

WILLIAMSON COUNTY
INDIGENT CARE AFFILIATION AGREEMENT

This Indigent Care Affiliation Agreement (the "Agreement") is entered into as of September __, 2018 ("Effective Date"), by and among Williamson County ("Williamson County") and St. David's Healthcare Partnership, individually and serving as the agent for its hospitals, St. David's North Austin Medical Center, St. David's South Austin Medical Center, and St. David's Medical Center (individually "Affiliated Hospital" and collectively the "Affiliated Hospitals"). Williamson County and the Affiliated Hospitals are sometimes referred to herein as a "Party" and collectively as the "Parties."

R E C I T A L S:

WHEREAS, the State's under-funding of, and reductions in eligibility for, Medicaid increases the volumes of indigent patients who rely on hospital emergency room services as the source of primary healthcare and shifts the burden for indigent care to Williamson County, Affiliated Hospitals, and community;

WHEREAS, Williamson County and Affiliated Hospitals desire to ensure that the indigent have access to and receive quality medical and hospital services;

WHEREAS, Williamson County and Affiliated Hospitals recognize that it is in their best interest to increase funding for the Medicaid population and to access federal funding for the indigent to which Affiliated Hospitals are entitled under the State's Medicaid program; and

WHEREAS, Williamson County and Affiliated Hospitals recognize that they need to collaborate to ensure their ability to deliver healthcare services to indigent patients in the community;

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:

1.0 INDIGENT CARE COLLABORATION

- 1.1 Improving Access to Healthcare for Indigent.** Williamson County and Affiliated Hospitals will assess the opportunities to improve access to healthcare for indigent persons in the community through participation in the Medicaid program.

2.0 REPRESENTATIONS AND WARRANTIES

2.1 Affiliated Hospitals Representations and Warranties. The Affiliated Hospitals represent and warrant that:

- a. It is a corporation or partnership, duly established and created pursuant to applicable law with all requisite power and authority to enter into this Agreement in all respects;
- b. There is no agreement to condition the amount transferred by Williamson County nor the amount of Medicaid supplemental payments on the amount of indigent care the Affiliated Hospitals have provided or will provide;
- c. There is no agreement to condition the amount of the Affiliated Hospitals' indigent care obligation on the amount transferred by Williamson County nor the amount of any Medicaid supplemental payment the Affiliated Hospitals might receive;
- d. No escrow, trust, or other funding mechanism exists, the amount of which is conditioned or contingent on the amount of indigent care services provided or to be provided by the Affiliated Hospitals; and that any escrow, trust or other funding mechanism utilized in connection with an anticipated intergovernmental transfer ("IGT") from Williamson County has been disclosed to the Texas Health and Human Services Commission ("HHSC") and is not used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospitals;
- e. Williamson County has not received and will not receive refunds of payments Williamson County made or makes to the Affiliated Hospitals for any purpose in consideration for an IGT by Williamson County to fund Medicaid supplemental payments;
- f. The execution, delivery, and performance by the Affiliated Hospitals of this Agreement are within each Affiliated Hospital's powers, are not in contravention of any other instruments governing the Affiliated Hospitals and have been duly authorized and approved by each Affiliated Hospital to the extent required by applicable law;
- g. Neither the Affiliated Hospitals, nor any of their 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 an Affiliated Hospitals, or any of their representatives, from participation in the Federal health care programs; and

- h. This Agreement has been duly and validly executed by each Affiliated Hospital.

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

- a. It is a body politic and a political subdivision of the State of Texas, duly established and created pursuant to Article IX, Section 4 of the Texas Constitution with all requisite power and authority to enter into this Agreement in all respects;
- b. There is no agreement to condition the amount transferred by Williamson County nor the amount of Medicaid supplemental payments on the amount of indigent care the Affiliated Hospitals have provided or will provide;
- c. There is no agreement to condition the amount of the Affiliated Hospitals' indigent care obligation on the amount transferred by Williamson County nor the amount of any Medicaid supplemental payment the Affiliated Hospitals might receive;
- d. No escrow, trust, or other funding mechanism exists, the amount of which is conditioned or contingent on the amount of indigent care services provided or to be provided by the Affiliated Hospitals; and that any escrow, trust or other funding mechanism utilized in connection with an anticipated IGT from Williamson County has been disclosed to HHSC and is not used to effect a quid pro quo for the provision of indigent care services by or on behalf of the Affiliated Hospitals;
- e. Williamson County has not received and will not receive refunds of payments Williamson County made or makes to the Affiliated Hospitals for any purpose in consideration for an IGT by Williamson County to fund Medicaid supplemental payments;
- f. The execution, delivery, and performance by Williamson County of this Agreement are within Williamson County's powers, are not in contravention of any other instruments governing body of Williamson County, and have been duly authorized and approved by the governing body of Williamson County as and to the extent required by applicable law;
- g. Neither Williamson County, 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 Williamson County, or any of its representatives from participation in Federal health care programs;

- h. This Agreement has been duly and validly executed by Williamson County; and
- i. Williamson County has public funds eligible to contribute to the non-federal share of Medicaid payments.

3.0 OBLIGATIONS OF AFFILIATED HOSPITALS

3.1 Agreement to Collaborate with Williamson County. The Affiliated Hospitals agree to work collaboratively with Williamson County to improve access to health care for indigent persons.

3.2 Documentation. The Affiliated Hospitals agree to provide Williamson County documentation that demonstrates the amount and types of health care (including indigent health care and Medicaid services historically provided in the community) as requested by Williamson County, but no more frequently than quarterly.

3.3 Compliance with State and Federal Law. The Affiliated Hospitals agree to retain qualified professionals to ensure health care is provided in compliance with state and federal charity care laws, anti-trust laws, any other applicable laws, and the Medicare and Medicaid programs.

3.4 Indigent Care Program Participation. At all times during the term of this Agreement, each Affiliated Hospital shall use its best efforts to maintain qualification for participation in the Medicaid and Medicare programs.

3.5 Compliance with HIPAA and Access to Records. To the extent applicable to this Agreement, the Affiliated Hospitals 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 Affiliated Hospitals 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

Affiliated Hospitals 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.

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 Affiliated Hospitals 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 Affiliated Hospitals carry 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 Hospitals 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.

4.0 OBLIGATIONS OF WILLIAMSON COUNTY

- 4.1 Agreement to Collaborate with the Affiliated Hospitals.** Williamson County agrees to work collaboratively with the Affiliated Hospitals to improve access to health care for indigent persons.
- 4.2 No Condition on Medicaid Funding.** Williamson County agrees that it will not condition the amount to which it funds the non-federal share of supplemental payments on a specified or required minimum amount of prospective indigent care.
- 4.3 Retrospective Evaluation of Services.** Williamson County may retrospectively evaluate the amount and impact of the Affiliated Hospitals' indigent care delivery and can rely on such historical information in determining whether and to what degree it will provide an IGT in the future.
- 4.4 Documents Publicly Available.** Williamson County agrees to make publicly available any documentation utilized in connection with intergovernmental transfers of funds.
- 4.5 Use of Public Funds.** To the extent Williamson County decides to provide funding for Medicaid supplemental payments, Williamson County agrees to use public funds eligible for such funding.
- 4.6 Compliance with HIPAA and Access to Records.** Williamson County 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." Williamson 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 the HIPAA Requirements and the terms of this Agreement. In addition, Williamson County agrees 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.

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, Williamson 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.

5.0 GENERAL PROVISIONS

- 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 unless the Parties agree otherwise; provided, however, that subject to the right of any Affiliated Hospital's right to withdraw from this Agreement, the Agreement shall terminate immediately upon written notice by either Williamson County or the Affiliated Hospitals to the other Party.
- 5.2 **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 set forth below and Affiliated Hospitals in ("Exhibit A").

County: Williamson County Judge
301 SE Inner Loop, Suite 109
Georgetown, TX 78626

With a Copy to: Williamson County and Cities Health District
Social Services Division
211 Commerce Boulevard
Round Rock, Texas 78664
ATTN: County Indigent Program Director

Affiliated Hospitals: St. David's Healthcare Partnership
98 San Jacinto Boulevard, Suite 1800
Austin, TX 78701
Attention: Cindy Sightes, Vice President and Chief
Financial Officer

With a Copy to: Gjerset & Lorenz, LLP
2801 Via Fortuna, Suite 500
Austin, Texas 78746

- 5.3 **Relationships between the Parties.** The relationship between Williamson County and the Affiliated Hospitals is solely a contractual relationship between independent contractors. No Party hereto is an agent or employee of any other Party. Nothing in this Agreement shall prevent any affiliation or contracting by any Party with any third party, with the exception that no party may contract or affiliate with another Party to gain entitlement to Medicaid supplemental payments pursuant to this Agreement.
- 5.4 **Governing Law.** This Agreement shall be governed by the laws of the State of Texas. The Affiliated Hospitals understand that Williamson County is a political subdivision of the State of Texas and governed by certain statutes applicable thereto.
- 5.5 **Assignment.** No Party may assign any right, obligation, or responsibility under this Agreement except to a successor in interest.
- 5.6 **No Third Party Beneficiary.** The Parties to this Agreement do not intend to establish any third party beneficiary relationships by virtue of this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have hereunto set their hand as of the date set forth above.

COUNTY:

COUNTY OF WILLIAMSON, TEXAS

By: _____
[Printed Name] _____
[Title] _____

AFFILIATED HOSPITALS:

**ST. DAVID'S HEALTHCARE PARTNERSHIP,
individually, and as authorized agent for:
ST. DAVID'S NORTH AUSTIN MEDICAL CENTER,
ST. DAVID'S SOUTH AUSTIN MEDICAL CENTER, AND
ST. DAVID'S MEDICAL CENTER**

By: Cy Sights 9/24/18
Cindy Sights, Vice President and Chief Financial
Officer, HCA Central/West Texas Division

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