

County of Hidalgo §  
State of Texas §

**C-20-609-10-27**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF HIDALGO, TEXAS AND CURATIVE INC.**

**Kiosk Agreement**

**WHEREAS**, the County of Hidalgo, Texas (the “County”) wishes to launch additional COVID testing programs within the County that are generally available to the public; and

**WHEREAS**, Curative Inc. (“Vendor”), is in the process of completing a self-serve (pilot phase, subject to modifications) to the public Kiosk for COVID testing; and

**WHEREAS**, County or Business has agreed to allow testing to take place **at its property and give access to the Vendor for the duration of the agreement**

**WHEREAS**, Vendor and the County (together, the “Parties”) wish to collaborate on such COVID testing; and

**WHEREAS**, the County finds that this agreement, as it relates to the providing additional COVID testing programs to individuals and families of the County that have been directly impacted by the COVID-19 public health emergency, serves a public purpose for the health, safety, and wellbeing of the residents of the County of Hidalgo;

**NOW, THEREFORE**, in consideration of the mutual promises, terms and conditions expressed between the parties hereto, it is understood and agreed by and between the County and Vendor as follows:

**County, at no charge to Vendor shall provide a public area for placement of Vendor supplied kiosk, and Vendor shall supply such kiosk, at no charge to County or Business **at various locations. The site(s) will be in operation daily.** This is subject to change, with written notice to County, at the discretion of the Vendor.**

1. Vendor shall comply with all County property and facility rules and regulations.
2. Vendor shall be considered an independent contractor and neither the Vendor nor its workers or consultants shall, under any circumstances, be considered employees of the County.
3. The County shall not be liable for any damage caused by acts of nature, i.e. power failure, earthquake, flood, fire, explosion, theft, and vandalism to persons or properties in the space used by the vendor.
4. The Vendor agrees that all personal property upon the premises shall be at the risk of the Vendor, and that the County shall not be liable for any damages, losses or theft thereof.
5. Vendor shall furnish all labor, services, materials, supplies, and equipment necessary to maintain the operation of the kiosk during hours defined by the Vendor.
6. Vendor shall secure and keep a general commercial insurance policy covering personal injury and property damage in the amount of not less than \$1 million per occurrence, \$2 million aggregate Vendor shall also secure and maintain workers’ compensation insurance if Vendor has employees as required by State law.

7. Vendor shall only operate in the approved kiosk location within the area specified by the County or Business. The specified location is to be determined by County or Business.

8. The County will furnish electricity in such locations where these utilities now exist. All requests for use of these facilities and/or additional installations or any special needs must be made in writing to the County or Business listing specific needs

9. County agrees to advertise and publicize the kiosk, and receive data from Vendor, and provide constructive feedback to Vendor. County agrees to consult Curative regarding any advertisement or public commentary regarding the kiosk operation prior to publicizing

10. Kiosk and all intellectual property associated with such shall remain the sole and exclusive property of Vendor.

11. Upon the expiration or termination of this Agreement, Vendor shall remove all goods, belongings, and fixtures belonging to the Vendor, and shall leave the County provided area, in the condition in which it was received, reasonable wear and tear expected. Either Party may terminate this Agreement by providing 30 day written notice to the other.

#### **COMPLIANCE WITH LAWS:**

1. The Vendor shall comply with all applicable Federal, State, and local laws, rules, and regulations.
2. In the event this collaborative effort requires the mutual sharing of information made confidential by the laws of the State of Texas and of the United States, information will only be exchanged as allowed by law.
3. This Agreement is not intended to extend the liability of the Parties beyond that provided by law. Neither party waives, nor shall be deemed to have hereby waived, any immunity or defenses that would otherwise be available to it against claims arising from third parties.
4. The parties hereto covenant and agree that they will execute 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.
5. This Agreement is expressly made subject to the County's Sovereign Immunity, Title 5 of the Texas Civil Practice and Remedies Code and any applicable governmental immunity, and all applicable federal and state law. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of immunities from suit or from liability that either County or Vendor has by operation of law.
6. The Parties to the Agreement agree that all related activities shall be conducted in a manner that does not discriminate against any person on a basis prohibited by applicable law or County and Vendor policy, including without limitation race, gender, color, national origin, religion, sex, age, veteran status, disability or any other protected status. Vendor shall comply with applicable law, including but not limited to the provisions of Title VI of the Civil Rights Act of 1964.

7. In case any one or more of the provisions contained in this Agreement will for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision thereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

The execution and performance of this Agreement by County and Vendor have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of County and Vendor in accordance with its terms.

**County of Hidalgo, Texas:**

**Curative Inc.:**

**Signature:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:**

**Date:**

**Name and Title:** Richard F. Cortez, County Judge

**Name and Title:**