

ATHLETIC TRAINER SERVICE AGREEMENT BETWEEN
UNIVERSITY OF TEXAS MEDICAL BRANCH (UTMB HEALTH)
AND
GALVESTON INDEPENDENT SCHOOL DISTRICT (GISD)
AND
GALVESTON COLLEGE (GC)

I. INTRODUCTION

This Athletic Trainer Service Agreement ("Agreement") made and entered into this 1st day of August 2023 by and between THE UNIVERSITY OF TEXAS MEDICAL BRANCH AT GALVESTON, AN INSTITUTION OF THE UNIVERSITY OF TEXAS SYSTEM AND AN AGENCY OF THE STATE OF TEXAS ("UTMB HEALTH") and GALVESTON INDEPENDENT SCHOOL DISTRICT ("SCHOOL") and GALVESTON COLLEGE ("GC").

II. PURPOSE

This agreement is to establish athletic coverage for School and GC's sports seasons.

III. UNIVERSITY OF TEXAS MEDICAL BRANCH RESPONSIBILITIES

Under this Agreement, the following will be provided:

UTMB Health agrees to provide funding support in the amount of \$129,000 per year to support hiring athletic trainers, as outlined in Exhibit A — Payment Timeline, attached and incorporated by reference hereto. Trainers will be used to support UIL sporting events for high school, junior high school, and Galveston College athletic practices and events. UTMB Health will provide two dates of free sports physicals for Galveston ISD annually in the Spring; these dates are to be decided between UTMB physicians and GISD Head Athletic Trainer.

IV. SCHOOL DISTRICT AND GALVESTON COLLEGE RESPONSIBILITIES

In exchange for the above services, School and GC agrees to provide UTMB Health with the following ("School Marketing Opportunities"):

- a. School and GC agree to recognize the services provided by UTMB Health in School athletic programs with a full page ad in each program.
- b. School and GC agree that UTMB Health is the exclusive provider of Sports Medicine Services and shall designate UTMB Health as the exclusive Official Sports Medicine

Provider and Official Healthcare Provider of athletics in all sports print media and digital platforms.

- c. School and GC agree to allow UTMB Health to place signage at athletic venues on the campus of the schools and athletic areas. The specific type and size of the signage shall be mutually agreed upon by the School and UTMB Health.
- d. School and GC agree to permit student trainers to wear clothing bearing UTMB Health's sponsorship logo whenever providing services under the agreement.
- e. When necessary, School and GC agree to utilize UTMB Health logo on forms and distribution of correspondence from the Athletic trainer to athletes, coaches, and parents.
- f. School and GC agree to provide opportunities for UTMB Health to promote screenings, educational events, seminars, and speaker bureaus.
- g. The School will provide UTMB Health a 15 second video commercial that will be played no less than three (3) times at every sporting event in the Kermit Courville Stadium as well as before and after each event. School has the opportunity to provide alternate commercials throughout the year.
- h. At events of UTMB Health's choice, upon School or GC approval, UTMB Health may distribute fliers or set up a table with information to be presented to the public at a minimum of six events, may include football, soccer, track and field, baseball, or other stadium events.
- i. As an existing scoreboard sponsor with GISD, the School will give UTMB Health first right of refusal for advertising space on the scoreboard when the current advertising contract expires.

V. TERM

This Agreement shall take effect on August 1, 2023 and shall terminate on July 31, 2025, unless sooner terminated as provided under this Agreement. The School and GC will give UTMB Health first right of refusal to renew the contract upon term expiration.

VI. TRANSFERABILITY

Neither party may transfer or assign this Agreement, in whole or in part, without the prior written consent of the other party.

VII. ENTIRE AGREEMENT; AMENDMENT

This Agreement constitutes the entire Agreement and understanding of the parties with respect to the matters contained herein. This Agreement shall not be waived or altered, in whole or in part, except in writing signed by the parties.

VIII. GOVERNING LAW AND VENUE

The Agreement shall be governed by, and interpreted in accordance with, the internal laws of the State of Texas without giving effect to its conflict of law provisions. Galveston County shall be the sole and exclusive venue for any litigation, special processing or other proceeding as between the parties that may be brought under, or arises out of, this Agreement.

IX. NOTICE

All notices and other communications required or permitted pursuant to this Agreement shall be in writing, addressed to the party at the address set forth at the end of this agreement, or to such other address as either party may designate from time to time. All notices and other communications shall be mailed by registered or certified mail, return receipt requested, postage prepaid, or transmitted by hand delivery or telegram, facsimile or other means of electronic submission.

X. BINDING EFFECT

The Agreement is binding on the parties and, to the extent such assignment is permitted by this Agreement, their successors and assigns. There are no third-party beneficiaries of this Agreement.

XI. WAIVER

Failure to insist upon strict compliance with any of the terms of this Agreement by any of the parties hereto shall not be deemed to be a continuous waiver in the event of any future breach or waiver of any condition hereunder.

XII. INDEMNIFICATION

To extent permitted under the laws and Constitution of the State of Texas, each party will indemnify and hold the other party, its employees, agents, officers, directors and shareholders, harmless from any and all loss or liability, directly arising out of any failure to perform this Agreement in accordance with its terms or arising out of any intentional act, willful misconduct, negligence, medical or professional malpractice, or other act or omission of such party, its employees or agents in connection with this Agreement.

XIII. EXECUTION

This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which shall constitute but one (1) Agreement.

XIV. FORCE MAJEURE

The parties to this Agreement shall be excused from performance of their obligations under this Agreement where they are prevented from so performing by wars, acts of enemies, suffices, fires, floods, acts of God or, without limiting the foregoing, by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, the party is unable to prevent. All parties shall perform such parts of aspects of their obligations that are not interfered with by these causes.

XV. SURVIVAL

The obligations and/or rights of the parties contained in the Governing Law and Venue, Binding Effect, and Survival shall survive the termination of this Agreement.

XVI. PROTECTION OF CONFIDENTIAL INFORMATION

Each party shall retain the other Party's Confidential Information in the strictest confidence and shall not disclose such Confidential Information to any person, third party, contractor, agent, assign, company, or other person or entity without the other Party's prior express written consent. Notwithstanding the foregoing, each Party may disclose the other Party's Confidential Information to: (i) any of its directors, officers and employees, or (ii) to legal counsel, auditors and any other consultants specified in a writing signed by both Parties; provided that the recipient(s) has (a) need to know the information, (b) has been advised of the confidential nature of the information, and (c) is under an obligation of confidentiality and an obligation to use the information solely to assist the Party it represents in performing its obligations under or realizing the benefits contemplated for such Party under this agreement.

XVII. RESTRICTED USE

Each party, including any parent, subsidiary, affiliate, agent, consultant or otherwise agrees:

- a. To use the Confidential Information only for the purposes of this Agreement and as expressly permitted by this Agreement; and
- b. Not to make copies of or store Confidential Information or any part thereof except as expressly permitted by this Agreement,
- c. Violations of either of the above claims shall constitute grounds for immediate termination of this Agreement.

XVIII. BREACH OF CONTRACT CLAIMS

To the extent that Chapter 2260, Texas Government Code, is applicable to the Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by UTMB Health and School or GC to attempt to resolve any claim for breach of contract made by School or GC that cannot be resolved in the ordinary course of business. The chief business office of UTMB Health will examine School or GC's claim and any counterclaim and negotiate with School or GC in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Agreement by UTMB Health nor any other conduct, action or inaction of any representative of UTMB Health relating to the Agreement constitutes or is intended to constitute a waiver of UTMB Health's or the state's sovereign immunity to suit; and (ii) UTMB Health has not waived its right to seek redress in the courts.

XIX. LOSS OF FUNDING

Performance by UTMB Health under the agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by The University of Texas System Board of Regents. If the legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, UTMB Health will issue written notice to School and GC and UTMB Health may terminate the Agreement without further duty or obligation hereunder. School and GC acknowledge that appropriation, allotment, and allocation of funds are beyond control of UTMB Health.

XX. LIMITATIONS

The parties are aware that there are constitutional and statutory limitations on the authority of UTMB Health (a State of Texas Agency) to enter into certain terms and conditions of the agreement, including, but not limited to, those terms and conditions relating to liens on UTMB Health's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies,

requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the limitations will not be binding on UTMB Health except to the extent authorized by the laws and constitution of the State of Texas.

XXI. TERMINATION OF CONTRACT — NON-COMPLIANCE

Either party may terminate the contract, if either fails to perform at the level specified in the document by giving at least thirty (30) days prior written notice of termination. The procedure outlined below shall be followed prior to a being terminated:

- a. Issue warning letter with outline of the violations and 15 days to correct the issue.
- b. Issue a letter of intent to cancel the contract if the problem is not resolved by mutually agreed upon date.
- c. Issue letter to cancel contract.

XXII. TERMINATION FOR CONVENIENCE - NO CAUSE TERMINATION

Either party may terminate the Agreement, without cause, for convenience with 60 days' written notice to the other party prior to June 1 of the then current school year. If the Agreement is terminated as provided herein, either party that has conveyed value to the other will be reimbursed for the actual value conveyed to the other party as of the date of termination; actual value shall be based upon the terms of this Agreement, and determined through mutual agreement, as a result of which the parties further agree to produce a written document representing such actual value to be reimbursed by one party to the other.

XXIII. TERMINATION FOR CAUSE

Some circumstances may warrant cancellation of contract for an offense without using all or any of the steps for poor or non-performance. This would be when a circumstance is severe and warning letters would not meet the gravity of the circumstance.

[signatures next page]

AUTHORIZING CERTIFICATE

This Agreement and any successful proposal shall constitute the final contract between School, GC, and UTMB Health. No contract/agreement terms required by UTMB Health shall be considered by School or GC that are not submitted within the proposal. UTMB Health understands any subsequent document to School or GC to accept/sign will not be considered or accepted by School or GC.

In compliance with the agreement, in consideration of the detailed description attached hereto, and subject to all conditions thereof, the undersigned agrees, if its Proposal is accepted within the time stipulated above, to furnish any or all of the items upon which prices are quoted in accordance with the specifications applying at the price set opposite each item.

IN WITNESS WHEREOF, the undersigned have duly executed this agreement or have caused this agreement to be duly executed as of the day and year first written above.

UTMB Health

Signature: *C. Aaron LeMay*
C. Aaron LeMay, CPA, JD, MSEd

Date 8/16/2023

Title: Interim, Chief Business and Finance Officer
VP, Financial Accounting & Reporting

School District/School

Signature: *Matthew Neighlow*

Date 8/17/2023

Title: Superintendent

Galveston College

Signature:

Date _____

Title:

EXHIBIT A — PAYMENT TIMELINE

Price per (1) Athletic Trainer services, per school year, as described in the Agreement:

▪ Quarter 1 (August-October):	\$32,250
▪ Quarter 2 (November-January):	\$32,250
▪ Quarter 3 (February-April):	\$32,250
▪ Quarter 4 (May-July):	<u>\$32,250</u>
	\$129,000

Taxpayer Identification Number: 74-6000949