

AGREEMENT BETWEEN HARRIS COUNTY AND THE ROSE

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Agreement (“Agreement”) is made and entered into by and between **Harris County** (“County”), a body corporate and politic under the laws of the State of Texas, on behalf of **Harris County Public Health** (“HCPH”), and **The Rose**. The County and The Rose may each be referred to herein collectively as the “Parties” and individually as a “Party.”

RECITALS

WHEREAS, the County would like to enter into an agreement with The Rose to provide preventative mammography services and breast cancer awareness education to County community members through the HCPH Wellness on Wheels events in Precincts 1-4 in 2024; and

WHEREAS, the Wellness on Wheels events offer free or low-cost HCPH mobile health services and programs to priority communities in need.

NOW, THEREFORE, in consideration of the mutual promises herein, the County and The Rose agree to the following terms and conditions:

I. SCOPE OF AGREEMENT

A. The Rose’s Responsibilities

- (i) Participate in Wellness on Wheels events, delivering on-site mammography services and breast cancer awareness and prevention education to community members through a mobile mammography health coach;
- (ii) Participate in helping promote Wellness on Wheels event screening opportunities among the priority communities;
- (iii) Maintain communication with HCPH to ensure the seamless coordination and integration of The Rose mobile mammography health services and programs into the Wellness on Wheels events;
- (iv) Maintain open communication and provide timely information about changes affecting participation in the Wellness on Wheels event; and
- (v) Collaborate to create a referral process to schedule mammogram appointments for the Wellness on Wheels events.

B. County’s Responsibilities

- (i) Organize, coordinate, and execute the Wellness on Wheels events, including identifying suitable locations and developing comprehensive event plans encompassing logistics, operations, schedules, and coordination of all aspects of the event;

- (ii) Conduct promotional and advertisement efforts to raise awareness of the Wellness on Wheels events and services among the priority communities;
- (iii) Provide The Rose details about Wellness on Wheels events, including venue identification and event dates, and maintain regular communication to provide event updates on event progress and address changes or concerns;
- (iv) Maintain open communication and provide timely information about changes affecting participation in the Wellness on Wheels event; and
- (v) Collaborate to create a referral process to schedule mammogram appointments for the Wellness on Wheels events.

II. TERM OF AGREEMENT

The term of this Agreement shall commence upon final execution and shall expire on December 31, 2024, unless terminated earlier in accordance with Article III.

III. RIGHT OF TERMINATION

Either County or The Rose may terminate its participation in this Agreement at any time, for any reason, by simply notifying the other party in writing of its intent to cancel the Agreement.

IV. LIMITATION OF APPROPRIATION

The Rose understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the County is not currently appropriating any funds through this Agreement.

V. INDEMNIFICATION

THE ROSE SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ALL CLAIMS AND LIABILITY DUE TO THE ACTIVITIES OF THE ROSE, OR ANOTHER ENTITY OVER WHICH THE ROSE EXERCISES CONTROL, PERFORMED UNDER THIS AGREEMENT AND THE ROSE RESULT FROM ANY NEGLIGENT ACT, ERROR, OR OMISSION; INTENTIONAL TORT; INTELLECTUAL PROPERTY INFRINGEMENT; OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER; COMMITTED BY THE ROSE OR ANOTHER ENTITY OVER WHICH THE ROSE EXERCISES CONTROL.

THE ROSE SHALL ALSO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY THE COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES WHICH MIGHT BE IMPOSED ON THE COUNTY AS THE RESULT OF SUCH ACTIVITIES BY THE ROSE OR ANOTHER ENTITY OVER WHICH THE ROSE EXERCISES CONTROL.

THE ROSE SHALL INDEMNIFY, DEFEND, AND HOLD THE COUNTY HARMLESS

FROM ANY AND ALL LIABILITY, EXPENSE, JUDGMENT, SUIT, CAUSE OF ACTION, OR DEMAND FOR PERSONAL INJURY, DEATH, OR DIRECT DAMAGE TO TANGIBLE PROPERTY WHICH MAY ACCRUE AGAINST THE COUNTY TO THE EXTENT IT IS CAUSED BY THE NEGLIGENCE OF THE ROSE OR ANOTHER ENTITY OVER WHICH THE ROSE EXERCISES CONTROL, WHILE PERFORMING SERVICES UNDER THIS AGREEMENT. COUNTY WILL GIVE THE ROSE PROMPT, WRITTEN NOTICE OF ANY SUCH CLAIM OR SUIT. COUNTY SHALL COOPERATE WITH THE ROSE IN ITS DEFENSE OR SETTLEMENT OF SUCH CLAIM OR SUIT.

IF A RESTRAINING ORDER OR TEMPORARY INJUNCTION IS GRANTED DUE TO ANY ACT, ERROR, OR THE ROSE COMMITTED BY THE ROSE OR ANOTHER ENTITY OVER WHICH THE ROSE EXERCISES CONTROL, THE ROSE SHALL MAKE EVERY EFFORT, INCLUDING BUT NOT LIMITED TO SECURING A SATISFACTORY BOND, TO OBTAIN THE SUSPENSION OF ANY SUCH RESTRAINING ORDER OR TEMPORARY INJUNCTION.

COUNTY RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO BE INDEPENDENTLY REPRESENTED BY COUNSEL OF ITS OWN CHOICE IN CONNECTION WITH ANY SUCH SUIT OR PROCEEDING.

VI. TEXAS PUBLIC INFORMATION ACT

- A. The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 et seq., as amended (the "Act"). Each Party expressly understands and agrees that the County shall release any and all information necessary to comply with Texas law without the prior written consent of the other Party.
- B. It is expressly understood and agreed that each Party, its officers and employees may request advice, decisions and opinions of the Attorney General of Texas ("Attorney General") in regard to the application of the Act to any software, or any part thereof, or other information or data furnished to the County, whether or not the same are available to the public. It is further understood that each Party, its officers and employees shall have the right to rely on the advice, decisions, and opinions of the Attorney General, and that each Party, its officers, and employees shall have no liability or obligations to the other Party for the disclosure to the public, or to any person or persons, of any software, or a part thereof, or other information or data furnished to the County in reliance on any advice, decision or opinion of the Attorney General.
- C. In the event a Party receives a written request for information pursuant to the Act that affects the other Party's rights, title to, or interest in any information or data or a part thereof, furnished under this Agreement, then the Party will promptly notify the other Party of such request. Such other Party may, at its own option and expense, prepare comments and submit information directly to the Attorney General stating why the requested information is exempt from disclosure pursuant to the requirements of the Act. Such other Party is solely responsible for submitting the memorandum brief and information to the Attorney General within the time period prescribed by the Act. Such other Party is solely responsible for seeking any declaratory or injunctive relief regarding the disclosure of information that it deems confidential or privileged.
- D. Electronic Mail Addresses. Each Party affirmatively consents to the disclosure of its e-mail addresses that are provided to the other Party, including any agency or department of such Party. This consent is intended to comply with the requirements of the Act and shall survive

termination of this Agreement. This consent shall apply to e-mail addresses provided by each Party and agents acting on behalf of each Party and shall apply to any e-mail address provided in any form for any reason whether related to this Agreement or otherwise.

VII. AUDIT RIGHTS

- A. Audit Rights. The Rose shall cooperate to the fullest extent with any and all federal, state, local, or County audits related to this Agreement. The Rose’s cooperation shall include, but not be limited to access to all books, records, contracts, spreadsheets, correspondence, and documents in whatever form, that are applicable to this Agreement and requested by any federal, state, local, or County entity that has rights or jurisdiction over any part of this Agreement or the funds applicable to this Agreement.

- B. Record Retention. The Rose agrees to retain within the boundaries of Harris County, for six (6) years after the expiration of this Agreement, all books, records, contracts, spreadsheets, correspondence, and documents applicable to this agreement. The Rose will retain and make available, and insert the requisite clause in each applicable subcontract, requiring its subcontractors to retain and make available the books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement.

VIII. NOTICE

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when emailed or delivered in person or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or The Rose at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

The Rose: The Rose
 12700 N. Featherwood Suite 260
 Houston, Texas 77034
 Attn: Jessica Duckworth, Chief Operating Officer
 Email: jduckworth@therose.org

County: Harris County Public Health
 1111 Fannin Street
 Houston, Texas 77002
 Attn: Barbie L. Robinson, MPP, JD, CHC
 Email: barbie.robinson@phs.hctx.net

Either Party may designate a different address by giving the other Party ten (10) days written notice.

IX. MISCELLANEOUS

- A. Non-Assignability. The Rose shall not make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the County.

- B. Independent Parties. It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of The Rose for any purpose. The Rose, nor its employees, officers, or agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.
- C. No Third Party Beneficiaries. The County is not obligated or liable to any party other than The Rose for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.
- D. Waiver of Breach. A waiver by either Party of a breach or violation of any provision of the Agreement shall not be deemed or construed to be a waiver of any subsequent breach.
- E. No Personal Liability; No Waiver of Immunity.
- (i) Nothing in the Agreement is construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a Party to the Agreement, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee, or agent of either Party.
 - (ii) The Parties agree that no provision of this Agreement extends either Party's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.
 - (iii) Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by either Party of any right, defense, or immunity on behalf of itself, its employees or agents under the Texas Constitution or the laws of the State of Texas.
- F. Applicable Law and Venue. This Agreement shall be governed by the laws of the State of Texas and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Houston, Harris County, Texas.
- G. No Binding Arbitration; Right to Jury Trial. The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.
- H. Contract Construction.
- (i) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not authorize this Agreement.

- (ii) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.
 - (iii) When terms are used in the singular or plural, the meaning shall apply to both.
 - (iv) When either the male or female gender is used, the meaning shall apply to both.
- I. Recitals. The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.
- J. Entire Agreement; Modifications. This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.
- K. Severability. The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.
- L. Survival of Terms. Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.
- M. Multiple Counterparts/Execution. This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.
- N. Successors and Assigns. The Parties bind themselves and their successors, executors, administrators, and permitted assigns to all covenants of this Agreement. Neither Party shall assign, sublet, or transfer its rights or obligations under this Agreement without written consent of the other Party, which will not be unreasonably withheld.
- O. Warranty. By execution of this Agreement, The Rose warrants that the duties accorded to The Rose in this Agreement are within the powers and authority of The Rose.

[EXECUTION PAGE FOLLOWS]

HARRIS COUNTY, TEXAS

THE ROSE

By: _____
Lina Hidalgo
County Judge

By: Jessica Duckworth
Jessica Duckworth
Chief Operating Officer

Approved:

By: Barbie L. Robinson
Barbie L. Robinson, MPP, JD, CHC
Executive Director
Harris County Public Health
Date Signed: 2/14/2024

APPROVED AS TO FORM:

CHRISTIAN D. MENEFEE
Harris County Attorney

By: Stanley Sun
Stanley Sun
Assistant County Attorney
C.A. File 24GEN0345

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of _____, 2024 with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF
AN AGREEMENT BETWEEN HARRIS COUNTY AND THE ROSE FOR PREVENTATIVE
MAMMOGRAPHY SERVICES AND BREAST CANCER AWARENESS EDUCATION**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lesley Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED THAT:

1. The Harris County Judge is authorized to execute on behalf of Harris County the attached agreement between Harris County and The Rose for preventative mammography services and breast cancer awareness education.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.