

BACKGROUND

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WHEREAS, the state of Louisiana, through its public and private educational institutions and health providers, has long endeavored to create and maintain a system of medical education and training of the highest quality while also providing the highest quality of health care services to all its citizens, and

WHEREAS, the American Association of Medical Colleges now predicts the United States will experience, by the year 2020, a significant physician shortage and recommends a 30% increase in medical school enrollment by 2015, and

WHEREAS, 97% of the parishes in the State of Louisiana are currently designated as Health Professional Shortage Areas, and more than 22% of Louisiana’s citizens do not have health insurance, and

WHEREAS, for nearly 70 years, the Charity Hospital in New Orleans was a center of training for thousands of today’s practicing physicians and allied health professionals, who practice in regions all over the United States and abroad and who are furthering the cause of improving the human condition, and

WHEREAS, the collective goal of the stakeholders in the Louisiana health care system is to continue enhancing the competitiveness of the state’s academic and training programs so Louisiana is positioned to attract the most talented faculty, students, residents and other medical professionals, and

WHEREAS, a highly competitive academic and training environment furthers the additional goal of the stakeholders to leverage the research capabilities of Louisiana’s public and private educational institutions and health providers, and

WHEREAS, due to the catastrophic event that occurred August 29, 2005 - Hurricane Katrina - the operations of Charity Hospital were ceased, and

WHEREAS, tens of thousands of patient-physician relationships were disrupted or severed by the Hurricane, thousands of medical professionals were temporarily or permanently displaced, and almost half the inpatient capacity in Region I was lost, and

WHEREAS, the region’s remaining hospitals and thousands of dedicated health professionals have continued to battle financial, physical and mental hardship to provide services to the population, and

WHEREAS, the opportunity exists to develop a new Academic Medical Center to replace Charity Hospital as part of a system of health care in Southeast Louisiana which respects the traditions and partnerships of the past while simultaneously creating a model training and service institution based upon the promise of tomorrow’s technology and scientific advancement as well as needed operational efficiencies for the future, and

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WHEREAS, this Academic Medical Center will play a central role in providing services to the uninsured, and will provide the state of Louisiana with tertiary services difficult to sustain in the typical community hospital setting while also providing a vehicle for partnerships with private organizations seeking to invest and partner in research and training, and

WHEREAS, this Academic Medical Center must have the ability to function in a highly competitive, technology driven and evolving health care market locally and nationally, and

WHEREAS, it is the desire of the State of Louisiana to build this Academic Medical Center without impeding the state's constitutional debt ceiling, thus optimizing the availability of private capital market financing while minimizing financial exposure to Louisiana taxpayers, and

WHEREAS, consistent with the responsibility incumbent upon this Academic Medical Center to comply with debt service provisions likely to be imposed by the lending institutions, the governance and management of the institution must be comparable with the best practices in the industry, be independent, be accountable, and be compliant with state law governing the statutory rights and obligations of LSU to affiliate with an independent non-profit supporting health care institution, and

WHEREAS, the affiliation of a non-profit enterprise in support of LSU for the purpose of furthering its educational mission is not without precedent, is contemplated by law, and it is of critical importance that LSU have an affiliated Academic Medical Center in which to train its medical and allied health students, medical residents and to conduct research in alignment with its academic, educational and research mission, and

WHEREAS, Tulane University has a long and rich tradition of providing medical training for the State of Louisiana, with its origins in medical training dating to 1834, and it is of critical importance that Tulane continue to have access to the new Academic Medical Center to train its medical and allied health students, medical residents and to conduct research in alignment with its academic, educational and research mission, and

WHEREAS, Tulane and LSU will rely greatly upon the Academic Medical Center for training of students and residents, and it is in the interest of both universities that each have considerable input into the oversight and governance of GME programs at the Academic Medical Center, and

WHEREAS, LSU, through its public mission and management of the public hospital system has established the goal of creating an integrated system of health care and medical training throughout the state, and

WHEREAS, a successful relationship between LSU, Tulane, Xavier, Dillard, Delgado and Southern Universities, as well as other universities and training institutions is desired

1 to optimize the training resources available to the state while also building the health care
2 economic enterprise in Louisiana, and

3
4 WHEREAS, in accordance with the Stafford Act, 42 U.S.C. § 5121 *et seq.*, funding by the
5 Federal Emergency Management Agency relating to a replacement facility for Charity
6 Hospital is an obligation under law, and the funding amount must be known in advance in
7 order for the project to commence, and

8
9 WHEREAS, a collaborative relationship with a Veterans Administration hospital facility
10 located as closely as possible to the new Academic Medical Center will create the
11 optimal staffing and medical/allied health training enterprise with the goal of providing
12 the most dignified and high quality service available to our veterans, and

13
14 WHEREAS, the parties recognize that any cooperative endeavor agreement pursuant to
15 the MOU shall be subject to approval of the Joint Legislative Committee on the Budget
16 in accordance with the law, and

17
18 WHEREAS the state of Louisiana, the Board of Supervisors of Louisiana State
19 University Agricultural and Mechanical College (“LSU”), the Administrators of the
20 Tulane Educational Fund (“Tulane”), the Louisiana Department of Health and Hospitals
21 (“LaDHH”), and the Louisiana Division of Administration (“DOA”), collectively
22 referred to as “the parties”, desire to memorialize these objectives,

23
24 **NOW THEREFORE**, the parties, each of whom has authority to sign on behalf of their
25 respective agencies or organizations, **AGREE AS FOLLOWS:**

26
27 **Memorandum of Understanding**

28
29 **Receipt of FEMA Funds and Conditions of Use**

30
31 The State of Louisiana, Division of Administration, will receive any settlement from
32 FEMA related to the claim made for damages to Charity Hospital. These funds,
33 combined with the state contribution, will be made available to a non-profit corporation
34 (“Corporation”) authorized under Title 17, Section 3390 of the *Louisiana Revised*
35 *Statutes* in accordance with the terms of this Memorandum of Understanding, at the
36 discretion of the Commissioner of Administration after a cooperative endeavor agreement
37 (hereinafter referred to as the “**Agreement**”) or other agreements have been executed by
38 the Commissioner of Administration and the Corporation. The Commissioner of
39 Administration shall not execute the Agreement until such time as the Commissioner is
40 satisfied that all conditions of this Memorandum of Understanding have been met. The
41 Commissioner shall consult the parties to this Memorandum of Understanding prior to
42 execution of the Agreement. The Agreement shall also be subject to approval of the Joint
43 Legislative Committee on the Budget in accordance with the law.
44

1 **New Academic Medical Center for the New Orleans Region**

2
3 Pursuant to Article 8, Section 7 of the Louisiana *Constitution*, the Board of Supervisors
4 of Louisiana State University A&M College is specifically authorized to supervise and
5 manage the programs of its system, including medical education and related research
6 activities. Title 17, Section 3390 of the *Louisiana Revised Statutes* authorizes non-profit
7 corporations to support public institutions of higher education, including through support
8 of facilities and research and educational programs. It is therefore contemplated that the
9 Corporation (which shall be a corporation affiliated with LSU as defined in Title 17,
10 Section 3390 of the *Louisiana Revised Statutes*), will support the financing, construction
11 and operation of the new Academic Medical Center (“AMC”). It is further contemplated
12 that the state will support the construction of the new Academic Medical Center
13 (“AMC”) through the Corporation only if there are appropriate safeguards to protect the
14 public interests and assure the efficient operations of the facility, as more fully set forth
15 herein. The Board of Supervisors of LSU shall own the fixed assets of the AMC,
16 including all plant and property, and shall enter into an agreement to make these assets
17 reasonably available to the Corporation.

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19 It is the intent of the parties that the AMC be constructed on the property acquired by the
20 State and LSU and pursuant to the procedures required by federal and state law. LSU
21 will enter into a long-term agreement with the Corporation to govern the Corporation's
22 use of said property in connection with the operation of the AMC. The agreement will be
23 of sufficient duration to support the long-term financing of the Corporation/AMC.

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25 As a condition of state funds, including those received from FEMA, being used in
26 support of the AMC, the Agreement shall ensure the Corporation (which shall be a
27 corporation authorized to affiliate with LSU pursuant to Title 17, Section 3390 of the
28 *Louisiana Revised Statutes*) meets the following criteria:

29
30 **Governance**

31
32 The parties recognize the financial and clinical success of the AMC will rely upon
33 accountable and effective governance. The board of directors of the Corporation
34 (hereinafter, “Corporation Board”) shall consist of eleven (11) members. Four (4)
35 members shall be representatives of LSU appointed by the President after obtaining the
36 advice and consent of the Board of Supervisors. One member shall be the President of
37 Tulane University, or his designee. One member shall be the President of Xavier
38 University, or his designee. One member shall be appointed by the presidents of
39 Delgado, Dillard and Southern Universities to serve two year terms; the order of service
40 shall be determined by lot. Each of these appointed members shall be permanent
41 members serving until replaced by their sponsoring institution or group of institutions.

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43 The remaining four (4) members (hereinafter, “non-permanent members”) shall be
44 individuals who are not affiliated in any way with permanent member institutions of the
45 Corporation Board and may also include one individual nationally recognized for
46 leadership in academic medicine or health care management, regardless of his or her state

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1 of residence. For purposes of this section, “not affiliated in any way with permanent
2 member institutions of the Corporation Board” shall mean individuals who during the
3 time of Corporation Board service are not, and for the three (3) years preceding
4 Corporation Board service have not been, employed by or serving on the boards of
5 directors, trustees, or supervisors of a permanent member institution or any entity,
6 organization, department or division or affiliate, including any alumni association or
7 foundation that is under the control or direction of a permanent member institution.
8 Membership alone in an alumni association of the permanent member institutions shall
9 not preclude service on the Corporation Board by being considered “affiliated in any way
10 with permanent member institutions.”

11
12 At all times, the Chair of the Corporation Board will be a designee of the President of the
13 LSU system, who shall be designated from among the **four (4)** members of the
14 Corporation Board representing LSU. Except as provided herein, and including any
15 powers granted within the bylaws, the Chair shall enjoy all the rights and privileges of the
16 other Corporation Board members. The process for establishing the initial Corporation
17 Board is detailed herein, and upon its appointment, the initial Corporation Board shall set
18 forth the process for successor non-permanent member appointments in the bylaws of the
19 Corporation, and shall specify that the successor non-permanent Corporation Board
20 member appointments be comprised of a proper balance of membership which includes
21 individuals with expertise in finance, medicine, health care management, health care law
22 or other experience relevant to the planning, development and management of a
23 sophisticated academic medical enterprise.

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25 The bylaws will specify that a nominating committee, which is composed of the
26 permanent members of the Corporation Board, shall be formed for the purpose of
27 recommending successor non-permanent members. The nominating committee shall be
28 chaired by the Chair of the Corporation Board. A majority of the members of the
29 nominating committee shall be required in order for a nomination to be made. **The Chair**
30 **of the Corporation Board may only vote to break a tie.** In the event that the nominating
31 committee has not nominated a candidate to fill a vacancy within three (3) months of the
32 creation of the vacancy, the issue shall be referred to the full Corporation Board and a
33 majority vote of the full Corporation Board shall be sufficient to appoint a new director.

Deleted: , but the Chair shall not have a vote on the nominating committee.

34 **In the event a nomination by the nominating committee is not approved after being**
35 **presented to the full Corporation Board and the lapse of three (3) months without a**
36 **substitute nomination for the position by the nominating committee, any four (4) board**
37 **members may jointly make a nomination, and a majority vote of the full Corporation**
38 **Board shall be sufficient to appoint the new director. If two substitute nominations for**
39 **the position are rejected by the full Corporation Board in accordance with this paragraph,**
40 **any four (4) board members may jointly make a nomination for the position, and a**
41 **majority vote of the full Corporation Board shall be sufficient to appoint the new director.**

42
43 A majority of the members of the Corporation Board will be composed at all times of
44 persons who are not members of the LSU Board of Supervisors or members or employees
45 of LSU or any entity, organization, department or division or affiliate that is under the
46 control or direction of the LSU Board of Supervisors. The bylaws shall also include strict

1 conflict of interest provisions governing permanent and non-permanent Corporation
2 Board members. The terms of non-permanent members shall be staggered such that no
3 more than two members rotate off the Corporation Board in any one year, no one non-
4 permanent member serves more than two terms, and terms should not last more than
5 three (3) years. Non-permanent members shall serve until they are replaced, and the
6 Corporation Board shall exercise diligence in ensuring the appointment process
7 commences timely in order to comply with the intent of the term limits. In the event a
8 non-permanent member cannot serve a full term, the replacement non-permanent member
9 shall serve the remainder of that term, provided that:

- 11 • If the vacating member has served less than half his/her term, the replacement
12 non-permanent member shall be eligible to serve for an additional full term upon
13 the expiration of the vacating member's term.
- 14 • If the vacating member has served more than half his/her term, the replacement
15 non-permanent member shall be eligible to serve an additional two full terms
16 upon the expiration of the vacating member's term.

17
18 **Process for Establishment of the Initial Corporation Board**

19
20 Because it is contemplated that the State and LSU will enter into the Agreement with the
21 Corporation for the purpose, inter alia, of its benefiting from the funds provided by
22 FEMA to the State and additional funds provided by the State for contribution toward
23 land acquisition and construction costs, pursuant to this Memorandum of Understanding,
24 and because the State of Louisiana has a clear interest in ensuring the qualifications and
25 independence of the Corporation Board prior to executing the Cooperative Endeavor
26 Agreement committing any funding, the parties agree that the Commissioner of
27 Administration and the Secretary of the Department of Health and Hospitals will
28 establish a process for accepting nominations for the initial non-permanent members of
29 the Corporation Board. It is the intent and goal of the parties that the Commissioner of
30 Administration and Secretary of the Department of Health and Hospitals will seek
31 qualified candidates who comprise a proper balance of expertise in finance, medicine,
32 health care management, health care law or other experience relevant to the planning,
33 development and management of a sophisticated and efficient academic medical
34 enterprise. The Commissioner of Administration and the Secretary of the Department of
35 Health and Hospitals will review the nominations for appointment and recommend to the
36 permanent members a slate of initial non-permanent members. The Commissioner and
37 the Secretary shall ensure that the recommended initial non-permanent members
38 represent a proper balance of experience and qualification, are independent and
39 understanding of their obligations to the Corporation. The permanent members of the
40 Corporation Board shall vote on whether to approve the full slate of recommended initial
41 non-permanent members, and such approval shall not be unreasonably withheld.
42 Immediately upon such approval, the recommended members shall be deemed to be
43 elected to the Corporation Board. In the event the recommended slate of initial non-
44 permanent members is not accepted by the permanent members, the Commissioner and
45 the Secretary shall continue to recommend a new slate until one is approved by the
46 permanent members.

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Name of AMC

The name of the AMC shall be “University Medical Center” and its branding shall reflect (1) it is a major affiliate of LSU and part of the LSU system, (2) it is a teaching hospital of Tulane University, and (3) other university affiliations approved by a majority of the then seated members of the full Corporation Board. The principal hospital building of the AMC shall be designated the “Rev. Avery C. Alexander Hospital” building. Other buildings may be named for donors at the direction of the Corporation Board in accordance with its building and facilities naming policy.

Public Accountability

The intent of the Agreement is, in part, to ensure proper accountability for the services provided by the Corporation and paid for by the State. As such, the Agreement shall ensure:

- The Division of Administration and the Department of Health and Hospitals shall have access to any and all records held by the Corporation for the purpose of conducting the official responsibilities of the respective agencies.
- The Corporation shall develop and maintain policies and procedures which ensure purchasing practices are consistent with achieving the best pricing and fairness in purchasing through competitive processes.
- The Corporation's financial and other records shall be subject to audit by the LSU System Internal Audit and the Legislative Auditor, in addition to yearly corporate audits.
- The Corporation shall follow quality constructions standards in consultation with the Division of Administration.
- The Corporation shall follow public records laws with respect to receipt and expenditures of state or federal funds.
- The Corporation shall generally take all necessary steps to assure transparency, responsibility and accountability to the public.

Bylaws Requirements

The parties agree that the Agreement will require that the Corporation, as a condition of receiving the initial state support toward construction, will adopt bylaws which, at a minimum:

- State the purpose and corporate mission of the Corporation. The bylaws shall describe, at a minimum, the role the Corporation will play in being a safety net provider for the state’s uninsured and the pivotal role the AMC will play as a statewide referral center for patients within the LSU health system in need of higher levels of care, the role the AMC will play in medical and allied

- 1 health training, and the goal of being recognized nationally as a leader in
2 research, training and excellence in transparent clinical and financial
3 outcomes.
- 4 • While the Corporation must support the programs, facilities, research and
5 education of LSU pursuant to La. R.S. 17:3390, and must support the medical
6 training programs of Tulane consistent with this MOU, it is nonetheless
7 required to be an effective, efficient organization acting, at all times, in a
8 responsible manner. The bylaws shall clearly articulate that it is the
9 obligation of each Corporation Board member to act as a fiduciary to the
10 Corporation and to ensure, first and foremost, the financial integrity of the
11 Corporation, and each Corporation Board member shall attest they will, at all
12 times, notwithstanding any other provision to the contrary, adhere to their
13 fiduciary obligation to the Corporation to ensure proper and efficient
14 stewardship of the Corporation and its assets.
 - 15 • Recognize that the Corporation has, as a principal purpose, the support of
16 programs, facilities and research and educational opportunities pursuant to La.
17 R. S. 17:3390, and the Corporation will, at all times, adhere to the intent of the
18 statute to support the education and research mission of LSU while also
19 recognizing the significance of the education and research mission of Tulane
20 and other affiliated academic institutions.
 - 21 • Acknowledge that the AMC is a key component of the LSU Health System
22 and as such will participate in mutually beneficial academic, clinical and
23 business operations. Potential mutually beneficial operations may include:
24 LSU's systemwide Information Technology initiatives, supply chain processes
25 to achieve reduced supply cost, clinical disease management programs,
26 adoption of common metrics for reporting of clinical, operational and
27 financial outcomes, coordination with the LSU Health System on establishing
28 requests for either direct or matched state funds, and others. "Mutually
29 beneficial operations" shall include full participation in the continuation of the
30 LSU electronic medical records ("EMR") program; provided, however, that
31 any EMR system utilized by LSU will meet the interoperability standards
32 established by the Office of the National Coordinator for Health Information
33 Technology. Additionally, LSU will provide Tulane with information on a
34 periodic basis regarding specification requirements of its EMR system, and
35 LSU will reasonably respond to questions that it would routinely answer from
36 other referring providers in the ordinary course, so that LSU and Tulane can
37 ensure compatibility and interoperability between the EMR systems;
38 provided, however, that LSU shall not be required to expend other than
39 normal costs of communicating specification requirements (electronically or
40 by hard copy, at its option) in meeting this obligation to provide such
41 information.
 - 42 • Include, at a minimum: all substantive issues required by The *Joint*
43 *Commission*; standards for conduct of Corporation Board members, including
44 non-interference by individual Corporation Board members in the daily
45 operations of the AMC outside prescribed responsibilities outlined in the
46 bylaws; process for appointment and dismissal of Corporation Board

1 members; attendance requirements by Corporation Board members; conflict
2 of interest policies for Corporation Board members, including disclosure and
3 recusal; and process for selection of officers other than the Chair, who shall be
4 designated as provided herein by the President of the LSU System.

- 5 • State that any three directors may bring an issue to the full Corporation Board
6 as an action item for the agenda, provided that written notice is provided to all
7 Corporation Board members at least 20 days in advance. The notice shall state
8 that the item has been requested for the agenda and must identify the item.
- 9 • Include the creation and membership guidelines of standing committees of the
10 Corporation Board, to include, at a minimum; audit and compliance, finance,
11 quality, risk management, compensation and review, strategic planning and
12 Graduate Medical Education.
- 13 • Require the Corporation to maintain and annually update a five-year strategic
14 plan inclusive of a capital plan, finance and financial operations plan, quality
15 plan, staffing and staff development plan, patient, employee and physician
16 satisfaction plan, and a marketing and business plan.
- 17 • Include language requiring two-thirds affirmative vote of the members of the
18 Corporation Board prior to making any future changes to the bylaws or
19 corporate articles.
- 20 • Provide that the Corporation Board shall be ultimately responsible for the
21 employment of a qualified Chief Executive Officer, who shall be responsible
22 only to the Corporation Board.
- 23 • Provide that for GME-related contracts with LSU and Tulane, that neither
24 University shall be treated in a discriminatory manner with regard to the
25 policy administration of the GME programs. Notwithstanding the
26 requirement for a two-thirds affirmative vote of the members of the
27 Corporation Board in order to change the bylaws, any change to the non-
28 discrimination section of the bylaws shall require the consent of the
29 permanent Corporation Board member representing Tulane in the event the
30 proposed bylaw change affects the non-discrimination section related to
31 Tulane, and shall require the consent of a majority of the of the permanent
32 Corporation Board members representing LSU in the event the proposed
33 bylaw change affects the non-discrimination section related to LSU.
- 34 • Provide that the GME Position Allocation provisions of the bylaws may not
35 be changed without the consent of the permanent Corporation Board member
36 representing Tulane and the permanent Corporation Board members
37 representing LSU.

38
39 Although it is not a requirement of the Agreement, the Parties will recommend that the
40 Corporation Board consider including in the Corporation bylaws a statement that
41 participating institutions, for example Delgado, Dillard, and Southern universities, will be
42 invited to attend Corporation Board meetings.

43
44 **Additional GME and Related Requirements**
45

1 The Corporation shall operate the AMC and shall be the GME successor to the hospital
2 currently operating under provider number 19-0005. The LSU Board of Supervisors and
3 the Corporation shall take all steps necessary to meet all the Medicare requirements for
4 change of ownership, within the time limits set by CMS, related to the transfer of
5 provider number 19-0005, and the resident slots and licenses associated with such
6 provider number, to the Corporation.
7

8 In the event there is a change in governmental or private payor policy that affects hospital
9 reimbursement for resident training, the parties will conform this MOU and any
10 implementing agreement to most closely carry out the intent of this provision to ensure
11 that Tulane and LSU are entitled to the Historical Allocation (as defined below) of
12 resident slots and fair reimbursement for resident training.
13

14 ***GME Contracts***

15
16 The Parties agree that the bylaws of the Corporation shall provide that the Corporation
17 Board and Tulane, and the Corporation Board and LSU, will enter into GME contracts
18 stipulating the rights and responsibilities of each party with regard to affiliated academic
19 training programs in accordance with this section. The agreements must acknowledge
20 the critical role the AMC will play for the GME programs of both universities, and must
21 detail the processes for governance of the GME programs. All policies and procedures
22 within the AMC related to administration of the training programs will apply equally to
23 the students, residents and faculty without regard to the sponsoring institution such that
24 for similar work or support services, an institution's student, resident or faculty member
25 will not be discriminated against by virtue of their affiliation with the sponsoring
26 institution. The Parties further agree that the Corporation, in administering the GME
27 program and affiliation agreements, shall:
28

- 29 • Ensure, with regard to policies affecting residents and medical
30 students, an equality of educational experience between the students and
31 residents irrespective of the sponsoring institution;
- 32 • Ensure, with regard to policies affecting LSU and Tulane residents,
33 faculty and medical students, equality in application of the policies
34 irrespective of the sponsoring institution; and
- 35 • Ensure faculty and resident support and pay without discrimination
36 based upon the sponsoring institution being LSU or Tulane (for example,
37 the method of assigning staff supervision reimbursement will be based
38 upon the proportion of residents to faculty, according to specialty;
39 provided that this provision shall not be construed to require duplicative
40 services).
41

42 Disputes related to the content of an executed contract related to GME will be resolved
43 by the hospital CEO and the representative of the applicable school of medicine initially.
44 If the hospital CEO and representative of the applicable school are unable to resolve the
45 dispute, the issue will be referred to a committee of the Corporation Board formed for the
46 purpose of resolving such GME-related contractual disputes. The committee membership

1 will consist solely of the Corporation Board members not affiliated with LSU or Tulane.
2 The committee will propose a resolution to the dispute. If this resolution is not accepted
3 by the affected University and the full Corporation Board, nothing herein shall preclude
4 the further available means to enforce an executed contract, and the contract may provide
5 for binding arbitration or other means of dispute settlement. Since GME issues affecting
6 both Tulane and LSU impact the operation of the AMC and, as a practical matter, extend
7 beyond the AMC, the following will be considered during this informal resolution
8 process related to GME slots or assignments, but will not be binding in any other
9 proceeding:

- 10 • Total distribution of LSU and Tulane residents by discipline at the
11 AMC
- 12 • Needs and expectations at the AMC and the ability for the residency
13 programs to meet those needs and expectations
- 14 • Performance according to contract requirements
- 15 • Residents in the AMC slots assigned to other hospitals and their
16 disciplines
- 17 • The total CMS-approved GME slots assigned to Tulane and LSU at
18 the-AMC.

20 ***GME Position Allocation***

22 The Parties agree that the bylaws will include the following provisions regarding the
23 allocation of GME slots.

24 It is agreed that the pre-Katrina number of CMS-approved residency slots 573.26. Of this
25 number, 373.26 of the slots are to be utilized at the discretion of LSU and 200 slots are to
26 be used at the discretion of Tulane (the "Historical Allocation"). If fewer than the 573.26
27 GME positions can be accommodated at the AMC, each institution shall be entitled to
28 use the available positions at the AMC in the same proportion as the Historical
29 Allocation. The excess slots will be divided by the same proportion and may be loaned
30 to other hospitals through annually renewed affiliation agreements, according to CMS
31 regulations and under the oversight of the GME committee.

32 Reclaiming Slots

33 In the event there is a greater need for residents at the AMC, the Corporation may reclaim
34 slots that have been loaned to other hospitals through regular and emergency affiliation
35 agreements in accordance with the terms of such agreements; provided, however, that
36 Tulane and LSU will fill the reclaimed slots in proportion to the Historical Allocation.
37 The Corporation, in deciding which hospitals to reclaim slots from, will consult with
38 Tulane and LSU to ensure that the slots are reclaimed in a manner that (a) permits Tulane
39 and LSU to provide residents in the appropriate specialties at the AMC in proportion to
40 the Historical Allocation, and (b) that ensures the proposed resident experience at the
41 AMC will not adversely affect the ACGME accreditation of the residency programs of
42 either Tulane or LSU. The Corporation shall provide Tulane and LSU notice of its intent
43 to reclaim the slots at least 12 months (but not more than 18 months) prior to July 1 of the
44 year in which the Corporation intends to reclaim the slots (the "Academic Year"). The

1 | notice shall state the program and purpose for which the reclaimed slots will be used. If
2 | either Tulane or LSU declines to provide residents to fill some or all of the reclaimed
3 | slots that are proposed by the Corporation, such school's unused slots may be allocated to
4 | the other school's residents for use at the AMC without regard to the Historical
5 | Allocation; provided, however, that such reclaimed slots shall revert back to the school
6 | from which they were taken in the subsequent Academic Year if the reclaimed slots were
7 | not filled by the school from which they were taken at the time of the initial request due
8 | to temporary or emergency circumstances or other reasonable short-term limitations
9 | associated with the transition of residents to the AMC; and provided further, that any
10 | such reclaimed slot must be used for the designated purpose or it shall revert to the school
11 | from which it was taken to be used for that school's residents at the AMC, or if the AMC
12 | decides to enter into an affiliation agreement, at another hospital.

14 | New Programs

15 | The Corporation, Tulane, or LSU may initiate a request to the other parties to establish a
16 | new residency program or expand a residency program (beyond current ACGME
17 | approved resident number) at the AMC. In the event the Corporation establishes a new
18 | residency program or expands a residency program at the AMC, the Corporation in
19 | agreement with either school, may reallocate resident slots to the new program in a
20 | manner which does not change the Historical Allocation. When an expansion is proposed
21 | when only one school operates the program to be expanded, the Corporation and the
22 | accredited program will design the expansion to allow reasonable opportunities to the
23 | school without such a program to participate consistent with the goals and requirements
24 | of the program. The Corporation will provide Tulane or LSU with notice of intent to
25 | reclaim slots for any new or expanded residency program at the time of the request to the
26 | ACGME. The school must necessarily make the request of the ACGME. If either
27 | Tulane or LSU declines to provide residents to fill some or all of the slots as requested by
28 | the Corporation within 12 months of receipt of ACGME initial program approval or other
29 | ACGME required approvals, such school's unused slots in the new program may be
30 | allocated to the other school's residents for use in the new program; provided, however,
31 | that such reclaimed slots shall revert back to the school from which they were taken in
32 | the subsequent Academic Year if the reclaimed slots were not filled by the school from
33 | which they were taken at the time of the initial request due to temporary or emergency
34 | circumstances or other reasonable short-term limitations associated with the start-up of
35 | the new program; and provided further, that any such reclaimed slot must be used for the
36 | designated purpose or it shall revert to the school from which it was taken to be used for
37 | that school's residents at the AMC or, if the AMC decides to enter into an affiliation
38 | agreement, at another hospital.

39 | This provision is applicable only to new or expanded residency programs at the AMC. In
40 | the event the Corporation loans its slots to be used for a new residency program at any
41 | other location, neither Tulane nor LSU will be required to participate in the new program
42 | nor will the non-participating school be required to allocate any of its slots to the new
43 | program.

1 The Corporation can only share and reclaim ACGME approved and CMS approved slots.

2

3 **Provision of Services**

4 Neither Tulane nor LSU will be charged for their use of the AMC as a teaching hospital.

5 Tulane and LSU faculty will have the opportunity to conduct clinical trials at the AMC
6 subject to AMC research policies and procedures, in a manner insofar as practicable
7 consistent with each institution's historic research presence at the pre-Katrina MCLNO
8 facilities.

9

10 **Financing of the New Academic Medical Center**

11

12 The new Academic Medical Center shall be financed through a combination of strategies.

13

14 The State of Louisiana has committed, through Acts 28 and 203 of the 2007 Regular
15 Session, \$300 million. The Legislature has already provided the authority to utilize these
16 resources, and the executive branch agrees to take all steps necessary to secure this
17 funding. This funding will be released as determined by the Commissioner of
18 Administration pursuant to the Agreement.

19

20 The Federal Emergency Management Agency (FEMA) is expected to provide the State of
21 Louisiana with a settlement (or judgment) related to Hurricane Katrina. The funds from
22 the settlement (or judgment) shall be received by the state and released by the
23 Commissioner of Administration as provided herein.

24

25 The remaining capital costs shall be financed through revenue bonds issued by the
26 Corporation. These bonds shall not be guaranteed by the state of Louisiana, and shall not
27 require the full faith and credit of the State.

28

29 Independent verification of the financial plan for financing purposes will be obtained and
30 must be provided to the Corporation Board for its review and approval before any
31 binding final action on financing. A firm with expertise in health care bond financing
32 will be utilized. The scope and cost of the project may be adjusted accordingly based on
33 the input of the financial analysis to ensure the project can be financed successfully.

34

35 **Financing the Uninsured and Developing a System of Care**

36

37 All parties agree the number of uninsured citizens has created a substantial financial
38 strain on the healthcare safety net. The Disproportionate Share funding program has
39 achieved its capacity, even while the costs allowable under the program have continued
40 to grow and are expected to continue growing. The parties agree to work together to
41 achieve more effective means by which federal funding can be optimized with the goal of
42 broadening access to private or public health insurance options for the poor.

43

1 It is clear the majority of the uninsured in the region will continue to seek their health
2 care through the Academic Medical Center. The AMC will maintain the mission of
3 being a reliable safety net provider.

4
5 **THEREFORE**, the State of Louisiana, through the Division of Administration and the
6 Department of Health and Hospitals, agrees to continue funding the cost of the services
7 provided by the AMC to the uninsured, subject to funding by the Legislature which they
8 will take reasonable steps to obtain.

9
10 The Corporation, through contractual arrangements, may participate in a number of
11 health insurance plans, and shall participate in coordinated care or medical home
12 programs provided through the Medicaid program. The Corporation will also endeavor
13 to create a system of care for the uninsured who seek services where the care is managed
14 through evidence-based disease management initiatives and the outcomes data is
15 maintained and transparent. Notwithstanding anything in this agreement to the contrary,
16 the Corporation must function responsibly as an independent entity, and while it is the
17 intent of the parties that the Corporation participate fully in any state initiative, nothing in
18 this agreement shall restrain the Corporation Board from making a determination as to
19 the financial feasibility of any such initiative, and the Corporation Board shall have the
20 right and obligation to negotiate reasonable funding for the initiative, if appropriate.

21
22 The Corporation shall work cooperatively with community-based organizations and
23 clinics with the goal of ensuring a coordinated system of care for the poor. It is critical
24 the system be metric based, with outcomes and access being measured. The Corporation
25 shall cooperate with LSU, Tulane and other institutions to optimize the resources
26 available to provide a seamless system of care.

27
28 The parties agree that the principles governing the formation and operation of the AMC
29 must be tied to, and consistent with, the broader objectives of health care reform and
30 should be part of a comprehensive plan. As long as there remains a substantial segment
31 of the population without health insurance coverage, the regional health care system must
32 evolve to a competitive, yet collaborative, “marketplace” for all private and public health
33 care providers. It is the intent of the parties to optimize insurance coverage for the poor,
34 and the parties support any effort by the state to expand access to coverage. By doing so,
35 the state will reduce its reliance on DSH funding for institutional purposes, and rather
36 will focus its resources on the proper integration of the poor into a competitive,
37 performance-based marketplace driven by choice and quality. It is in the State’s interest
38 to foster a competitive marketplace, while also providing the appropriate resources
39 toward the provision of care for the poor.

1 **Operation of the Academic Medical Center**

2
3 Notwithstanding anything herein to the contrary, in order for the Corporation to meet its
4 fiduciary obligations required under its bond covenants, it will be necessary for the
5 Corporation to be operated in a manner consistent with the best practices of private, non-
6 profit institutions.

7
8 The Corporation Board shall hire an experienced Chief Executive Officer, who will
9 report solely to the Corporation Board. The parties agree it is incumbent upon the
10 Corporation Board to ensure the Corporation engages the most visionary and
11 operationally capable leader available. Therefore, the parties agree the Corporation
12 should, as part of its process for identifying such a leader, engage in a procurement
13 process for identifying hospital management firms or persons with documented
14 successful experience in the operation of sophisticated academic and research-oriented
15 health care institutions. "Successful experience" is defined as demonstrable success in
16 financial and clinical outcomes in institutions operating in competitive environments with
17 significant uninsured populations while also maintaining credible research and training
18 programs.

19
20 It has been widely acknowledged that the rate of technological advancement in science
21 has achieved such a rate of speed that designing a hospital based on today's knowledge of
22 the marketplace means the AMC could be somewhat obsolete by the time it opens.
23 Therefore, the parties agree it is crucial the future trends in medicine – academic
24 medicine in particular – be evaluated as the facility is designed and built. In the design
25 phase of the project, the parties agree to utilize a small but experienced team of nationally
26 recognized experts and futurists in the developing trends in academic medicine so as to
27 ensure the designers are exposed to the optimum potential for the use of technology and
28 evidence-based medical approaches within the new facility and throughout the delivery
29 system.

1 All parties agree to support this Memorandum of Understanding, agree to be bound by it,
2 and commit to acting in good faith, with all due diligence, to effect its success and
3 comply with its intent.
4

5 | THUS DONE in Baton Rouge, Louisiana this _____ day of August, 2009.

Deleted: June

6 Board of Supervisors of Louisiana State
University Agricultural & Mechanical College

By: _____
John V. Lombardi, President
State of Louisiana, Department of Health and
Hospitals

By: _____
Alan Levine, Secretary
State of Louisiana, Division of Administration

By: _____
Angele Davis, Commissioner of
Administration
Administrators of the Tulane Educational Fund

By: _____
Scott S. Cowen, President

7
8

