

STATE OF TEXAS §

COUNTY OF NUECES §

**LEASE AGREEMENT
BETWEEN NUECES COUNTY AND
DRISCOLL CHILDREN'S HOSPITAL'S WOMEN, INFANTS AND CHILDREN
NUTRITION PROGRAM**

This lease agreement (hereinafter "Lease") is hereby entered into by Nueces County, 901 Leopard, Corpus Christi, Texas, (hereinafter "Lessor or Nueces County") and Driscoll Children's Hospital's Women, Infants and Children Nutrition Program, 3455 S. Alameda, Corpus Christi, Texas 78411 (hereinafter "Lessee or DCH WIC") on the date of its execution as set forth below in Nueces County, Texas.

WITNESSETH:

WHEREAS, the Nueces County Commissioners Court finds that the DCH WIC Program is a nonprofit, grant funded program that serves pregnant and postpartum women and children under the age of five, who are at nutritional risk and do not exceed moderate income guidelines; and

WHEREAS, the Nueces County Commissioners Court finds a need for the continuation of DCH WIC Program services to the Robstown area; and

WHEREAS, the DCH WIC Program needs office space in Robstown to provide the DCH WIC Program services to the Robstown, Nueces County, Texas, area; and

WHEREAS, Nueces County owns a building with office space available; and

WHEREAS, Nueces County and DCH WIC Program desire to enter into a lease agreement for available office space; and

WHEREAS, Nueces County has the authority to provide for the welfare of children in need of protection and care in the county under§ 264.006 of the Texas Family Code and poor women and children under§ 81.027 of the Texas Local Government Code and the authority to appropriate and spend money from general revenues for public health under§ 122.001 of the Texas Health & Safety Code; and

WHEREAS, Nueces County has the authority to enter into a lease with DCH WIC pursuant to §§ 292.001(c) and 292.002 of the Texas Local Government Code and the determinations of Texas Attorney General Opinions L0-96-053 (1996) and JM-1197 (1990);

NOW THEREFORE, for and in consideration and exchange of mutual covenants and conditions contained herein to further the public purpose of providing for the welfare of children in need of

protection and care, DCH WIC and Nueces County do hereby enter into this Lease and agree as follows:

**I.
PURPOSE OF LEASE**

The purpose of this Lease is to provide for the rental by Lessee of an office space located in the Johnny Calderon Building at 710 East Main, Robstown, Texas, 78380 and owned by Nueces County, Texas. Direct services provided at this site consist of teaching classes and offering more group services to clients, who are pregnant and postpartum women and children under the age of five that live in Nueces County, are at nutritional risk, and do not exceed moderate income guidelines. This site will be used to teach classes and serve as a waiting room for a DCH WIC program for pregnant and postpartum women and children under the age of five years and their families.

**II.
DESCRIPTION OF LEASED PROPERTY**

The real property subject to this Lease and hereinafter referred to as the "Property" is described as a 12' x 12' office space in the Johnny Calderon Building at 710 East Main, Robstown, Texas, 78380, as shown on the attached Exhibit "A" attached hereto and made part hereof for all purposes.

**III.
USE OF PROPERTY**

1. The Lessee shall use the Property to teach classes and serve as a waiting room for a DCH WIC program for pregnant and postpartum women and children under the age of five years and their families.
2. DCH WIC will have the use of a 12' x 12' office space in the Johnny Calderon Building as depicted on Exhibit "A" and the non-exclusive right to use the parking spaces located at 710 East Main, Robstown, Texas, 78380.

**IV.
LEASE TERM**

1. *Term.* This lease shall be for a term of five years, commencing on July 15, 2020, or until either party (1) defaults as provided in Subparagraph 3D, or (2) terminates as provided in Subparagraph 3.
2. *Extension of the Lease.* After the expiration of the first five year lease term ("Initial Term"), DCH WIC may extend this Lease under all the conditions and terms of this Lease, for an additional five year term by giving Nueces County written notice by certified mail to Nueces

County Courthouse, 901 Leopard, Corpus Christi, Texas 78401, ninety (90) days prior to the expiration of the lease term.

- A. Prior to the expiration of the Initial Term; or any subsequent lease term, Nueces County may refuse to extend this Lease by providing written notice by certified mail to DCH WIC, 3455 S. Alameda, Corpus Christi, Texas 78411.

3. Termination of the Lease.

- A. After the expiration of the Initial Term, DCH WIC may terminate this Lease by providing written notice by certified mail to Nueces County Commissioners, Nueces County Courthouse, 901 Leopard, Corpus Christi, Texas, ninety days prior to the date DCH WIC will vacate said premises. At the time of termination of this Lease, the condition of the property made the basis of this Lease must be the same as when received, except for normal wear and tear.
- B. Notwithstanding any provision to the contrary, either Nueces County or DCH WIC may terminate this Lease at any time and for any reason or no reason upon thirty (30) days written notice sent by certified to the other party at the location provided in Paragraph XV, Miscellaneous, Subparagraph 5.
- C. Should Lessee default in the performance of any covenant, condition, or agreement in this Lease, and not correct the default within thirty days after receipt of written notice from Lessor to Lessee as required by this Lease, Lessor may declare this Lease, and all rights and interest created by it, to be terminated. Upon Lessor's electing to terminate, this Lease shall cease and come to an end as if the day of Lessor's election were the day originally fixed in the lease for its expiration. Lessor or Lessor's agent or attorney may resume possession of the premises.
- D. Any termination of this Lease as provided in this agreement shall not relieve Lessee from the payment of any sum or sums that are due and payable to Lessor under the Lease at the time of termination, or any claim for damages then, or previously accruing against Lessee under this Lease, and any such termination shall not prevent Lessor from enforcing the payment of any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Lessee for any default under the Lease. All rights, options, and remedies of Lessor contained in this Lease shall be construed and held to be cumulative, and no one of them shall be exclusive of the other, and Lessor shall have the right to pursue any one or other, or all of such remedies or any other remedy or relief which may be provided by law, whether or not stated in this Lease. No waiver by Lessor of a breach of any of the covenants, conditions, or restrictions of this Lease shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Lease.

**V.
RENT**

1. *Yearly Rent.* DCH WIC agrees to pay Nueces County one dollar (\$1.00) per year as annual rent for the use and occupancy of the Property and as further consideration agrees to provide a DCH WIC Program to the Robstown, Nueces County, Texas area.
2. *Time and Manner of Payment.* DCH WIC shall pay, in full, five dollars (\$5.00) for the Initial Term of this Lease upon execution of this Lease. Thereafter, Lease payments will be made for the full term of the extended lease period, and in the amount of \$1.00 per year, at the time DCH WIC sends written notice of intent to extend the lease period.

**VI.
UTILITIES**

Nueces County shall pay or cause to be paid utilities, maintenance, garbage pickup, fire protection and alarm systems assessed against the leased property throughout the existence of this Lease, and any extensions thereof.

**VII.
ASSIGNMENT AND SUBLEASE**

Lessee shall not sell or assign its leasehold estate in its entirety or any portion of it, nor sublet the leased premises, or any portion of the building.

**VIII.
RIGHT TO REMOVE TRADE FIXTURES**

Lessee shall have the right at any time during Lessee's occupancy of the leased premises or within a reasonable time thereafter, to remove any and all furniture, machinery, equipment, or other trade fixtures, owned or placed by Lessee, in or on the leased premises, or acquired by Lessee. Whether before or during the lease term; but prior to the termination of the lease, Lessee must repair any damage to any buildings or improvements on the premises resulting from their removal. Any such items, which are not removed by the termination of the Lease, shall become the property of Lessor as of the termination date of the Lease.

**IX.
REPAIRS, MAINTENANCE AND RESTORATION**

At all times during the term of this Lease, Lessee will keep and maintain, or cause to be kept and maintained, the leased premises in a good state of appearance.

**X.
MECHANICS LIEN**

Lessee shall not cause or permit any mechanics' liens or other liens to be filed against the title of the leased premises or against Lessee's leasehold interest in the land or any buildings or improvements on the leased premises by reason of any work, labor, services, or materials supplied, or claimed to have been supplied to Lessee or to anyone holding the leased premises, or any part of them through or under Lessee. If such a mechanic's lien or materialman's lien is recorded against the leased premises or any buildings or improvements on the premises, Lessee shall either cause the same to be removed, or, if Lessee in good faith desires to contest the lien, take timely action to do so, at Lessee's sole expense. If Lessee contests the lien, **LESSEE AGREES TO INDEMNIFY LESSOR AND HOLD LESSOR HARMLESS FROM ALL LIABILITY FOR DAMAGES OCCASIONED BY THE LIEN OR THE LIEN CONTESTS, AND SHALL, IN THE EVENT OF A JUDGMENT OF FORECLOSURE ON THE LIEN, CAUSE THE LIEN TO BE DISCHARGED AND REMOVED PRIOR TO EXECUTION OF THE JUDGMENT.**

**XI.
INSURANCE**

1. *Liability Insurance.* At all times during the term of this lease, Lessee shall provide and keep in force during the term of this lease, liability insurance covering Lessor and Lessee for liability for property damage and personal injury. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Lessee and approved by Lessor, and shall be paid for by Lessee. The insurance provided, pursuant to this section, shall be in the amount of not less than \$500,000.00 dollars for property damage and not less than \$100,000.00/\$300,000.00 dollars for personal injury. This insurance shall protect Lessor and Lessee against liability to any employees or servants of Lessee and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the leased premises. Lessor shall be named as an additional insured with of a waiver of subrogation on all said policies.
2. *Workers' Compensation,* endorsed with a waiver of subrogation in favor of Nueces County in the amount of the statutory obligations imposed under the Texas Workers' Compensation Law ("Statutory Texas").
3. *Texas Business Automobile Policy,* endorsed with the County as an additional insured and endorsed with a waiver of subrogation in favor of Nueces County, in limits of liability not less than two hundred fifty thousand dollars (\$250,000) each person for bodily injury, five hundred thousand dollars (\$500,000) each occurrence for bodily injury, and one hundred thousand dollars (\$100,000) each occurrence for property damage covering all autos.
4. *Certificates of Insurance.* Lessee shall furnish Lessor with certificates of all insurance required by this agreement within fifteen (15) days of the execution of this Lease and thereafter within fifteen (15) days of any extension of this Lease. Lessee agrees that if it does not keep this insurance in full force and effect, Lessor may notify Lessee of this failure, and if Lessee does not deliver to Lessor certificates showing all such insurance to be in full force and effect within

thirty (30) days after ' . this notice, Lessor may declare the Lessee in default and proceed according to Subsection IV, 3 (D).

XI. INDEMNIFICATION OF LESSOR

LESSOR SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM ANY USE OF THE LEASED PREMISES, INCLUDING PARKING LOT AND BUILDING COMMON AREAS OR ANY PART OF THE LEASED PREMISES; OR CAUSED BY ANY DEFECT IN ANY BUILDING, STRUCTURE, IMPROVEMENT, EQUIPMENT, OR FACILITY ON THE LEASED PREMISES OR CAUSED BY ANYTHING ARISING FROM ANY ACT OR OMISSION OF LESSEE, OR OF ANY OF ITS AGENTS, EMPLOYEES, LICENSEES, OR INVITEES, OR BY, OR FROM, ANY ACCIDENT, FIRE, OR OTHER CASUALTY ON THE LAND, OR OCCASIONED BY THE FAILURE OF LESSEE TO MAINTAIN THE PREMISES IN A SAFE CONDITION. LESSEE WAIVES ALL CLAIMS AND DEMANDS ON ITS BEHALF AGAINST LESSOR FOR ANY SUCH LOSS, DAMAGE, OR INJURY, AND AGREES TO INDEMNIFY AND HOLD LESSOR ENTIRELY FREE AND HARMLESS FROM ALL LIABILITY FOR ANY SUCH LOSS, DAMAGE, OR INJURY OF PERSONS, AND FROM ALL COSTS AND EXPENSES INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES ARISING FROM ANY CLAIMS OR DEMANDS OF OTHER PERSONS CONCERNING ANY SUCH LOSS, DAMAGES, OR INJURY.

XII. MISCELLANEOUS

1. *Right of Entry and Inspection.* Lessee shall permit Lessor or Lessor's agents, representatives, or employees to enter the leased premises for the purposes of inspection, determining whether Lessee is in compliance with the terms of this Lease, maintaining, repairing, or altering the premises, or showing the leased premises to prospective lessees, purchasers, mortgagees, or beneficiaries under trust deeds.
2. *No Partnership or Joint Venture.* The relationship between Lessor and Lessee, at all times, shall remain and is solely that of landlord and tenant and not deemed a partnership or a joint venture.
3. *Force Majeure.* It is expressly understood and agreed that if the construction and/or remodeling of the building provided for in this agreement, or the curing of any default, (other than failure to pay rent, or insurance premiums) or the performance of any other covenant, agreement, obligation, or undertaking contained in this Lease is delayed by reason of war, civil commotion, act of God, governmental restrictions, regulations, or interference, fire or other casualty, or any other circumstances beyond Lessee's control or beyond the control of the party obligated or permitted under the terms of this Lease to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, each party so delayed shall be excused from doing or performing the same during the period of delay.

4. *No Waiver.* No waiver by either party of any default or breach of any covenant, condition, or stipulation contained in this lease shall be treated as a waiver of any subsequent default or breach of any covenant, condition, or stipulation of this lease.
5. *Delivery of Monies and/or Notices.*
 - A. All payments, notices, demands, or requests from Lessee to Lessor shall be given or mailed to Lessor at Nueces County Auditor's Office, 901 Leopard, Corpus Christi, Texas, 78401 or at such other address as requested by Lessor in writing.
 - B. All payments, notices, demands; or requests from Lessor to Lessee shall be given or mailed to Lessee at DCH WIC, 3455 S. Alameda, Corpus Christi, Texas, 78411.
6. *Parties Bound.* This agreement shall be binding upon and inure to the benefit of the parties to the lease and their respective heirs, executors, administrators, legal representatives, successors, and assigns.
7. *Texas law to Apply.* This agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created by this lease are performable in Nueces County, Texas.
8. *Legal Construction.* In the event any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the lease, and this agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the lease.
9. *Prior Agreements Superseded.* This agreement constitutes the sole and only agreement of the parties to the lease and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of the lease.
10. *Amendment/Modification of Lease.* By mutual agreement, the Lessor and Lessee may modify any and all terms of this Lease. Any and all modifications to this Lease must be in writing and dated subsequent to the date of this Lease. Notwithstanding signed and written modification to this Lease, the entire agreement of the Lessee and Lessor is encompassed within the four corners of this Lease.
11. *Rights and Remedies Cumulative.* The rights and remedies provided by this Lease are cumulative, and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. The rights and remedies provided in this Lease are given in addition to any other rights the parties may have by law, statute, ordinance, or otherwise.
12. *Time of Essence.* Time is of the essence in this agreement.

13. *Wheelchair Access.* Lessee is responsible to be ADA compliant, including but not limited to, any and all modifications to Property, which must be ADA compliant. Lessee will at all times be compliant with Federal, State, County, and City laws, rules, ordinances, regulatory requirements, and all other applicable regulations.

IN WITNESS WHEREOF, Nueces County and Driscoll Children’s Hospital’s Women, Infants and Children Nutrition Program have executed these presents in duplicate.

WITNESS our hands on this _____ day of _____ 2020.

NUECES COUNTY

**DRISCOLL CHILDREN’S
HOSPITAL - WIC**

By: _____
BARBARA CANALES
NUECES COUNTY JUDGE

By: _____
Name: _____
Title: _____

ATTEST:

KARA SANDS, County Clerk

APPROVED AS TO FORM

LAURA GARZA JIMENEZ
NUECES COUNTY ATTORNEY