

STATE OF TEXAS

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COUNTY OF FORT BEND

**AFFILIATION AND PROGRAM AGREEMENT
FOR COURSE EXPERIENCE BETWEEN FORT BEND COUNTY AND WHARTON COUNTY
JUNIOR COLLEGE**

This Affiliation Agreement is entered into by Fort Bend COUNTY, a body corporate and politic under the laws of the State of Texas, (hereinafter COUNTY) and Wharton County Junior College, a public institution of higher learning (hereinafter SCHOOL).

RECITALS

WHEREAS, SCHOOL offers a Human Services Program within the Division of Allied Health and desires to have its enrolled students perform components of their course experience (hereinafter PROGRAM) at COUNTY; and

WHEREAS, COUNTY desires that a certain number of the SCHOOL's students engage in practicum work under the direction of the Fort Bend County District Attorney (hereinafter PROGRAM); and

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

WHEREAS, the COUNTY is in the position to utilize the services of these students; and

WHEREAS, this Agreement serves to promote education and therefore serves a public purpose; 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 hereinafter set forth, the COUNTY and SCHOOL hereby agree as follows:

I. BASIC TERMS

A. Both Parties Agree:

1. Both parties shall share in the education process.
2. Both parties agree that no financial obligation shall be incurred by the County as a result of this Agreement.
3. Both parties agree that at no time will Students, faculty, or SCHOOL be considered

employees, agents, or servants of COUNTY and therefore will not be eligible to receive payment for PROGRAM services or any other services rendered from County, replace a COUNTY employee or possess authority to enter any form of 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. The parties shall not discriminate against any person because of race, color, gender, sexual orientation, national origin, handicap, special disabled veteran's status or Vietnam-era veteran's status.
5. Both parties mutually agree that the number of Students participating in the PROGRAM will be arranged jointly, with due consideration given to the work available.
6. This Agreement may be amended upon mutual written consent of the COUNTY and the SCHOOL.

II. OBLIGATIONS OF COUNTY

1. COUNTY will utilize the services of Students referred to by the SCHOOL and who are qualified and acceptable to the COUNTY.
2. COUNTY will ensure that the work performed by the Students will bear a relationship to the Students' formal academic program and/or career interest.
3. COUNTY will adhere to local labor standards by providing Students with appropriate rest and meal periods.
4. COUNTY will supervise in a reasonable manner the work performed by the Students.
5. COUNTY retains responsibility and decision-making authority for all aspects of COUNTY services and functions.
6. COUNTY reserves the right to prohibit Student observation or participation in COUNTY services or functions.

III. OBLIGATIONS OF SCHOOL

1. SCHOOL shall be responsible for the provision of classroom theory and practical instruction to Student prior to assignments or practicum experience.
2. SCHOOL shall, if requested, require Student to provide to the COUNTY such results for drug testing, and criminal background checks prior to Student being permitted to commence participation in the PROGRAM at the COUNTY including proof of any immunizations as required by laws.
3. SCHOOL, faculty, and Students shall require compliance with all COUNTY policies as provided to SCHOOL.
4. SCHOOL shall inform COUNTY in a timely manner of any change in Student(s) status, curriculum, personnel, and learning opportunities during participation in PROGRAM.
5. COUNTY may request to remove a Student(s) immediately in the event that COUNTY determines that there is cause to do so.
6. SCHOOL shall require Students to provide to COUNTY a completed Student Confidentiality Agreement prior to participating in PROGRAM at the COUNTY (b) a Release of Liability, and (c) a completed Participant Contact Information, attached as Exhibit A "Required Documents" to this Agreement.

IV. INDEMNITY

AS PERMITTED BY 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 Program, SCHOOL shall furnish COUNTY with properly executed certificates of insurance which shall evidence all insurance required and provide a provision for 30 days' notice to COUNTY of cancellation. SCHOOL shall provide certified copies of insurance endorsements, if requested by COUNTY. SCHOOL shall maintain such insurance coverage from the time the PROGRAM commences until the PROGRAM is completed and provide replacement certificates for any such insurance expiring prior to completion of PROGRAM. SCHOOL shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

During the term of this Agreement, SCHOOL shall keep in full force professional liability insurance in the amount of \$1,000,000 per claim and \$3,000,000 in the aggregate, 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 also keep in full force general liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, with an umbrella liability coverage in amounts not less than \$1,000,000.

VI. TERM AND TERMINATION

1. The term of this Agreement will begin upon execution of both parties and end on August 30, 2018, or unless terminated earlier pursuant to the terms of this Agreement or extended by mutual written agreement of the parties.
2. Termination may occur on behalf of either party without cause upon the giving of ten (10) days written notice to the other party in the manner and form provided for herein.
3. In the event either party gives written notice to the other that the other party has failed to perform a material obligation under this Agreement, and such failure has not been cured within ten (10) business days following the receipt of such notice, the party giving notice shall have the right to terminate this Agreement immediately upon the close of business, on the tenth (10th) business day after notice was received.
4. In the event that the Agreement is terminated, COUNTY may at, its own discretion, permit any participating Student to complete the PROGRAM.

VII. MISCELLANEOUS TERMS

1. Student will be responsible for their own transportation, meals, and health care needs in the performance of this Agreement.

2. SCHOOL will be responsible for equipment that is broken or damaged due to Student's negligence.
3. SCHOOL will require Students to be properly attired during the performance of PROGRAM activities.
4. SCHOOL will instruct their Students and faculty to respect the confidential nature of all information which they may obtain from clients and records of the COUNTY.
5. 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.
6. 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.
7. All documents, data, reports, research, graphic presentation materials, etc., developed by Student 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.
8. SCHOOL will 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 this Agreement. COUNTY's right to inspect survives the termination of this Agreement for a period of four years.

VIII. NOTICE AND PROGRAM REPRESENTATIVE

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
With copy to:	Wesley Wittig Executive Assistant District Attorney Program Representative Fort Bend County Justice Center 1422 Eugene Heimann Circle 301 Jackson Street (mailing) Richmond, TX 77469 (281) 341-4431 (281) 238-3366 fax <u>Wesley.Wittig@fortbendcountytexas.gov</u>

If to SCHOOL:	_____

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 PROGRAM 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, 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. 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.
4. SCHOOL in participating in PROGRAM hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
5. SCHOOL expressly acknowledges that COUNTY 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, COUNTY 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 COUNTY by Consultant 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.

X. COMPLIANCE WITH LAWS

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, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by COUNTY, SCHOOL shall furnish COUNTY with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

XI. APPLICABLE LAW

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the COUNTY's sovereign immunity.

XII. 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.

XIII. 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.

XIV. 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 this Agreement hereunder without the express written permission of COUNTY, except where required to do so by law.

XV. 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.

XVI. 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.

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

FORT BEND COUNTY

WHARTON COUNTY JUNIOR COLLEGE

Robert E. Hebert, County Judge

Signature

Date

Printed Name

Title

Date

ATTEST:

Laura Richard, County Clerk

EXHIBIT A
REQUIRED DOCUMENTS

STUDENT CONFIDENTIALITY AGREEMENT

I, _____ ("STUDENT"), acknowledge and agree to the following:

STUDENT agrees to maintain confidentiality of any information deemed confidential by the COUNTY. The undersigned, agrees not to reveal to any person or persons, except authorized individuals, any specific client information, except as required by law or as authorized by COUNTY.

STUDENT further agrees that if computer network account is made available for student purposes, that such information contained within the computer network is confidential information. STUDENT will not remove any confidential computer records from COUNTY including paper records. STUDENT agrees not to change, delete, modify, or remove any computer file that belongs to another person.

STUDENT acknowledges that any violation of this confidentiality Agreement is cause for disciplinary action, including administrative removal from the PROGRAM, and may also result in legal action by COUNTY or other individuals.

Dated this _____ day of _____, 20____

STUDENT Signature: _____

Witness Signature: _____

RELEASE OF LIABILITY

I, _____ ("Participant"), have this day released and do hereby release, acquit and forever discharge Fort Bend County, and its officers, employees, agents, servants and all persons in privity with them of any and all claims and causes of action of any kind, at law or in equity, and from any liability for any and all damages, injuries, death, costs, pain and suffering, or expenses and from any other claim arising from or which may be alleged to arise from my use of any Fort Bend County facility ("Facilities").

I, _____, intend this release of liability to cover all situations that may occur while I participate in the PROGRAM at the Facilities.

I, _____, agree to assume the risk of any personal injury, loss, or damage that may result from my participation in the PROGRAM at the Facilities. I know of no condition that would limit or preclude my participation in this PROGRAM. I understand that a photocopy of this authorization is as valid as the original.

If any part of this release is construed to be invalid by a court of law, such construction shall not invalidate the remainder of this instrument.

This Release shall extend to and be binding upon participant, its heirs, executors, administrators, successors, assigns and legal representatives. I HAVE CAREFULLY READ THIS RELEASE OF LIABILITY AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A RELEASE OF LIABILITY AND A CONTRACT BETWEEN FORT BEND COUNTY AND MYSELF AND SIGN IT OF MY OWN FREE WILL.

IN WITNESS WHEREOF, Participant hereby sets its hands to this instrument.

By: _

Signature: _____

Printed Name: _

Date: _____

PARTICIPANT CONTACT INFORMATION

Name: _____

Phone Number (H) _____ Work (W) _____ Cell (C) _____

DL: State: _____ Number: _____

Date of Birth: _____

In the event of an emergency, please contact: _

Phone Number: _____