

# **Exhibit “A”**

## MPAP SETTLEMENT AGREEMENT

This MPAP Settlement Agreement (“Agreement”), effective May 3, 2017 (the “Effective Date”) is made and entered into by and between the political subdivisions established under the laws of the State of Texas and listed on Attachment A (each a “Non-State Governmental Entity” or “NSGE”).

### RECITALS

A. The Texas Health and Human Services Commission (“HHSC”) is the single state agency authorized to administer the state medical assistance program (“Medicaid”) under Section 1902(a)(5) of the Social Security Act (42 U.S.C. §1396a(a)(5)) and Section 32.021(a), TEXAS HUMAN RESOURCES CODE, and Section 531.055(b)(1), TEXAS GOVERNMENT CODE, including the Texas Nursing Facility Minimum Payment Amount Program (“MPAP”) for nursing facilities owned by NSGEs.

B. The “Group A NSGEs” listed in Exhibit A and other non-state governmental entities participating in MPAP made intergovernmental transfers of public funds to HHSC as required by MPAP.

C. HHSC has made a series of payments (the “Proxy Payments”) to the MPAP participating non-state government entities, with the intention of making a final payment that would reconcile the Proxy Payments to the amounts to be paid under MPAP (“Reconciliation”). HHSC has been unable to calculate payments due to the non-state government entities for Reconciliation in accordance with MPAP.

D. Pursuant to the MPAP Payment Agreement, HHSC proposes to make a final Proxy Payment to (or receive a payment from) the non-state government entities as full and final settlement of all amounts owed to the non-state government entities under MPAP for state fiscal years 2015 and 2016, subject to any Premium Reconciliation. “Final Proxy Payment” means a payment from HHSC to an MPAP Provider for the purpose of distributing the MPAP program balance, as calculated by HHSC. “Premium Reconciliation” means any of the reconciliations contemplated by MPAP.

E. HHSC has announced that if the non-state government entities participating in MPAP do not unanimously consent to the MPAP Payment Agreement, no final Proxy Payments will be made, and Reconciliation would proceed. The NSGEs acknowledge that Reconciliation would likely take several years to complete, and the outcome would be uncertain.

F. The Group A NSGEs, along with Baylor County Hospital District, Sterling County, Booker Hospital District and Mitchell County Hospital District (“Group B NSGEs”) are of the opinion that they would be underpaid under the MPAP Payment Agreement and would fare better under Reconciliation, but would prefer to avoid the delay and uncertainties that would be involved in Reconciliation.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements described in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged the parties agree as follows:

1. Execution of MPAP Payment Agreements by NSGEs. Each Group A and Group B NSGE will execute and file MPAP Payment Agreements with HHSC on or before May 3, 2017.
2. Payment of Settlement Consideration into Escrow. In the event HHSC provides written confirmation that it will proceed with the MPAP Payment Agreement and Final Proxy Payments, the Group A NSGEs shall, within three business days, pay into escrow the settlement funds for the Group B NSGEs as described in Exhibit B.

3. Distribution or Return of Settlement Proceeds. In the event that HHSC provides written confirmation that it will proceed with the MPAP Payment Agreement and Final Proxy Payments, the settlement funds shall be distributed to the Group B NSGEs in the amounts listed in Exhibit B within three (3) business days. In the event HHSC confirms that the MPAP Payment Agreement will not proceed, any settlement funds paid into escrow shall be returned to the Group A NSGEs within three (3) business days.
4. Recoupment. If the MCOs recoup the Final Proxy Payment as a result of disallowance or rejection of the MPAP Payment Agreement, then each Group B NSGE shall return to the Group A NSGEs the settlement proceeds, if any, that it received under this Agreement within three (3) business days.
5. Release and Covenant Not to Sue. In consideration of the promises exchanged between Group A NSGEs and Group B NSGEs, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Group A and Group B NSGEs agree to release and forever discharge all other NSGEs from any and all past and present claims, whether known or unknown, demands, rights and causes of action each may have against another NSGE arising out of this Agreement, except for those relating to performance of obligations under this Agreement.

5. Administrative Provisions.

5.1 *Headings.* The headings, captions and arrangements used in this Agreement are, unless specified otherwise, for convenience only and shall not be deemed to limit, amplify, or modify the terms of this Agreement, nor to affect the meaning thereof.

5.2 *Governing Law.* This Agreement is being executed and delivered, and is intended to be performed in Texas, pursuant to the laws of the State of Texas, which shall govern the rights and the duties of the parties and the validity, construction, enforcement and interpretation of this Agreement.

5.3 *Severability.* If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, and the remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance therefrom.

5.4 *Authority.* The parties represent and warrant that the person signing this agreement on behalf of each party is fully authorized to bind that party to all of the terms of this Agreement.

5.5 *Entire Agreement.* This Agreement embodies the entire agreement between the parties with regard to the matters set forth in it and shall be binding upon, and inure to the benefit of the agents, employees, officers, directors, administrators, servants, representatives, and assigns of each party. This Agreement supersedes any and all prior agreements and understandings, if any, relating to the subject matter hereof, and may be amended only by an instrument in writing executed jointly by a duly authorized officer or agent of each of the parties. The terms of this instrument are contractual and are not mere recitals, and the undersigned specifically represent that the contents and effects hereof are fully and completely agreed to and understood.

5.6 *Acknowledgement.* The parties individually acknowledge that they have read and understand the effect of this Agreement, that they have had the advice of counsel, and that they are

executing this Agreement of their own free will and accord, for the purpose of making a full and final compromise and settlement and for the purposes and consideration set forth in this Agreement. Each party hereto has been advised that each party should have this Agreement reviewed by such party's attorney prior to executing same.

5.7 *Multiple Counterparts.* This Agreement may be executed in any number of identical counterparts, each of which shall be deemed an original for all purposes and all of which constitutes, collectively, one agreement, but, in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Copies of a party's signature on this Agreement shall have the same force and effect as an original.

5.8 *Interpretation.* This agreement shall not be construed against or unfavorably to any party because of such party's involvement in the preparation or drafting of this Agreement.

5.9 *Waiver.* Waiver by either party of a single, specific breach or violation of any provision of this Agreement by the other party is not a waiver of any other breach of the same or similar provision of the Agreement. No waiver of a breach of this Agreement by a party is effective unless it is in made in a writing provided to the other party.

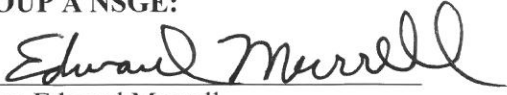
5.10 *Notices.* Any notices required or permitted under this Agreement will be sufficient if made in writing, sent by certified mail addressed to the addresses listed on the Management Agreement or such other address that either party may from time to time notify the other in writing.

5.11 *Attorneys Fees.* If one or more Group A NSGE(s) (a "Defaulting NSGE") fails to pay any settlement funds into escrow as required by this Agreement, and if any other Group A NSGE (a "Curing NSGE") provides (in its sole discretion) such settlement funds as a substitute for the Defaulting NSGE, then the Curing NSGE shall have the right to recover from the Defaulting NSGE 110% of the amount of funds provided by the Curing NSGE that exceed the Curing NSGE's obligations set forth in Exhibit B, as well as its reasonable attorney fees and costs of collection. If no NSGE provides funding to cure a Defaulting NSGE's failure to pay funds into escrow, then any Group B NSGE that pursues a claim to enforce its rights to settlement proceeds under this Agreement shall be entitled to recover 110% of the amount of settlement proceeds to which it was entitled plus reasonable attorney fees and costs of collection.

[Signature Pages Follow]

IN WITNESS WHEREOF, the undersigned, having represented and warranted their authority to enter into and execute this Agreement, have executed this Agreement.

**GROUP A NSGE:**

By: 

Name: Edward Murrell

Title: President, Winnie Stowell Hospital District

**GROUP B NSGE:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**  
**GROUP A NSGEs**

<u>Name</u>	<u>Amount</u>
Coryell County Memorial Hospital Authority	\$141,061.36
OakBend Medical Center	\$111,660.90
Uvalde County Hospital District	\$110,789.62
Dallas County Hospital District	\$107,470.08
Decatur Hospital Authority	\$76,826.89
Winnie-Stowell Hospital District	\$63,882.91
DeWitt Medical District	\$53,909.22
Val Verde County Hospital District	\$53,004.13
Stratford Hospital District	\$52,787.03
Seminole Hospital District	\$52,327.61
Eastland Memorial Hospital District	\$42,124.96
South Limestone Hospital District	\$38,841.74
Sweeny Hospital District	\$35,083.67
Palo Pinto County Hospital District	\$34,291.91
Childress County Hospital District	\$32,097.42
Liberty County Hospital District	\$31,426.55
Nocona Hospital District	\$29,696.08

**EXHIBIT B**  
**GROUP B NSGEs**

<u>Name</u>	<u>Amount</u>
Baylor County Hospital District	\$760,000.00
Sterling County, Texas	\$17,098.99
Booker Hospital District	\$53,684.05
Mitchell County Hospital District	\$236,499.04



# **Exhibit “B”**

**Winnie Stowell Hospital District**

**Credit Card Policies and Procedures**

**Adopted:** May 02, 2017 Special Meeting

**Purpose**

The purpose of this policy is to communicate eligibility, usage, and payment of expenditure requirement for the Winnie Stowell Hospital District (“WSHD”) credit cards.

**Guidelines**

- Winnie-Stowell Hospital District will issue credit cards for the use of valid expenditures to the Board President, and Administrator.
- The District Administrator shall be the administrator for the credit card account.
- The use of the credit cards will be used for Emergency Purchases, Online Purchases, Payment of Utilities, Travel, Field Meals, and with Vendors where a line of credit cannot be established.
- Personal purchases of any type are strictly prohibited.
- The purchasing procedures will be followed as it pertains to guidelines on spending limit.
- Items purchased should be within budgeted items unless an emergency.
- Anyone issued a WSHD credit card shall NOT take cash advances on credit cards.
- Credit limits as follows:
  - Administrator-           \$ 5,000<sup>00</sup>
  - Board President -       \$ 5,000<sup>00</sup>
- Monthly credit card statements will be approved by the Board with supporting documentation and receipts.

Approved and signed May 2, 2017 by:

  
Edward Murrell, Chairman

  
Jeff Rollo, Vice-Chair

  
Raul Espinosa, Secretary