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**ORDER APPROVING MEMORANDUM OF UNDERSTANDING AMONG THE COUNTY OF HIDALGO, THE CITY OF EDINBURG, THE CITY OF McALLEN, THE CITY OF MISSION AND THE CITY OF PHARR AND THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY REGARDING THE DEVELOPMENT OF AND FUNDING FOR THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY SCHOOL OF MEDICINE AND THE RELATED CHAPTER 381 ECONOMIC DEVELOPMENT AGREEMENT BY AND AMONG HIDALGO COUNTY, TEXAS, THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY AND THE UNIVERSITY OF TEXAS SYSTEM**

*WHEREAS*, Hidalgo County (the “*County*”) entered into that certain Memorandum of Understanding among the County of Hidalgo, the City of Edinburg, the City of McAllen, the City of Mission, the City of Pharr and the University of Texas System regarding the Development of and Funding for a Medical School in the Lower Rio Grande Valley dated August 26, 2014 (the “*Original MOU*”) in order to advance the health, education and economy of the region;

*WHEREAS*, as contemplated by the Original MOU, the County and the University of Texas System (the “*UT System*”) entered into an economic development agreement executed effective as of December 16, 2014, pursuant to Chapter 381, Local Government Code (the “*Original 381 Agreement*”);

*WHEREAS*, the parties to the Original MOU now deem it necessary and appropriate for The University of Texas Rio Grande Valley (“*UTRGV*”) to be a party to their arrangements concerning the new UTRGV medical school (the “*Medical School*”) that is the subject of the Original MOU and the Original 381 Agreement;

*WHEREAS*, on August 25, 2015, the Commissioners Court of the County approved a new memorandum of understanding (the “*August MOU*”), which version was executed on behalf of the County, but will not be implemented by the parties or fully executed as the August MOU no longer reflects the new understanding of the parties and shall have no further force or effect;

*WHEREAS*, the new understanding of the parties, including UTRGV and UT System, concerning the Medical School is as set forth in that certain *Memorandum of Understanding Among the County of Hidalgo, the City of Edinburg, the City of McAllen, the City of Mission and the City of Pharr and the University of Texas Rio Grande Valley regarding the Development of and Funding for the University of Texas Rio Grande Valley School of Medicine* (the “*New MOU*”), a copy of which is attached hereto as Exhibit “I”;

*WHEREAS*, pursuant to the Original MOU and the Original 381 Agreement, UT System allocated Ten Million Dollars in support of the new Medical School for the year 2014 and the County made the payment due for 2014 and 2015 to UT System; and

**WHEREAS**, as contemplated in the Original MOU, the Medical School is being developed as part of the newly created UTRGV, which was not operational at the time the Original MOU or the Original 381 Agreement were executed, and therefore was not a party to the Original MOU or the Original 381 Agreement; and

**WHEREAS**, the New MOU contemplates the County, UTRGV and UT System entering into either a new economic development agreement to replace the Original 381 Agreement or a contract authorized by Section 61.029(a), Health and Safety Code, and the County, UTRGV and UT System have opted to proceed with a new economic development agreement as set forth in that certain *Chapter 381 Economic Development Agreement by and among Hidalgo County, Texas, The University of Texas Rio Grande Valley and The University of Texas System* (the "**New 381 Agreement**"), a copy of which is attached hereto as Exhibit "**II**";

**WHEREAS**, the New MOU and the New 381 Agreement will replace and supersede the Original MOU and the Original 381 Agreement, respectively, and will not increase the County's obligations over those contained in the Original MOU and the Original 381 Agreement; and

**WHEREAS**, the New MOU and the New 381 Agreement, in substantially final form, have been presented to and reviewed by the Commissioners Court of the County, and the Commissioners Court of the County has determined that it is necessary and appropriate to enter into the New MOU and New 381 Agreement;

**NOW THEREFORE:**

**BE IT ORDERED BY THE COMMISSIONERS COURT OF HIDALGO COUNTY, TEXAS:**

**SECTION 1. APPROVAL OF NEW MOU.** In lieu of the partially executed August MOU, which shall have no further force or effect, the New MOU is hereby approved in substantially the form attached hereto as Exhibit "I", with such changes thereto as are approved by the County Judge of the County, with advice of the County's attorneys, and the County Judge is authorized to execute, and the County Clerk is authorized to attest, the New MOU on behalf of the County.

**SECTION 2. APPROVAL OF NEW 381 AGREEMENT.** The New 381 Agreement is hereby approved in substantially the form attached hereto as Exhibit "II", with such changes thereto as are approved by the County Judge of the County, with advice of the County's attorneys, and the County Judge is authorized to execute, and the County Clerk is authorized to attest, the New 381 Agreement on behalf of the County.

**SECTION 3. ENFORCEABILITY OF ORDER.** If any section, paragraph, clause, or provision of this Order shall be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Order. In case any obligation of the County authorized or established by this Order or the New MOU is held to be in violation of law as applied to any person or any circumstance, such

obligation shall be deemed to be the obligation of the County to the fullest extent permitted by law.

**SECTION 4. INCORPORATION OF RECITALS.** The Commissioners Court hereby finds that the statements set forth in the recitals of this Order are true and correct, and the Commissioners Court hereby incorporates such recitals as a part of this Order.

**SECTION 5. EFFECTIVE DATE.** This Order shall become effective immediately upon the passage hereof.

**PASSED, APPROVED and ADOPTED this 17<sup>th</sup> day of November, 2015.**

**HIDALGO COUNTY, TEXAS**

By: \_\_\_\_\_  
Ramon Garcia  
County Judge  
Hidalgo County, Texas

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr.  
Hidalgo County Clerk

**Exhibit I to County Order**

**MEMORANDUM OF UNDERSTANDING AMONG THE COUNTY OF HIDALGO,  
THE CITY OF EDINBURG, THE CITY OF MCALLEN, THE CITY OF MISSION AND  
THE CITY OF PHARR AND THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY  
REGARDING THE DEVELOPMENT OF AND FUNDING FOR THE UNIVERSITY OF  
TEXAS RIO GRANDE VALLEY SCHOOL OF MEDICINE**

## MEMORANDUM OF UNDERSTANDING

among

THE COUNTY OF HIDALGO  
THE CITY OF EDINBURG  
THE CITY OF McALLEN  
THE CITY OF MISSION  
and  
THE CITY OF PHARR

and

THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY

REGARDING THE DEVELOPMENT OF AND FUNDING FOR THE UNIVERSITY OF  
TEXAS RIO GRANDE VALLEY SCHOOL OF MEDICINE

### **1. Purpose**

The purpose of this Memorandum of Understanding ("MOU") is to memorialize the commitments made by the following parties: the County of Hidalgo (the "County"), the City of Edinburg, the City of McAllen, the City of Mission and the City of Pharr (collectively, the "Cities", and together with the County, the "local governments"), The University of Texas System (the "System"), and The University of Texas Rio Grande Valley ("UTRGV") in furtherance of the establishment of a medical school of the first class in the Lower Rio Grande Valley (the "UTRGV medical school") that will be part of UTRGV that was established by Senate Bill 24, Regular Session, 83rd Texas Legislature, as codified in Chapter 79 of the Texas Education Code in order to advance the health, education and economy of the region.

### **2. Background**

In Senate Bill 24, the State of Texas authorized the establishment of a new System university in the Rio Grande Valley, which will have integrated within it the medical school initially authorized by Senate Bill 98, Regular Session, 81st Texas Legislature, as codified in Subchapter N, Chapter 74, Texas Education Code. The University of Texas System Board of Regents has committed support for medical education in the Lower Rio Grande Valley and for the UTRGV medical school in the amount of \$10,000,000 per year for the next ten years, beginning in 2014. These funds are to be used for faculty support, operations and maintenance of the new medical school.

### **3. Commitments of the University of Texas System**

The System is committed to creating and operating the UTRGV medical school, built on a community-based distributed model of medical education. It is expected that such a school will:

- Offer expanded opportunities for residents of the region to obtain medical degrees.
- Conduct medical research with special emphasis on conditions that might positively impact the health of the region's residents.
- Enhance the quality, extent, and availability of health care in the region through new and expanded facilities that involve faculty, medical students, residents, and other health care profession students.
- Increase opportunities for economic development, including new and expanded research funding and technology transfer and commercialization.
- Improve health throughout the region through public education and prevention programs.

### **4. Commitments of Local Governments**

To support and ensure the success of the System in its endeavor to create and operate the UTRGV medical school, the following commitments are made:

The City of Edinburg:

On or about October 15th, each year from 2014 to 2023, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley \$1,000,000.

The City of McAllen:

On or about October 15th, each year from 2014 to 2023, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley up to \$2,000,000.

The City of Mission:

On or about October 15th, each year from 2014 to 2019, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley \$250,000.

The City of Pharr:

On or about October 15th, each year from 2014 to 2023, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley \$500,000.

- All such funds from the Cities are to be used to support years 1 and 2 of medical education in Hidalgo County for faculty support, operations, programs and directly related activities of the new medical school.

- All such funds will be provided until a Hidalgo County or healthcare taxing district is created and such district either provides at least an equivalent amount of support attributable to the County and communities within the county or accepts and continues the commitments made by the County and the Cities.

The County of Hidalgo:

On or about October 15th, each year from 2014 to 2023, the County shall pay/transfer/provide to The University of Texas Rio Grande Valley \$1,000,000 pursuant to (i) a contract authorized by Section 61.029(a), Health and Safety Code, under which the UTRGV medical school agrees to provide health care services of that value to eligible county residents and/or, (ii) in recognition of the increased opportunities for economic development referenced in Paragraph 3 above, an economic development agreement to be executed by the County and UTRGV pursuant to Chapter 381, Local Government Code, under which the county grants funds to UTRGV each year from 2014 to 2023.

- All such funds from the County are to be used to support years 1 and 2 of medical education in Hidalgo County for faculty support, operations, programs and directly related activities of the new medical school.
- All such funds will be provided until a Hidalgo County or healthcare taxing district is created and such district either provides at least an equivalent amount of support attributable to the County and communities within the county or accepts and continues the commitments made by the County and the Cities.

## **5. Replacement of Prior Agreement**

This agreement replaces the previous agreement executed on August 26, 2014 by and between the County of Hidalgo, the City of Edinburg, the City of McAllen, the City of Mission, the City of Pharr, and the University of Texas System regarding the development of and funding for a Medical School in the Lower Rio Grande Valley. Under the previous agreement, System allocated \$10 million in support for the year 2014, and the Cities and Hidalgo County made transfers to The University of Texas System for the year 2014. The Cities and Hidalgo County shall make transfers for 2015 and subsequent years to UTRGV as provided by this agreement.

## **6. Authority**

If the final judgment of a court of competent jurisdiction determines that any party to this memorandum lacked the necessary authority to make a commitment expressed in the memorandum, the party is released from the commitment, and that party is entitled to and shall receive a refund of any money paid, transferred, or provided under this memorandum.

This MOU shall take effect upon the execution of all parties hereto, as evidence by the date of execution on \_\_\_\_\_, 2015:

[Signature Page Follows]

\_\_\_\_\_  
Judge Ramon Garcia  
Hidalgo County

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor Richard Garcia  
City of Edinburg

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor James E. Darling  
City of McAllen

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor Norberto Salinas  
City Mission

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Mayor Ambrosio Hernandez  
City of Pharr

\_\_\_\_\_  
(Date)

*Guy Bailey*  
\_\_\_\_\_  
President Guy Bailey  
The University of Texas Rio Grande Valley

*9/29/15*  
\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Chancellor William McRaven  
The University of Texas System

\_\_\_\_\_  
(Date)

**Exhibit II to County Order**

**CHAPTER 381**  
**ECONOMIC DEVELOPMENT AGREEMENT**  
By and Among  
**HIDALGO COUNTY, TEXAS,**  
**THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY**  
and  
**THE UNIVERSITY OF TEXAS SYSTEM.**

**CHAPTER 381  
ECONOMIC DEVELOPMENT AGREEMENT**

By and Among

**HIDALGO COUNTY, TEXAS,  
THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY**

and

**THE UNIVERSITY OF TEXAS SYSTEM.**

Effective as of November 17, 2015

## CHAPTER 381

### ECONOMIC DEVELOPMENT AGREEMENT

This **CHAPTER 381 ECONOMIC DEVELOPMENT AGREEMENT** (this "**Agreement**") is entered into to be effective as of the 17<sup>th</sup> day of November, 2015 (the "**Effective Date**"), by and among **HIDALGO COUNTY, TEXAS** (the "**County**") and **The UNIVERSITY OF TEXAS SYSTEM ("UT System")** and **THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY ("UTRGV")**. (UTRGV and UT System are collectively styled "**UT**").

#### RECITALS

**WHEREAS**, on August 26, 2014, the County, UT System, and the Cities of Edinburg, McAllen, Mission, and Pharr (the cities hereinafter referred to as the "**City Parties**") signed a Memorandum of Understanding ("**Previous MOU**") concerning commitments related to establishment of The University of Texas Rio Grande Valley Medical School ("**Medical School**") in order to advance the health, education and economy of the region; and

**WHEREAS**, UT System committed to creating and operating in the lower Rio Grande Valley, the new Medical School, with the expectation that the Medical School will increase opportunities for economic development, including new and expanded research funding and technology transfer and commercialization; and

**WHEREAS**, operation of the Medical School will create new jobs and tax value, and will promote local economic development and stimulate business and commercial activity in the County; and

**WHEREAS**, under Chapter 381 of the Texas Local Government Code, the County has adopted an economic development program to promote local economic development and stimulate business and commercial activity within the County; and

**WHEREAS**, to ensure the success of the Medical School, the County committed to fund certain amounts in recognition of the increase in opportunities for economic development, pursuant to an economic development agreement; and

**WHEREAS**, the Previous MOU contemplated the County and UT System entering into an agreement with respect to the provision of the funds committed by the County in the Previous MOU and the parties opted to proceed under option (ii) of the "The County of Hidalgo" heading of Section 4 of the Previous MOU by executing that certain Economic Development Agreement (the "**Previous 381 Agreement**") entered into

and effective as of the 16<sup>th</sup> day of December, 2014, between the County and UT System; and

**WHEREAS**, pursuant to the Previous MOU and the Previous 381 Agreement, UT System allocated Ten Million Dollars in support of the new Medical School for the year 2014 and the County made the payment due for 2014 and 2015 to UT System; and

**WHEREAS**, as contemplated in the Previous MOU, the Medical School is being developed as part of the newly created UTRGV, which was not operational at the time the Previous MOU or the Previous 381 Agreement were executed, and therefore was not a party to the Previous MOU or the Previous 381 Agreement; and

**WHEREAS**, to properly include UTRGV in the arrangements with the County and the City Parties for the Medical School, the County, UT System, UTRGV, and certain of the City Parties are entering into a new Memorandum of Understanding ("**New MOU**"), which supersedes and replaces the Previous MOU; and

**WHEREAS**, the New MOU contemplates the County and UTRGV entering into a new agreement with respect to the provision of the funds committed by the County in the New MOU to replace the Previous 381 Agreement, and the parties have opted to proceed under option (ii) of the "The County of Hidalgo" heading of Section 4 of the New MOU by executing this Agreement; and

**WHEREAS**, the County and UT desire to set forth in this Agreement the terms and conditions of the payment to UTRGV of County economic development funds; and

**WHEREAS**, the parties recognize that all agreements of the parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof;

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

### **ARTICLE I**

#### **PURPOSE AND INTERPRETATION**

UT is taking steps to establish the Medical School in accordance with Senate Bill 24, Regular Session, 83<sup>rd</sup> Texas Legislature, as codified in Chapter 79 of the Texas

Education Code. Subject to the terms and conditions of this Agreement, the County will grant funds to UTRGV each year from 2016 to 2023, in recognition of the increased opportunities for economic development in the County.

## ARTICLE II

### DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set out below:

2.1 “*Agreement*” has the meaning given such term in the introductory paragraph above.

2.2 “*City Parties*” has the meaning given such term in the recitals above.

2.3 “*County*” has the meaning given such term in the introductory paragraph above.

2.4 “*Effective Date*” has the meaning given such term in the introductory paragraph above.

2.5 “*Medical School*” has the meaning given such term in the recitals above.

2.6 “*New MOU*” has the meaning given such term in the recitals above. A copy of the New MOU is attached hereto as Exhibit A.

2.7 “*Previous MOU*” has the meaning given such term in the recitals above.

2.8 “*Previous 381 Agreement*” has the meaning given such term in the recitals above.

2.9 “*Support Payments*” means the County’s payments pursuant to this Agreement.

2.10 The “*Term*” of this Agreement (hereinafter so called) shall include, and extend until the earlier of, (a) the end of the payout periods of the Support Payments as set forth in this Agreement, or (b) the creation of a County or multi-county taxing district and either (i) the provision of that district of either an equivalent amount of support as that committed by the County and City Parties

under the MOU or (ii) the acceptance and continuation by that district of the commitments made by the County and City Parties under the MOU.

**2.11** “*UT*” has the meaning given such term in the introductory paragraph above.

**2.12** “*UT System*” has the meaning given such term in the introductory paragraph above.

**2.13** “*UTRGV*” has the meaning given such term in the introductory paragraph above.

### **ARTICLE III**

#### **UT’S OBLIGATION**

**SECTION 3.1. OBLIGATIONS UNDER NEW MOU.** UT remains obligated to the commitments set forth in section 3 of the New MOU and, in accordance with section 4 of the New MOU, to use all funds provided by the County under this Agreement and the Previous 381 Agreement to support UTRGV’s medical education programs for first-year and second-year students provided by the Medical School in the County pursuant to Section 74.752 of the Texas Education Code.

**SECTION 3.2. SOLE OBLIGATION.** The payment of all indebtedness and obligations incurred by UT in connection with the development, construction, and operation of the Medical School shall be solely the obligations of UT. The County shall not be obligated to pay any indebtedness or obligations of UT and shall only be obligated to reimburse UTRGV for the Support Payments in accordance with the terms and conditions of this Agreement.

### **ARTICLE IV**

#### **PAYMENT OF SUPPORT PAYMENTS**

**SECTION 4.1. COUNTY’S OBLIGATION.** The duty of the County to make Support Payments to UTRGV for any purpose under this Agreement is limited in its entirety by the provisions of this Agreement, including without limitation Sections 7.3 and 7.4 below. In addition, the County’s obligation to make Support Payments under this Agreement will terminate in the event a district is created that provides the required support in accordance with the last sentence of Section 4 of the New MOU. The County has no further obligation to make any payments to UT System.

**SECTION 4.2. TIME FOR MAKING PAYMENTS.** During the Term, the County shall pay, each year from 2016 to 2023, a Support Payment of One Million Dollars

(\$1,000,000) per year to UTRGV. The Support Payments for 2016 through 2023 will be made on or around October 15<sup>th</sup> of each year; provided that each year UTRGV shall provide an invoice to the County for such payment not less than thirty (30) days prior to such payment being due.

**SECTION 4.3. PAYMENTS UNDER PREVIOUS 381 AGREEMENT AND PREVIOUS MOU.** UT acknowledges and agrees that the County has satisfied its obligation pursuant to the Previous 381 Agreement and Previous MOU with respect to the 2014 and 2015 payments, and that the County has no further obligations under the Previous 381 Agreement or the Previous MOU.

## **ARTICLE V**

### **COVENANTS**

**SECTION 5.1. COVENANTS OF UT.** UT shall comply with the following covenants.

**SECTION 5.1.1. ORGANIZATION.** UT shall not change, or permit to be changed, its organizational documents in any manner that would materially adversely affect UT's obligations under this Agreement.

**SECTION 5.1.2. BUSINESS OF UT.** During the Term of this Agreement, UT shall work to establish the Medical School as required by Chapter 79 of the Texas Education Code and consistent with the terms of the New MOU. UT shall use the Support Payments as provided in Section 3.1 above.

**SECTION 5.2. COVENANTS OF THE COUNTY.** The County shall comply with the following covenants.

**SECTION 5.2.1. ORGANIZATION.** The County shall not change, or permit to be changed, its organizational documents in any manner that would materially adversely affect the County's obligations under this Agreement.

**SECTION 5.3 FURTHER ACTIONS.** The County and UT will do all things reasonably necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions.

## **ARTICLE VI**

### **REPRESENTATIONS AND WARRANTIES**

**SECTION 6.1. REPRESENTATIONS AND WARRANTIES OF UT.** UT represents and warrants to the County, as of the Effective Date, as follows:

**SECTION 6.1.1. AUTHORITY.** The execution, delivery and performance by UT of this Agreement is within its respective powers and have been duly authorized by all necessary action.

**SECTION 6.1.2. NO CONFLICTS.** Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated, nor compliance with the terms and provisions hereof will contravene the organizational documents of UT or any judgment, decree, license, order or permit applicable to UT, or will conflict or be inconsistent with, or will result in a breach of any of the terms of the covenants, conditions or provisions of, or constitute a delay under, or result in the creation or imposition of a lien upon any of the property or assets of UT pursuant to the terms of any indenture, mortgage, deed of trust, agreement or other instrument to which UT is a party or, to the knowledge of UT, by which UT is bound, or to which UT is subject.

**SECTION 6.1.3. NO PENDING LITIGATION.** There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the current actual knowledge of UT, threatened against or affecting UT or any subsidiaries of UT, questioning the validity or any action taken or to be taken by UT in connection with the execution, delivery and performance by UT of this Agreement or seeking to prohibit, restrain or enjoin the execution, delivery or performance by UT hereof, wherein an unfavorable decision, ruling or finding (i) would adversely affect the validity or enforceability of, or the authority or ability of UT to perform, its obligations under this Agreement or (ii) would have an adverse effect on the consolidated financial condition or results of operations of UT or on the ability of UT to conduct its business as presently conducted or as proposed or contemplated to be conducted (including the operation of the Medical School).

**SECTION 6.1.4. NO DEFAULTS.** UT is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which UT is a party or by which UT or any of its property is bound that would have any material adverse effect on UT's ability to perform under this Agreement.

**SECTION 6.2. REPRESENTATION AND WARRANTIES OF THE COUNTY.** The County represents and warrants to UT, as of the Effective Date, as follows:

**SECTION 6.2.1. AUTHORITY.** The execution, delivery and performance by the County of this Agreement is within its respective powers and have been duly authorized by all necessary action.

**SECTION 6.2.2. NO CONFLICTS.** Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene the governing documents of the County or any judgment, decree,

license, order or permit applicable to the County, or will conflict or be inconsistent with, or will result in a breach of any of the terms of the covenants, conditions or provisions of, or constitute a delay under, or result in the creation or imposition of a lien upon any of the property or assets of the County pursuant to the terms of any indenture, mortgage, deed of trust, agreement or other instrument to which the County is a party or by which the County is bound, or to which the County is subject.

**SECTION 6.2.3. NO PENDING LITIGATION.** There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the current actual knowledge of the County, threatened against or affecting the County, questioning the validity of any proceedings taken or to be taken by the County in connection with the execution, delivery and performance by the County of this Agreement or seeking to prohibit, restrain or enjoin the execution, delivery or performance by the County hereof, wherein an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of, or the authority or ability of the County to perform its obligations under this Agreement.

**SECTION 6.2.4. NO DEFAULTS.** The County is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which the County is a party or by which the County is bound that would have any material adverse effect on the County's ability to perform under this Agreement.

## **ARTICLE VII**

### **PERSONAL LIABILITY OF PUBLIC OFFICIALS; FUNDING AUTHORITY**

**SECTION 7.1. COUNTY OFFICIALS.** To the extent permitted by State law, no employee of the County, nor any commissioner, official or agent of the County, shall be personally responsible for any liability arising under or growing out of this Agreement.

**SECTION 7.2. UT OFFICIALS** To the extent permitted by State law, no employee of UT, nor any regent or agent of UT, shall be personally responsible for any liability arising under or growing out of this Agreement.

**SECTION 7.3. COMMITMENT OF CURRENT REVENUES ONLY.** The Support Payments made hereunder shall be paid solely from lawfully available funds that have been appropriated by the County. Under no circumstances shall the County's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Consequently, notwithstanding any other provision of this Agreement, the County shall have no obligation or liability to pay any Support Payments unless the County appropriates funds to make such payment during the year in which such Support Payment(s) is payable.

**SECTION 7.4. AUTHORITY.** If the final judgment of a court of competent jurisdiction determines that any party to this Agreement lacked the necessary authority to make a commitment expressed in the Agreement, the party is released from the commitment, and that party is entitled to and shall receive a refund of any money paid, transferred, or provided under this Agreement.

## **ARTICLE VIII**

### **INFORMATION**

UT shall, at such times and in such form as County may reasonably require, furnish periodic information concerning the status of the performance of its obligations under this Agreement as may be requested in writing by the County. As requested by the County Auditor for Hidalgo County, under the Previous 381 Agreement UT System has provided a detailed status report on the project and a schedule of how grant money provided by the County will be utilized. During the term of this Agreement, such reports and schedules are the sole responsibility of UTRGV and a report or schedule submitted by UTRGV satisfies such responsibilities of UT.

## **ARTICLE IX**

### **MISCELLANEOUS**

**SECTION 9.1. ENTIRE AGREEMENT.** This Agreement, including the exhibit hereto, contains the entire agreement between the parties with respect to the transactions contemplated herein. This Agreement supersedes and replaces all previous agreements between the parties hereto with respect to the subject matter hereof, including without limitation the Previous MOU and the Previous 381 Agreement.

**SECTION 9.2. AMENDMENT.** This Agreement may only be amended, altered, or revoked by written instrument signed by all parties.

**SECTION 9.3. SUCCESSORS AND ASSIGNS.** In this Agreement, unless a clear contrary intention appears, reference to any party includes such party's successors and assigns, and reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns. This Agreement is not assignable without the prior written permission of the other party thereto.

**SECTION 9.4. WAIVER.** No term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel to enforce any provision of this

Agreement, except by written instrument of the party charged with such waiver or estoppel.

**SECTION 9.5. REMEDIES.** Upon breach of this Agreement, including any of the covenants contained in Article V or the representations and warranties contained in Article VI, the aggrieved party shall have such remedies as are available in law or equity for breach of contract; provided, however, that no party shall be liable to any other party for incidental or consequential damages.

**SECTION 9.6. NOTICES.** Any notice, statement and/or communication required and/or permitted to be delivered hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, messenger, telecopy, or reputable overnight carrier, and shall be deemed delivered when received at the addresses of the parties set forth below, or at such other address furnished in writing to the other parties thereto:

**UT System:**

Scott C. Kelley  
Executive Vice Chancellor for Business Affairs  
201 West 7th Street  
Austin, TX 78701-2982  
(512) 400-4560  
(512) 499-2982 (fax)

**UTRGV:**

Guy Bailey  
President  
1201 W. University Drive  
Edinburg, Texas, 78539  
956-365-8779  
(956) 665-2150 (fax)

**COUNTY:**

Hidalgo County  
100 E. Cano St., Ste. 201  
Edinburg, Texas 78539  
Attn: County Judge  
Telephone: (956) 318-2600  
Facsimile: (956) 318-2699

**With a copy to:**

Hidalgo County Attorney  
Atlas, Hall & Rodriguez, LLP  
818 Pecan Blvd.  
McAllen, TX 78501  
Attn: Stephen L. Crain  
Telephone: (956) 632-8221  
Facsimile: (956) 686-6109

**SECTION 9.7. APPLICABLE LAW.** This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas, and venue shall lie in State courts located in Hidalgo County, Texas.

**SECTION 9.8. SEVERABILITY.** In the event any provision of this Agreement is illegal, invalid, or unenforceability under the present or future laws, then, and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

**SECTION 9.9. NO THIRD-PARTY BENEFICIARIES.** The County and UT intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third-party beneficiary, or any individual or entity other than the County and UT or permitted assignees of the County and UT.

**SECTION 9.10. NO JOINT VENTURE.** Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties, and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either party as an agent of the other for any purpose whatsoever. Except as otherwise specifically provided herein, neither party shall in any way assume any of the liability of the other for acts of the other or obligations of the other.

**SECTION 9.11. COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which constitute one instrument.

**SECTION 9.12. FORCE MAJEURE.** Means an event beyond the reasonable control of a party obligated to perform an act or take some action under this Agreement including, but not limited to, acts of God, earthquake, fire, explosion, war, civil insurrection, acts of the public enemy, act of civil or military authority, sabotage, terrorism, floods, lightning, hurricanes, tornadoes, severe snow storms or utility disruption, strikes, lockouts, major equipment failure or the failure of any major supplier to perform its obligations.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective as of the Effective Date.

COUNTY OF HIDALGO, TEXAS

By: Ramon Garcia  
Name: Ramon Garcia  
Title: County Judge

ATTEST:

[Signature]  
County Clerk

APPROVED BY  
COMMISSIONERS' COURT  
ON: 11/17/15 ma

UNIVERSITY OF TEXAS SYSTEM

By: \_\_\_\_\_  
Name: William McRaven  
Title: Chancellor

UNIVERSITY OF TEXAS RIO GRANDE VALLEY

By: \_\_\_\_\_  
Name: Guy Bailey  
Title: President

**Exhibit A**

**New MOU**

**MEMORANDUM OF UNDERSTANDING**

among

THE COUNTY OF HIDALGO  
THE CITY OF EDINBURG  
THE CITY OF McALLEN  
THE CITY OF MISSION  
and  
THE CITY OF PHARR

and

THE UNIVERSITY OF TEXAS RIO GRANDE VALLEY

REGARDING THE DEVELOPMENT OF AND FUNDING FOR THE UNIVERSITY OF  
TEXAS RIO GRANDE VALLEY SCHOOL OF MEDICINE

**1. Purpose**

The purpose of this Memorandum of Understanding ("MOU") is to memorialize the commitments made by the following parties: the County of Hidalgo (the "County"), the City of Edinburg, the City of McAllen, the City of Mission and the City of Pharr (collectively, the "Cities", and together with the County, the "local governments"), The University of Texas System (the "System"), and The University of Texas Rio Grande Valley ("UTRGV") in furtherance of the establishment of a medical school of the first class in the Lower Rio Grande Valley (the "UTRGV medical school") that will be part of UTRGV that was established by Senate Bill 24, Regular Session, 83rd Texas Legislature, as codified in Chapter 79 of the Texas Education Code in order to advance the health, education and economy of the region.

**2. Background**

In Senate Bill 24, the State of Texas authorized the establishment of a new System university in the Rio Grande Valley, which will have integrated within it the medical school initially authorized by Senate Bill 98, Regular Session, 81st Texas Legislature, as codified in Subchapter N, Chapter 74, Texas Education Code. The University of Texas System Board of Regents has committed support for medical education in the Lower Rio Grande Valley and for the UTRGV medical school in the amount of \$10,000,000 per year for the next ten years, beginning in 2014. These funds are to be used for faculty support, operations and maintenance of the new medical school.

### 3. Commitments of the University of Texas System

The System is committed to creating and operating the UTRGV medical school, built on a community-based distributed model of medical education. It is expected that such a school will:

- Offer expanded opportunities for residents of the region to obtain medical degrees.
- Conduct medical research with special emphasis on conditions that might positively impact the health of the region's residents.
- Enhance the quality, extent, and availability of health care in the region through new and expanded facilities that involve faculty, medical students, residents, and other health care profession students.
- Increase opportunities for economic development, including new and expanded research funding and technology transfer and commercialization.
- Improve health throughout the region through public education and prevention programs.

### 4. Commitments of Local Governments

To support and ensure the success of the System in its endeavor to create and operate the UTRGV medical school, the following commitments are made:

The City of Edinburg:

On or about October 15th, each year from 2014 to 2023, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley \$1,000,000.

The City of McAllen:

On or about October 15th, each year from 2014 to 2023, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley up to \$2,000,000.

The City of Mission:

On or about October 15th, each year from 2014 to 2019, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley \$250,000.

The City of Pharr:

On or about October 15th, each year from 2014 to 2023, the City shall pay/transfer/provide to The University of Texas Rio Grande Valley \$500,000.

- All such funds from the Cities are to be used to support years 1 and 2 of medical education in Hidalgo County for faculty support, operations, programs and directly related activities of the new medical school.

- All such funds will be provided until a Hidalgo County or healthcare taxing district is created and such district either provides at least an equivalent amount of support attributable to the County and communities within the county or accepts and continues the commitments made by the County and the Cities.

The County of Hidalgo:

On or about October 15th, each year from 2014 to 2023, the County shall pay/transfer/provide to The University of Texas Rio Grande Valley \$1,000,000 pursuant to (i) a contract authorized by Section 61.029(a), Health and Safety Code, under which the UTRGV medical school agrees to provide health care services of that value to eligible county residents and/or, (ii) in recognition of the increased opportunities for economic development referenced in Paragraph 3 above, an economic development agreement to be executed by the County and UTRGV pursuant to Chapter 381, Local Government Code, under which the county grants funds to UTRGV each year from 2014 to 2023.

- All such funds from the County are to be used to support years 1 and 2 of medical education in Hidalgo County for faculty support, operations, programs and directly related activities of the new medical school.
- All such funds will be provided until a Hidalgo County or healthcare taxing district is created and such district either provides at least an equivalent amount of support attributable to the County and communities within the county or accepts and continues the commitments made by the County and the Cities.

#### **5. Replacement of Prior Agreement**

This agreement replaces the previous agreement executed on August 26, 2014 by and between the County of Hidalgo, the City of Edinburg, the City of McAllen, the City of Mission, the City of Pharr, and the University of Texas System regarding the development of and funding for a Medical School in the Lower Rio Grande Valley. Under the previous agreement, System allocated \$10 million in support for the year 2014, and the Cities and Hidalgo County made transfers to The University of Texas System for the year 2014. The Cities and Hidalgo County shall make transfers for 2015 and subsequent years to UTRGV as provided by this agreement.

#### **6. Authority**

If the final judgment of a court of competent jurisdiction determines that any party to this memorandum lacked the necessary authority to make a commitment expressed in the memorandum, the party is released from the commitment, and that party is entitled to and shall receive a refund of any money paid, transferred, or provided under this memorandum.

This MOU shall take effect upon the execution of all parties hereto, as evidence by the date of execution on \_\_\_\_\_, 2015:

[Signature Page Follows]

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Judge Ramon Garcia  
Hidalgo County

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(Date)

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Mayor Richard Garcia  
City of Edinburg

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(Date)

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Mayor James E. Darling  
City of McAllen

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(Date)

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Mayor Norberto Salinas  
City Mission

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(Date)

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Mayor Ambrosio Hernandez  
City of Pharr

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(Date)

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*Guy Bailey*  
President Guy Bailey  
The University of Texas Rio Grande Valley

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*9/29/15*  
(Date)

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Chancellor William McRaven  
The University of Texas System

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(Date)