

**TOM GREEN COUNTY
INDIGENT CARE AFFILIATION AGREEMENT**

This Indigent Care Affiliation Agreement (this "Agreement") is entered into as of October 23, 2012 to be effective as of September 30, 2012 (the "Effective Date"), by and between Tom Green County (the "County") and Shannon Medical Center (the "Affiliated Hospital") whose addresses are listed below.

RECITALS

A. The Affiliated Hospital and the County collectively provide a significant amount of uncompensated care to the indigent annually in the communities and regions they serve.

B. Reductions in Medicaid spending and a growing Medicaid and uninsured population have created a gap between the costs providers incur for treating Medicaid and indigent patients and the reimbursement they actually receive.

C. The current Texas Medicaid Section 1115 Waiver (the "Waiver") requires providers to work collectively and collaboratively to develop and submit a regional plan for health care delivery system reform plan (the "Plan") through the formation of Regional Healthcare Partnerships ("RHPs").

D. The Affiliated Hospital is physically located in the RHP of the County and provides significant and/or specialty services to the population of the County's RHP, and are permitted to affiliate under rules promulgated by the Texas Health and Human Services Commission ("HHSC");

E. Funds to finance the Waiver may be provided by counties and other units of government through intergovernmental transfers ("IGTs");

F. The County and the Affiliated Hospital recognize that the state will continue to under-fund the Texas Medicaid Program, that the indigent numbers in Tom Green County will continue to grow, and that the burden for providing health care to indigent patients will continue to shift to the Affiliated Hospital, the County, and the local community.

G. The County and the Affiliated Hospital recognize that they need to collaborate to ensure their ability to deliver health care services and desire to ensure that the indigent have access to and receive health care services.

H. The Waiver calls for reform and improvement of healthcare delivery systems in four broad categories: (1) infrastructure development, (2) program innovation and redesign, (3) outcome reporting and improvements, and (4) clinical improvements in care.

I. The County and the Affiliated Hospital intend this Agreement to satisfy the legal and administrative requirements for participation in the Waiver.

J. There is no agreement between the County and the Affiliated Hospital that conditions any amounts transferred by the County to fund supplemental Medicaid payments on the amount of indigent care the Affiliated Hospital has provided or will provide.

K. There is no agreement between the County and the Affiliated Hospital that conditions the amount of the Affiliated Hospital's indigent care obligation on the amount transferred by the County to fund supplemental Medicaid payments or on the amount of the supplemental payment the Affiliated Hospital might receive.

L. No escrow, trust or other funding mechanism exists, the amount of which is conditioned on the amount of indigent care services provided by the Affiliated Hospital, and any escrow, trust or other funding mechanism used in connection with an IGT by the County has been disclosed to the state and is not used to effect a *quid pro quo* for the provision of indigent care services by the Affiliated Hospital.

M. The County has not received and will not receive refunds of payments the County has made or will make to the Affiliated Hospital for any purpose in consideration for an IGT made by the County to fund supplemental Medicaid payments.

NOW, THEREFORE, In consideration of the promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged and agreed, the parties agree as follows:

1. DEFINITIONS.

- 1.1. "State Fiscal Year" means the twelve month period beginning September 1 and ending August 31.
- 1.2. "Federal Fiscal Year" means the twelve month period beginning October 1 and ending September 30.
- 1.3. "Federal Health Care Programs" means the federal health care programs as defined in 42 U.S.C. Section 1320a-7b(f).
- 1.4. "Health Care Services" means primary and preventive services designed to meet the needs of the community, including, without limitation: immunizations; medical screening services and annual physical examinations; inpatient and outpatient hospital services; rural health clinics; laboratory and x-ray services; family planning services; physician services; payment for prescription drugs; skilled nursing facility services, regardless of a person's age; and services that meet the County's criteria for indigent care provided under Sections 61.028 and 61.0285 of Chapter 61 of the Texas Health and Safety Code.
- 1.5. "Indigent" means any person eligible to participate in a state Medicaid program, Children's Health Insurance Program ("CHIP"), a county indigent care program or hospital district indigent care program as described in Chapter 61 of the Texas Health and Safety Code, or a hospital charity care program.

- 1.6. "Indigent Care" means treatment and services for the Indigent, including inpatient and outpatient hospital and medical professional needs of the Indigent, including both the performance of services and the provision for services.
- 1.7. "Charity Care" means the provision of hospital services to the uninsured, as well as services defined by Texas Health and Safety Code §311.031(2).
- 1.8. "Days" means calendar days unless otherwise specified.
- 1.9. "Affiliated Providers" means any hospital or healthcare entity that executes this Agreement.

2. COMMUNITY INDIGENT HEALTH CARE ASSESSMENT.

- 2.1. Methodology. The RHP is required to development a community needs assessment. The Affiliated Hospital shall collaborate with the County and the RHP to participate in the development and review of such assessment.
- 2.2. Assessment. The Affiliated Hospital shall collaborate with the County and the RHP to develop programs and processes which complement the RHP's Plan and assist in meeting the goals and milestones of such Plan, and in meeting any gaps in available services.

3. REPRESENTATIONS.

- 3.1. Affiliated Hospital Representations. The Affiliated Hospital represents and warrants the following:
 - (a) It is a Texas corporation or partnership, duly established and created pursuant to applicable law with all requisite power and authority to enter into this Agreement.
 - (b) The execution, delivery, and performance of this Agreement by the Affiliated Hospital are within the Affiliated Hospital's powers, are not in contravention of any other instruments governing the Affiliated Hospital, and have been duly authorized and approved by its governance as and to the extent required by applicable law.
 - (c) Neither the Affiliated Hospital, nor any of its owners, officers, directors or managing employees are (i) currently excluded, debarred or otherwise ineligible to participate in the Federal Health Care Programs; (ii) convicted of a criminal offense related to the provision of health care items or services but not yet excluded, debarred or otherwise declared ineligible to participate in the Federal Health Care Programs; or (iii) under investigation or otherwise aware of any circumstance which may result in the exclusion of the Affiliated Hospital or any of its representatives from participating in the Federal Health Care Programs.
 - (d) This Agreement has been duly and validly executed and delivered by the Affiliated Hospital or its authorized agent and constitutes the valid, legal, and binding obligation of the Affiliated Hospital, enforceable against the Affiliated Hospital in accordance with its terms.

3.2. County Representations. The County represents and warrants the following:

- (a) The County is a unit of local government and more specifically a county, duly established and created pursuant to applicable law with all requisite power and authority to enter into this Agreement in all respects;
- (b) The execution, delivery, and performance by the County of this Agreement are within the County's powers, are not in contravention of any other instruments governing the County, and have been duly authorized and approved by the governing body of the County as and to the extent required by applicable law.
- (c) The County receives *ad valorem* tax revenues and other tax revenues, or otherwise receives and expends public funds.
- (d) Neither the County nor any of its representatives are (i) currently excluded, debarred or otherwise ineligible to participate in the Federal Health Care Programs; (ii) convicted of a criminal offense related to the provision of health care items or services but not yet excluded, debarred or otherwise declared ineligible to participate in the Federal Health Care Programs; or (iii) under investigation or otherwise aware of any circumstances which may result in the exclusion of the Affiliated Hospital or any of its representatives from participation in the Federal Health Care Programs.
- (e) This Agreement has been duly and validly executed and delivered by the County and constitutes the valid, legal, and binding obligation of the County, enforceable against the County in accordance with its terms.
- (f) Notwithstanding anything in this Agreement to the contrary, any decision by the County to provide funding for the Medicaid program for or on behalf of the Affiliated Hospital is at its sole discretion and subject to the appropriation of sufficient funds by the County.

4. OBLIGATIONS OF THE AFFILIATED HOSPITAL.

- 4.1. Agreement to Cooperate. The Affiliated Hospital agrees to work cooperatively with the County and other RHP members to improve access to and the quality of healthcare, reduce healthcare costs, improve the health of populations and transform the healthcare delivery system, and to collaborate where possible in achieving the RHP's Plan.
- 4.2. Compliance with State and Federal Law. The Affiliated Hospital agrees to ensure that health care services it provides under this Agreement are provided in compliance with applicable state and federal laws.
- 4.3. Documentation of Health Care Services Provided. The Affiliated Hospital agrees to provide to the County on a periodic basis, no more frequently than quarterly, reasonable and appropriate documentation of the amounts and types of healthcare (including Indigent Care and Medicaid services) historically provided in the community services it has directly or indirectly provided in the community.

- 4.4. Program Participation. At all times during the term of this Agreement, the Affiliated Hospital shall use its best efforts to maintain its qualification for participation in the Medicaid and Medicare programs.
- 4.5. Compliance with HIPAA and Access to Records. To the extent applicable to this Agreement, the Affiliated Hospital agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320d *et seq.* (“HIPAA”) and any current and future regulations promulgated thereunder, including, without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the “Federal Privacy Regulations”), the federal security standards contained in 45 C.F.R. Parts 160, 162, and 164 (the “Federal Security Regulations”), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162 (the “Federal Electronic Transaction Regulations”), all as amended from time to time and all collectively referred to herein as “HIPAA Requirements.” The Affiliated Hospital agrees not to use or further disclose any Protected Health Information (as defined in the Federal Privacy Regulations) or EPHI (as defined in the Federal Security Regulations), other than as permitted by HIPAA Requirements and the terms of this Agreement. In addition, the Affiliated Hospital agrees to comply with any state laws and regulations that govern or pertain to the confidentiality, privacy, security of, and to electronic transactions pertaining to, health care information.

As and to the extent required by law, upon the written request of the Secretary of Health and Human Services, the Comptroller General, or any of their duly authorized representative, the Affiliated Hospital shall make available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available for up to four (4) years after the rendering of such services. The Affiliated Hospital shall also indemnify and hold the County harmless if any amount of reimbursement is denied or disallowed because of the Affiliated Hospital’ failure to comply with the obligations set forth in this section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties, and legal costs. If the Affiliated Hospital carries out any of the duties of this Agreement through a subcontract with a value of \$10,000.00 or more over a twelve (12) month period with a related individual or organization, the Affiliated Hospital agrees to include this requirement in any such subcontract. This section is included pursuant to and is governed by the requirements of 42 U.S.C. Section 1395x(v)(1) and the regulations thereto.

5. OBLIGATIONS OF THE COUNTY.

- 5.1. Agreement to Cooperate. The County agrees to work cooperatively with the Affiliated Hospital and other members of the RHP to improve access to and the quality of healthcare, reduce healthcare costs, improve the healthcare populations and transform the healthcare delivery system and to collaborate where possible in achieving the RHP’s Plan.
- 5.2. Compliance with State and Federal Law. The County will assure that its participation in the Waiver program pursuant to this Agreement will comply with applicable laws.

- 5.3. Program Participation. At all times during the term of this Agreement, the County shall use its best efforts to maintain its qualification for participation in the Medicaid and Medicare programs.
- 5.4. Determination of IGT Amounts. The County will estimate, in the approved RHP Plan, the amount of the IGTs it is willing to make on behalf of the Affiliated Providers. However, the County retains the right to determine any IGT amounts at its sole discretion. And the County further agrees that any funds it submits to the state for such funding will be from sources permitted by state and federal law and regulations and that the amount funded will not be conditioned on a required amount of indigent care services from the Affiliated Hospital.
- 5.5. Compliance with HIPAA and Access to Records. To the extent applicable to this Agreement, the County agrees to comply with HIPAA and any current and future regulations promulgated thereunder, including, without limitation, the HIPAA Requirements. The County agrees not to use or further disclose any Protected Health Information (as defined in the Federal Privacy Regulations) or EPHI (as defined in the Federal Security Regulations), other than as permitted by HIPAA Requirements and the terms of this Agreement. In addition, the County agrees to comply with any state laws and regulations that govern or pertain to the confidentiality, privacy, security of, and to electronic transactions pertaining to, health care information.

As and to the extent required by law, upon the written request of the Secretary of Health and Human Services, the Comptroller General, or any of their duly authorized representative, the County shall make available those contracts, books, documents, and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available for up to four (4) years after the rendering of such services. The County shall also indemnify and hold the Affiliated Hospital harmless if any amount of reimbursement is denied or disallowed because any funds the County submits to the state for an IGT is not from sources permitted by state and federal law and regulations or an IGT from the County otherwise fails to comply with the obligations set forth in this section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties, and legal costs. If the County carries out any of the duties of this Agreement through a subcontract with a value of \$10,000.00 or more over a twelve (12) month period with a related individual or organization, the County agrees to include this requirement in any such subcontract. This section is included pursuant to and is governed by the requirements of 42 U.S.C. Section 1395x(v)(1) and the regulations thereto.

6. GENERAL PROVISIONS.

- 6.1. Withdrawal. Any party may withdraw from this Agreement without reason at any time during the term by providing written notice to all other parties at least thirty (30) days prior to the date of withdrawal.

- 6.2. Termination for Non-compliance with the Plan. The County can terminate upon thirty (30) days written notice any Affiliated Provider who fails or refuses to comply with this Agreement or with the requirements of the Region 13 Regional Health Plan.
- 6.3. Term and Termination. The term of this Agreement shall be from the Effective Date through September 30, 2016, or the date the Waiver is terminated, whichever occurs first; provided, however, that this Agreement shall terminate immediately in the event that County withdraws from this Agreement. If the Waiver is extended this Agreement may continue subsequent to the above date.
- 6.4. Change in Law. If any provision of this Agreement or the plan to deliver health care services pursuant to this Agreement is determined by the federal or state government or by a court of law to be in violation of a federal or state law or regulation, or there is a change in any state or federal law or regulation that adversely affects this Agreement, then any party may propose by written notice a new basis for continuation of this Agreement. If notice proposing a new basis for continuation of this Agreement is given and the parties are unable to agree within thirty (30) days on a new basis for continuation of this Agreement, any party may withdraw from this Agreement immediately upon providing prior written notice to the other parties.
- 6.5. Notices. All notices required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery, by overnight carrier, by email, or by United States mail, postage prepaid, registered or certified mail, addressed to the parties as follows:

Affiliated Hospital:

County:

Shannon Medical Center
120 East Harris
San Angelo, TX 76903
Attn: Chief Executive Officer

Tom Green County
112 W. Beauregard
San Angelo, Texas 76903
Attn: Mike Brown, County Judge

- 6.6. Relationship Between the Parties. Each party to this Agreement is an independent contractor and not an agent, servant, joint enterprise or employee as to the other parties to this Agreement and unless otherwise specified in this Agreement or another agreement, is responsible for its own acts, omissions, forbearance, negligence, and deeds, and for those of its agents or employees in conjunction with the performance of services covered under this Agreement, and shall be specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with this Agreement's requirements. There shall be no contractual relationship between any subcontractor, agent, employee or supplier of the Affiliated Hospital and the County by virtue of this Agreement. The rights and obligations of each of the parties are individual, separate and independent.
- 6.7. Governing Law. This Agreement shall be governed by the laws of the State of Texas. This Agreement is performable and enforceable in Tom Green County, Texas, where the principal office of the County is located, and the state or federal courts in Tom Green County shall be the sole and exclusive venue for any litigation, special proceeding, or

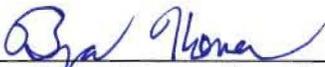
other proceeding as between the parties that may be brought, or arisen out of, in connection with, or by reason of this Agreement. The Affiliated Hospital understands that the County is a political subdivision of the State of Texas and governed by certain applicable statutes.

- 6.8. Assignment. No party may assign any right, obligation, or responsibility under this Agreement except to a successor in interest without the prior written consent of the other parties.
- 6.9. Third Party Beneficiaries. The parties to this Agreement do not intend to establish any third party beneficiary relationship by virtue of this Agreement.
- 6.10. Articles and Other Headings. The division of this Agreement into articles and sections, and the use of captions and headings, are solely for convenience of reference, and shall have no legal effect in construing the provisions of this Agreement or in governing the rights, obligations, or liabilities of the parties.
- 6.11. Effect of Agreement. This Agreement, any amendments, and any exhibits specifically mentioned in this Agreement shall not supersede, amend, modify, or affect all prior or contemporaneous discussions, representation, correspondence, memoranda and any other agreements, whether oral or written, pertaining to the provision of Indigent Care to the Indigent by the parties.
- 6.12. Multiple Originals. This Agreement may be executed in one or more counterparts with multiple signature pages, each fully executed copy shall be deemed an original, and all of which together shall constitute one and the same instrument.
- 6.13. Amendment or Modification. This Agreement may only be amended or modified in writing by the mutual agreement of all parties hereto.

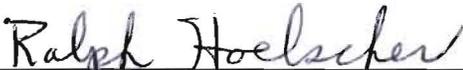
[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Agreement in subparts as of the date set forth above

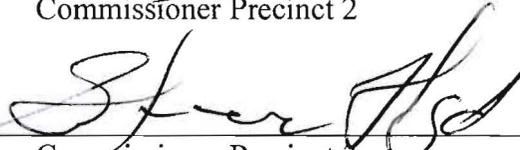
AFFILIATED HOSPITAL: SHANNON MEDICAL CENTER

By: 
Bryan Horner, President and CEO

COUNTY: TOM GREEN COUNTY COMMISSIONERS COURT

By: 
Commissioner Precinct 1

By: 
Commissioner Precinct 2

By: 
Commissioner Precinct 3

By: 
Commissioner Precinct 4

By: 
County Judge