

THE STATE OF TEXAS

§

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF FORT BEND

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**FULL RELEASE, INDEMNIFICATION,
AND REQUIREMENT FOR LIABILITY INSURANCE**

This Full Release, Indemnification, and Requirement for Liability Insurance, (hereinafter referred to as "Release"), is made and entered into by and between Fort Bend County, Texas, (hereinafter referred to as "County"), a body corporate and politic by and through its governing body, the Fort Bend County Commissioners Court, and Omega Psi Phi Fraternity, Inc. (hereinafter referred to as "Fraternity"), a non-profit organization governed under the laws of the State of Texas.

WHEREAS, the County desires to permit Fraternity non-exclusive use of the Pinnacle Senior Center located at 5525 Hobby St., Houston, Texas 77053 (hereinafter referred to as "Property") for a public purpose, namely the 2nd Annual Heart Health Symposium (herein referred to as the "Activities");

WHEREAS, FRATERNITY desires to fully release and indemnify the County of any and all claims, past, present or future, deriving or resulting from the Activities; and

WHEREAS Activities will contribute to the improvement of health care among members of the public and therefore serves a public purpose;

NOW THEREFORE, in consideration of the recitals set forth above, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

SECTION 1. RIGHT TO ENTER AND USE

1. County hereby grants to FRATERNITY the right to enter on the Property, for the purposes of holding a Heart Health Symposium including education, advertising the event to the community and membership, and serving food and beverages in accordance with all rules and regulations currently in place for the Property.
2. Activity that prohibits or obstructs the usual use of entrances or additional parking lots, or that otherwise tends to impede the regular business of the Property or that otherwise impedes or disturbs the general public is prohibited.
3. County retains the right to enter Property for any purpose at any time during the scheduled event or activity.
4. County reserves the full and absolute right to have persons violating any provision expressed in this document removed from the Property and to prosecute any and all violators to the fullest extent of the law.
5. Both Parties agree that the use of the Property will be allowed at no charge.

SECTION 2. TIME OF PERFORMANCE

1. FRATERNITY is hereby granted permission to enter upon Property, on Saturday, February 24, 2018, from 8:00 am until 12:30 pm.
2. The County agrees to use its best efforts to make the Property available during the requested dates. FRATERNITY agrees that the County shall not be liable for damages by reason of non-availability of the Property including those caused by inclement weather, disaster, or other public necessity.
3. County reserves the full and absolute right to cancel or terminate a reservation at any time for violations of this Agreement, or additional policies or rules that may be promulgated by County from time to time.

SECTION 3. FRATERNITY RESPONSIBILITIES

1. FRATERNITY shall return Property in its original condition.
2. FRATERNITY agrees to use reasonable care to prevent damage to the Property during Activities.
3. FRATERNITY agrees to leave the Property in a clean and orderly condition including, but not limited to, removal of any trash, items or equipment brought on to the Property.
4. FRATERNITY agrees hereby to be responsible and liable for any and all damages to the Property including any materials, equipment or other personal or real property of the County.
5. FRATERNITY assumes all risk of all loss or damage to any materials, equipment or other property of FRATERNITY. The County shall have no obligation, responsibility or liability with respect thereto.
6. In the event of an emergency, FRATERNITY will immediately dial 911, contact appropriate emergency services, and notify both the peace officer on duty and the designated County representative.
7. Alcoholic Beverages will not be served or consumed on the Property during the term of this Agreement.

SECTION 4. INSPECTIONS

1. Both FRATERNITY and a designated County Employee will inspect the Property prior to use and note any existing damage. Dates and times of inspection must be arranged by FRATERNITY.
2. Once the inspection is complete, or in the event that FRATERNITY fails to schedule an appointment, FRATERNITY expressly agrees that the Property is accepted by the FRATERNITY in its "AS-IS", "WHERE-IS" condition, "WITH ALL FAULTS", ABSOLUTELY NO REPRESENTATIONS OR WARRANTIES REGARDING THE PROPERTY, EXPRESS OR IMPLIED, ARE GIVEN BY THE COUNTY, AND THE FRATERNITY WAIVES AND DISCLAIMS ALL OF THE SAME (INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF SUITABILITY, HABITABILITY, MARKETABILITY OR FITNESS FOR A PARTICULAR PURPOSE).
3. Upon completion of Activities, both FRATERNITY and designated County Employee will inspect the Property and note any existing damage. End of use inspections must take place as soon as possible upon the completion of Activities. Date and time of inspection must be arranged by FRATERNITY.

SECTION 5. INDEMNITY AND RELEASE

1. FRATERNITY AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, VOLUNTEERS, GUESTS, AND ALL PERSONS IN PRIVITY WITH FRATERNITY , HEREBY AGREE TO FULLY RELEASE, ACQUIT, AND FOREVER DISCHARGE THE COUNTY, ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND SERVANTS, AND ALL PERSONS IN PRIVITY WITH THE COUNTY, FROM ANY AND ALL PAST, PRESENT OR FUTURE CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER, AT COMMON LAW, STATUTORY OR OTHERWISE, THAT MIGHT ARISE, AT ANY TIME, DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THE ACTIVITIES.
2. FRATERNITY AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, VOLUNTEERS, GUESTS, AND ALL PERSONS IN PRIVITY WITH FRATERNITY , HEREBY AGREE TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE COUNTY AND ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND SERVANTS, AND ALL PERSONS IN PRIVITY WITH THE COUNTY, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEY'S FEES, BODILY INJURY, SICKNESS, DISEASE OR DEATH, THAT MIGHT ARISE, AT ANY TIME, DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO THE ACTIVITIES.
3. These indemnity and release provisions shall survive the termination or expiration of this agreement.
4. FRATERNITY shall require any agreements with FRATERNITY contractors or subcontracts contain language whereby contractor or subcontractor agree to indemnify County and to hold it harmless from all claims for bodily injury and property damage that may arise from Activities.

SECTION 6. INSURANCE

1. Prior to commencement of the Activities, FRATERNITY shall furnish County with properly executed certificates of Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. FRATERNITY shall provide certified copies of insurance endorsements and/or policies if requested by County.
2. County and the members of Commissioners Court shall be named as additional insured to all required coverage. All Liability policies including Workers' Compensation written on behalf of FRATERNITY shall contain a waiver of subrogation in favor of County and members of Commissioners Court.
3. If required coverage is written on a claims-made basis, FRATERNITY warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that the Activities are completed.

SECTION 7. INDEPENDENT CONTRACTOR

1. In the performance of work or services hereunder, FRATERNITY shall be deemed an independent contractor and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of FRATERNITY or, where permitted, of its subcontractor.
2. FRATERNITY and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

SECTION 8. NOTICES

1. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).
2. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Health and Human Services
ATTN: M. desVignes-Kendrick, M.D., MPH
Director, Health and Human Services
4520 Reading Rd. Ste. A
Rosenberg, TX 77471

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

FRATERNITY: Demetris A. Green, Sr. MD
Rho Beta Beta Chapter of Omega Psi
Psi Fraternity, Inc.

9018 Lakes at 610 Dr.
Houston, TX 77054

3. Notice is effective only if the party giving or making the Notice has complied with subsections 1. and 2. above and if the addressee has received the Notice. A Notice is deemed received as follows:

- a) If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
- b) If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

SECTION 9. TERMINATION

Either Party can terminate with 15 days notice.

SECTION 10. COMPLIANCE WITH LAWS

All persons in and on County property shall comply with all official signs and with the directions of law enforcement, security force personnel or other authorized individuals.

SECTION 11. ASSIGNMENT AND DELEGATION

Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

Neither party may delegate any performance under this Agreement. Any purported assignment of rights or delegation of performance in violation of this Section is void.

SECTION 12. APPLICABLE LAW

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

SECTION 13. SUCCESSORS AND ASSIGNS

County and FRATERNITY bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

SECTION 14. THIRD PARTY BENEFICIARIES

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

SECTION 15. SEVERABILITY

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

SECTION 16. CAPTIONS

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

SECTION 17. CONFLICT

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

SECTION 18. MODIFICATIONS

Any modification(s) or change(s) to this agreement, whether in the form of interlineation(s) or an addendum, attachment, exhibit or the like, is invalid, not binding and of no force or effect unless and until (i) such modification(s) or change(s) is initialed by, and (ii) this agreement is signed by, an authorized production executive.

SECTION 19. ACKNOWLEDGEMENT

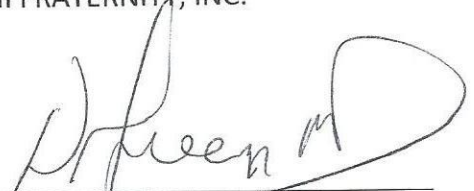
FRATERNITY and its officials, officers, employees, agents, servants, volunteers, and all persons in privity with the FRATERNITY, hereby acknowledge and agree that they have read this Release and that they fully understand the Release and its consequences. FRATERNITY expressly warrants to County that it has the legal authority to execute this Release, and that it does so of its own free will and accord without reliance on any representations of any kind or character not expressly set forth herein.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the ____ day of _____, 2018.

FORT BEND COUNTY

Robert E. Hebert, County Judge

RHO BETA BETA CHAPTER OF OMEGA PSI
PHI FRATERNITY, INC.



Demetris A. Green, Sr. MD

Date

Title of Authorized Agent

Date

ATTEST:

Laura Richard, County Clerk

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