

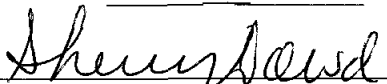
NAVARRO COUNTY COMMISSIONER'S COURT

A SPECIAL MEETING OF THE NAVARRO COUNTY COMMISSIONER'S COURT WAS HELD ON TUESDAY THE, 13TH DAY OF SEPTEMBER, 2010 AT 2:00 P.M., IN THE COMMISSIONERS CONFERENCE ROOM AT THE NAVARRO COUNTY COURTHOUSE, CORSICANA, TEXAS. PRESIDING JUDGE HM DAVENPORT, COMMISSIONERS PRESENT KIT HERRINGTON, FAITH HOLT, DAVID WARREN, AND JAMES OLSEN

1. 2:00 P.M. MOTION TO CONVENE BY HERRINGTON SEC BY WARREN
ALL VOTED AYE MOTION CARRIED
2. MOTION TO APPROVE AGREEMENT WITH NAVARRO REGIONAL HOSPITAL UPL PROGRAM BY WARREN SEC BY JUDGE DAVENPORT
ALL VOTED AYE MOTION CARRIED **TO WIT PG 401-409**
3. MOTION TO ADJOURN BY HOLT SEC BY WARREN
ALL VOTED AYE MOTION CARRIED

I, SHERRY DOWD, NAVARRO COUNTY CLERK, ATTEST THAT THE FOREGOING IS A TRUE AND ACCURATE ACCOUNTING OF THE COMMISSIONERS COURT'S AUTHORIZED PROCEEDING FOR SEPTEMBER 13TH, 2010.

SIGNED 13 DAY OF SEPTEMBER 2010.


SHERRY DOWD, COUNTY CLERK



**INDIGENT CARE AFFILIATION AGREEMENT BETWEEN NAVARRO COUNTY AND
NAVARRO HOSPITAL, L.P. D/B/A NAVARRO REGIONAL HOSPITAL**

This Indigent Care Affiliation Agreement (the Agreement) is entered into as of the 13th day of September, 2010 (Effective Date), by and between Navarro County (the County) and Navarro Hospital, L.P. d/b/a Navarro Regional Hospital, a Delaware limited partnership (the Hospital).

RECITALS:

WHEREAS, annually, the Hospital and the County collectively provide a significant amount of uncompensated care to the Indigent in the community they serve;

WHEREAS, reductions in reimbursement under the Medicaid program and the growing uninsured population have created a gap between the costs hospitals incur for treating Medicaid patients and the Indigent and the reimbursement hospitals actually receive;

WHEREAS, the County and the Hospital recognize that the state will continue to underfund the Texas Medicaid Program, that the Indigent numbers in the County will continue to grow, and that the burden of providing health care to the Indigent will continue to shift to the Hospital, the County, and the local community;

WHEREAS, the Hospital and the County desire to collaborate to ensure that the Indigent have access to and receive quality health care services; and

WHEREAS, the County and the Hospital recognize that it is in their mutual best interest to increase Medicaid funding for the Medicaid population of the County and to access local and federal funding to which the Hospital is entitled under Medicaid supplemental payment principles pursuant to Medicaid State Plan Amendment TX-05-011;

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

**ARTICLE I
DEFINITIONS**

- 1.1 Health Care Services** means primary and preventive services designed to meet the needs of the community, including: immunizations, medical screening services, inpatient and outpatient hospital services; rural health clinics, laboratory and x-ray services, family planning services, physician services, payment for not more than three prescription drugs a month, skilled nursing facility services, regardless of the patient's age, and services provided to the Indigent, as defined in Section 1.2 herein.
- 1.2 Indigent** means any resident of the County eligible to participate in a state Medicaid program, a County program adopted under the Indigent Health Care and Treatment Act, or a hospital charity care program.

- 1.3 **Public Funds** means ad valorem tax revenues the County has received from property owners in the County, which the County agrees to transfer in part to the Texas Health and Human Services Commission (HHSC) via intergovernmental transfer (IGT) to serve as the non-federal share of Medicaid Supplemental Payments.
- 1.4 **Medicaid Supplemental Payment Program** means a program established pursuant to this Agreement, in accordance with Medicaid State Plan Amendment TX-05-011, as codified by Title 1, Section 355.8070 of the Texas Administrative Code, under which the Hospital receives from the HHSC Medicaid Supplemental Payments.
- 1.5 **Medicaid Supplemental Payments** means any Medicaid payments received by the Hospital in accordance with Medicaid State Plan Amendment TX-05-011, codified by Title 1, Section 355.8070 of the Texas Administrative Code.

ARTICLE II
REPRESENTATIONS AND WARRANTIES

- 2.1 **Hospital Representations and Warranties.** The Hospital represents and warrants that:
- a. It is a Delaware limited partnership 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 Hospital of this Agreement are within the Hospital's powers, and are not in contravention of any other instruments governing the Hospital and have been duly authorized and approved by the Hospital to the extent required by applicable law;
 - c. Neither the Hospital, nor any of its representatives are (i) currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) (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 Hospital, or any of its representatives from participation in Federal health care programs;
 - d. This Agreement has been duly and validly executed and delivered by the Hospital and constitutes the valid, legal, and binding obligation of the Hospital, enforceable against the Hospital in accordance with its terms;
 - e. No funds derived from any Medicaid Supplemental Payment received by the Hospital have been or will be returned or reimbursed to the County;
 - f. No other funds have been used to reimburse the County in consideration of any Medicaid Supplemental Payments paid to the Hospital;

- g. The Hospital will not use any of the Medicaid Supplemental Payments to fund any contingent fee arrangement or agreement or to pay for third-party consultant or legal services;
- h. The Hospital has not entered and will not enter into any agreement with the County to condition either the amount of the Public Funds transferred to the HHSC via IGT by the County or the amount of Medicaid Supplemental Payments the Hospital receives on the amount of indigent care the Hospital has provided or will provide;
- i. The Hospital has not entered and will not enter into any agreement with the County to condition the amount of the Hospital's indigent care obligation on either the amount of Public Funds transferred by the County to the HHSC or the amount of Medicaid Supplemental Payments the Hospital may be eligible to receive;
- j. Neither the Hospital nor any other entity acting on behalf of the Hospital has made or agreed to make cash or in-kind transfers to the County other than transfers and transactions that:
 - (1) Are unrelated to the administration of the Medicaid Supplemental Payment Program and/or the delivery of indigent care services under this Agreement;
 - (2) Constitute fair market value for goods and/or services rendered or provided by the County to the Hospital; and
 - (3) Represent independent, bona fide transactions negotiated at arms-length and in the ordinary course of business between the Hospital and County; and
- k. Neither the Hospital nor any other entity acting on behalf of the Hospital has:
 - (1) Taken assignment or agreed to take an assignment of a contractual or statutory obligation of the County; or
 - (2) Authorized or consented to the assumption of a statutory or contractual obligation of the County by the Hospital or any other entity acting on behalf of the Hospital.

2.2 County Representations and Warranties. The County represents and warrants that:

- a. It is a political subdivision of the State of Texas, duly established and created pursuant to the Texas Constitution, 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 Navarro County Commissioners' Court (the Commissioners' Court) as and to the extent required by applicable law;
- c. 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 County, or any of its representatives, from participation in Federal health care programs;
- d. 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;
- e. The County is legally authorized to and does receive ad valorem tax revenues from property owners in the County and will fund its obligations hereunder with such tax revenues;
- f. The County has entered into this Agreement after a public meeting held in compliance with the Texas Open Meetings Act in Chapter 551 of the Texas Government Code at which a majority of the Commissioners' Court voted to execute this Agreement;
- g. The County has transferred or has agreed to transfer Public Funds to the HHSC via IGT for use as the non-federal share of Medicaid Supplemental Payments to the Hospital in accordance with Section (t) of Attachment 4.19-A and Section (8) of Attachment 4.19-B of the Texas Medicaid State Plan;
- h. All transfers of Public Funds by the County to HHSC to support the Medicaid Supplemental Payments to the Hospital under the Medicaid Supplemental Payment Program comply with:
 - (1) The applicable regulations that govern provider-related donations codified at section 1903(w) of the Social Security Act (42 U.S.C. § 1396b(w)), and Title 42, Code of Federal Regulations, Part 433, subpart B, sections 433.52 and 433.54;
 - (2) The conditions approved by the federal Centers for Medicare and Medicaid Services for governmental entities' and private hospitals' participation in the Medicaid Supplemental Payment Program; and
 - (3) HHSC administrative rules codified at Title 1, Texas Administrative Code, chapter 355, Subchapter J, Division 4, section 355.8070;

- i. The County does not and will not at any time receive any part of the Medicaid Supplemental Payments that are made by HHSC to the Hospital under the Medicaid Supplemental Payment Program;
- j. The County has not entered into a contingent fee arrangement related to the County's participation in the Medicaid Supplemental Payment Program;
- k. The County has not entered and will not enter into any agreement to condition either the amount of the Public Funds transferred by the County or the amount of the Medicaid Supplemental Payments the Hospital receives on the amount of indigent care the Hospital has provided or will provide;
- l. The County has not entered and will not enter into any agreement to condition the amount of the Hospital's indigent care obligation on either the amount of Public Funds transferred by the County to HHSC or the amount of Medicaid Supplemental Payments the Hospital may be eligible to receive;
- m. With regard to any escrow, trust or other financial mechanism (an Account) utilized in connection with this Agreement or an IGT issued for a payment period that occurs after the Effective Date of this Agreement, the following representations are true and correct:
 - (1) The amount of any Account is not conditioned or contingent on the amount of indigent care services that the Hospital provided or will provide;
 - (2) The County has disclosed the existence of any Account to HHSC; and
 - (3) Any such Account will not be used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Hospital;
- n. The County has not received and will not receive refunds of payment the County made or makes to the Hospital for any purpose in consideration for an IGT of Public Funds by the County to HHSC to support the Medicaid Supplemental Payments;
- o. The County has not received and will not receive any cash or in-kind transfers from the Hospital or any other entity acting on behalf of the Hospital other than transfers and transactions that:
 - (1) Following the date this Agreement is executed, are unrelated to the administration of the Medicaid Supplemental Payment Program or the delivery of indigent care services under this Agreement;
 - (2) Constitute fair market value for goods or services rendered or provided by the County to the Hospital; and

- (3) Represent independent, bona fide transactions negotiated at arms-length and in the ordinary course of business between the Hospital and the County; and
- p. The County has not:
- (1) Assigned or agreed to assign a contractual or statutory obligation of the County to the Hospital or any other entity acting on behalf of the Hospital; or
 - (2) Authorized or consented to the assumption of a statutory or contractual obligation of the County by the Hospital or any other entity acting on behalf of the Hospital.

**ARTICLE III
OBLIGATIONS OF THE HOSPITAL**

- 3.1 **Agreement to Cooperate.** The Hospital agrees to work cooperatively with the County to improve access, availability, efficiency, delivery, and funding for Health Care Services provided to the Indigent.
- 3.2 **Provision of Care.** The Hospital agrees to provide the Health Care Services and meet all requirements for treating the Indigent.
- 3.3 **Books and Records.** At all times during the term of this Agreement, the Hospital shall maintain accurate books and records of accounts as are necessary to permit verification of compliance with its obligations under Section 3.2 hereof. Notwithstanding any provision in this Agreement to the contrary, the obligation to maintain accurate books and records shall survive any termination of this Agreement for four (4) years from the date of termination.
- 3.4 **Reports to the Commissioners' Court.** The Hospital will provide quarterly reports to the Commissioners' Court regarding the amounts and types of health care the Hospital has provided to the Indigent. The Hospital shall provide such reports to the Commissioners' Court within sixty (60) days after the end of each quarter.

**ARTICLE IV
OBLIGATIONS OF THE COUNTY**

- 4.1 **Agreement to Cooperate with the Hospital.** The County agrees to work cooperatively with the Hospital to improve access, availability, efficiency, delivery, and funding for Health Care Services.
- 4.2 **Medicaid Supplemental Medicaid Program Funding.** The County agrees to consider supporting the Hospital's efforts to provide the Health Care Services by transferring to HHSC via IGT Public Funds for the non-federal share of the Medicaid Supplemental Payments.

ARTICLE V
MISCELLANEOUS

- 5.1 **Term and Termination.** The term of this Agreement shall be one year from the Effective Date and shall automatically continue thereafter for additional terms of one year each, unless terminated in accordance with this Section 5.1. Either party may terminate this Agreement with ninety (90) days advance written notice of termination.
- 5.2 **Compliance with HIPAA.** To the extent applicable to this Agreement, the Hospital and the County agree 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 Hospital and the County agree 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 the HIPAA Requirements and the terms of this Agreement. In addition, the Hospital and the County agree to comply with any state laws and regulations that govern or pertain to the confidentiality, privacy, security of, and electronic transactions pertaining to, health care information.
- 5.3 **Access to Records.** 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 representatives, the Hospital or 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. If the Hospital or 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 Hospital or 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. § 1395x(v)(1) and the regulations thereto.
- 5.4 **Change in Law.** If any provision of this Agreement is determined by a federal or state governmental agency or court of law to violate any applicable federal or state law or regulation, or there is a change in any state or federal law or regulation that renders any part of this Agreement illegal, any party may propose in writing an amendment to this Agreement. If the parties are unable to agree on an amendment to this Agreement, either party may terminate the Agreement immediately upon written notice to the other party.
- 5.4 **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, or by United States mail, postage prepaid, registered or certified mail, addressed to the parties as follows:

If to County: Navarro County
 300 W. 3rd Avenue
 Corsicana, Texas 75110
 Attn: H.M. Davenport, Jr., County Judge

If to the Hospital: Navarro Regional Hospital
 3201 W. Highway 22
 Corsicana, Texas 75110
 Attn: Xavier Villarreal, Chief Executive Officer

With a copy to: Eric J. Weatherford
 Brown McCarroll, L.L.P.
 2001 Ross Avenue, Suite 2000
 Dallas, Texas 75201

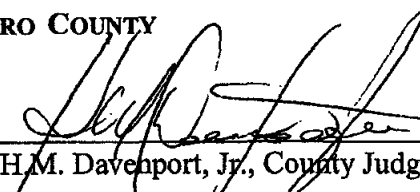
With a copy to: Legal Department
 4000 Meridian Boulevard
 Franklin, Tennessee 37067
 Attn: General Counsel

- 5.5 **Relationship between the Parties.** The relationship between the County and the Hospital is solely a contractual relationship between independent contractors. Neither party hereto is an agent or employee of the other party.
- 5.7 **Governing Law.** This Agreement shall be governed by the laws of the State of Texas.
- 5.8 **Venue.** Venue for any action involving the County arising out of this Agreement shall exclusively lie in the State District Court in Corsicana, Navarro County, Texas.
- 5.9 **Assignment.** No party may assign any right, obligation, or responsibility under this Agreement.
- 5.10 **No Third Party Beneficiary.** The parties to this Agreement do not intend to establish any third party beneficiary relationships by virtue of this Agreement.
- 5.11 **Entire Agreement.** This Agreement represents the entire agreement and understanding of the Parties hereto with respect to the subject matter hereof, and all prior and concurrent agreements, understandings, representations and warranties with respect to such subject matter, whether written or oral, are and have been merged herein and superseded hereby.

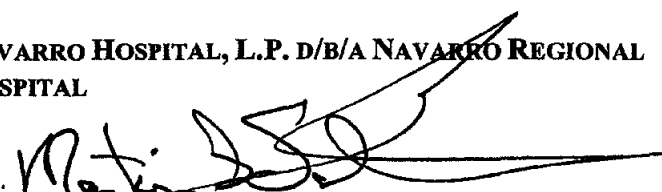
(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this Indigent Care Affiliation Agreement as of the date and year set forth above.

NAVARRO COUNTY

By: 
H.M. Davenport, Jr., County Judge

NAVARRO HOSPITAL, L.P. D/B/A NAVARRO REGIONAL HOSPITAL

By: 
Martin G. Schweinhart, President