contract is effective or after it ceases to be effective are performed at the sole risk of Grantee with respect to compensation.

#### **9.20 Employment Verification**

Grantee will confirm the eligibility of all persons employed during the contract term to perform duties within Texas and all persons, including subcontractors, assigned by the contractor to perform work pursuant to the Contract.

#### **9.21 Civil Rights**

- a. Grantee agrees to comply with state and federal anti-discrimination laws, including:
  1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*);
  2. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
  3. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*);
  4. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
  5. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
  6. Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and

7. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.

- b. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
- c. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: <http://hhscx.hhsc.texas.gov/system-support-services/civil-rights/publications>
- d. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- e. Upon request, Grantee will provide HHSC Civil Rights Office with copies of all of the Grantee's civil rights policies and procedures.
- f. Grantee must notify HHSC's Civil Rights Office of any civil rights complaints received relating to its performance under this Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office  
701 W. 51<sup>st</sup> Street, Mail Code W206  
Austin, Texas 78751  
Phone Toll Free: (888) 388-6332  
Phone: (512) 438-4313

TTY Toll Free: (877) 432-7232  
Fax: (512) 438-5885.

**ATTACHMENT D  
GRANT SUPPLEMENTAL & SPECIAL CONDITIONS**

**SUPPLEMENTAL CONDITIONS**

There are no Supplemental Conditions for this Contract that modifies this Contract's HHS Uniform Terms and Conditions.

**SPECIAL CONDITIONS**

**SECTION 1.01 NOTICE OF CONTRACT ACTION**

Grantee shall notify their assigned contract manager if Grantee has had any contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five days of becoming aware of the action and include the following:

- a. Reason for such action;
- b. Name and contact information of the local, state or federal department or agency or entity;
- c. Date of the contract;
- d. Date of suspension or termination; and
- e. Contract or case reference number.

**SECTION 1.02 NOTICE OF BANKRUPTCY**

Grantee shall notify in writing its assigned contract manager of its plan to seek bankruptcy protection within five days of such action by Grantee.

**SECTION 1.03 NOTICE OF CRIMINAL ACTIVITY AND DISCIPLINARY ACTIONS**

- a. Grantee shall immediately report in writing to their contract manager when Grantee has knowledge or any reason to believe that they or any person with ownership or controlling interest in the organization/business, or their agent, employee, contractor or volunteer that is providing services under this Contract has:
  1. Engaged in any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory authority; or
  2. Been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.
- b. Grantee shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

**SECTION 1.04 GRANTEE'S NOTIFICATION OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL**

The Grantee shall notify in writing their contract manager assigned within ten days of any change to the Grantee's Contact Person or Key Personnel.

**Attachment II**

**Contract Allocation – October 2021 through July 2022**

<b>Regional Training and Medical Consultation Center – UT Tyler Subcontract</b>	<b>Licensed Medical Physician Services – personnel and fringe</b>	<b>\$79,790</b>
<b>UT Tyler Subcontract</b>	<b>Indirect Cost</b>	<b>\$19,949</b>
	<b>Total Costs</b>	<b>\$99,739</b>

**Contract Allocation – August 2022 through July 2023**

<b>Regional Training and Medical Consultation Center – UT Tyler Subcontract</b>	<b>Licensed Medical Physician Services – personnel and fringe</b>	<b>\$79,790</b>
<b>UT Tyler Subcontract</b>	<b>Indirect Cost</b>	<b>\$19,949</b>
	<b>Total Costs</b>	<b>\$99,739</b>

**ATTACHMENT III**

**UTHSC at Tyler  
INVOICE FOR COST REIMBURSEMENT  
Metro Health/UTHSC at Tyler Contract: Dates**

**Cost Period:**  
**Date Submitted:**

**COSA PO #:**

<i>Personnel Costs and Descriptions</i>	<i>Supporting Documentation (reference numbered attachments)</i>	<i>Amount</i>
Medical Consultant - Lisa Armitige, MD	log/timesheets/paystub	
Fringe @26% - Lisa Armitige, MD	fringe @26%	\$ -
<b>Personnel Total</b>		<b>\$ -</b>

<i>Local Travel Costs and Descriptions</i>	<i>Supporting Documentation (reference numbered attachments)</i>	<i>Amount</i>
NA	NA	\$ -
<b>Local Travel Total</b>		<b>\$ -</b>

<i>Out-of-City Travel Costs and Descriptions</i>	<i>Supporting Documentation (reference numbered attachments)</i>	<i>Amount</i>
NA	NA	\$ -
<b>Out-of-City Travel Total</b>		<b>\$ -</b>

<i>Operating &amp; Work Plan Costs and Descriptions</i>	<i>Supporting Documentation (reference numbered attachments)</i>	<i>Amount</i>
NA	NA	\$ -
<b>Operating/Work Plan Total</b>		<b>\$ -</b>

<i>Direct Other</i>	<i>Supporting Documentation (reference numbered attachments)</i>	<i>Amount</i>
NA	NA	\$ -
<b>Direct Other Total</b>		<b>\$ -</b>

<i>Indirect Costs</i>	<i>Supporting Documentation (reference numbered attachments)</i>	<i>Amount</i>
Indirect Costs		\$ -
<b>Indirect Costs Total</b>		<b>\$ -</b>

**TOTAL COSTS FOR REIMBURSEMENT** **\$ -**

**Verification statement:**

This invoice represents expenses incurred for the period listed. Supporting evidence of costs is attached to this invoice and is maintained on file at the sub-recipient's office as specified in the contract.

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Two certifying signatures are required for each invoice.

ITEMIZATION ON FOLLOWING PAGES