

PERSONAL SERVICES CONTRACT

STATE OF TEXAS

COUNTY OF NUECES

THIS CONTRACT FOR PERSONAL SERVICES is made by and between the Nueces County Hospital District, hereinafter called "Hospital District" and Gary W. Eiland hereinafter called "Contractor" for the purpose of contracting for personal services.

WITNESSETH

WHEREAS, Local Government Code, Chapter 262.024, provides for the procurement of personal services; and

WHEREAS, the Hospital District desires to contract with Contractor and Contractor desires to contract with the Hospital District for personal services described as follows:

Provide consultative services on contractual matters relating to the Amended and Restated Membership Agreement between the Hospital District and CHRISTUS Spohn Health System Corporation, as amended ("Membership Agreement"), in connection with the proposed establishment of a dedicated COVID-19 (Coronavirus) patient care unit at CHRISTUS Spohn Hospital – Memorial ("Memorial") and potential relocation of mental health/psychiatric services located at Memorial to an alternate location.

Provide consultative services on matters relating to the Membership Agreement, as amended, and on other related matters.

NOW, THEREFORE, the Hospital District and the Contractor, in consideration of the mutual covenants and agreements herein contained, do hereby mutually agree as follows:

AGREEMENT

ARTICLE 1

SCOPE OF SERVICES TO BE PROVIDED BY HOSPITAL DISTRICT

The Hospital District will furnish items and perform those services for fulfillment of the Contract as identified in ATTACHMENT A – Services to be Provided by the Hospital District, attached hereto and made a part thereof this Contract.

ARTICLE 2
SCOPE OF SERVICES TO BE PROVIDED BY CONTRACTOR

The Contractor shall perform those personal services for the fulfillment of the contract as identified in ATTACHMENT B – Services to be Provided by the Contractor, attached hereto and made a part thereof this Contract. Contractor tasks shall be completed by August 31, 2020.

ARTICLE 3
CONTRACT PERIOD

The term of this Contract shall be from April 9, 2020 through August 31, 2020. The Contractor shall proceed with the work as authorized in writing by the Hospital District as provided in Article 5 – Work Authorizations. This Contract shall terminate at the close of business on August 31, 2020, unless extended by supplement agreement duly executed by the Contractor and the Hospital District prior to the date of termination, as provided in Article 10 – Supplemental Agreements, or otherwise terminated, as provided in Article 18 – Termination. Any work performed, or travel cost incurred after the date of termination shall be ineligible for payment or reimbursement.

ARTICLE 4
COMPENSATION AND METHOD OF PAYMENT

The maximum amount payable under this Contract is described in ATTACHMENT C and said amount shown is payable monthly, unless modified as provided in Article 10 – Supplemental Agreements. This amount shall be due and payable upon completion of respective tasks in accordance with ATTACHMENT C, Work and Fee Schedule herein attached and incorporated in its entirety. Travel expenses will be reimbursed at cost and in accordance with Hospital District policies.

The Contractor shall prepare and submit to the Hospital District a monthly invoice, not to exceed the amount shown in C, and a progress report in reasonable detail, stating the status and description of the work accomplished during the billing period and shall also submit a copy of said invoice and report to the Hospital District.

The Hospital District reserves the right to withhold payment pending verification of satisfactory work, to be determined in the reasonable discretion of the Hospital District.

The Hospital District assumes no liability for work performed or costs incurred prior to the date authorized by the Hospital District to begin work, during periods when work is suspended, or subsequent to the contract completion date.

ARTICLE 5
WORK AUTHORIZATIONS

The Hospital District will issue work authorizations, in the form identified and attached hereto as ATTACHMENT D-Work Authorization, to authorize the Contractor to perform one or more tasks. The work authorization will not waive the Hospital District's or Contractor's responsibilities and obligations established in this Contract. The Contractor's work authorization will be issued by the Hospital District's Administrator/Chief Executive Officer.

Upon satisfactory completion of the work authorization, the Contractor shall submit to the Hospital District for review and acceptance the deliverables as delineated herein in ATTACHMENT B and specified in the executed work authorization.

All work must be completed on or before the completion date specified in the work authorization. The Contractor shall promptly notify the Hospital District of any event which will affect completion of the work authorization.

ARTICLE 6 PROGRESS

The Contractor shall, from time to time during the progress of the work, confer with the Hospital District. The Contractor shall prepare and present such information as may be pertinent and necessary, or as may be requested by the Hospital District in order to evaluate features of the work. Upon request by the Hospital District the Contractor shall make presentations to the Commissioners Court.

At the request of the Hospital District or the Contractor, conferences shall be held at the Contractor's office, the Hospital District's office or at other locations designated by the Hospital District. These conferences shall also include an evaluation of the Contractor's services and work when requested by the Hospital District.

Should the Hospital District determine that the progress in production of the work does not satisfy the work schedule, the Hospital District will review the work schedule with the Contractor to determine corrective action needed.

The Contractor shall promptly advise the Hospital District in writing of events which have a significant impact upon the progress of work, including:

- (1) problems, delays, or adverse conditions which will materially affect the ability to attain contract objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods; this disclosure will be accompanied by a statement of the action taken, or contemplated, and any Hospital District assistance needed to resolve the situation; and
- (2) favorable developments or events which would enable meeting the work schedule goals sooner than anticipated.

ARTICLE 7 SUSPENSION

The Hospital District may suspend the work, but not terminate the contract, by giving written notice a minimum of two (2) calendar days prior to the date of suspension. The two (2) day notice may be waived if approved in writing by all parties.

The work will be reinstated and resumed in full force and effect within one (1) calendar day of receipt of written notice from the Hospital District to resume the work. The one (1) day notice may be waived if approved in writing by all parties.

If the Hospital District suspends the work, the contract period, as determined in Article 3 – Contract Period, is not affected and the contract will terminate on the date specified unless the contract is amended as provided in Article 10 – Supplemental Agreements.

ARTICLE 8 ADDITIONAL WORK

If the Contractor determines that any work it has been directed to perform is beyond the scope of this Contract and constitutes extra work, it shall promptly notify the Hospital District in writing. In the event the Hospital District, upon consultation with the Contractor, determines that such work constitutes extra work and exceeds the maximum amount payable, the Hospital District shall so advise the Contractor and a supplemental agreement may be executed, as provided in Article 10 – Supplemental Agreements.

The Contractor shall not perform any additional work or incur any additional costs prior to the execution, by all parties, of a supplemental agreement. The Hospital District shall not be responsible for actions by the Contractor or any costs incurred by the Contractor relating to additional work not directly associated with the performance of the work authorized in this Contract or as amended.

ARTICLE 9 CHANGES IN WORK

If the Hospital District finds it necessary to request changes to previously satisfactorily completed work or parts thereof which involve changes to the original scope of services or character of work under the contract, the Contractor shall make such revisions if requested and as directed by the Hospital District. This will be considered additional work and paid for only after the execution of a supplemental agreement, as specified under Article 8 – Additional Work.

The Contractor shall make such revisions to the work to correct errors appearing therein, when required to do so by the Hospital District. No additional compensation will be paid for the correction of errors.

ARTICLE 10 SUPPLEMENTAL AGREEMENTS

The terms of this Contract may be modified by supplemental agreement if the Hospital District determines that there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work. Additional compensation, if appropriate, shall be identified as provided in Article 4 – Compensation and Method of Payment.

Any supplemental agreement must be executed by all parties within the contract period specified in Article 3 – Contract Period.

No claim for extra work done or materials furnished shall be made by the Contractor until full execution of the supplemental agreement and authorization to proceed is issued by the Hospital

District. The Hospital District reserves the right to withhold payment pending verification of satisfactory work performed to be determined in the Hospital District's reasonable discretion upon consultation with the Contractor.

**ARTICLE 11
PUBLIC INFORMATION ACT**

All data, basic sketches, charts, calculations, plans, specifications, and other documents created or collected under the terms of this Contract are the exclusive property of the Hospital District and shall be furnished to the Hospital District upon request. All documents prepared by the Contractor and all documents furnished to the Contractor by the Hospital District shall be delivered to the Hospital District, upon completion or termination of this Contract. The Contractor, at its own expense, may retain copies of such documents or any other data which it has furnished the Hospital District under this Contract. Release of information will be in accordance with the Texas Public Information Act.

**ARTICLE 12
PERSONNEL, EQUIPMENT AND MATERIAL**

The Contractor shall furnish and maintain, at its own expense, office space for the performance of all services, and adequate and sufficient personnel and equipment to perform the services as required.

**ARTICLE 13
SUBCONTRACTING**

The Contractor shall not assign, subcontract or transfer any portion of the work under this Contract. All work under this Contract shall be performed by Contractor personally.

**ARTICLE 14
EVALUATION OF WORK**

The Hospital District and its authorized representative(s) shall have the right at all reasonable times to review or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If a review or evaluation is being made on the premises of the Contractor, the Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the Hospital District and its representative(s) in the performance of their duties. If funds by other agencies or entities are to be used for payment of the services under this Contract, the Contractor's services and work may be subject to periodic review and approval by other agencies or entities, including city, Hospital District, state, and/or federal agencies.

**ARTICLE 15
SUBMISSION OF REPORTS**

All applicable study reports shall be submitted in preliminary form for review by the Hospital District

before a final report is issued. The Hospital District's comments on the Contractor's preliminary report shall be addressed in the final report. No study reports are herein required for performance of services requested.

**ARTICLE 16
COMPUTER DOCUMENTS AND INFORMATION EXCHANGE**

All computer files must be compatible with the Hospital District's computer systems without conversion or modifications and must plot consistent with any reproducible plots submitted.

All plots and graphics media provided by the Contractor shall be delivered to the Hospital District. Final payment for the work associated with this Contract will not be made until the files furnished by the Contractor have been demonstrated to be usable in the required formats.

**ARTICLE 17
VIOLATION OF CONTRACT TERMS / BREACH OF CONTRACT**

Material violations of the contract terms or material breach of contract, after the expiration of the requisite notice and cure period, by a party shall be grounds for termination of the contract by the opposite party and any increased cost arising from the breaching party's default, breach of contract, or violation of contract terms shall be paid by the breaching party. This Contract shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by the party's and shall be cumulative.

In the event of any material violation or material breach of the requirements or provisions of this Contract by any party, the non-breaching party shall send the breaching party written notification, by certified mail, return receipt requested, asserting the existence of such breach in reasonable detail. Following its receipt of such written notice, the breaching party shall have a period of thirty (30) days in which to either contest the existence of such breach or to cure such breach if it is of a nature which can be cured within the thirty (30) days. In the event such breach is of the nature which is incapable of being cured within the thirty (30) days and the breaching party is diligently attempting to cure the breach, the breaching party shall be deemed to be in compliance with this paragraph. If the breaching party fails to cure such breach within the thirty (30) days (or such longer period if so required), then the breaching party shall be deemed to be in violation of this Contract and the non-breaching party may pursue any and all remedies available pursuant to this Contract or at law or in equity.

**ARTICLE 18
TERMINATION**

This Contract shall terminate at 5:00 p.m., close of business, on August 31, 2020, unless extended as provided in Article 10 – Supplemental Agreements.

This Contract may be terminated before the stated termination date by any of the following conditions:

1. By mutual agreement and consent, in writing, of all parties;

2. By the Hospital District by notice in writing to the Contractor as a consequence of failure by the Contractor to perform the services set forth herein in a satisfactory manner;
3. By the Hospital District or Contractor upon the failure of any party to fulfill its obligations as set forth herein;
4. By the Hospital District for reasons of its own and not subject to the mutual consent of the Contractor upon not less than thirty (30) calendar days written notice to the Contractor; and
5. By written notice from the Hospital District upon satisfactory completion of all services and obligations described herein.

Should the Hospital District terminate this Contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Contractor.

If the Contractor defaults in the performance of this Contract or if the Hospital District terminates this Contract for fault on the part of the Contractor, the Hospital District will give consideration to the actual costs incurred by the Contractor in performing the work to the date of default, the amount of work which was satisfactorily completed to the date of default, the value of the work which is usable to the Hospital District, the cost to the Hospital District of employing another to complete the work required and the time required to do so, and other factors which affect the value to the Hospital District of the work performed at the time of default.

The termination of this Contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the Hospital District and the Contractor under this Contract except the obligations set forth in Articles 11, 14, 19, 20, 21 and 22 of this Contract. If the termination of this Contract is due to the failure of the Contractor to fulfill its contract obligations, the Hospital District may take over the project and prosecute the work to completion. In such case, the Contractor shall be liable to the Hospital District for any additional cost occasioned to the Hospital District.

ARTICLE 19 COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable Federal, State, and local laws, statutes codes, ordinances, rules, and regulations, and the orders and decrees of any court, or administrative bodies or tribunals, in any manner affecting the performance of this Contract, including, without limitation licensing laws and regulations. When required, the Contractor shall furnish the Hospital District with satisfactory proof of its compliance.

It is expressly understood by Hospital District and Contractor, that from the date of award of Contractor to one year after termination or expiration of contract term, it is prohibited for any Hospital District official or employee thereof, to receive gifts described by Section 5.02 of the Hospital District Personnel or Civil Service Rules, and/or campaign or political contributions regardless of amount from Contractor or principal owners of said Contractor. Contractor is furthermore prohibited from making political campaign or personal contributions to candidates for Hospital District and precinct office from the date of award of Contractor to one year after termination or expiration of contract term. It is also prohibited for Contractor to contribute to employee associations or for the benefit of groups of employees.

**ARTICLE 20
INDEMNIFICATION**

THE CONTRACTOR SHALL SAVE HARMLESS THE HOSPITAL DISTRICT AND IT'S OFFICERS AND EMPLOYEES FROM ALL CLAIMS AND LIABILITY DUE TO ACTIVITIES OF ITSELF, ITS AGENTS, OR EMPLOYEES PERFORMED UNDER THIS CONTRACT AND WHICH ARE CAUSED BY OR RESULT FROM ERROR, OMISSION, OR NEGLIGENT ACT OF THE CONTRACTOR OR OF ANY PERSON EMPLOYED BY THE CONTRACTOR. THE CONTRACTOR SHALL ALSO SAVE HARMLESS THE HOSPITAL DISTRICT FROM ANY AND ALL EXPENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY FEES WHICH MAY BE INCURRED BY THE HOSPITAL DISTRICT IN LITIGATION OR OTHERWISE RESISTING SAID CLAIM OR LIABILITIES WHICH MAY BE IMPOSED ON THE HOSPITAL DISTRICT AS A RESULT OF SUCH ERROR, OMISSION, OR NEGLIGENT ACTIVITY BY THE CONTRACTOR, ITS AGENTS, OR EMPLOYEES.

CONTRACTOR'S SAVE HARMLESS AND INDEMNIFICATION OBLIGATIONS UNDER THIS CONTRACT, IF ANY, SHALL BE LIMITED TO AND SHALL NOT EXCEED THE AMOUNT OF COMPENSATION RECEIVED BY CONTRACTOR FROM THE HOSPITAL DISTRICT FOR SERVICES PROVIDED BY CONTRACTOR TO THE HOSPITAL DISTRICT UNDER THIS CONTRACT.

**ARTICLE 21
CONTRACTOR'S RESPONSIBILITY**

The Contractor shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from its errors, omissions, or negligent acts without compensation.

**ARTICLE 22
RETENTION, AVAILABILITY OF RECORDS AND AUDIT REQUIREMENTS**

The Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to cost incurred and shall make such materials available at its office during the contract period and for four (4) years from the date of final payment under this Contract or until pending litigation has been completely and fully resolved, whichever occurs last. The Hospital District or any of its duly authorized representatives shall have access during normal business hours to any and all books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts, transcriptions, and for checking the amount of work performed by the Contractor.

**ARTICLE 23
SUCCESSORS AND ASSIGNS**

The Contractor and the Hospital District do hereby bind themselves, their successors, executors, administrators, and assigns to each other party of this Contract and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this Contract.

The Contractor shall not assign, subcontract, or transfer its interest in this Contract.

**ARTICLE 24
SEVERABILITY**

In the event any one or more of the provisions contained in this Contract, for any reason, shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and; this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**ARTICLE 25
PRIOR CONTRACT SUPERSEDED**

This Contract constitutes the sole agreement of the parties hereto and supersedes any and all prior understandings or written or oral contracts between the parties respecting the subject matter defined herein.

**ARTICLE 26
NOTICES**

All notices to a party by the other party(ies), required under this Contract, shall be personally delivered or mailed to such party(ies) at the following respective address:

HOSPITAL DISTRICT

Nueces County Hospital District
Attn: Administrator/Chief Executive Officer
555 N. Carancahua St., Suite 950
Corpus Christi, Texas 78401

CONTRACTOR

Gary W. Eiland
5 Benthaven Isle
Montgomery, Texas 77356

**ARTICLE 27
GOVERNING LAW AND VENUE**

This Contract shall be construed under and in accord with the law of the State of Texas. Venue shall be in Nueces County, Texas.

IN WITNESS WHEREOF, the Hospital District and the Contractor have executed these presents in duplicate.

HOSPITAL DISTRICT

By: Jonny F. Hipp
Jonny F. Hipp
Administrator/Chief Executive Officer

Date: 4/9/2020

CONTRACTOR

By: _____
Gary W. Eiland

Date: _____

List of Attachments:

- ATTACHMENT A: Services to be Provided by the Hospital District
- ATTACHMENT B: Services to be Provided by the Contractor
- ATTACHMENT C: Work and Fee Schedule
- ATTACHMENT D: Work Authorization

ATTACHMENT A
Services to be Provided by the Hospital District

The following services are anticipated to be provided by Hospital District:

1. Provide or provide access to documents relating to the Membership Agreement between the Hospital District and CHRISTUS Spohn Health System Corporation, as amended.
2. Provide or provide access to documents and proposals received from CHRISTUS Spohn Health System Corporation relating to establishment of a dedicated COVID-19 (Coronavirus) patient care unit at Memorial and potential relocation of mental health/psychiatric services located at Memorial to an alternate location. Provide or provide access to other documents and proposals received from CHRISTUS Spohn Health System Corporation in connection with the preceding.
3. Provide or provide access to documents and proposals received from CHRISTUS Spohn Health System Corporation on related matters.
4. Provide access to Hospital District's local and outside legal counsel as needed.

ATTACHMENT B
Services to be Provided by Contractor

Using his skills and experience, the Contractor shall provide the following services:

1. Analyze documents and proposals received from CHRISTUS Spohn Health System Corporation relating to establishment of a dedicated COVID-19 (Coronavirus) patient care unit at Memorial and potential relocation of mental health/psychiatric services located at Memorial to an alternate location. Analyze other documents and proposals received from CHRISTUS Spohn Health System Corporation in connection with the preceding.
2. Consult with Hospital District regarding documents and proposals received from CHRISTUS Spohn Health System Corporation relating to establishment of a dedicated COVID-19 (Coronavirus) patient care unit at Memorial and potential relocation of mental health/psychiatric services located at Memorial to an alternate location. Consult with Hospital District regarding other documents and proposals received from CHRISTUS Spohn Health System Corporation in connection with the preceding.
3. Consult with Hospital District and its local and outside legal counsel or any other Hospital District designated representative, as needed, regarding documents and proposals received from CHRISTUS Spohn Health System Corporation relating to establishment of a dedicated COVID-19 (Coronavirus) patient care unit at CHRISTUS Spohn Hospital – Memorial and potential relocation of mental health/psychiatric services located at Memorial to an alternate location. Consult with Hospital District and its local and outside counsel or any other Hospital District designated representative, as needed, regarding other documents and proposals received from CHRISTUS Spohn Health System Corporation in connection with the preceding.
4. Consult with Hospital District regarding the development of strategies and proposals for addressing the establishment of a dedicated COVID-19 (Coronavirus) patient care unit at Memorial and potential relocation of mental health/psychiatric services located at Memorial to an alternate location.
5. Consult with Hospital District regarding the development of strategies and proposals for amending the Membership Agreement between the Hospital District and CHRISTUS Spohn Health System Corporation as needed.
6. Provide a monthly invoice and provide a complete accounting for every activity accomplished for the month invoiced as specified in ATTACHMENT B attached hereto.
7. Make presentations to the Hospital District's Board of Managers and Nueces County Commissioners Court as may be requested by the Hospital District.

ATTACHMENT C
Work and Fee Schedule

1. **Services Provided by Contractor.** The Hospital District shall compensate the Contractor \$600.00 per hour up to a maximum amount of \$45,000.00 for services provided under this Contract. Contractor shall provide a monthly invoice and provide a complete accounting for every activity accomplished for the month invoiced as specified in ATTACHMENT B attached hereto.
2. **Contractor's Travel Expenses.** In addition to the amounts above for services provided under this Contract, the Hospital District shall reimburse Contractor for his travel expenses incurred under this Contract. The Contractor shall include his incurred travel expenses for the month invoiced in the monthly invoice submitted above.
3. **Payment Procedure.** The Hospital District shall compensate the Contractor monthly for services provided monthly, subject to receipt of a monthly invoice. In addition, the Hospital District shall reimburse the Contractor for travel expenses monthly, subject to receipt of a monthly invoice.
4. **Reporting Forms.** The Contractor shall execute and submit all necessary accounting and/or legal reporting forms (i.e., Internal Revenue Form W-9-Request for Taxpayer Identification Number, Texas Ethics Commission Form 1295-Certificate if Interested Parties, etc.) as statutorily required or requested by Hospital District, prior to the remittance of any payments by the Hospital District for work performed under this Contract.

COMPLETION DATE: August 31, 2020

ATTACHMENT D
Work Authorization

This work authorization is issued in accordance with the Personal Services Contract effective April 9, 2020, between Nueces County Hospital District and Gary W. Eiland.

Work Task: Items as described on ATTACHMENT B of Personal Services Contract.

Cost: As described on ATTACHMENT C of Personal Services Contract.

Deliverables: As described on ATTACHMENT B of Personal Services Contract.

Completion Date: August 31, 2020

HOSPITAL DISTRICT

CONTRACTOR

By: Jonny F. Hipp
Jonny F. Hipp
Administrator/Chief Executive Officer

By: _____
Gary W. Eiland

Date: 4/9/2020

Date: _____

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HOSPITAL DISTRICT

By: Jonny F. Hipp
Jonny F. Hipp
Administrator/Chief Executive Officer

Date: 4/9/2020

CONTRACTOR

By: Gary W. Eiland
Gary W. Eiland

Date: 4-9-2020

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Completion Date: August 31, 2020

HOSPITAL DISTRICT

By: Jonny F. Hipp
Jonny F. Hipp
Administrator/Chief Executive Officer

Date: 4/9/2020

CONTRACTOR

By: Gary W. Eiland
Gary W. Eiland

Date: 4-9-2020