

Operating Lease Extension Agreement
(Related to Health System Operating Lease Agreement
recorded as Instrument No. 212121218 on October 15, 2012
in the Official Records of Real Property in the County of El Paso, State of Colorado)

WHEREAS, the City of Colorado Springs, a home rule city and municipal corporation duly organized and existing under the constitution of the State of Colorado (together with its wholly-owned and controlled enterprise, Memorial Health System, the “City”) owns and was the licensed operator of Memorial Health System facilities through September 30, 2012;

WHEREAS, after determining it to be in the best interest of the public health, safety, and general welfare of the City and its residents, the City Council approved the City’s entry into (i) the Health System Operating Lease Agreement dated July 2, 2012 (which contemplated transfer of Memorial Health System assets and the long-term lease of Memorial Health System facilities to a lessee (first Poudre Valley Health Care, Inc., then UCH-MHS)) by and among the City, Poudre Valley Health Care, Inc., and UCH-MHS, recorded as Instrument No. 212121218 on October 15, 2012 in the Official Records of Real Property in the County of El Paso, State of Colorado (the “Operating Lease”), and (ii) the Integration and Affiliation Agreement, dated July 2, 2012, by and among the City, University of Colorado Health, Poudre Valley Health Care, Inc., and UCH-MHS (the “Integration Agreement”, and together with the Operating Lease, the “Affiliation Agreements”);

WHEREAS, the Operating Lease has an initial forty (40) year term through September 30, 2052, and the Operating Lease expressly contemplated that, prior to October 1, 2022, the City and UCH-MHS would discuss and negotiate in good faith whether to enter into an “Extension Term” as defined in the Operating Lease;

WHEREAS, the term of the Integration Agreement is coterminous with the term of the Operating Lease;

WHEREAS, through the Affiliation Agreements, UCH-MHS has contributed significantly to the economic development of the City, including without limitation through the construction and operation of the Grandview hospital facility, the expansion of the Memorial Hospital Central trauma and stroke programs into southern Colorado’s first and only Level I trauma center and Comprehensive Stroke Center, the creation of southern Colorado’s most comprehensive provider network, and numerous other campus improvements and geographic expansions that have and are anticipated to continue enhance the care available to the residents of Colorado Springs and surrounding areas; and

WHEREAS, in light of the significant mutual benefits that have inured to the parties through the Affiliation Agreements, and which the parties anticipate will continue to inure through extending such agreements, the City and UCH-MHS desire to memorialize an agreement of the parties with respect to the Extension Term (this “Agreement”).

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual agreements hereinafter contained, the City, and UCH-MHS agree as follows:

1. The City and UCH-MHS hereby enter into the Extension Term, consistent in all respects with the manner in which the Extension Term is described in the Operating Lease, provided that notwithstanding anything in the Operating Lease to the contrary, the City agrees that its right to give notice of termination of the Extension Term shall not arise until October 1, 2032 or thereafter, in which case the Operating Lease would terminate at such time as is consistent with Section 13.1.4 of the Operating Lease. For the avoidance of doubt, such termination shall be effective on the thirty-first (31st) anniversary of the commencement of the next annual term of the Operating Lease (i.e., the subsequent October 1st) following the City's notice to terminate.
2. UCH-MHS agrees that notwithstanding anything in the Operating Lease to the contrary, from and after the date of this Agreement, UCH-MHS shall not have the right to terminate the Operating Lease pursuant to Section 13.3.6(ii) thereof, which in the interest of clarity relates to an Event of Non-Viability as defined in the Operating Lease.
3. The parties believe that it is in the best interests of the Colorado Springs community to have representation from both UCH-MHS and Penrose-St. Francis Health Services, as the two largest health care providers in the community, on the Colorado Springs Health Foundation ("CSHF") Board of Trustees. The City therefore agrees, following execution of this Agreement, to use good faith efforts to amend the CSHF governing documents (including the CSHF articles of incorporation and CSHF bylaws) and obtain all approvals as may be necessary to provide that the President of UCH-MHS and the President of Penrose-St. Francis Health Services (or their designees) shall each serve as a voting member to the CSHF Board of Trustees.
4. The Affiliation Agreements are in full force and effect and have not been modified or amended by any agreement other than an instrument fully executed by the City and UCH-MHS.
5. To the knowledge of the City and UCH-MHS, there exists no actionable default by the City or UCH-MHS, respectively, under the Affiliation Agreements and no condition exists which, with the giving of notice or the lapse of time or both, will constitute an actionable default under the Affiliation Agreements.
6. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile or electronically transmitted signature shall be deemed an original for purposes of evidencing execution of this Agreement.

[Signature Pages Follow]

[Signature Page 1 of 3 to Operating Lease Extension Agreement]

IN WITNESS WHEREOF, the City and UCH-MHS have executed or caused the execution of this Operating Lease Extension Agreement.

CITY OF COLORADO SPRINGS, a home rule city and municipal corporation duly organized and existing under the constitution of the State of Colorado, on behalf of itself and its wholly-owned and controlled enterprise, Memorial Health System

By: _____
Name: Tom Strand
Title: President, City Council
Date: _____

By: _____
Name: John Suthers
Title: Mayor
Date: _____

APPROVED AS TO FORM:

By: _____
Name: Wynetta Massey
Title: City Attorney
Date: _____

[Signature Page 2 of 3 to Operating Lease Extension Agreement]

STATE OF COLORADO)
) ss:
COUNTY OF _____)

The foregoing Operating Lease Extension Agreement was acknowledged before me this _____ day of September, 2021, by Tom Strand, as President, City Council of CITY OF COLORADO SPRINGS, a home rule city and municipal corporation duly organized and existing under the constitution of the State of Colorado, on behalf of itself and its wholly-owned and controlled enterprise, Memorial Health System.

Witness my hand and official seal.
My commission expires: _____.

Notary Public

STATE OF COLORADO)
) ss:
COUNTY OF _____)

The foregoing Operating Lease Extension Agreement was acknowledged before me this _____ day of September, 2021, by John Suthers, as Mayor of CITY OF COLORADO SPRINGS, a home rule city and municipal corporation duly organized and existing under the constitution of the State of Colorado, on behalf of itself and its wholly-owned and controlled enterprise, Memorial Health System.

Witness my hand and official seal.
My commission expires: _____.

Notary Public

[Signature Page 3 of 3 to Operating Lease Extension Agreement]

UCH-MHS, a Colorado nonprofit corporation

By: _____

Dan Rieber

Sr. VP and CFO of University of Colorado Health and Authorized Representative

Date: _____

STATE OF COLORADO)

) ss:

COUNTY OF _____)

The foregoing Operating Lease Extension Agreement was acknowledged before me this _____ day of September, 2021, by Dan Rieber, as Sr. VP and CFO of University of Colorado Health and Authorized Representative of UCH-MHS, a Colorado nonprofit corporation.

Witness my hand and official seal.

My commission expires: _____.

Notary Public