

STATE OF TEXAS §
COUNTY OF TRAVIS §

Grant Agreement

Section 1.0 Parties

This agreement ("Agreement") is entered into by and between the TEXAS HIGHER EDUCATION COORDINATING BOARD (THECB), an agency of the State of Texas, hereinafter designated "THECB" or "Funding Agency", or "Coordinating Board" and Texas A&M University Health Science Center Bryan/College Station, hereinafter designated "Grantee", for the purpose of the **Family Medicine Residency Program**. At times, THECB and the Grantee are referred to singularly as "Party" and plurally as "Parties".

Funding Agency:	Texas Higher Education Coordinating Board 1200 East Anderson Lane Austin, Texas 78752
Grantee:	Texas A&M University Health Science Center Bryan/College Station 2900 E. 29th Street, Suite 100 Bryan, Tx 77802
Authority:	GAA, 85th Leg. III-47, Strategy F.1.1. TEC 61.502

Section 2.0 Term of Agreement

The term of this Agreement shall be from **9/01/2018** to **8/31/2019** ("Agreement Term"). Grantee must expend all funds by **8/31/2019**.

Section 3.0 Purpose and Project Description

Pursuant to Sections 61.501-61.506 of the Texas Education Code, the Coordinating Board shall disburse, through the designated program director, appropriated trustee funds to approved licensed hospitals, medical schools, or non-profit corporations to operate and maintain family medicine residency programs in Texas. These funds shall be used to educate and train residents in accredited family medicine programs and thereby encourage these residents to locate their practices in underserved urban and rural areas of the state, which may ultimately lead to improved medical care for citizens in underserved areas of the state.

Grantee shall carry out the following project ("Project" or "Agreement Project") during the Agreement Term:

For the purposes expressed herein, the Coordinating Board has approved Grantee to receive an Operational Grant for the Fiscal Year ending **August 31, 2019**. The grant amount is based on the residency program director's certification to the Coordinating Board that, as of **September 1, 2018, Twenty Nine (29)** full-time family medicine residents were physically present at the residency program and contractually obligated to train in the program in **Fiscal Year 2019** for a minimum of six months. Funding provided for residents training less than six months at the residency program will be returned to the Coordinating Board or reduced from future payments.

Grantee agrees to the following:

- 3.1** Grantee shall consult and adhere to the *Family Medicine Residency Program Guidelines for Funding Operational and Optional Rotation Programs ("Guidelines")*, incorporated herein as Appendix A.
- 3.2** Grantee shall use these funds only for the purpose of educating and training family medicine residents according to the most current iteration of the the Guidelines.
- 3.3** Grantee shall offer their residents the option of participating in a rural or public health rotation at an approved site that is mutually agreed upon and will encourage residents to establish their practices in Texas with special encouragement toward rural and urban medically underserved areas. State general revenue funding for rural and public health participants is limited and not guaranteed by the Coordinating Board.
- 3.4** Grantee shall actively seek local support funds for the residency program and shall use these funds to supplement state funds allocated to the program. Grantee shall document such local support funds in its reports to THECB as referenced in Guidelines Sections II, IV, and V.
- 3.5** Grantee shall establish a separate fund into which will be deposited all monies disbursed under this Agreement. Grantee shall account for the receipt and disbursement of all monies by generally accepted accounting practices, and in accordance, as applicable, with Texas' Uniform Grant Management Standards.
- 3.6** Grantee shall maintain a current list of all equipment purchased with Coordinating Board funds in this and all other years of program operation, a copy of which will be submitted to the Coordinating Board each year with the Annual Financial Report. Instructions for equipment disposal are provided in the Guidelines Section IV.A.2.
- 3.7** Grantee shall seek approval from the THECB, prior to transferring programmatic or fiscal ownership to another entity.

3.8 Reporting Requirements

By **December 31, 2018**, the Grantee shall provide the following:

3.8.1 Financial Reports

3.8.1.1 A completed Annual Financial Report delineating the program's **Fiscal Year 2018** actual expenditures by object of expense and documenting the unexpended balance of THECB funds from **Fiscal Year 2018**;

3.8.1.2 An internal or independent auditor's report relating to the funds for the program's previous fiscal year; and

3.8.1.3 An inventory list of all purchases made with THECB funds.

3.8.2 An Annual Written Report providing information on the operation of the program in a format specified by THECB.

Medical school-based and affiliated residency programs may use the sponsoring or affiliated institution's internal auditor to conduct the audit engagement.

Independent, unaffiliated community-based residency programs must use an independent auditor to conduct the audit engagement.

If, due to the ending date of Grantee's fiscal year, the auditor's report is not available for submission to THECB by **December 31, 2018**, the program must request an extension of the submission date from THECB. The request must be made in writing to FamilyPractice@THECB.state.tx.us no later than December 31, 2018.

If one or more of the items listed above is not submitted on a timely basis, or granted an extension, or is not accepted by THECB, THECB reserves the right to require that monies already disbursed to Grantee be returned.

In the event that THECB does not provide funding to Grantee for the next Fiscal Year, Grantee's obligation to provide a Financial Report and an Annual Written Report relating to Fiscal Year 2019 grant funding shall continue notwithstanding and shall be due on December 31, 2019.

- 3.9** To be considered for future funding, upon request by THECB and on a date in spring 2019 to be specified by THECB, the Grantee shall provide a completed Operational Grant Application, which includes a Budget Summary Grid, Chief Executive Officer Statement of Support, and a current letter of accreditation from either the Accreditation Council on Graduate Medical Education or the American Osteopathic Association. Grantee shall consult with Coordinating Board staff regarding the use of state funds in this program.

Section 4.0 Agreement Amount and Payment

The total amount to be awarded to Grantee by THECB pursuant to this Agreement shall in no event exceed the sum of One Hundred Eighty Six Thousand Seven Hundred Dollars and No Cents (\$186,700) ("Agreement Amount"). Upon execution, THECB will authorize a one-time payment to continue Grantee's activities.

Prior to the disbursement of any funds under this Agreement, Grantee shall provide a completed Roster of Residents in training detailing the gender and ethnicity of certified residents and a Certificate detailing the amount of funds remaining from previous fiscal years.

Payments under this Agreement are subject to the availability of appropriated funds. Submission of the Annual Financial Report shall constitute Grantee's certification that the Project and other obligations under the Agreement have been performed in accordance with this Agreement.

To the extent there is any advancement of funds, this is necessary to enable the Grantee to fully perform its obligations.

Section 5.0 Certain Certifications

Grantee further certifies the following:

Grantee must make full disclosure to THECB prior to entering into this Agreement if it intends to subcontract with a former employee/retiree of THECB if such former employee/retiree will participate in the Project in any way. Any former employee/retiree selected by the Grantee for subcontracting shall not perform work on the Project until prior written approval is received from THECB.

Pursuant to Section 2155.006(b) of the Texas Government Code, Grantee certifies that it has not been, during the five-year period preceding the date of this Agreement: (1) convicted of violating a

federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

HB 1295 Certification (Not applicable to state agencies): Effective January 1, 2016, THECB must comply with the "Disclosure of Interested Parties" requirements mandated by HB 1295, as implemented by the Texas Ethics Commission. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million.

Section 6.0 Terms and Conditions

6.01 Termination: As consistent with applicable law, THECB may, by written notice to Grantee, terminate this Agreement, in whole or in part. For example, THECB may terminate if: (a) THECB is not reasonably satisfied with Grantee's Project; (b) default or abandonment by Grantee occurs; or (c) Grantee fails to comply fully with any term or condition of this Agreement, through no material fault of THECB. If Grantee fails or refuses to perform its obligations under this Agreement, THECB may exercise any and all rights as may be available to it by law or in equity.

6.01.1 Non-Appropriation: As consistent with applicable law, this Agreement may be terminated immediately if funds allocated to THECB should become reduced, depleted, or otherwise unavailable (including, but not limited to, lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations) during the Agreement Term and to the extent that THECB is unable to obtain additional funds for such purpose.

6.01.2 Effect of Termination: As consistent with applicable law, upon any termination, all indemnities, including without limitation those set forth in this Agreement, as well as Agreement provisions regarding confidentiality, records retention, right to audit, and dispute resolution, shall survive the termination of this Agreement for any reason whatsoever and shall remain in full force and effect. In the event of any termination, Grantee shall, unless otherwise mutually agreed upon in writing, cease all Project work immediately upon the effective date of termination, except such Project Work that THECB deems are necessary to wind-up in a cost-effective manner. THECB shall be liable to Grantee for that portion of the Project work authorized by THECB and which have been completed prior to the effective date of termination, provided that THECB shall not be liable for any work performed that is not acceptable to THECB and/or does not meet Agreement requirements. In the event of termination, THECB reserves the right to negotiate another award if it is in the state's best interest.

6.02 Amendment: This Agreement may be modified only by written amendment executed by the Parties hereto. Fees and expenses included as part of an amendment must be pre-approved by THECB to be eligible for payment and reimbursement.

- 6.03 Indemnification (Not applicable to state agencies):** To the extent allowed by law, Grantee shall defend, indemnify, and hold harmless the State of Texas, its officers, and employees, and THECB, its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys' fees and court costs, arising out of, connected with, or resulting from any negligent acts or omissions of Grantee or any agent, employee, subcontractor, or supplier of Grantee in the execution or performance of this Agreement. Grantee shall coordinate its defense with the Texas Attorney General as requested by THECB.

This subsection is not intended to and shall not be construed to require Grantee to indemnify or hold harmless the State of Texas or THECB for any claims or liabilities resulting solely from the negligent acts or omissions of THECB or its employees.

- 6.04 Intellectual Property Indemnification (Not applicable to state agencies):** Additionally, if Grantee requires or desires to use any design, trademark, device, material, software, or process covered by letters of patent or copyright and which is selected by Grantee, Grantee, to the extent allowed by law, shall indemnify, defend and hold harmless the State of Texas, THECB, as well as officers, agents, and employees of THECB, from any liability, for any and all claims, demands, suits or actions brought by any third party, including any subcontractors of Grantee, and related fees (including reasonable attorney's fees) based on any claims for infringement by reason of the use of any such trademark, copyrighted material, or patented design, device, material, software, or process in connection with the Project agreed to be performed and shall indemnify (to the extent allowed by law) and/or reimburse the State of Texas, THECB, as well as officers, agents, and employees of THECB, from any costs, fees (including reasonable attorney's fees), expenses, royalty/ies or damages which the State of Texas, THECB, as well as officers, agents, and employees of THECB may be obligated to pay by reason of such infringement at any time during the performance of or after completion of this Agreement. Grantee shall pay all reasonable costs of the State's and THECB's legal counsel and shall also pay costs of multiple legal counsels, if required to avoid conflicts of interest. Grantee represents and warrants that it has determined what licenses, patents and permits are required under this Agreement and has lawfully acquired all such licenses, patents, and permits. If THECB's use of the software becomes subject to a claim, or is likely to become subject to a claim in the sole opinion of THECB, Grantee shall, at its sole expense (1) procure for THECB the right to continue using such software under the terms of this Agreement or (2) replace or modify the software so that it is non-infringing.

- 6.05 Sovereign Immunity:** The Parties stipulate and agree that no provision of, or any part of this Agreement between THECB and Grantee, or any subsequent change order, amendment, or other Agreement modification shall be construed: (1) as a waiver of the doctrine of sovereign immunity or immunity from suit as provided for in the Texas Constitution and the Laws of the State of Texas; (2) to extend liability to THECB or to Grantee (if Grantee is another Texas state agency) beyond such liability provided for in the Texas Constitution and the Laws of the State of Texas; or (3) as a waiver of any immunity provided by the 11th Amendment or any other provision of the United States Constitution or any immunity recognized by the Courts and the laws of the United States.

- 6.06 Assignment, Delegation, or Subcontracting:** Unless as otherwise provided for in the Agreement, no contractual rights, interest, or obligation shall be assigned, delegated, or subcontracted by Grantee without prior written approval of THECB. No assignment, delegation, or subcontract approved by THECB shall relieve Grantee of any obligation or responsibility under this Agreement. It is THECB's intent that to the extent subcontracting is approved by THECB, Grantee make a good faith effort to subcontract with Historically Underutilized Business(es) (HUB) during the performance of this Agreement. The goal of the HUB program is to promote full and equal business opportunities for all businesses contracting with the State of Texas.

- 6.07 Right to Audit; Records Retention:** Grantee understands that acceptance of funds under this Agreement, or indirectly through a subcontract under this Agreement, acts as acceptance of the authority of the State Auditor's office, THECB or any successor agency, as well as any external auditors selected by the State Auditor's office, THECB or any auditors selected by the United States (collectively referred to as "Audit Entities"), to conduct an audit or investigation in connection with those funds. Grantee further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including promptly providing all records requested. Grantee will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Grantee and the requirements to cooperate is included in any subcontract it awards.

Grantee shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Grantee in connection with the Agreement Project. These records and accounts (which includes all receipts of expenses incurred by Grantee) shall be retained by Grantee and made available for inspecting, monitoring, programmatic or financial auditing, or evaluation by THECB and by others authorized by law or regulation to do so for a period of not less than seven (7) years from the date of completion of the Agreement Project or the date of the receipt by THECB of Grantee's final claim for payment or final expenditure report or until a resolution of all billing questions in connection with this Agreement, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Project provided in this Agreement. Grantee and any subcontractors shall provide any Audit Entities with any information the entity deems relevant to any monitoring, investigation, evaluation, or audit.

Grantee's failure to comply with this subsection (Right to Audit; Records Retention) shall constitute a material breach of this Agreement and shall authorize THECB and the State of Texas to immediately assess appropriate damages for such failure. THECB reserves the right to require the reimbursement of any over-payments determined as a result of any audit or inspection of records on work performed under this Agreement. Grantee shall reimburse THECB for any over-payments within thirty (30) calendar days of receipt of THECB's written notice.

- 6.08 Family Code Applicability (Not applicable to state agencies or non-profits):** By signing this Agreement, Grantee certifies that under Section 231.006, Family Code, Grantee is not ineligible to receive payment under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld or recouped if this certification is inaccurate. If this certification is shown to be false, Grantee is liable to THECB for attorneys' fees, the costs necessary to complete the Agreement, including the cost of advertising and awarding a second contract, and any other damages provided by law or Agreement.

6.09 Release of Information by GranteeAwarded Applicant

FERPA. Grantee shall NOT release any data that is not FERPA compliant. Failure to follow the guidelines established may result in immediate termination of the Contract/Grant.

Prior Notification. Publication in scholarly journals is encouraged; however, Grantee agrees to notify the Coordinating Board prior to the publication of any information, including results, findings or reports, regarding the activities being conducted under any Contract/Grant. Grantee shall ensure the following statements are included in any published work:

This work was supported in whole or in part by a grant from the Texas Higher Education Coordinating Board (THECB). The opinions and conclusions expressed in this document

are those of the author(s) and do not necessarily represent the opinions or policy of the THECB.

Potential Publication in News Media. (a) Should Grantee be contacted by any news media about any information, including results, findings, or reports regarding activities being conducted under any Contract/Grant, Grantee shall notify its Program Contact, listed under Section 6.34, when possible, before communicating with news media. When not possible, Grantee shall notify its Program Contact immediately after concluding the communication with the news media since the Coordinating Board is likely, based on experience, to also be contacted by the news media.

(b) Should Grantee desire to contact any news media about any information, including results, findings, or reports regarding activities being conducted under any Contract/Grant, Grantee shall notify its Program Contact before communicating with news media.

Any written publication shall be sent electronically to the Program Contact.

- 6.10 Applicable State Funding Source Laws:** Grantee agrees to follow the Uniform Grant Management Standards, including all of its applicable conditions and State Assurances ("UGMS") (UGMS is herein incorporated for all purposes into this Agreement). All applicable conditions and uniform assurances can be found at <http://governor.state.tx.us/files/state-grants/UGMS062004.doc>.
- 6.11 Monitoring:** Pursuant to this Agreement and other applicable law, desk reviews and/or on-site monitoring reviews may be conducted by THECB to determine compliance with the approved Application and the applicable statute(s), law(s), regulations, and guidelines.
- 6.12 Forms, Assurances, and Reports:** Grantee shall timely file with the proper authorities all forms, assurances and reports required by federal or state laws and regulations. THECB shall be responsible for reporting to the proper authorities any failure by Grantee to comply with the foregoing laws and regulations coming to THECB's attention, and may deny reimbursements or recover payments made by THECB to Grantee in the event of Grantee's failure to so comply.
- 6.13 Insurance (Not applicable to state agencies):**
For private entities, Grantee agrees to maintain at its expense insurance as required for the work being performed under this Agreement. Such insurance will protect THECB from all claims for bodily injury, death, or property damage which may arise out of or result from the performance of the Grantee's obligations under the Agreement. Grantee represents and warrants that at THECB's request, it will, within five (5) business days of receiving THECB's request, provide THECB with current certificates of insurance or other proof acceptable to THECB of the following insurance coverage: Standard Workers Compensation Insurance, covering all personnel who will provide work under this Agreement; Commercial General Liability Insurance, personal injury and advertising injury with, at a minimum, the following limits: \$500,000.00 minimum each occurrence; \$1,000,000.00 per general aggregate. Grantee represents and warrants that all of the above coverage is with companies licensed in the state of Texas with at least an "A" rating from A. M. Best Company, and authorized to provide the requisite coverage. Grantee also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to THECB. Grantee represents and warrants that it shall maintain the above insurance coverage during the term of this Agreement. Grantee is not relieved of any liability or any other obligations assumed under this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.
- 6.14 Public Information Act, Confidentiality, and FERPA:**

6.14.1 PIA Provision for Non-State Agencies: Notwithstanding any provisions of this Agreement to the contrary, Grantee understands that as a Texas state agency, THECB is subject to and will comply with the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Grantee will cooperate with THECB in the production of documents responsive to any such requests under the Public Information Act. Grantee is required to make any information created or exchanged with the state pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. THECB will make a determination whether to submit a Public Information Act request to the Attorney General. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. To the extent Grantee is subject to the Public Information Act, Grantee will notify THECB's General Counsel within 24 hours of receipt of any third party requests for information it receives relating to this Agreement.

6.14.2 PIA Provision for State Agencies: Notwithstanding any provision of this Agreement to the contrary, the Parties understand that as Texas state agencies, they are subject to and will comply with the Texas Public Information Act, Government Code, Chapter 552 as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. The Parties will cooperate with each other in the production of documents responsive to any such requests under the Public Information Act. The Party receiving a request under the Public Information Act will make a determination whether to submit a Public Information Act request to the Attorney General. This Agreement and all data and other information generated or otherwise obtained in its performance may be subject to the Texas Public Information Act. The Party receiving a request under the Public Information Act will notify the other Party's General Counsel within 24 hours of receipt of any third party requests for information it receives relating to this Agreement.

6.14.3 Confidentiality: Grantee agrees to maintain the confidentiality of information received from THECB and the State of Texas during the performance of this Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Grantee will not disclose any information to which it is privy under this Agreement without the prior written consent of THECB. If Grantee is not a state agency, Grantee, to the extent allowed by law, will indemnify and hold harmless the State of Texas, its officers and employees, and THECB, its officers and employees for any claims for damages that arise from the disclosure by Grantee of information held by the State of Texas or THECB to which Grantee is privy under this Agreement.

6.14.4 FERPA: Grantee agrees to comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g, and the implementing federal regulations, 34 CFR Part 99. Grantee agrees (1) to protect any confidential student information it receives or accesses that could make a student's identity traceable, and (2) any confidential data analysis or report shall not be disclosed to any third party without THECB's prior written consent.

6.15 Felony Criminal Convictions: Grantee represents and warrants that Grantee has not and Grantee's employees who will be participating in the Project have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Grantee has fully advised THECB as to the facts and circumstances surrounding the conviction and has received THECB's prior written consent to proceed.

- 6.16 Applicable Law and Venue:** This Agreement and any incorporated documents shall be governed by and construed in accordance with the laws of the State of Texas. The exclusive venue of any suit brought concerning the Agreement and any incorporated documents is fixed in any Court of competent jurisdiction in Travis County, Texas, and all payments under the Agreement shall be due and payable in Travis County, Texas.
- 6.17 Grantee Responsibilities:** Grantee shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, if applicable, workers compensation laws, compensation statutes and regulations, and licensing laws and regulations. When requested to do so by THECB, Grantee shall furnish THECB with satisfactory proof of its compliance. Grantee shall be responsible for damage to THECB's equipment, and/or the workplace and its contents, by its, or subcontractors' work, negligence in work, personnel, and equipment. Grantee shall be responsible and liable for the safety and health of its employees and contractors while they are performing work for THECB under this Agreement. Grantee shall provide all labor and equipment necessary to furnish the goods or perform the Project. All employees of Grantee shall be a minimum of 18 years of age and experienced in the type of work to be performed. Grantee shall permit no visitors or relatives of Grantee's employees and contractors on THECB's state property unless they also are bona fide employees or contractors of Grantee.
- 6.18 Key Personnel:** Grantee shall assign only qualified personnel to this Agreement. Grantee, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified to accomplish the required Project. Grantee shall notify THECB Contact of any change in Program Director or Program Coordinator.
- 6.19 Debts and Delinquencies to the State:** The Comptroller of the State of Texas is prohibited from issuing any payment to a person or entity that has been reported as having an indebtedness or delinquency to the state. Grantee agrees that, to the extent Grantee owes any debt or delinquent taxes to the State of Texas, any payments or other amounts Grantee is otherwise owed under this Agreement shall be applied toward the debt or delinquent taxes until the debt or delinquent taxes are paid in full. Grantee agrees to comply with all applicable laws regarding satisfaction of debts or delinquencies to the State of Texas.

Grantee may verify their account status by accessing the Comptroller's website at: <http://ourcpa.cpa.state.tx.us/coa/Index.html>. If the account status message is "on vendor hold," the Grantee is advised to contact the Comptroller's Warrant Hold Section in the Division of Revenue Accounting at 1-800-531-5441.

- 6.20 Conflict of Interest:** Grantee represents and warrants that Grantee, its principals, employees, or subcontractors have no potential conflict of interest in carrying out the Project under this Agreement, and that the provision of the Project under this Agreement does not create an appearance of impropriety. Failure to disclose a conflict of interest may be cause for termination of this Agreement.
- 6.21 Financial Interests; Gifts:** Grantee represents and warrants that neither Grantee nor any person or entity that will participate financially in this Agreement has received compensation from THECB or any agency of the State of Texas for participation in preparation of specifications for this Agreement. Grantee represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, travel, favor or service to any public servant or employee in connection with this Agreement.

- 6.22 Grantee's Representations:** To the extent allowed by law, Grantee hereby covenants, represents and warrants that Grantee (including, for purposes of this section, its employees, consultants, subcontractors, and agents) (1) have the technical expertise and general skills necessary to carry out the Project competently and professionally in accordance with this Agreement, (2) is not a party to or bound by any agreement, obligation, or understanding which restricts or limits in any way Grantee's right to enter into this Agreement or Grantee's right or ability to perform Grantee's obligations under this Agreement, (3) shall not knowingly use the trade secrets, intellectual property rights, copyrights, or other proprietary rights of any third party in the performance of Grantee's obligations under this Agreement without having first lawfully obtained the right, in writing, to do so, and (4) has the necessary equipment, facilities and workers to perform Grantee's obligations under this Agreement.
- 6.23 Antitrust:** Grantee represents and warrants that neither Grantee nor any firm, corporation, partnership, or institution represented by or affiliated with Grantee, or anyone acting for such firm, corporation, partnership, or institution has violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws.
- 6.24 Deceptive Trade Practices; Unfair Business Practices:** Grantee represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice, in any administrative hearing or court suit, and further, that if it has been the subject of either or both such allegations, that Grantee has not been found to be liable for any such practices in such proceedings. Grantee certifies that it has no officers who have served as officers of other entities which have been the subject of allegations of Deceptive Trade Practices Act conduct, violations thereof, or allegations of any unfair business practices, in an administrative hearing or court suit and further, that if such officer(s) has been the subject of either or both such allegations, that such officers have not been found to be liable for any such practices in such proceedings.
- 6.25 Equal Opportunity:** Grantee represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, religion, political belief, sex, age, or disability in the performance of this Agreement.
- 6.26 Employment Provisions:** Grantee and its employees or agents shall not be deemed or construed to be the employees or agents of THECB for any purposes whatsoever. Grantee agrees that it shall have complete responsibility in the area of employment law and relations regarding its own employees, contractors, and agents, including but not limited to: wrongful discharge lawsuits, unemployment issues, workers' compensation, employment taxes, and reimbursement due to losses in these areas. Consistent therewith, Grantee agrees that it shall make its own arrangements to provide its employees with all necessary employee benefits, including unemployment and workers' compensation benefits, and THECB is, in no way, a party to such arrangements. Regarding its employees, Grantee shall have the sole authority to hire, fire, transfer, train, evaluate, discipline, pay and assign work.
- 6.27 System for Award Management (SAM):** THECB is federally mandated to adhere to the directions provided in the President's Executive Order 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it. Grantee certifies that Grantee is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
- 6.28 Suspension and Debarment:** Grantee certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily

excluded from participation in this transaction by any federal, state or local government entity. If Grantee is unable to certify to any of the statements in this certification, such prospective participant shall provide a written explanation to THECB for its review prior to execution of this Agreement by either Party.

- 6.29 Boycotting Israel:** In accordance with Government Code, Section 2270.002, the State of Texas may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it:
- (1) does not boycott Israel; and
 - (2) will not boycott Israel during the term of the contract.

- 6.30 Eligibility/Authorization to Work in the United States:** Grantee shall ensure that all personnel provided to carry out the Project under this Agreement possess proof of eligibility/authorization to work in the United States in compliance with the Immigration Reform and Control Act of 1986, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. Grantee shall maintain written records on all personnel provided under the Agreement and shall provide such records to THECB upon request. Failure to maintain and provide records upon request shall represent a material breach of this Agreement and THECB shall have the right to terminate the Agreement for cause. Grantee shall ensure this section is included in all subcontracts it is authorized by THECB to enter.

- 6.31 Drug Free Work Place:** The Grantee shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Grantee shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

- 6.32 No Commissions:** THECB shall not pay any commissions to Grantee under this Agreement.

- 6.33 Contacts:** Unless otherwise agreed to in writing by the Parties, primary contacts for routine communications related to the carrying out of the Project under this Agreement are as follows:

THECB Staff	Grantee Staff
Program Manager	Program Director
Suzanne Pickens	Rae Adams, M.D.
Academic Quality and Workforce Division	

- 6.34 Applicable Taxes:** This Agreement shall not be construed so as to supersede the laws of the United States or the State of Texas that accord the State of Texas, THECB, and all departments, agencies, and instrumentalities of the State of Texas exemptions from payment(s) of all taxes of whatever kind. More specifically, to the extent permitted by applicable law, THECB shall not directly or indirectly be liable for taxes of any kind. Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from this Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. To the extent permitted by applicable law, THECB shall provide all applicable tax exemption certificates upon the Grantee's request.

- 6.35 Prohibition on Use of Funds for Lobbying:** Grantee represents and warrants that THECB's payments and Grantee's receipt of appropriated or other funds under this Agreement are not prohibited by Texas Government Code, Sections 556.005 or 556.008.

- 6.36 Eligibility:** Under Section 2155.004, Government Code, Grantee certifies that the individual or business entity named herein is not ineligible to receive this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 6.37 Smoking Policy:** THECB has a policy of being a smoke-free agency. The policy reflects THECB's commitment to providing a healthy environment for all THECB employees and visitors. This policy prohibits smoking within any state building. Grantee, by acceptance of this Agreement, agrees to abide by this policy when on the property of THECB.
- 6.38 Notice:** All notices required to be given hereunder shall be in writing and shall be given by personal delivery thereof or by overnight courier or by certified or registered mail, postage prepaid, return receipt requested, to the office shown below. Any notice served shall be deemed given on the date of hardcopy original document delivery.

THECB Staff	Grantee Staff
Texas Higher Education Coordinating Board Office of Contract Management Services P.O. Box 12788 Austin, Texas 78711-2788	Rae Adams Texas A&M University Health Science Center Bryan/College Station 2900 E. 29th Street, Suite 100 Bryan, Tx, 77802

- 6.39 False Statements; Breach of Representations:** By signature to this Agreement, Grantee makes all the representations, warranties, guarantees, certifications and affirmations included in this Agreement. If Grantee signs this Agreement with a false statement or it is subsequently determined that Grantee has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Agreement, Grantee shall be in default under this Agreement and THECB may terminate or void this Agreement for cause and pursue other remedies available to THECB under this Agreement and applicable law.
- 6.40 Severability and Waiver:** The invalidity, illegality, or unenforceability of any provisions of this Agreement shall in no way affect the validity, legality, or enforceability of any other provisions.

Each and every right granted to the Parties hereunder or under any other document delivered hereunder or in connection herewith, or allowed them by law or equity, shall be cumulative and may be exercised from time to time. Failure by THECB or Grantee at any time to require strict performance of any contractual provision or obligation contained herein shall not constitute a waiver or diminish the rights of either party thereafter to demand strict compliance. Neither THECB's review, approval, acceptance of, nor payment for any of the Project provided in this Agreement shall be construed to operate as a waiver of any rights under the Agreement, or of any cause of action arising out of the performance of the Project required by the Agreement.

- 6.41 Entire Agreement and Order of Precedence:** This Agreement consists solely of the following documents, and, in the event of conflicts or inconsistencies between this Agreement and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of precedence: (1) Amendments to this Agreement (if any), (2) the Agreement (including its Exhibits, if any), (3) THECB's Request for Applications, if any (and its Addenda, if any), and (4) Grantee's Application, if any (and its Addenda, if any). This Agreement (including its Exhibits, if any) contains the final, complete and exclusive understanding of the Parties, and supersedes all prior contemporaneous, oral or written understandings, representations, and negotiations between Parties relating to the subject matter of this Agreement. The Parties further agree

that this Agreement may not in any way be explained or supplemented by a prior or existing course of dealings between the Parties, by usage of trade or custom, or by any prior performance between the Parties pursuant to this Agreement or otherwise.

Section 7.0 Signatures:

By signature hereon, the individual(s) below represent and warrant that they are duly authorized representative(s) of the Parties and have the authority to bind the Parties in this Agreement.

Rae Adams, M.D.
Program Director
Texas A&M University Health Science Center Bryan/Collins Station

Date

Jerrery I. Burton, CPA
Associate Vice President for Finance & Administration and CFO
Texas A&M University Health Science Center

Date

Rex Peebles
Assistant Commissioner
Academic Quality and Workforce
Texas Higher Education Coordinating Board

Date