

**MEMORANDUM OF AGREEMENT BETWEEN
TEXAS A&M UNIVERSITY HEALTH SCIENCE CENTER (TEXAS A&M HEALTH)
AND HIDALGO COUNTY**

THIS MEMORANDUM OF AGREEMENT, hereinafter referred to as the “**Agreement**”, is made by and between Texas A&M University Health Science Center (Texas A&M Health), hereinafter referred to as “**Texas A&M Health**”, a health-related institution under the administration of Texas A&M University, a member of the Texas A&M University System an agency of the State of Texas, on behalf of Texas A&M Health in McAllen, hereinafter referred to as “**McALLEN**” and Hidalgo County, hereinafter referred to as “**HIDALGO**”. McALLEN and HIDALGO are referred to individually as “party” and collectively as “parties.”

NOW, THEREFORE, the parties enter into the following Agreement:

1. PURPOSE

The purpose of this Agreement is to establish a cooperative agreement to provide medication assistance services to the uninsured residents within Hidalgo County, with a special emphasis on medically underserved and rural communities.

2. STATEMENT OF SERVICES TO BE PERFORMED:

McALLEN will provide during the term hereof the following:

1. Staff to provide medication assistance services to eligible residents.
2. Staff will provide referrals for support services.
3. Computing equipment (laptop), software, and ancillary supplies.
4. Promote the medication assistance program in the community.

HIDALGO will provide during the term hereof the following:

1. Designated and private office space for medication assistance staff located at designated health clinic location(s) as agreed upon by both McALLEN AND HIDALGO with the first location as follows:
Mission Health Clinic
211 North Schuerbach Road
Mission, Texas 78572
2. Marketing referrals to the medication assistance program to include distribution of flyer(s), provided by McALLEN, to Hidalgo County clients.

3. COMPENSATION AND METHOD OF PAYMENT

There shall be no compensation paid to McALLEN and HIDALGO for services provided.

4. CONFIDENTIALITY

HIDALGO requires that any individual who will view or handle the confidential information to comply with this confidentiality agreement and, complete the Texas Department of State

Health Services online security training accessed at: <https://tx.train.org>. Therefore, to the extent applicable, HIDALGO and TEXAS A&M agree that:

- a. The confidential information shall be disclosed only for the purpose for which it was received.
- b. The information shall be labeled as confidential.
- c. The confidential information shall be kept securely.
- d. The number of copies made of the confidential information, or the notes taken from the confidential information that implicate the confidential nature of the information shall be controlled and all copies or notes that are not destroyed shall remain confidential and subject to the confidentiality agreement.
- e. The confidential information shall not be re-disclosed to any other party or individual (other than the parties and individuals who have signed this agreement) for any purposes whatsoever.
- f. Confidential Protected Health Information shall be maintained in accordance with applicable federal and state law including, but not limited to the Health Insurance Portability and Accountability Act (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH) and the Texas Medical Rights and Privacy Act, as amended.

5. TERM OF AGREEMENT

The term of this Agreement will become effective on the date of final execution by both institutions and expire on August 31, 2023. Thereafter, the parties upon mutual agreement may amend the Agreement to extend the term of this Agreement for up to four (4) additional one (1) year terms. This Agreement shall remain in full force and effect during the above-referenced time unless properly terminated by either party, as provided by this Agreement.

6. TERMINATION

This Agreement may be terminated by any the following occurrences:

- A. By mutual agreement and consent in writing by both parties.
- B. By either party upon thirty (30) days written notice to the other party.
- C. By either party upon the failure of the other party to fulfill its obligations as set forth in this Agreement.

7. AMENDMENTS

Any and all changes to this Agreement may be enacted by written amendment or addendum properly executed by the appropriate representative of each party.

8. ASSIGNMENT

Neither party shall assign, sublet, or transfer its interests in this Agreement without the prior written consent of the other party, except that may transfer its interest in this Agreement to an entity related to it by ownership or control without such prior written consent.

9. LIABILITY AND INDEMNITY

The parties hereto agree, to the extent permitted by the constitution and State of Texas laws, to forever release from liability, indemnity, and hold harmless each other for the acts and/or

omissions of their respective employees. Specifically, each party agrees, to the extent permitted by law, to fully release, indemnify, and hold harmless the other for the acts and/or omissions of any employee or agent that may violate the terms of this Agreement, or any other state or federal law applicable to, or arising out of, this Agreement.

10. NOTICES

All notices from either party to the other required under this Agreement shall be personally delivered or mailed to such party by certified or registered mail, return receipt request, to the following addresses:

For HIDALGO: Eduardo Olivarez, Director
Hidalgo County Health Department
1304 S 25th Avenue
Edinburg, TX 78542
956-383-6221
956-318-2019 (Fax)
Eddie.olivarez@hchd.org

For McALLEN: Rose L. Lucio, Director
Texas A&M Health in McAllen
2101 South McColl Rd
McAllen, TX 78503-14892561
956-668-6314
956-668-6301 (Fax)
lucio@tamu.edu

11. EQUAL OPPORTUNITY

The parties shall provide all services associated with the subject matter of this Agreement in compliance with the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 (*34 C.F.R., Section 106, et seq.*), and all other applicable federal and state nondiscrimination statutes or laws. Neither McALLEN nor HIDALGO will discriminate against any person on the basis of race, religion, color, sex, national origin, or disability in the carrying out of the terms of this Agreement.

12. REPRESENTATIONS AND WARRANTIES

If HIDALGO is a business entity, HIDALGO warrants, represents, covenants and agrees it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization is duly authorized in good standing to conduct business in the State of Texas, it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and the individual executing the Agreement on behalf of HIDALGO has been duly authorized to act for and bind HIDALGO.

13. GOVERNING LAW

The validity of this Agreement and all matters pertaining thereto, including but not limited to matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation of construction shall be governed and determined by the Constitution and the laws of the State of Texas.

14. VENUE

This Agreement shall be silent as to applicable Venue.

15. INAPPLICABLE PROVISIONS

None of the following provisions, if they appear in the Agreement, shall have any effect or be enforceable against Texas A&M Health: (i) requiring Texas A&M Health to maintain any type of insurance either for Texas A&M Health's benefit or for HIDALGO'S benefit; (ii) renewing or extending the initial agreement term or automatically continuing or renewing the original agreement term; and (iii) binding Texas A&M Health to any arbitration, to the decision of any arbitration board, commission, panel or other entity, or to any other alternative dispute resolution other than is provided below.

16. DISPUTE RESOLUTION

The dispute resolution process provided in Chapter 2260, Texas Government Code, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by McALLEN and HIDALGO to attempt to resolve any claim for breach of contract made by HIDALGO that cannot be resolved in the ordinary course of business. HIDALGO shall submit written notice of claim of breach of contract under this Chapter to the Chief Financial Officer and Vice President of the Texas A&M University Health Science Center (Texas A&M Health), who shall examine HIDALGO'S claim and any counterclaim and negotiate with HIDALGO in an effort to resolve the claim.

17. LOSS OF FUNDING

Performance by Texas A&M Health under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature"). If the Legislature fails to appropriate or allot the necessary funds, then Texas A&M Health will issue written notice to HIDALGO and Texas A&M Health may terminate this Agreement without further duty or obligation hereunder. HIDALGO acknowledges that appropriation of funds is beyond the control of Texas A&M Health.

18. INSURANCE

HIDALGO acknowledges that, because Texas A&M Health is an agency of the State of Texas, liability for the tortious conduct of the agents and employees of Texas A&M Health or for injuries caused by conditions of tangible state property is provided for solely by the provision of the Texas Tort Claims Act (*Texas Civil Practice and Remedies Code*, Chapters 101 and 104), and that Workers' Compensation Insurance coverage for employees of Texas A&M Health is provided by Texas A&M Health as mandated by the provisions of Chapter 502, *Texas Labor Code*. Texas A&M Health shall have the right, at its option, to (a) obtain liability insurance protecting Texas A&M Health and its employees and property insurance protecting Texas A&M Health buildings and the contents, to the extent authorized by Section 51.96, *Texas Education Code*, or other law. Or (b) self-insure against any risk that may be incurred by Texas A&M Health as a result of its operation under this Agreement.

19. FORCE MAJEURE

Neither party will be in breach of its obligations under this Agreement (other than payment obligations) or incur any liability to the other party for any losses or damages of any nature whatsoever incurred or suffered by that other party if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure, except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure had not occurred. Force Majeure is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism; 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome. Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance and provided that the affected party has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such Force Majeure event(s) and to perform the obligation(s). Written notice of a party's failure or delay in performance due to Force Majeure must be given within a reasonable time after its occurrence and which notice must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). Notwithstanding the foregoing, a party's financial inability to perform its obligations shall in no event constitute a Force Majeure.

20. LIMITATIONS

The Parties are aware that there are constitutional and statutory limitations on the authority of Texas A&M Health and HIDALGO AS entities of the State of Texas to enter into certain terms and conditions of this Agreement, including, but not limited to, those terms and conditions relating to liens on the parties property; disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on either party except to the extent authorized by the laws and Constitution of the State of Texas. Neither the execution of this Agreement by either party nor any other conduct, action, or inaction of any representative of either party relating to this Agreement constitutes or is intended to constitute a waiver of either party's or the state's sovereign immunity to suit.

21. NON-WAIVER

HIDALGO expressly acknowledges that McALLEN is an agency of the State of Texas and nothing in this agreement will be construed as a waiver or relinquishment by McALLEN of its right to claim such exemptions, privileges, and immunities as may be provided by law. McALLEN expressly acknowledges that nothing in this agreement will be construed as a waiver or relinquishment by HIDALGO of its right to claim any exemptions, privileges, and/or immunities as may be provided to it by law.

22. PUBLIC INFORMATION

HIDALGO acknowledges that McALLEN is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement. McALLEN agrees to advise HIDALGO in writing of any such public information requests in accordance with the Public Information Act.

WHEREAS Texas A&M Health in McAllen and Hidalgo County agree to the terms as set forth above, this Agreement shall be effective upon full execution of the Agreement by the proper authorities of each party, after approval by the governing bodies of such entities, if applicable.

**TEXAS A&M UNIVERSITY HEALTH SCIENCE CENTER
ON BEHALF OF TEXAS A&M HEALTH IN McALLEN**

By: _____
Rose L. Lucio, MPH, CHWI
Director

Date: _____

HIDALGO COUNTY

By: _____
Richard F. Cortez, County Judge

Date: _____

ATTEST:

By: _____
Arturo Guajardo, Hidalgo County Clerk

Date: _____

Approved As to Form:
Office of Criminal District Attorney, Ricardo Rodriguez, Jr.

By: _____
Robert Vina III, Assistant DA

Date: _____