

STATE OF TEXAS

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COUNTY OF FORT BEND

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**AFFILIATION AND PROGRAM AGREEMENT
FOR COURSE EXPERIENCE**

This Affiliation and Program Agreement is entered into by Fort Bend County, a body corporate and politic under the laws of the State of Texas, (hereinafter "COUNTY") and The University of Texas Health Science Center at Tyler, (hereinafter "SCHOOL"), a component institution of The University of Texas System.

RECITALS

WHEREAS, COUNTY operates facilities located at 4520 Reading Road, in the city of Rosenberg, State of Texas, (hereinafter "FACILITY" or "FACILITIES") and therein provides healthcare services;

WHEREAS, SCHOOL offers graduate programs in the areas of health sciences and desires to have its enrolled students perform components of their practicum experience (hereinafter "PROGRAM") at COUNTY; and

WHEREAS, this Agreement serves the general health and well-being of the community by providing public health services and therefore serves a public purpose; and

WHEREAS, COUNTY is willing to make FACILITIES available to qualified students and or residents (hereinafter "Student(s)") who will be supervised by Fort Bend County Staff; and

WHEREAS, from time to time, SCHOOL'S faculty may be allowed on to FACILITIES who will be accompanied by Fort Bend County Staff for the purpose of observation; and

WHEREAS, both parties hereto recognize that, in the performance of this Agreement, the greatest benefits will be derived by promoting the interests of both parties, and each party does, therefore enter into this Agreement with the intention of loyally cooperating with each other in carrying out the terms of this Agreement; and

WHEREAS, the governing bodies of COUNTY and SCHOOL have duly authorized this Agreement;

NOW THEREFORE, for and in consideration of the mutual promises, obligations, and benefits set forth herein, the COUNTY and SCHOOL hereby agree as follows:

I. BASIC TERMS

1. Both parties shall share in the education process.
2. Both parties agree that no financial obligation shall be incurred by either party as a result of this Agreement.
3. Both parties agree that at no time will Students, SCHOOL'S faculty, or SCHOOL be considered employees, agents, or servants of COUNTY and therefore will not be eligible to receive payment for services rendered, replace a COUNTY employee or possess authority to enter any form of

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agreement, binding or otherwise, on behalf of COUNTY. At no time, will SCHOOL, faculty, or Students be eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which COUNTY provides to its employees.

4. Both parties agree that no payment shall be made by the SCHOOL to the COUNTY or to COUNTY'S employees and agents. The PROGRAM furnished to Students in connection with this Agreement is gratuitous and voluntary and shall be accomplished without any payment made by the SCHOOL to the COUNTY or to the COUNTY'S employees and agents.
5. The parties shall not discriminate against any person because of race, religion, color, gender, sexual orientation, national origin, age, disability, special disabled veteran's status, Vietnam-era veteran's status, or any other protected status.
6. Both parties mutually agree that the number of Students participating in the PROGRAM will be arranged jointly, with due consideration given to the clinical material available.
7. The COUNTY representatives for the PROGRAM are:

Kaye Reynolds, Dr.PH
Deputy Director, Health and Human Services
Fort Bend County
4520 Reading Road, Ste. A-100
Rosenberg, TX 77471

The SCHOOL representative or faculty advisor for the PROGRAM is:

Sarah Lang, MHA
Residency & Education Program Manager
Occupational Medicine
University of Texas at Tyler

II. OBLIGATIONS OF COUNTY

1. COUNTY will, under proper supervision, permit "hands on" experience at levels COUNTY determines to be appropriate based on the knowledge and training of the Student.
2. COUNTY will accept Students assigned by SCHOOL to FACILITIES as assigned by COUNTY.
3. COUNTY retains responsibility and decision-making authority for all aspects of COUNTY services and functions, including patient care.
4. COUNTY reserves the right to prohibit Student observation or participation in COUNTY services or functions.

III. OBLIGATIONS OF SCHOOL

1. SCHOOL shall establish guidelines for Student eligibility and be responsible for ensuring that all Students are eligible for participation in the PROGRAM.
2. SCHOOL shall be responsible for the provision of classroom theory and practical instruction to Student prior to clinical assignments or practicum experience.
3. When applicable, SCHOOL shall require Students to attend clinical orientation when requested by COUNTY.
4. SCHOOL shall provide a faculty advisor who is available for consultation and direction for the Student who is on practicum assignment with the COUNTY.

5. SCHOOL shall require Student to provide to the COUNTY such results for drug testing, health care and criminal background checks prior to Student being permitted to commence participation in the PROGRAM at the COUNTY including proof of:
 - a. a PPD test (commonly referred to as a TB test)
 - b. HBV vaccine or signed refusal
 - c. Other immunizations as required by laws.
6. In cooperation with SCHOOL, COUNTY shall prepare PROGRAM schedules for Students.
7. SCHOOL, faculty, and Students shall comply with all applicable COUNTY policies, which COUNTY will provide to SCHOOL.
8. SCHOOL shall advise Students that he/she will be required by COUNTY to sign a Student Confidentiality Agreement prior to participating in PROGRAM at the COUNTY attached as Exhibit A to this Agreement. If a signed Student Confidentiality Agreement is not received by the COUNTY prior to the commencement of the practicum program, the Student will not be allowed to utilize COUNTY facilities or participate in practicum related services through COUNTY.
9. SCHOOL shall adhere to COUNTY communicable disease reporting requirements and will require Students to provide to COUNTY verification of successful completion of education on blood borne pathogens, when applicable.
10. SCHOOL shall inform COUNTY in a timely manner of any change in Student(s) status, curriculum, personnel, and learning opportunities during participation in PROGRAM.
11. SCHOOL shall comply with COUNTY's request to remove a Student(s) in the event that COUNTY determines that there is cause to do so.
12. SCHOOL agrees to advise Students that he/she will be required by the COUNTY to sign and provide to COUNTY a Release of Liability that fully releases COUNTY of any and all claims with respect to illness or injuries sustained while engaged in activities pursuant to this Agreement, attached as Exhibit B to this Agreement. If signed Releases of Liability by participating Students and faculty are not received by the COUNTY prior to the commencement of the practicum program, the Student will not be allowed to utilize COUNTY facilities or participate in practicum related services through COUNTY.
13. SCHOOL will provide COUNTY with completed Participant Contact Information, attached as Exhibit C to this Agreement.
14. Visits by SCHOOL and visits by SCHOOL'S faculty are welcome for purposes of planning and observation of Student with prior notification to COUNTY.

IV. INDEMNITY

TO THE EXTENT ALLOWED BY THE TEXAS CONSTITUTION AND TEXAS LAW, SCHOOL AGREES TO AND SHALL HOLD HARMLESS COUNTY, ITS ELECTED OFFICIALS, OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF ANY KIND INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEY'S FEES, BODILY INJURY, SICKNESS, DISEASE OR DEATH ARISING FROM OR WHICH MAY BE ALLEGED TO ARISE FROM THE USE OF COUNTY'S FACILITIES BY SCHOOL'S STUDENTS, FACULTY, AND/OR STAFF PURSUANT TO THIS AGREEMENT.

V. INSURANCE

Prior to commencement of the Services, SCHOOL shall furnish COUNTY with properly executed certificates of insurance which shall evidence all insurance required and which shall extend to the activities contemplated under this Agreement and undertaken on COUNTY premises, covering faculty and Students, and shall provide COUNTY proof of said coverage upon return of this Agreement. SCHOOL shall notify COUNTY within 30 days of the cancellation of any such policy. SCHOOL shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates for any such insurance expiring prior to completion of Services.

SCHOOL, as a Texas state agency, has not acquired Employer's Liability or Comprehensive General or Public Liability Insurance, but represents it has sufficient resources to self-insure for all claims for which it may be responsible under the Texas Tort Claims Act for property damage, personal injury, and death proximately caused by the wrongful act or omission or negligence of an employee acting within the scope of employment. Liability of a state agency in this regard is limited to money damages in a maximum amount of \$250,000 for each person and \$500,000 for each single occurrence for bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property. Employees of the SCHOOL are provided Workers' Compensation coverage under a self-insurance, self-managed program as authorized by the Texas Labor Code, Chapter 503.

VI. TERM AND TERMINATION

1. This Agreement shall become effective immediately upon execution by the parties as of the date below and will continue in full force until December 31, 2017.
2. Thereafter, the Agreement shall renew for one year terms, not to exceed a period of four years, unless otherwise terminated as provided herein.
3. Either party may terminate this Agreement without cause upon the giving of thirty (30) days written notice to the other party in the manner and form provided for herein.
4. In the event that the Agreement is terminated, COUNTY may at, its own discretion, permit any participating Student to complete the PROGRAM.
5. Right to Refuse or Terminate Students. COUNTY reserves the right to refuse acceptance of any Student designated by the SCHOOL for participation and to terminate participation by any Student when, in the sole opinion of the COUNTY: (i) the Student is deemed to be a risk to the COUNTY's employees, or to himself or herself, (ii) the Student fails to meet or abide by the rules, regulations, policies and procedures of the COUNTY, (iii) the Student's conduct is detrimental to the business or reputation of the COUNTY (iv) the Student fails to accept or comply with the direction of COUNTY staff, or (v) further participation by the Student would be inappropriate.

VII. MISCELLANEOUS TERMS

1. Student will be responsible for their own transportation, meals, and health care needs in the performance of this Agreement.
2. Student will be responsible for equipment that is broken or damaged due to Student's negligence.
3. SCHOOL shall require Students to be properly attired when reporting for clinical experience.
4. SCHOOL shall be responsible for the administrative functions related to the Student's experience including rotation, attendance, knowledge of infectious control issues and proficiency.

5. SCHOOL shall provide relevant background information on Students as requested by the COUNTY to the extent permitted by law.
6. SCHOOL shall be responsible for the final grading of the Students.
7. SCHOOL shall instruct their Students and faculty to respect the confidential nature of all information which they may obtain from clients and records of the COUNTY.
8. The parties agree that SCHOOL shall direct faculty and Students to comply with the policies and procedures of COUNTY, including those governing the use and disclosure of individually identifiable health information under federal law, specifically 45 CFR parts 160 and 164, as applicable. Solely for the purpose of defining their role in relation to the use and disclosure of protected health information, such Students are defined as members of COUNTY'S workforce, as that term is defined by 45 CFR 160.105, when engaged in activities pursuant to this Agreement. However, neither Students nor faculty are or shall be considered to be employees of COUNTY for any other purpose.
9. SCHOOL agrees that a Student's breach of COUNTY's policies concerning confidentiality shall be grounds for Student discipline, including but not limited to dismissal from the PROGRAM.
10. The parties may not amend or waive this Agreement, except by a written agreement executed by authorized agents of both parties.
11. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.
12. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.
13. All documents, data, reports, research, graphic presentation materials, etc., developed by SCHOOL as a part of its work under this Agreement, shall become the property of COUNTY upon completion of this Agreement, or in the event of termination or cancellation thereof. SCHOOL shall promptly furnish all such data and material to COUNTY on request.
14. SCHOOL shall permit COUNTY, or any duly authorized agent of COUNTY, to inspect and examine the books and records of SCHOOL for the purpose of verifying the amount of work performed under the Scope of Services. COUNTY's right to inspect survives the termination of this Agreement for a period of four years.
15. SCHOOL shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement. When reasonably required, SCHOOL shall furnish COUNTY with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

VIII. NOTICE

Any and all notices or communications required or permitted under this Agreement shall be delivered in person or mailed, certified mail, return receipt requested as follows:

If to COUNTY:	Fort Bend County 401 Jackson Richmond, Texas 77469 Attn: County Judge
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With copy to:

Kaye Reynolds, DrPH
Deputy Director, Health and Human Services
4520 Reading Road, Suite 200
Rosenberg, Texas 77471

If to SCHOOL:

Sarah Lang, MHA
Residency & Education Program Director
11937 US Highway 271
Tyler, TX 75708-3194

Either Party may change the address for notification by submitting written notice of same to the other.

IX. CONFIDENTIAL AND PROPRIETARY INFORMATION

1. SCHOOL acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to COUNTY. Any and all information of any form obtained by SCHOOL or its employees or agents from COUNTY in the performance of this Agreement shall be deemed to be confidential information of COUNTY ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by SCHOOL shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by SCHOOL) publicly known or is contained in a publicly available document; (b) is rightfully in SCHOOL's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of SCHOOL who can be shown to have had no access to the Confidential Information.
2. SCHOOL agrees to hold Confidential Information in strict confidence, using at least the same degree of care that SCHOOL uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to COUNTY hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. SCHOOL shall use its best efforts to assist COUNTY in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, SCHOOL shall advise COUNTY immediately in the event SCHOOL learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and SCHOOL will at its expense cooperate with COUNTY in seeking injunctive or other equitable relief in the name of COUNTY or SCHOOL against any such person. SCHOOL agrees that, except as directed by COUNTY, or as required by law, SCHOOL will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at COUNTY's request, SCHOOL will promptly turn over to

COUNTY all documents, papers, and other matter in SCHOOL's possession which embody Confidential Information.

3. **TEXAS PIA.** Each party expressly acknowledges that the other party is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, each party will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to one party to the other party shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
4. SCHOOL agrees to obtain prior written consent of COUNTY for publication of any articles relating to the clinical experiences occurring at COUNTY.
5. **HIPAA:** To the extent applicable to this Agreement, each party agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320d ("HIPAA") and any current and future regulations promulgated hereunder, including without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 ("Federal Privacy Regulations"), the federal security standard contained in 45 C.F.R. Parts 160, 162, and 164 ("Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162 ("Federal Electronic Transaction Regulations") all as may be amended from time to time, and all collectively referred to herein as "HIPAA Requirements". SCHOOL agrees not to use or further disclose any Protected Health Information (as defined in the Federal Privacy Regulations) or Individually Identifiable Health Information (as defined in the Federal Security Regulations), other than as permitted by the HIPAA Requirements and the terms of this Agreement. SCHOOL agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the HIPAA Requirements.
6. **FERPA.** For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), the SCHOOL hereby designates the COUNTY as a school official with a legitimate educational interest in the educational records of the students who participate in the PROGRAM to the extent that access to the records are required by the COUNTY to carry out the PROGRAM. COUNTY agrees to maintain the confidentiality of the educational records in accordance with the provisions of FERPA.
7. SCHOOL in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
8. **BREACH OF CONFIDENTIALITY.** SCHOOL acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to COUNTY that is inadequately compensable in damages. Accordingly, COUNTY may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. SCHOOL acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of COUNTY and are reasonable in scope and content.

X. APPLICABLE LAW

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. Nothing in the Agreement shall be construed to waive the COUNTY's or the SCHOOL'S sovereign immunity.

XI. ASSIGNMENT AND DELEGATION

1. Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.
2. Neither party may delegate any performance under this Agreement. Any purported delegation of performance in violation of this Section is void.

XII. SEVERABILITY

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

XIII. PUBLICITY

Contact with citizens of Fort Bend COUNTY, media outlets, or governmental agencies shall be the sole responsibility of COUNTY. Under no circumstances whatsoever, shall SCHOOL release any material or information developed or received in the performance of the Services hereunder without the express written permission of COUNTY, except where required to do so by law.

XIV. CAPTIONS

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

XV. CONFLICT

In the event there is a conflict between this Agreement and the attached exhibit(s), this Agreement controls.

It is understood and agreed to by the parties that the entire Agreement of the parties is contained herein and in any exhibit or attachment identified in Agreement. It is further understood and agreed that this Agreement supersedes all prior communications and negotiations between the parties, oral or written, relating to the subject matter hereof as well as any previous Agreements presently in effect between the parties relating to the subject matter hereof.

{Execution Page Follows}

IN WITNESS WHEREOF, the parties have executed this Agreement as indicated below.

FORT BEND COUNTY

**THE UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER AT TYLER**

By: _____
Robert E. Hebert, County Judge

Sarah Lang
Signature- Authorized Agent

Sarah Lang
Authorized Agent-Printed Name

Residency + Education Program Manager
Title

Date: _____

Date: 03/27/17

ATTEST:

Laura Richard, County Clerk