

9/10/2014 3:00 PM



September 10, 2014

Jonny F. Hipp, ScD, FACHE
Administrator/Chief Executive Officer
Nueces County Hospital District
555 N. Carancahua St., Suite 950
Corpus Christi, TX 78401-0835

Re: Letter of Intent Regarding Material Alteration Notice

Dear Mr. Hipp:

This binding Letter of Intent Regarding Material Alteration Notice ("Letter of Intent") sets forth the intentions expressed by CHRISTUS Spohn Health System Corporation ("Spohn") and the Nueces County Hospital District (the "District") to engage in a series of transactions designed to improve the provision of hospital and community-based care to residents in Nueces County, Texas, with particular regard to Nueces Aid Beneficiaries. Specifically, the terms outlined below will facilitate Spohn's commencement of a \$325 million capital project in Nueces County, Texas that will update, expand, and realign Spohn's healthcare delivery structure. The proposed transactions include:

- (1) the District's written approval of Spohn's Material Alteration Notice, which is hereby provided by the District, to construct a minimum 40,000 building gross square foot outpatient clinic as a leasehold improvement on the Memorial campus for the provision of comprehensive outpatient clinic care, the relocation of the inpatient beds and Level II Trauma Center from Memorial to the Spohn Shoreline hospital facility, and then, following the District's Board of Managers' approval of the closure of the Memorial hospital building and subject to Texas Health & Safety Code §§ 285.051 and 285.052, demolish the existing Memorial hospital building as a leasehold improvement on the land the District granted Spohn a right to access, use, and occupy (collectively, "Material Alteration");
- (2) amendments to the presently-effective CHRISTUS Spohn Health System Corporation Membership Agreement (the "Membership Agreement") including, without limitation, amendments to the provisions in the Membership Agreement governing the revenue sharing determination process and a Memorandum of Understanding ("MOU") between Spohn and the District incorporating the parties' new or revised rights and obligations pursuant to the Material Alteration;
- (3) amendments to the presently-suspended agreements between Spohn and the District to reflect the parties' new or revised rights and obligations in the event the Membership Agreement terminates, including the Master Agreement as amended ("Master Agreement"), the Lease Agreement as amended ("Lease"), and the Revised and Restated Indigent Care Agreement ("ICA");

- (4) amendments to Schedule 1 of the Membership Agreement and the suspended Lease to support Spohn's construction of the new Dr. Hector P. Garcia – Memorial Family Health Center as a leasehold improvement on the Memorial campus; and
- (5) a MOU setting out Spohn's commitments to the District regarding Spohn's refurbishment and expansion of Spohn's Shoreline hospital facility and Spohn's construction of the new Dr. Hector P. Garcia – Memorial Family Health Center.

Subject to due diligence and the preparation and execution of the District's written approval of the Material Alteration, which is hereby provided by the District, amendments to the Agreements listed above, as well as the MOU (the "Definitive Agreements"), following are the terms and provisions for the proposed transactions:

I. Terms to be Added to or Revised in Schedule 2 of the Membership Agreement, the suspended Master Agreements and ICA, the MOU, and any other documents related to Spohn's provision of Indigent Care and Other Services to Nueces Aid Beneficiaries.

- a. Spohn and the District will extend Spohn's current obligations to provide indigent care and other services under Schedule 2 of the Membership Agreement and the suspended ICA for an additional ten years (through 2036), with the option for Spohn to renew the ICA up to four five-year renewals (through 2056).
- b. The scope and level of services Spohn will make available to Nueces Aid Beneficiaries will remain consistent with Schedule 2 of the Membership Agreement and the suspended ICA.
- c. Nueces Aid Beneficiaries will continue to have the ability to access services in all facilities within Spohn's distributive network. Spohn's distributive network includes each of Spohn's hospitals (even those located outside of Nueces County), Spohn's family health centers, the new Dr. Hector P. Garcia – Memorial Family Health Center, Spohn's existing outpatient/ambulatory locations, and any new facilities Spohn may erect or lease for the purpose of providing healthcare to the community.
- d. Spohn will continue to provide inpatient hospital services and outpatient hospital services to the extent such outpatient hospital services are not covered as of December 1, 2013, in the jail infirmary contract to Nueces County jail inmates in Spohn's facilities located in Nueces County. To the extent the jail infirmary contract is subsequently terminated or significantly modified to reduce the level of services provided thereunder, then Spohn and the District agree to enter into negotiations for Spohn's potential provision of such jail infirmary services to jail inmates, for a reasonable fee.

- e. Spohn will ensure the appropriate availability of inpatient and outpatient psychiatric and behavioral health services for Nueces Aid Beneficiaries. Spohn is analyzing the most appropriate location for these 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. The location of Spohn's inpatient and outpatient psychiatric and behavioral health services will be in Nueces County. Spohn will also ensure that inpatient psychiatric Nueces Aid Beneficiaries have access to medications upon discharge. In addition, Spohn will provide transportation services between Spohn's inpatient psychiatric facilities and Spohn's off-site service facilities for Nueces Aid Beneficiaries requiring psychiatric and/or medical services. Spohn will coordinate with law enforcement on the transportation by law enforcement authorities of jail inmates and persons in law enforcement custody.
- f. Spohn will maintain the availability of psychiatric and behavioral health services.
 - i. Spohn will provide access for law enforcement officers and others to bring Nueces County residents to its appropriate facilities.
 - ii. Spohn will continue to provide psychiatric assessment services and crisis stabilization.
 - iii. Spohn will provide a commitment hearing location within or adjacent to its inpatient psychiatric facility.
 - iv. Spohn will provide adequate availability of inpatient psychiatric beds for Nueces Aid Beneficiaries, patients under emergency detention warrant, and adult Behavior Health Center of Nueces County (formerly Nueces County MHMR) patients. Spohn will evaluate and, as appropriate, modify such number of inpatient psychiatric beds in the future based on patient demand and community need.
 - v. Spohn will continue its collaboration with Behavioral Health Center of Nueces County (formerly Nueces County MHMR) for behavioral health services and resources, including inpatient services.
- g. The suspended ICA shall be amended to provide that, starting on the earlier of the termination of the Membership Agreement or September 30, 2026, the Maximum Annual Amount Spohn shall be reduced to \$29 million per year with no inflator, subject to the District's "maintenance of effort." In accordance with the suspended ICA, the suspended ICA shall likewise be amended to further reduce the Maximum Annual Amount in the event of the rollout of an expanded Texas Medicaid program comparable to that

contemplated by the Affordable Care Act that reduces the number of Nueces Aid Beneficiaries.

- h. Recognizing that the District does not set or otherwise control its tax rate, through the earlier of the termination of the Membership Agreement or September 30, 2026, the District will agree to a "maintenance of effort" commitment to request and diligently advocate for the establishment of an "effective" tax rate at a level to produce at least \$31.454 million per year in District tax revenues. The District's continuing "maintenance of effort" commitment will be amended to reflect the reduced Nueces Aid Beneficiary enrollment and/or reduced Maximum Annual Amount and potential related reduction in effective tax rate expected after the earlier of (1) the termination of the Membership Agreement, (2) the rollout of an expanded Texas Medicaid program comparable to that contemplated by the Affordable Care Act, or (3) September 30, 2026.

II. Terms to be Added to or Revised in Schedule 1 of the Membership Agreement, the suspended Lease and Master Agreements, and any other documents related to Spohn's use and occupancy of the Memorial campus.

- a. Spohn and the District will extend Spohn's Lease obligation, presently \$6,253,865 per year to the District for an additional ten years (through September 2036), with the option for Spohn to extend the Lease for up to four five-year renewals (through 2056). The imputed lease value will remain \$6,253,865 per year during the term of the Membership Agreement until September 30, 2026. The lease rate under the suspended Lease will also remain \$6,253,865 per year until September 30, 2026. As described in Section II(b), the lease rate will be adjusted starting October 1, 2026.
- b. The lease amount will be adjusted to \$1 million beginning in October 2026.
- c. Due to Spohn's demolition of the Memorial hospital building, the District will be relieved of its obligation to purchase the equipment in the facility at the end of the Lease term.
- d. Spohn's current capital expenditure requirements of \$6 million per year on a rolling 3-year average will be phased down as follows:
 - i. Calendar Year 2014 – \$6 million capital expenditure requirement calculated on a three-year rolling average in accordance with Schedule 1 of the Membership Agreement, with potential deficit for such three-year rolling average added to Spohn's capital expenditures obligation for calendar year 2015;
 - ii. Calendar Year 2015 – \$3 million capital expenditure requirement encompassing infrastructure and equipment expenditures for District-owned facilities (including green space at the Memorial campus) and

- the construction costs associated with the Dr. Hector P. Garcia – Memorial Family Health Center leasehold improvement calculated for the 12-month period comprising calendar year 2015, with potential deficit for such 12-month period added to Spohn’s capital expenditures obligation for calendar year 2016;
- iii. Calendar Year 2016 – \$2 million capital expenditure requirement encompassing infrastructure and equipment expenditures for District-owned facilities (including green space at the Memorial campus) and construction costs associated with the Dr. Hector P. Garcia – Memorial Family Health Center leasehold improvement calculated for the 12-month period comprising calendar year 2016, with potential deficit for such 12-month period added to Spohn’s capital expenditures obligation for calendar year 2017;
 - iv. Calendar Year 2017 and forward – \$600,000 expenditure requirement encompassing (i) a minimum of \$200,000 in capital expenditures at District-owned facilities and (ii) other infrastructure, equipment, repairs, maintenance, and minor equipment expenditures for District-owned facilities (including green space at the Memorial campus) calculated on a three-year rolling average, with the potential deficit (including the potential deficits rolled over from Calendar Year 2014 through Calendar Year 2016) paid by Spohn to the District following reconciliation for calendar year 2017 and forward.
- e. Notwithstanding anything herein to the contrary, Spohn and the District agree that the difference between Spohn’s original capital expenditure requirement of \$6 million and Spohn’s phased down capital expenditure obligation for Calendar Years 2015 until the Calendar Year in which Spohn satisfactorily completes its commitments as set out in Sections II.e (i)-(iv) below (“Escrow Funds”) shall be held in escrow. The Escrow Funds shall be disbursed to Spohn based on the following schedule:
- i. Spohn shall be entitled to withdraw twenty-five percent (25%) of the Escrow Funds balance upon obtaining a certificate of occupancy for the Dr. Hector P. Garcia – Memorial Family Health Center and treating a Nueces Aid Beneficiary patient in that facility. In addition, Spohn will reduce its subsequent Escrow Funds deposits by twenty-five percent (25%) upon completion of this commitment.
 - ii. Spohn shall be entitled to withdraw twenty-five percent (25%) of the Escrow Funds balance upon completion of the Emergency Department renovations at the Shoreline hospital campus. In addition, Spohn will reduce its subsequent Escrow Funds deposits by twenty-five percent (25%) upon completion of this commitment.
 - iii. Spohn shall be entitled to withdraw twelve and a half percent (12.5%) of the Escrow Funds balance upon the Shoreline hospital campus

obtaining designation from the Texas Department of State Health Services as “in active pursuit” of Level II Trauma status. In addition, Spohn will reduce its subsequent Escrow Funds deposits by twelve and a half percent (12.5%) upon completion of this commitment. Spohn shall be entitled to withdraw an additional twelve and a half percent (12.5%) of the Escrow Funds balance upon the Shoreline hospital campus obtaining official designation from the Texas Department of State Health Services as a Level II Trauma facility. In addition, Spohn will reduce its subsequent Escrow Funds deposits by twelve and a half percent (12.5%) upon completion of this commitment.

- iv. Spohn shall be entitled to withdraw twelve and a half percent (12.5%) of the Escrow Funds balance upon completing the demolition of the Memorial hospital building. In addition, Spohn will reduce its subsequent Escrow Funds deposits by twelve and a half percent (12.5%) upon completion of this commitment. Spohn shall be entitled to withdraw an additional twelve and a half percent (12.5%) of the Escrow Funds balance upon the restoration of the resulting “green space” from the Memorial demolition to the standard Spohn currently provides on the existing “green space” encompassed by the suspended Lease agreement. In addition, Spohn will reduce its subsequent Escrow Funds deposits by an additional twelve and a half percent (12.5%) upon completion of this commitment.
- v. Any remaining Escrow Funds balance as of September 30, 2026 shall be disbursed to the District, and Spohn’s obligation to make Escrow Funds deposits will cease on that date.
- e. Spohn will continue to maintain the “green space” at Memorial, and will maintain the land at least in the same condition as the other green space on the Memorial campus.
- f. The District will own the new Dr. Hector P. Garcia – Memorial Family Health Center, which shall be constructed by Spohn as a leasehold improvement on the Memorial campus.
- g. The District will secure (as, applicable, at Spohn’s expense) either:
 - i. Baptist Foundation of Texas’ written affirmation that the new Dr. Hector P. Garcia – Memorial Health Center complies with the current restrictive covenant contained in the existing grant deed from Baptist Foundation of Texas;
 - ii. A written amendment to the Baptist Foundation of Texas’ grant deed expanding the restrictive covenant to allow the Memorial campus to be used for “hospital, healthcare, healthcare education, and/or related activities or purposes including, without limitation, an outpatient

primary care clinic or any other inpatient or outpatient/ambulatory facility or facilities used to provide healthcare or related services to the community;" or

- iii. a variance/written release from the Baptist Foundation of Texas regarding the restrictive covenant contained in the grant deed from Baptist Foundation of Texas to the District granting title to the real property free and clear of such restrictive covenant.

III. *Terms to be included in the Schedule 1 of the Membership Agreement and the Suspended Lease.*

- a. Spohn will have the right to erect a new building as a leasehold improvement on the land encompassed by the amendments to Schedule 1 of the Membership Agreement and the suspended Lease and then, following the District's Board of Managers' authorization to close the Memorial hospital facility and subject to Texas Health & Safety Code §§ 285.051 and 285.052, to demolish the existing Memorial hospital facility on the Memorial campus.
- b. Spohn will pay for the new construction costs (i) to erect and equip a fully-operational Dr. Hector P. Garcia – Memorial Family Health Center as a leasehold improvement on the Memorial campus and (ii) following the District's Board of Managers' authorization to close the Memorial hospital facility and subject to Texas Health & Safety Code §§ 285.051 and 285.052, to demolish the existing Memorial facility as a leasehold improvement on the Memorial campus.
- c. The new Dr. Hector P. Garcia – Memorial Family Health Center will belong to the District, ensuring that the community has a new, viable infrastructure for providing care to Nueces Aid Beneficiaries, regardless of Spohn's continued presence.
- d. The lease amount will be adjusted to \$1 million beginning in October 2026.

IV. *Terms to be Included in the Memorandum of Understanding between Spohn and the District regarding Spohn's commitments related to the refurbishment and expansion of its Shoreline hospital facility and the construction of the new Dr. Hector P. Garcia – Memorial Family Health Center.*

- a. Spohn will continue to provide the current levels of inpatient and outpatient services necessary to meet the needs of the Nueces Aid Beneficiaries. Spohn will add approximately 196 new inpatient beds to Shoreline, which will result in a total of 406 staffed beds at Shoreline. In addition, Spohn's expansion of Shoreline will include shelled space for future growth if needed.

- b. Spohn will maintain a Level II Trauma Services Center in Corpus Christi. Currently, the Memorial campus includes an Emergency Department (“ED”) and a Level II Trauma Center. Before ceasing operations at Memorial, the ED services and trauma services and program will transfer to Shoreline and enable Spohn to provide at least the same or enhanced level of ED services and Trauma Center services at Shoreline as currently exist at Shoreline and Memorial. The initial refurbishment and enhancement of Shoreline’s ED will target the construction or renovation of 39 ED treatment beds / ED beds, subject to no less than a 10% variance, following Spohn’s architectural patient flow assessment and related design considerations. Spohn will evaluate and, as appropriate, modify such number of ED treatment beds / ED beds in the future based on patient demand and community need.
 - i. Spohn will not cease operations at or demolish the Memorial hospital facility until it has completed the construction to the Shoreline ED / Trauma Center, ensuring that the community will have constant access to an ED equipped to provide Level II Trauma services.
 - ii. There may be a short period of time that Shoreline is designated as “in active pursuit” of Level II Trauma status, based on timing restrictions at the State and the American College of Surgeons. However, the “in active pursuit” designation means that Shoreline will be operating as a Trauma II center while official certification is pending. Spohn will not cease operations at or demolish Memorial until Shoreline has received, or is “in active pursuit” of, Level II Trauma status. Again, the level of trauma service will not be interrupted.
 - iii. As part of Spohn’s renovation of the Shoreline ED, Spohn will employ a more effective design for trauma services. The trauma surgeons and team will be an integral part of the design.
- c. Spohn will monitor community needs and consider several factors as part of its redesign of the Shoreline ED, including the growing population in the County, the increased number of freestanding EDs serving the community, the increasing availability of primary care in the community, and other factors that may impact patients served by Spohn’s Shoreline ED.
- d. Per hospital regulatory requirements, Spohn will 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. Spohn reviews its Emergency Preparedness Plans and conducts drills locally, regionally and at a state level to ensure systemic knowledge of the standard operating procedures during an emergency.
- e. Spohn will maintain at least two Graduate Medical Education (“GME”) programs.

- i. Spohn will maintain, support, and fill at least the number of residents slots needed to obtain Medicare payment at its current annual Medicare allowable full-time-equivalent (“FTE”) GME cap.
 - ii. Spohn will provide office space and a training center for the residents within the redesigned Shoreline campus.
 - iii. Resident training will continue to occur at various care sites, in order to ensure a comprehensive training experience.
- f. Spohn will provide adequate space within the new Dr. Hector P. Garcia – Memorial Family Health Center for District’s current level of enrollment counselors. The parties will evaluate the future need for such space for District enrollment counselors and, if appropriate, modify such space in the future, including potentially providing space within Shoreline for District enrollment counselors.
- g. The current clinic services at Memorial will continue to be available in the new minimum 40,000 building gross square-foot family health center to be named Dr. Hector P. Garcia – Memorial Family Health Center. These include the current and expanded services listed below:
 - i. extended Health Center hours to include operating 24 hours on Thursday, Friday and Saturday for non-scheduled visits. Spohn will evaluate and, as appropriate, modify such hours of operation in the future based on patient demand and community need, including potentially operating 24 hours in the Health Center on Sunday, Monday, Tuesday, and Wednesday;
 - ii. faculty and residency clinic focused on primary care services (family medicine);
 - iii. the specialty clinics, including: urology, cardiology, neurology, endocrinology, orthopedics, and post-trauma;
 - iv. clinic outpatient pharmacy services and medication counseling education;
 - v. X-ray and laboratory services;
 - vi. social services;
 - vii. community health / transition care workers to assist patients and families in navigating needed healthcare services;
 - viii. behavioral health counselors;
 - ix. wellness and prevention education for both patient and families including help with appropriate diet and lifestyle;
 - x. management of ongoing diseases such as diabetes, heart conditions, and high blood pressure;
 - xi. NCHD enrollment counselors; and,
 - xii. support of spiritual needs through availability of onsite chapel.

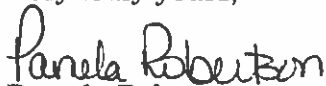
V. Spohn's Optional Right of Termination

Spohn shall have the option to terminate this Letter of Intent by providing written notice to the District within 45 days of the Board of Managers' resolution ordering the closure of the Memorial facility in the event that:

- A petition is filed with the District objecting to the closure of the Memorial facility and it is determined within such 45-day period that there are a sufficient number of signatures of qualified voters to require an election under Texas Health & Safety Code §§ 285.051 and 285.052; or
- A petition is filed with the District objecting to the closure of the Memorial facility and it is not determined during such 45-day period as to whether there are a sufficient number of signatures of qualified voters to require an election under Texas Health & Safety Code § 285.051 and 285.052. Spohn may at its sole option extend the 45-day period hereunder for up to two additional 15-day periods by providing the District written notice of such extension(s).

If the foregoing correctly sets forth our intentions, please sign the duplicate copy of this letter in the space provided and return it to the undersigned on. Subject to Texas Health & Safety Code §§ 285.051 and 285.052, based on the consideration set forth herein on behalf of both parties, the undersigned, through execution of this Letter of Intent, understand and agree that this Letter of Intent and the commitments of the parties set forth herein shall constitute a written agreement legally binding upon each party.

Very truly yours,



Pamela Robertson

CEO

CHRISTUS Spohn Health System Corporation

AGREED TO AND ACCEPTED this 10th day of September, 2014

NUECES COUNTY HOSPITAL DISTRICT

By:


Jonny Hipp, Administrator/CEO

APPROVED BY THE NUECES COUNTY
COMMISSIONERS COURT

By:


S. Loyd Neal, Jr., County Judge