

ATTACHMENT A TO MEMORANDUM OF UNDERSTANDING

**THIRD AMENDMENT TO THE REVISED AND RESTATED INDIGENT CARE
AGREEMENT**

BY AND BETWEEN

**NUECES COUNTY HOSPITAL DISTRICT,
A POLITICAL SUBDIVISION OF THE STATE OF TEXAS**

AND

**CHRISTUS SPOHN HEALTH SYSTEM CORPORATION,
A TEXAS NON-PROFIT CORPORATION**

THIRD AMENDMENT TO THE REVISED AND RESTATED INDIGENT CARE AGREEMENT

This Third Amendment to the Revised and Restated Indigent Care Agreement (the “*Third Amendment*”), effective as of the date the CHRISTUS Spohn Health System Corporation Membership Agreement (“**Membership Agreement**”) is terminated (the “*Effective Date*”), restates and amends that certain Revised and Restated Indigent Care Agreement between Nueces County Hospital District, a political subdivision of the State of Texas (“*District*”) and CHRISTUS Spohn Health System Corporation, a Texas non-profit corporation formerly known as Spohn Health System Corporation (“*Provider*”), dated December 18, 2005, as amended by the Indigent Care Amendments dated May 25, 2007 and September 30, 2012 (as amended, the “*ICA*”). Unless otherwise indicated herein, all capitalized terms shall have the same meaning attributed to such terms in the ICA.

RECITALS:

WHEREAS, the parties have entered into the ICA; and

WHEREAS, the parties terminated the ICA effective September 30, 2012 but agreed they may decide to reinstate the ICA if their relationship set forth in the Membership Agreement changes in order to ensure the continuing availability of healthcare services for the indigent; and

WHEREAS, the parties desire to reinstate and amend the ICA as provided herein.

NOW THEREFORE, for and in consideration of the premises, the mutual benefits to be derived from this Third Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, District and Provider agree as follows:

1. Section 1.3 of the ICA is amended in its entirety to state the following:

1.3 Annual Inflation Adjuster. The term “Annual Inflation Adjuster” shall mean any average percentage increase in the Consumer Price Index and the Global Insight Hospital Index for the four (4) consecutive calendar quarters ended on March 31 of the Year immediately prior to the commencement date of the applicable Year.

2. Section 1.8 of the ICA is amended in its entirety to state the following:

1.8 Consumer Price Index. The term “Consumer Price Index” shall mean the Consumer Price Index for All Urban Consumers as published by the United States Department of Labor, Bureau of Labor Statistics, or any comparable successor index prepared and published by the United States government.

3. Section 1.11 of the ICA is amended in its entirety to state the following:

1.11 Global Insight Hospital Index. The term “Global Insight Hospital Index” shall mean the IHS Global Insight Hospital Market Basket Index as published by Global Insight in Health-Care Cost Review, or any comparable successor health care industry index agreed to by the District and Provider.

4. Section 1.12 of the ICA is amended in its entirety to state the following:

1.12 Handbook. The term “Handbook” shall mean the Nueces County Hospital District Indigent Health Care Program Handbook, as amended, modified, or supplemented from time to time in accordance with Section 6.3.

5. Section 1.15 of the ICA is amended in its entirety to state the following:

1.15 Indigent. The term “Indigent” shall mean those persons who meet the definition and eligibility criteria for “Indigent” set forth in the Handbook.

6. Section 1.25 of the ICA is amended in its entirety to state the following:

1.25 Universal Governmental Plan. The term “Universal Governmental Plan” shall mean a state or federal program adopted after September 30, 1996, which provides for payment to Provider for providing Health Care Services to Indigents by Provider, which program may constitute a material restructuring of Medicaid, Medicare or other existing governmental programs that provides coverage to significant number of Indigent individuals including, without limitation, any state or federal program adopted pursuant to the Patient Protection and Affordable Care Act or the Health Care and Education Reconciliation Act of 2010.

7. Section 1.26 of the ICA is amended in its entirety to state the following:

1.26 Utilization Review Plan. The term “Utilization Review Plan” shall mean Provider’s utilization review and quality assurance plan, as reasonably applied from time to time by Provider with respect to Health Care Services. If requested in writing by the District, Provider will make available a copy of the Utilization Review Plan for the District’s review and amend the Utilization Review Plan to incorporate an appeal procedure permitting the District to appeal any Utilization Review Plan or other Medical Necessity decision of Provider, such appeal procedure to be administered by a nationally or regionally recognized vendor of such services to be engaged by Provider at Provider’s expense, the selection of which shall be subject to the consent of the District, which consent shall not be unreasonably withheld.

8. Section 2.1 of the ICA is amended in its entirety to state the following:

2.1 Provision of Health Care Services. During the Initial Term and any Renewal Term, Provider shall provide or arrange for the provision of Health Care Services to Indigents without charge at the level and to the extent set forth in the Handbook. Indigents, as defined in Section 1.15 hereto, shall have the ability to access services in all Provider Facilities, as defined in Section 1.22. Provider Facilities include each hospital owned or operated by Provider, including hospitals located outside of Nueces County, Provider’s family health centers, the Dr. Hector P. Garcia – Memorial Family Health Center to be constructed by Provider consistent with the September 10, 2014 Letter of Intent between Provider and the District, Provider’s outpatient and ambulatory locations, and any new facilities Provider may operate for the purpose of providing healthcare to the community. The determination of whether an individual is an “Indigent” eligible to

receive Health Care Services hereunder shall be made in accordance with Article VI hereof. Notwithstanding the foregoing, Provider may, at its option, charge and collect a minimal access fee to any Indigent who seeks care in an emergency room of any Provider Facility, but whose conditions do not require Emergency Services, to the extent permitted by applicable law. All payments received by Provider from the District as compensation for the provision of any Health Care Services under this Agreement shall be deemed, with respect to any Physician Health Service component of such Health Care Services, if any, to be complete compensation to such participating Physician, and Provider shall have all responsibility for payment to the Physicians participating with Provider in the provision of Health Care Services under this Agreement. Provider shall also provide inpatient hospital and outpatient services to Nueces County jail inmates to the extent such services are not covered in the Health Services Agreement for Nueces County Correctional Facilities among Nueces County, the District and the correctional care services contractor (“Jail Infirmary Contract”) that was in effect on December 1, 2013. District shall be obligated to compensate Provider for inpatient and outpatient services provided to jail inmates in accordance with Section 4.1 of this Agreement. To the extent the Jail Infirmary Contract with such correctional care services contractor or a successor contractor to such correctional care services contractor is subsequently terminated or significantly modified to reduce the level of services provided thereunder, Provider and District agree to enter into negotiations for Provider’s potential provision of expanded jail infirmary services for a reasonable fee in addition to the amount set forth in Section 4.1.

9. Section 2.4 of the ICA is amended in its entirety to state the following:

2.4 Non-Discrimination. Provider shall not discriminate in the provision of Health Care Services to any person on the basis of such person’s status as an Indigent; provided, however, that, except as expressly stated in this Agreement, this covenant shall not require Provider to provide any services to any person other than such Health Care Services, as defined herein. Provider shall require any subcontractor that provides Health Care Services to include in its subcontract with Provider: (a) a nondiscrimination clause similar to the language contained in this Section 2.4 and (b) a covenant to include such a clause in any subcontract between such subcontractor and any of its subcontractors that provide Health Care Services.

10. The ICA is amended to include a new Section 2.8, which states the following:

2.8 Psychiatric Services. In addition to the Health Care Services Provider furnishes to Indigents pursuant to the Handbook in accordance with Section 2.1, Provider will ensure the appropriate availability of inpatient and outpatient psychiatric and behavioral health services for Indigents during the Term. The specific requirements Provider must fulfill in making these psychiatric and behavioral health services available to Indigents and in maintaining the availability of psychiatric and behavioral health services include:

- a. The location of the inpatient and outpatient psychiatric and behavioral health services Provider makes available to Indigents will be in Corpus Christi, Texas;
- b. Provider will furnish or arrange transportation services (including coordination

with law enforcement for transportation) for Nueces County Indigents requiring psychiatric and/or medical services between Provider's inpatient psychiatric facilities and Provider's off-site service facilities where Indigents can access psychiatric and/or medical services. Provider will pay for such transportation services if not paid for by another source or furnished by another source without charge;

- c. Provider will ensure that inpatient Indigents have access to appropriate medications upon a psychiatric discharge, consistent with the limitations in the Handbook;
 - d. Provider shall analyze the most appropriate facility for psychiatric and behavioral health services in conjunction with the Texas legislative initiative, House Bill 3793, 83rd Legislature, Regular Session, 2013 Plan for the Appropriate and Timely Provision of Mental Health Services, which directs the Department of State and Health Services to develop a plan to ensure the appropriate and timely provision of mental health services, and other applicable initiatives;
 - e. Provider will provide psychiatric assessment and crisis stabilization services;
 - f. Provider will provide adequate availability of inpatient psychiatric beds for Indigents, patients under emergency detention warrant, and adult Behavioral Health Center of Nueces County (formerly Nueces County MHMR) patients. Provider will evaluate and, as appropriate, modify such number of inpatient psychiatric beds in the future based on patient demand and community need;
 - g. Provider will provide an adequately and appropriately equipped commitment hearing location within or adjacent to Provider's inpatient psychiatric facility;
 - h. Provider will provide access for law enforcement officers and others to bring Nueces County residents to Provider's appropriate facilities;
 - i. Provider will coordinate with law enforcement on the transportation by law enforcement authorities of jail inmates and persons in law enforcement custody who have psychiatric conditions; and
 - j. Provider will maintain its collaboration with Behavioral Health Center of Nueces County (formerly Nueces County MHMR) for behavioral health services and resources, including inpatient services.
11. The ICA is amended to include a new Section 2.9, which states the following:

2.9 Trauma and Emergency Department Services. Provider shall maintain a designated Level II Trauma Services Center in Corpus Christi, Texas, in conformity with the rules promulgated by the Texas Department of State Health Services. The parties acknowledge and agree that there may be a brief period of time immediately prior to and/or immediately following the demolition or cessation of the operations of

CHRISTUS Spohn Hospital –Corpus Christi (“Memorial”) that CHRISTUS Spohn Hospital – Corpus Christi (“Shoreline”) is designated as “in active pursuit” of Level II Trauma Services Center designation; provided, however the parties acknowledge and agree that, while Shoreline is “in active pursuit” of Level II Trauma Services Center designation, Provider shall operate Shoreline’s trauma center at the same level as a designated Level II Trauma Center. Notwithstanding anything herein to the contrary, Provider shall be prohibited from ceasing operations at or demolishing Memorial until Shoreline’s trauma center has received, or is “in active pursuit” of, Level II Trauma status.

12. The ICA is amended to include a new Section 2.10, which states the following:

2.10 Disaster Preparedness. In accordance with hospital regulatory requirements, Provider shall at all times maintain disaster preparedness, leveraging resources within and outside of the Coastal Bend Region in case of a large-scale emergency, and enlisting emergency resources from other communities in the case of a catastrophic event. Provider shall review its emergency preparedness plans and conduct drills locally, regionally and at a state level to ensure systemic knowledge of the standard operating procedures during an emergency.

13. The ICA is amended to include a new Section 2.11, which states the following:

2.11 Shoreline Renovations. During the Term, Provider shall provide consistent levels of inpatient and outpatient services necessary to meet the needs of the Indigent. Prior to ceasing operations at or closing Memorial, as contemplated in the September 10, 2014 Letter of Intent between Provider and the District, Provider will:

- a. Complete the construction to the Shoreline Emergency Department to ensure that the Nueces County community will have constant access to an emergency department. Provider shall ensure that such initial refurbishment and enhancement of Shoreline’s Emergency Department will include the construction or renovation of at least thirty-nine (39) emergency department treatment beds/emergency department beds, subject to no more than a ten percent (10%) variance following Provider’s receipt of a patient flow assessment and related construction design considerations from Provider’s architect. Provider will also evaluate and, as appropriate, modify the number of emergency department treatment beds and emergency department beds at Shoreline in the future based on outpatient demand and community need.
- b. Expand its number of staffed inpatient beds at Shoreline to a minimum of four hundred and six (406) staffed beds. Provider’s expansion of Shoreline will additionally include shelled space at Shoreline to enable future inpatient growth, as necessary.
- c. Provide office space and a training center for the medical residents participating in Provider’s Graduate Medical Education (“GME”) program at Shoreline.

14. The ICA is amended to include a Section 2.12, which states the following:

2.12 Ongoing Monitoring. As part of Provider’s redesign of Shoreline (including, without limitation, the Shoreline Emergency Department), Provider’s construction of the new Hector P. Garcia – Memorial Family Health Center, and Provider’s ongoing operation of healthcare facilities in Nueces County, Provider will monitor community needs and factors impacting the community, including the growing population in Nueces County, the increased number of freestanding emergency departments, the increasing availability of primary care in the community, availability of behavioral health services, and other factors impacting patients served by Provider. Subsequent to the demolition of Memorial and the expansion of services provided at Shoreline, Provider will monitor these factors and make reasonable adjustments at Provider’s healthcare facilities to respond to community needs.

15. The ICA is amended to include a new section 2.13, which states the following:

2.13 Graduate Medical Education. Provider will maintain at least two GME programs with comprehensive resident training applicable to such programs. Provider will maintain, support, and fill at least the number of resident slots needed to obtain Medicare payments at its current annual Medicare full-time equivalent GME cap. Provider’s GME program resident training will continue to occur at various care sites, in order to ensure a comprehensive training experience.

16. The ICA is amended to include a new section 2.14, which states the following:

2.14 Clinic Services. The clinic services available at Memorial as of September 10, 2014 will continue to be available in the Dr. Hector P. Garcia - Memorial Family Health Center. These include the current and expanded services listed below:

- a. Adequate and appropriately furnished and equipped space within the Dr. Hector P. Garcia-Memorial Family Health Center for twelve (12) District enrollment counselors and one (1) receptionist. The District and Provider also agree to evaluate the future need for such space for District enrollment counselors and, if agreed to, modify such space in the future, including potentially providing space within Shoreline for District enrollment counselors;
- b. Extended Dr. Hector P. Garcia-Memorial Family Health Center hours to include operating 24 hours on Thursday, Friday, and Saturday for non-scheduled visits, with future adjustments to such hours of operation based on patient demand and community need, including potentially operating 24 hours in the health center on Sunday, Monday, Tuesday and Wednesday in addition to Thursday, Friday, and Saturday; provided Provider will not reduce the number of days the Dr. Hector P. Garcia-Memorial Family Health Center operates 24 hours for at least six months;
- c. Faculty and residency clinic focused on primary care services (family medicine);

- d. Specialty clinics, including urology, cardiology, neurology, endocrinology, orthopedics, and post-trauma care;
- e. Clinic outpatient pharmacy services and medication counseling education;
- f. X-ray and laboratory services;
- g. Social services;
- h. Community health/transition care workers to assist patients and families in navigating needed healthcare services;
- i. Behavioral health counseling;
- j. Wellness and prevention education for both patient and families, including help with appropriate diet and lifestyle;
- k. Management of ongoing diseases such as diabetes, heart conditions, and high blood pressure; and
- l. Support of spiritual needs through availability of an onsite prayer room.

17. The ICA is amended to include a new section 2.15, which states the following:

2.15 Provider’s Health Care Services. Provider agrees and expressly covenants with the District to provide or arrange for the provision of Health Care Services to any Indigent that presents himself or herself to Provider for medical aid or hospital care.

18. Section 4.1(g) is amended in its entirety to state the following:

The term “Maximum Annual Amount” shall mean Thirty-One Million Four Hundred and Fifty-Four Thousand Dollars (\$31,454,000) per twelve (12) month Year. However, upon the earlier of either the termination of the Membership Agreement or September 30, 2026, the Maximum Annual Amount shall be reduced to Twenty-Nine Million Dollars (\$29,000,000) per twelve (12) month year, subject to the District’s maintenance of effort to request and advocate for a tax rate sufficient to support the Maximum Annual Amount and subject to the District’s obligations in Section 4.3 of this Agreement. To the extent the Texas Medicaid program is expanded in conformity with the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001 (2010) or other Universal Governmental Plan, and that expansion causes a reduction to the number of Indigents, the parties shall negotiate a reasonable reduction to the Maximum Annual Amount to reflect the reduced Indigent enrollment (with any partial twelve (12) month year pro-rated between the previously effective Maximum Annual Amount and the reduced Maximum Annual Amount). Notwithstanding anything herein to the contrary, the Maximum Annual Amount paid by the District to the Provider in any given twelve (12) month year shall be reduced by the aggregate amount paid by the District in such twelve (12) month year to any qualified provider or Governmental Entity with respect to medical aid and hospital care services rendered to Indigent residents of the County, outside the limits of the

County, for which the District is liable pursuant to any applicable Legal Requirement; provided, however, the deductions from the Maximum Annual Amount permitted by the immediately preceding clause in any Year shall not exceed five percent (5%) of the Maximum Annual Amount computed without regard to such deductions. The District shall provide on a monthly basis, as part of the Monthly Operating Committee meeting, an accounting of any amounts, if any, actually paid to qualified providers or Governmental Entities as permitted by the terms of this paragraph. The Maximum Annual Amount shall be prorated.

19. Section 4.1(h) is amended in its entirety to state the following:

4.1(h) Section Intentionally Left Blank.

20. Section 4.1(k) is amended in its entirety to state the following:

Eligibility Criteria and/or Benefit Modifications. Historically, the Indigent income eligibility guidelines used by the District in determination of eligibility for services under the Nueces Aid Program (“Eligibility Criteria”) were set at a level up to 150% of the federal poverty level as published annually in the Federal Register (“FPL”). Effective May 25, 2007, the initial “Base Enrollment” was calculated to be 11,924 Nueces Aid Program enrollees (i.e., the product of (i) the 10,840 Nueces Aid Program enrollees on November 30, 2006 multiplied by (ii) 1.10). Base Enrollment shall be adjusted effective as of January 1 of each year during the Term to reflect the Annual Inflation Adjuster (not to exceed 7.99% in any given year) (i.e., the Base Enrollment for the applicable year shall mean an amount equal to the sum of the prior year’s Base Enrollment multiplied by the annual inflation adjuster (not to exceed 7.99% in any given year) plus the prior year’s Base Enrollment); provided, however, Base Enrollment shall not be adjusted in any given year to exceed 16,000 Nueces Aid Program enrollees. On November 30, 2012 and as of November 30 annually thereafter, the District shall determine the number of persons enrolled in the Nueces Aid Program to determine whether the Nueces Aid Program enrollment has exceeded the Base Enrollment applicable to such year. If at any such time enrollment in the Nueces Aid Program exceeds the Base Enrollment applicable to such year, the District will initiate adjustments to the Eligibility Criteria, to be effective the following March 1, to a percentage of the FPL projected by the District to bring enrollment in the Nueces Aid Program to a number of enrollees equal to or less than the Base Enrollment applicable to such year by the following November 30 after such Eligibility Criteria adjustments are initiated; provided, however, the District shall in no event be required to adjust the District’s Eligibility Criteria to less than 100% of the FPL. The parties acknowledge that the District’s base Eligibility Criteria are currently set in the Handbook at 150% of the FPL and that the Handbook may be amended only upon approval in writing of the nonrequesting party.

21. Section 7.1(a) of the ICA is amended to state the following:

Subject to and upon the terms and conditions set forth in this Agreement, the initial term of this Agreement (the “Initial Term”) shall commence at 12:01 a.m. on the day immediately following the day upon which termination of the Membership Agreement is effective, and shall expire unless otherwise extended by the parties hereto, at 11:59 p.m.

on September 30, 2036 (the “Termination Date”) or such earlier date as the parties may mutually agree upon in writing and subject to earlier termination pursuant to the express terms of this Agreement.

22. The first sentence of Section 7.1(b) of the ICA is amended to state the following:

Provided that no uncured event of default on behalf of Provider then exists, the Term of this Agreement may be extended, at Provider’s sole option, for up to an additional twenty (20) years, in up to four (4) subsequent and successive five (5) year increments (each, a “Renewal Term”).

23. Except as modified by this Third Amendment, the ICA shall remain in full force and effect in accordance with its terms.

24. This Third Amendment, together with the ICA as previously amended, embodies and constitutes the entire understanding between the parties with respect to the transactions contemplated herein, and all prior to contemporaneous agreements, understandings, representations and statements (oral or written) are merged into this Third Amendment. Neither this Third Amendment nor any provision hereof may be modified or amended except by an instrument in writing signed by Provider and the District. In the event of a conflict between this Third Amendment and the ICA, this Third Amendment shall control.

25. This Third Amendment may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Electronic mail signatures shall constitute and be enforceable as original signatures.

26. Provider represents to the District that Provider has not incurred any liability for commissions or similar compensation to third parties in connection with this Third Amendment. Provider hereby indemnifies the District against any liability arising from any claims for such compensation, including costs and reasonable attorneys’ fees, made by parties claiming through or under Provider. The District represents to Provider that the District has not incurred any liability for commissions or similar compensation to third parties in connection with this Third Amendment. To the extent permitted by applicable law, the District hereby indemnifies Provider against any liability arising from any claims for such compensation, including costs and reasonable attorneys’ fees, made by parties claiming through or under the District.

27. In the event of litigation concerning this Third Amendment, to the extent permitted by applicable law, the prevailing party is entitled to reimbursement of its costs respecting such suit, or settlement thereof, including reasonable attorneys’ fees and fees of consultants, auditors, appraisers and other similar professionals. The term “**prevailing party**” is defined to mean the party who obtains a determination of wrongful conduct by the other party regardless of whether actual damages or equitable relief are awarded.

28. Provider represents and warrants and agrees that: (i) the individual executing this Third Amendment is duly authorized to execute and deliver this Third Amendment on behalf of Provider; (ii) this Third Amendment is binding upon Provider; and (iii) Provider is duly organized and legally existing in the State of Texas and is qualified to do business in the State of Texas.
29. The District represents and warrants and agrees that: (i) the individual executing this Third Amendment is duly authorized to execute and deliver this Third Amendment on behalf of the District; (ii) this Third Amendment is binding upon the District; and (iii) the District is duly organized and legally existing in the State of Texas and is qualified to do business in the State of Texas.
30. The invalidity or unenforceability of any provision of this Third Amendment will not affect or impair any other provision in this Third Amendment.
31. With respect to the time for performance of any obligations hereunder, time shall be of the essence.
32. THIS THIRD AMENDMENT IS GOVERNED BY THE LAWS OF THE STATE OF TEXAS.
33. This Third Amendment is binding upon and inures to the respective parties herein, and their respective successors and permitted assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed duplicate originals of this Third Amendment, to be effective as of the Effective Date.

NUECES COUNTY HOSPITAL DISTRICT,
a political subdivision of the State of Texas

By: _____
Name: Jonny F. Hipp
Title: Administrator/CEO

APPROVED BY THE NUECES COUNTY
COMMISSIONER'S COURT

By: _____
Name: Samuel L. Neal, Jr.
Title: County Judge

CHRISTUS SPOHN HEALTH SYSTEM
CORPORATION,
a Texas non-profit corporation

By: _____
Name: Pam Robertson
Title: Chief Executive Officer