

TERMS AND CONDITIONS

1. **Scope of Services:** County will assist with the performance of the following Services as described below:

Staff, Equipment, and Training

County will employ and/or designate employee(s) to assist as community health worker(s) (herein after referred to as "CHW") in each of the areas of Alamo and San Carlos, for a total of 2 CHWs, to carry out the Tu Salud ¡Si Cuenta! program activities in their municipality which include the promotion of SNAP - Ed (Supplemental Nutrition Education Program- Education). County will oversee the CHW duties. If the CHW is replaced, County will ensure that the new community health workers, if not already a certified community health worker by the Texas Department of State Health Services, receives the 160-hour course and becomes certified. This should be completed within 4 months of being hired. County will ensure that the community health worker has space, including venues to host exercise classes, in order to implement the Tu Salud ¡Si Cuenta! Program services. The working and well maintained equipment required by the program include: sphygmomanometer with multiple blood pressure cuffs, a laptop computer, projector, a scale, and a stadiometer. Specifications for these equipment items will be provided by the program.

University shall provide a payment to County of no more that forty-thousand dollars (\$40,000) for fulfilling all requirements listed in "Staff, Equipment, and Training" to assist with the above references services. The County shall submit monthly invoices demonstrating benchmark criterion being met related to 'Staff, Equipment, and Training'.

Participation in Program Meetings

- County leadership representatives from the areas of Alamo and San Carlos will participate in semiannual face-to-face meetings or seminars organized by the program. The community health workers in Alamo and San Carlos will participate in bi-weekly face-to-face meetings and seminars organized by the program specifically.
- County will ensure that representatives from Alamo and San Carlos will participate in all planning meetings for the Tu Salud ¡Si Cuenta! program with UTHealth representatives to modify the Tu Salud ¡Si Cuenta! program implementation plan for their areas. County will assist in producing a plan that will include current capacity, needed resources, timelines and plans for implementation. The need for meetings about implementation activities and modification to said activities to ensure successful obtainment of all metrics is anticipated to continue past FY18.

University shall provide a payment to County of no more than ten-thousand dollars (\$10,000) for fulfilling all requirements listed in "Participation in Program Meetings" to assist with the above referenced services. The County shall submit monthly invoices demonstrating benchmark criterion being met related to "Participation in Program Meetings".

Program Implementation

- County will ensure that the community health workers in Alamo and San Carlos are implementing program strategies according to the Tu Salud ¡Si Cuenta! work plan during the contract period.
- County will implement all Tu Salud ¡Si Cuenta! components in Alamo and San Carlos, which include: exercise opportunities and classes (including group exercise classes, walking groups,

and activity breaks), nutrition education opportunities, SNAP benefits education and referrals, media, follow ups, and social support.

- County will ensure that at least 150 individuals enrolled in between June 1, 2018 and September 30, 2018 in each of the areas of Alamo and San Carlos, for a total of 300 individuals, participate in Tu Salud ¡Si Cuenta! physical activity offerings accompanied by nutrition information by September 30, 2018.
- County will ensure that at least 150 Tu Salud ¡Si Cuenta! participants who were enrolled in between June 1, 2018 and September 30, 2018 in each of the areas of Alamo and San Carlos, for a total of 300 participants, are provided with information about how to apply for SNAP benefits by September 30, 2018.
- County will secure at least 3 venues in each of the areas of Alamo and San Carlos, for a total of 6 venues, for group exercise offerings by July 31, 2018 and maintain group exercise offerings at those venues until September 30, 2018.
- County will ensure at least 12 free exercise classes per week in each of the areas of Alamo and San Carlos, for a total of 24 exercise classes per week; all 24 must maintain their availability until September 30, 2018. The free exercise classes must be those taught by or coordinated by the community health worker affiliated with this program. All physical activity classes should include nutritional information according to directions outlined by UTHealth and in accordance with SNAP-Ed funding. The class types and locations will be coordinated with UTHealth to ensure that maximum geographical coverage is achieved across all cities partnering on this project and maximum opportunity for promotion of the classes.
- County will work with UTHealth representatives to improve the percentage of participants who meet physical activity recommendations (per HHSC specifications) as part of the Tu Salud ¡Si Cuenta! program in Alamo and San Carlos. A minimum of 45% of Tu Salud ¡Si Cuenta! participants, in each area respectively, who receive a follow up must report increased physical activity. Follow up must be conducted by September 30, 2018.
- County will work with UTHealth representatives to improve the percentage of participants who meet fruit and vegetable consumption recommendations (per HHSC specifications) as part of the Tu Salud ¡Si Cuenta! program in Alamo and San Carlos. A minimum of 35% of Tu Salud ¡Si Cuenta! participants, in each area respectively, who receive a follow up must report increased fruit and vegetable consumption and/or increased intention to eat fruits and vegetables. Follow up must be conducted by September 30, 2018.
- County will participate in UTHealth's evaluation of activities related to the Tu Salud ¡Si Cuenta! program in Alamo and San Carlos. Evaluation activities include but are not limited to: implementation audits and key informant interviews, evaluation of exercise classes, monitoring and observation of classes and screening, and follow up outcomes.
- County representatives from Alamo and San Carlos will participate in an established local community coalition; if one does not exist the site will create a local community coalition. At least one meeting should be conducted by September 30, 2018. Evidence of these efforts should be documented through the meeting agenda and sign in sheet. Community actions or improvements related to items discussed during the meetings should also be documented. The CHW will be expected to participate in the committee and contribute towards resolving issues identified in the coalition meetings.

University shall provide a payment to County of no more than forty-thousand dollars (\$40,000) for fulfilling all requirements listed in "Program Implementation" to assist with the above referenced services. The County shall submit monthly invoices demonstrating benchmark criterion being met related to "Program Implementation".

Tracking Participant Data and Program Information

- County will ensure the data system containing participant data from Alamo and San Carlos is accurate and entered on a weekly basis. Any information that is found to be inaccurate will not count toward the aforementioned goal of reaching 300 new participants.
 - Information collected as part of this project should be maintained in accordance with The HIPAA Privacy Rule. This rule mandates that federal protections are in place for personal health information held by covered entities and gives patients an array of rights with respect to that information. As such, any personal health information collected as part of the Tu Salud ¡Si Cuenta! program should not be stored on personal computers or devices and should not be shared via email or cloud services. Any paper files containing personal health information need to be stored in a locked cabinet or drawer.
- County will ensure that the CHWs enters all required data into the data system, including:
 - Information about participants enrolled in the Tu Salud ¡Si Cuenta! program.
 - Information about participant’s insurance status and financial income.
 - Information about participants who were referred to SNAP assistance.
 - Information on the participants who received follow up (including physical activity levels, level of consumption of fruits and vegetables, clinic home, anthropometric measurements, blood pressure screenings, other referrals, and personal goals)Other information may be required in order to track implementation and improvement of the project. The County will receive written notice of any new and additional information required for data entry.
- County will document program activities and provide this documentation in a timely, organized format to be used by the program for reporting to HHSC by September 30, 2018.

University shall provide a payment to County of no more than ten-thousand dollars (\$10,000) for fulfilling all requirements listed in “Tracking Participant Data and Program Information” to assist with the above referenced services. The County shall submit monthly invoices demonstrating benchmark criterion being met related to “Program Implementation”.

2. **Duration of Agreement:** This Agreement shall be effective _____ and shall terminate on _____.

3. **Payment for Services:** University shall provide a payments to County as tasks are completed and approved by the University’s authorized representative (Dr. Belinda Reininger). All invoices are paid ‘Net 30 Days’ from receipt of invoice.

Payment for fulfilling all requirements listed in the scope of services is broken down as follows:

- Staff, Equipment, and Training \$40,000.
- Participation in Program Meetings (Staff) \$10,000.
- Program Implementation (Staff) \$40,000.
- Tracking Participant Data and Program Information (Staff) \$10,000.

County must demonstrate fulfillment of these services to receive payment. The total value of this Agreement shall not exceed \$100,000. Time is of the essence in connection with this Agreement. University will have no obligation to accept late performance or waive timely performance by County.

4. **Independent Contractor:** It is understood and expressly agreed upon by the parties that County is acting as an independent contractor in performing the services hereunder. Neither County nor its employees shall hold themselves out as employees or agents of University. Neither County nor its employees shall make any statements, representations, or commitments of any kind, or to take any action which shall be binding upon the University, except as may be expressly provided for herein or authorized in writing. University shall not pay any contributions to Social Security, unemployment insurance, federal or state withholding taxes, nor provide any other contributions or benefits that might be expected in an employer-employee relationship.
5. **Assignment:** This Agreement is entered into in reliance upon and in consideration of the singular skill and qualifications of County. County shall therefore not voluntarily or by operation of law assign or otherwise transfer its rights or obligations pursuant to the terms of this Agreement to any party without the prior written consent of University. Any attempted assignment or transfer by County of its rights or obligations without such consent shall be void. Furthermore, County shall not subcontract any of the services to be provided hereunder to another entity without the prior written consent of University.
6. **Amendment:** This Agreement may not be changed or modified in any respect except by means of a written document executed by both parties.
7. **Ownership and Use of Work Material.**
 - 7.1 All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by County or any subcontractors in connection with the Work (collectively, "**Work Material**"), whether or not accepted or rejected by University, are the sole property of University and for its exclusive use and re-use at any time without further compensation and without any restrictions.
 - 7.2 County grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to the Work Material and will cooperate fully with University in any steps University may take to obtain or enforce patent, copyright, trademark or like protections with respect to the Work Material.
 - 7.3 County will deliver all Work Material to University upon expiration or termination of this Agreement. University will have the right to use the Work Material for the completion of the Work or otherwise. University may, at all times, retain the originals of the Work Material. The Work Material will not to be used by any person other than University on other projects unless expressly authorized by University in writing.
 - 7.4 The Work Material will not be used or published by County or any other party unless expressly authorized by University in writing. County will treat all Work Material as confidential.
 - 7.5 All title and interest in the Work Material will vest in University and will be deemed to be a work made for hire and made in the course of the Work rendered under this Agreement. To the extent that title to any Work Material may not, by operation of law, vest in University or Work Material may not be considered works made for hire, County hereby irrevocably assigns, conveys and transfers to University and its

successors, licensees and assigns, all rights, title and interest worldwide in and to the Work Material and all proprietary rights therein, including all copyrights, trademarks, service marks, patents, trade secrets, moral rights, all contract and licensing rights and all claims and causes of action with respect to any of the foregoing, whether now known or hereafter to become known. In the event County has any rights in the Work Material which cannot be assigned, County agrees to waive enforcement worldwide of the rights against University, its successors, licensees, assigns, distributors and customers or, if necessary, to exclusively license the rights, worldwide to University with the right to sublicense. These rights are assignable by University.

8. **Provisions of Law:** This Agreement is subject to and shall be governed by the laws of the State of Texas, without regard to its choice of law provisions.

9. **Notices:**

Notices and correspondence shall be addressed as follows:

To University:

The University of Texas
Health Science Center at Houston
P.O. Box 20036
Houston, Texas 77225

To County:

Hidalgo County
100 East Cano
Second Floor
Edinburg, TX 78539

Billings and payments shall be addressed as follows:

To University:

The University of Texas
Health Science Center at Houston
School of Public Health-Brownsville
One West University Blvd.
Brownsville, Texas 78520

To County:

Hidalgo County Treasurer's Office
2810 S. Business Hwy. 281
Edinburg, TX 78539

All other communications shall be addressed as follows:

To University:

The University of Texas
Health Science Center at Houston
School of Public Health-Brownsville
One West University Blvd.
Brownsville, Texas 78520

To County:

David L. Fuentes
Hidalgo County Commissioner
Precinct No.1
1902 Joe Stephens Ave., Ste 101
Weslaco, TX 78596

Joseph Palacios
Hidalgo County Commissioner
Precinct No.4
1051 N. Doolittle Rd.
Edinburg, TX 78542

10. **Indemnification:** To the extent permitted under the Constitution and laws of the State of Texas, County shall indemnify and hold harmless University, The University of Texas System, its regents, officers, agents and employees from any liability or loss resulting from claims, demands, or injury, including death, that they may suffer as a result of the performance of this Agreement.

11. **Responsibility for Individuals Performing Work; Criminal Background Checks:** Each individual who is assigned to perform the Work under this Agreement will be an employee of County or an employee of a subcontractor engaged by County. County is responsible for the performance of all individuals performing the Work under this Agreement. Prior to commencing the Work, County will have an appropriate criminal background screening performed on all the individuals. County will determine on a case-by-case basis whether each individual assigned to perform the Work is qualified to provide the services. County will not knowingly assign any individual to provide services on University's campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses.

By signing this Agreement, County certifies compliance with this Section. County shall notify University when there is a change in the individuals assigned to perform the Work due to unsatisfactory background check results.

12. **Compliance:** County certifies:

- that it and its employees comply with all federal and state laws and regulations, including without limitation, Medicare and Medicaid regulations and the Immigration Reform and Control Act of 1986; and
- That neither it nor its employee have been or are presently excluded from participating in, or have been sanctioned by, any federal or state healthcare program; and
- That it has conducted criminal background checks for prior convictions on its employees performing services hereunder.

County agrees to immediately report to University if it becomes aware of the following: (1) A violation of any federal or state healthcare law, regulation or policy by County, its employees or agents; (2) an inquiry or investigation by the government of County, its employees or agents; or (3) if County or its employees or agents are excluded from, or otherwise sanctioned by, any federal or state healthcare plan.

13. **Dispute Resolution:** To the extent that Chapter 2260 of the *Texas Government Code*, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by University and County to attempt to resolve any claim for breach of contract made by County:

- (A) County's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, County shall submit written notice, as required by subchapter B of Chapter 2260, to University in accordance with the notice provisions in this Agreement. County's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and

nature of the event giving rise to the claim, the specific Agreement provision that University allegedly breached, the amount of damages County seeks, and the method used to calculate the damages. Compliance by County with subchapter B of Chapter 2260 is a required prerequisite to County's filing of a contested case proceeding under subchapter C of Chapter 2260. The Executive Vice President for Administration and Business Affairs of University, or such other officer of University as may be designated from time to time by University by written notice thereof to County in accordance with the notice provisions in this Agreement, shall examine County's claim and any counterclaim and negotiate with County in an effort to resolve such claims.

- (B) If the parties are unable to resolve their disputes under subparagraph (A) of this section, the contested case process provided in subchapter C of Chapter 2260 is County's sole and exclusive process for seeking a remedy for any and all of County's claims for breach of this Agreement by University.
 - (C) Compliance with the contested case process provided in subchapter C of Chapter 2260 is required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by University nor any other conduct, action or inaction of any representative of University relating to this Agreement constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit and (ii) University has not waived its right to seek redress in the courts.
 - (1) The submission, processing and resolution of County's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.
 - (2) Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by County, in whole or in part. University and County agree that any periods set forth in this Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.
14. **Termination:** Each party may terminate, without cause, this Agreement at any time upon giving thirty (30) days written notice. Upon termination pursuant to this Section, County will be entitled to payment of an amount that will compensate County for the Work satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement; provided, that, County has delivered all Work Material to University. Notwithstanding any provision in this Agreement to the contrary, University will not be required to pay or reimburse County for any services performed or for expenses incurred by County after the date of the termination notice that could have been avoided or mitigated by County.
15. **Loss of Funding:** University performance of its duties and obligations under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of

The University of Texas System (the "Board") and/or other non-state Granting Authority ("Authority"). If the Legislature fails to appropriate or allot the necessary funds, or the Board or the Authority fails to allocate the necessary funds, then University will issue written notice to County and University may terminate this Agreement without further duty or obligation hereunder. County acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.

16. **Force Majeure:** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including, but not limited to, acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("Force Majeure Occurrence"). Provided, however, in the event of a Force Majeure Occurrence, County agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to provide services during the occurrence.
17. **Confidentiality:** All information owned, possessed or used by University that is communicated to, learned, developed or otherwise acquired by County in the performance of services for University, that is not generally known to the public, will be confidential and County will not, beginning on the date of first association or communication between University and County and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for County's own benefit or the benefit of another, any confidential information, unless required by law. County will not make any press releases, public statements, or advertisement regarding this Agreement or to the services to be provided hereunder without the prior written approval of University. To the extent County is permitted to subcontract services it shall ensure that the subcontractor complies with the provisions of this Agreement. County shall employ encryption to mitigate the risk of disclosure of University information in-storage and in-transit. Encryption implementation and strength should be sufficient to protect University information from disclosure until such time as disclosure poses no material risk.
18. **Limitation of Liability:** Except for University's obligation (if any) to make payments to County as described in this Agreement, University will have no liability to County or to anyone claiming through or under County by reason of the execution or performance of this Agreement. Notwithstanding any duty or obligation of University to County or to anyone claiming through or under County, no present or future affiliated enterprise, subcontractor, agent, officer, director, employee, representative, attorney or regent of University, or System, or anyone claiming under University has or will have any personal liability to County or to anyone claiming through or under County by reason of the execution or performance of this Agreement.
19. **Representations and Warranties:** Each Party warrants that (1) the services are necessary and authorized for activities that are properly within its statutory functions and programs; (2) it has the authority to enter into this Agreement for the services under authority granted in the Act; (3) it has all necessary power and has received all necessary approvals to execute and deliver this Agreement, and (4) the representative signing this Agreement on its behalf is authorized by its governing body to sign this Agreement.
20. **Non-Discrimination.** The Program and all related activities shall be conducted in a manner that does not discriminate against any person on a basis prohibited by applicable

law or University and/or County policy, including without limitation race, color, national origin, religion, sex, age, veteran status, or disability.

21. **Work Laws:** County shall comply with all labor and employment laws and regulations applicable to County and its employees who will be performing services under this Agreement, including all laws and regulations pertaining to immigration, work status and eligibility (collectively, "Work Laws"). County certifies that County and its employees who will be performing services under this Agreement are, as of the effective date hereof, lawfully eligible to do so under applicable Work Laws.

22. **Export Controls:** County shall comply with all applicable laws and regulations pertaining to export controls and the export of controlled technology or data in connection with its activities pursuant to this Agreement, including the Export Control Administration Regulations ("EAR") and the International Traffic in Arms Regulations ("ITAR"). For purposes of this Agreement, "controlled technology or data" means items, commodities, technology, software or information requiring federal agency approval under U.S. government laws and regulations before being exported to restricted foreign countries, persons and/or entities. The EAR and ITAR require U.S. Government approval before University releases controlled technology or data to foreign persons in the United States. In accordance with the foregoing, the following shall apply:
 - (A) County shall promptly notify University in the event that County or any of County's employees who will be performing services under this Agreement or have access to University technology or data is a foreign national or is otherwise restricted under U.S. export controls laws from receiving controlled technology or data.
 - (B) If a license is required from any U.S. government agency to release any technology or data to the County or any County employee in connection with the Agreement, University may, at its discretion: (1) restrict County's access to such technology and/or data until a license or other authorization is obtained, (2) narrow the scope of the services to be provided by County under this Agreement, or (3) terminate this Agreement upon notice to County.
 - (C) In the event that University exercises option (1) or (2) above, the term of the Agreement and scope of work may be adjusted as necessary.
 - (D) In the event that University exercises option (1) above, County shall, promptly upon receipt of an invoice from University therefor, reimburse University's costs for obtaining a license or other authorization.
 - (E) In no event shall University be liable to County or any of County's employees for exercising any of its rights set forth in this section 23, except for any lawfully permissible payment for services rendered by County in accordance with the terms of this Agreement.

23. **Health Insurance Portability and Accountability Act:** Notwithstanding anything to the contrary in this Agreement, if applicable to the Scope of Work to be provided by County hereunder, County agrees to treat all individually identifiable health information in accordance with all applicable laws governing the confidentiality and privacy of individually identifiable health information, including without limitation, the Health Insurance Portability

and Accountability Act of 1996 (HIPAA) and any regulation and official guidelines promulgated thereunder.

- 24. **Integration:** This Agreement supersedes any and all other discussions, negotiations, and representations of any kind and represents the entire agreement of the parties hereinabove mentioned.
- 25. **Additional Documents.** The Parties agree that they will use reasonable, good faith efforts to execute each such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

THIS AGREEMENT WILL BE IN EFFECT UPON FULL EXECUTION BY BOTH PARTIES. UNIVERSITY WILL NOT BE RESPONSIBLE FOR ANY PAYMENTS FOR SERVICES PERFORMED OR PRODUCTS DELIVERED BY COUNTY PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT.

In Witness Whereof, the parties have caused this Agreement to be executed as of the date first set forth above.

COUNTY:

THE UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT HOUSTON

By: _____
Signature

Typed Name

Title

Date

By: _____
Signature (Authorized Purchasing Agent)

Typed Name

Title

Date

PO Number