

THE STATE OF TEXAS §
COUNTY OF FORT BEND §

**OCCUPANCY AGREEMENT
BETWEEN FORT BEND COUNTY AND ACCESS HEALTH**

THIS AGREEMENT is now made by and between **FORT BEND COUNTY, TEXAS** (herein referred to as "COUNTY"), a body corporate and politic under the laws of the State of Texas acting pursuant to the duly authorized act of its Commissioner's Court, and **ACCESS HEALTH** (hereinafter referred to as "ACCESS"), a private, not-for-profit community health center (hereinafter collectively referred to as "Parties").

WITNESSETH:

WHEREAS, ACCESS is a private, not-for-profit organization which provides quality and affordable health care for the low-income population within Fort Bend County that are most in need of such services, and which became a federal grantee under the community health center program (FQHC) in 2002, providing behavioral health services by clinical social workers, licensed professional counselors and psychiatrist(s);

WHEREAS, ACCESS occupies and operates the building located at 10435 Greenbough, Stafford, Texas 77477 (hereinafter referred to as "Premises"), and has available and affordable office space that can be used by COUNTY to serve the needs of the residents of Fort Bend County; and

WHEREAS, ACCESS and COUNTY acknowledge the mutual benefit of having representative(s) of the Fort Bend County Social Services Department (hereinafter referred to as "Social Services") housed on-site at the ACCESS premises; and

WHEREAS, it is in the public interest, and serves the general welfare of the Fort Bend County community, for a portion of the Premises, to be utilized by Fort Bend County Social Services department at no cost; and

NOW, THEREFORE, in consideration of the foregoing and further consideration of the mutual promises, covenants and conditions herein, the parties hereby agree as follows:

**I.
THE LEASED PREMISES**

A. The building at 10435 Greenbough, Stafford, Texas is owned by ACCESS, including all contents, and shall remain the premises of ACCESS, save and except any furniture and equipment moved onto the property by Social Services. ACCESS has the exclusive right to determine any and all rules, requirements, operating procedure, architectural design control, and decorating decisions with regard to the premises.

- B. ACCESS will provide COUNTY with one (1) office space which shall consist of a room to be used by COUNTY staff to provide social services to clients. Room assignment shall be determined by the ACCESS representative.
- C. Non-exclusive common areas of the building (i.e. hallways, kitchen, break-out room, copy room, bathroom, etc.) shall be made available to COUNTY and all occupants in conformity with ACCESS' occupancy rules and regulations.
- D. COUNTY will make no use of any common or shared area in any manner or form that shall unreasonably interfere with the use being made of such area by any other party authorized to use the same, whether such use be authorized by law, rule, regulation or agreement.
- E. Prior to its use of any other exclusive, multi-purpose, conference or meeting room at the Leased Premises, COUNTY will consult with ACCESS' Director, or their designee for the purpose of scheduling such use and COUNTY will abide by and respect all reasonable requests that may be made by the ACCESS' Director regarding the use by COUNTY of such rooms or any other areas held in common or otherwise shared by those parties authorized to use the Center.
- F. Access to and the use of any parking areas adjacent to the premise by COUNTY shall be shared with all other parties entitled to use the same.
 - 1. COUNTY has no entitlement to reserved parking on the part of County and that its access to and use of the parking areas shall be on a first come, first served basis.
 - 2. As used in throughout this Agreement, whenever the context otherwise requires, the term "COUNTY" includes COUNTY's guests, clients, patrons, invitees, permittees, licensees or any other persons, whether natural or corporate, holding under COUNTY, and COUNTY will, to the extent practicable, advise such parties of their responsibilities regarding the use of any common shared areas.
- G. COUNTY will not, in whole or in part, transfer, assign, all or any portion, abandon, or otherwise dispose of its rights under this Agreement, without the prior express written consent of ACCESS.

II. TERM & TERMINATION

- A. Both parties agree that the effective term of this Agreement will be effective on August 1, 2018 and will terminate at midnight on July 31, 2019, unless sooner terminated in accordance with the other terms stated herein.
- B. COUNTY may extend and renew the Term for an additional period of up to four (4) years, with the consent of ACCESS, by requesting such renewal in writing on or before thirty (30) days preceding the expiration of the Term, or as otherwise agreed by the Parties.
- C. This Agreement may be terminated at anytime, without cause, by either the COUNTY or ACCESS by giving (30) days written notice to the other party.
- D. The termination of the Agreement will be effective upon the last day of the month in which the expiration of the thirty (30) day period occurs.
- E. Upon the expiration or termination of the Term, for whatever cause, COUNTY shall immediately, quietly and peaceably, surrender to ACCESS possession of the Leased Premises in "broom clean" and good order, condition and repair, except only for ordinary wear and tear.

- F. If COUNTY fails to surrender possession as herein required, ACCESS may initiate any and all legal action as ACCESS may elect to dispossess COUNTY and all of its property, and all persons or firms claiming by, through or under COUNTY and all of their property, from the Leased Premises, and may remove from the Leased Premises and store (without any liability for loss, theft, damage or destruction thereto) any such property at COUNTY's sole cost and expense.
- G. If COUNTY fails to surrender possession of the Leased Premises in the condition herein required, ACCESS may restore the Leased Premises to such condition and seek reimbursement from COUNTY for reasonable costs incurred to restore the premises.

III. NON-APPROPRIATION

- A. Given the mutual benefits derived herein, COUNTY is not obligated to pay any rent to ACCESS under this Agreement.
- B. It is specifically understood and agreed that COUNTY has not allocated any funds for any occupancy of the Leased Premises nor for any obligations to be met pursuant to this Agreement and has no obligation to make any payments hereunder. In the event funds are needed to carry out any purpose of this Agreement, and Fort Bend has not appropriated or allocated such funds to carry out the purpose of this agreement, the sole remedy of Fort Bend is to terminate this Agreement.

IV. INSPECTION

COUNTY agrees that it:

- A. Has made its own inspection of the Leased Premises;
- B. Accepts the Leased Premises in the condition in which it exists on the date of this Agreement; and
- C. Has made its own determination as to the suitability of the Leased Premises for the uses for which COUNTY may put the same.

V. EQUIPMENT, FURNISHING, MAINTENANCE AND REPAIRS

- A. In addition to the office space described in Section IB, ACCESS agrees to provide the individual telephone handsets and wiring for the premises, and to allow COUNTY the use of ACCESS' furniture, fax machine, telephone(s) and copier(s). COUNTY may provide any additional furniture and equipment and will be responsible for any and all charges associated with such equipment.
- B. All utilities, including the telephone, and pest control, janitorial and custodial services shall be the responsibility of ACCESS.
- C. In addition, ACCESS agrees to the following:
 - 1. Clear furniture or other stored items from the designated therapy room;
 - 2. Offer assistance from maintenance department as needed; and

3. Notify staff and/or direct clients to the appropriate therapy room upon arrival for scheduled appointments with SS staff.
- D. COUNTY shall be responsible for the equipping and the furnishing of the Leased Premises in a manner suitable for the uses which it will be put, including the installation of any personal property, trade fixtures or other special equipment or the making of any non-building standard improvement, as well as the cost and subsequent removal thereof; except as otherwise provided herein.
- E. ACCESS will provide COUNTY with heat and air conditioning during regular office hours.
- F. ACCESS shall be responsible for all modifications or alterations necessary to comply with the Americans with Disabilities Act and/or the Texas Architectural Barriers Act, and all other valid laws, ordinances, regulations and other requirements, now or hereafter in force, of all federal, state and local governmental bodies and agencies which are applicable to the Leased Premises and common areas of the Center;

VI. USAGE BY COUNTY

- A. COUNTY shall use the Leased Premises for the purpose of operating its programs and for no other activity or event which is not sponsored by COUNTY or not otherwise permitted or sanctioned by commissioner's court or which is not otherwise provided for under state laws, rules or regulations governing recipients of grants or financial assistance.
- B. Any COUNTY event or activity permitted under the terms of this Agreement to be conducted upon the Leased Premises shall be supervised by COUNTY's personnel or designated representatives who shall be properly trained, adequate in number and who shall remain on the Leased Premises during the course of the event or activity.
- C. COUNTY expressly states that it understands that the Leased Premises is open to the public, and that at times this fact may impose a hardship on COUNTY.
- D. COUNTY expressly states that it understands that there may be emergency related times when ACCESS or its designee shall commandeer the Leased Premises during the time period that COUNTY would normally occupy the Leased Premises and COUNTY expressly agrees to accommodate such disruptions immediately and without notice. Such emergencies shall include, but not be limited to, weather-related emergencies, medical related emergencies, etc.
- E. ACCESS agrees that it will endeavor to inform COUNTY as far in advance as possible of an event that would cause it to displace COUNTY from the Leased Premises.
- F. ACCESS agrees that it will endeavor to assist COUNTY to make reasonable accommodations when it requires COUNTY to vacate the Leased Premises. However, there may be occasions when COUNTY will be required to cancel all activities at the Leased Premises in order to accommodate ACCESS' needs during an emergency.

VII. REMOVAL OF ACCESS PROPERTY

- A. Upon the expiration of the initial term of this Agreement, or upon the expiration of any extended term, should such term have been extended, whether once or successively, all personal property, trade fixtures or non-building standard improvements placed on the Leased Premises by COUNTY shall be removed by COUNTY upon the request of ACCESS.

- B. Should the installation of any such personal property, trade fixture or non-building standard improvement alter the Leased Premises such that its removal will damage the premise, COUNTY shall repair and restore the same to an architecturally whole condition such that it may again be used for the purposes for which it was originally constructed.

VIII. OPERATION OF THE LEASED PREMISES

- A. The Parties acknowledge and agree that the services provided under this Agreement are subject to state and federal laws, rules and regulations relating to, among other subjects, the confidentiality or security of patient/inmate information, including but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations hereunder as may be amended from time to time. The Parties will at all times comply and requires that any personnel comply with all applicable provisions of such laws, regulations and policies.
- B. COUNTY will not, in its use of and operations on and within the Leased Premises:
1. Bring or allow to be brought or kept upon the Leased Premises illegal weapons, illegal substances and/or alcoholic beverages of any kind; or
 2. Permit upon the Leased Premises the existence of any unsafe or unsanitary condition.
- C. ACCESS may enter the Leased Premises at any time:
1. To inspect same;
 2. To determine whether COUNTY is complying with the provisions of this Agreement;
 3. To post notices;
 4. To make repairs or provide maintenance; and/or
 5. For any reason deemed reasonably necessary to carry out the provisions of this Agreement.

IX. INSURANCE REQUIREMENTS

- A. COUNTY and ACCESS shall each secure, and at all times during the term of this Agreement (including any extension thereof), carry and maintain, at its own expense, liability insurance providing for fire and general liability coverage as to all of their respective personal property located on the Premises.
- B. COUNTY shall also secure, and at all times during the term of this Agreement (including any extension thereof), carry and maintain, at its own expense, comprehensive general liability and property liability insurance with liability limits not less than Five-Hundred Thousand and 00/100 (\$500,000.00), for injury to or death of one or more persons in any one occurrence, and One Hundred Thousand (\$100,000.00) for damage to or destruction of property in any once occurrence.
- C. Each party is solely responsible for the actions and omissions of its employees and officers. No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, its officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained herein.

- D. No insurance policies required hereunder shall be cancelable or subject to reduction of coverage except after ten (10) days prior written notice to the other party.

**X.
NON-DISCRIMINATION POLICY**

The Parties shall comply with, and cause all who take advantage of its programs and offerings on the Premises to comply with, TITLE VI of the Civil Rights Act of 1964, in that "no person shall, on the ground of race, color, or national origin, be excluded from participating in, be denied benefits of, or be subjected to discrimination."

**XI.
NOTICE**

- A. Any notice required or permitted hereunder to be given, shall be given by registered or certified United States Mail, return receipt requested, postage prepaid, addressed to:

To COUNTY:

Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

With Copy to:

Fort Bend County Health and Human Services
Attn: Director of Social Services
4520 Reading Road, Suite A-100
Rosenberg, Texas 77471

To ACCESS:

Access Health
Attn: _____
400 Austin Street
Richmond, Texas 77469

Each party may change the address for notice to it by giving written notice of such change at least fourteen (14) days before the effective date of the change.

**XII.
INDEMNIFICATION**

- A. TO THE EXTENT ALLOWED BY LAW, ACCESS EXPRESSLY AGREES TO INDEMNIFY AND HOLD COUNTY, ITS AGENTS, EMPLOYEES AND OFFICERS (THE FOREGOING ARE COLLECTIVELY REFERRED TO HEREIN AS "COUNTY"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS AND RELATED EXPENSES IN ANY MANNER WHATSOEVER, ARISING OUT OF THE USE OF THE LEASED PREMISES AND ALL EVENTS AND/OR ACTIVITIES OF COUNTY ITS OFFICERS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS INCIDENT TO THIS AGREEMENT.

- B. ACCESS WILL INDEMNIFY AND PROTECT THE COUNTY FROM THE ALLEGED JOINT, CONCURRENT OR SOLE NEGLIGENCE, OR OTHER FAULT OF ACCESS.
- C. ACCESS WAIVES AND RELEASES ANY CAUSE OF ACTION OR RIGHT OF RECOVERY WHICH ACCESSMAY HAVE AGAINST COUNTY FOR ANY LOSS OR DAMAGE TO ACCESS'S PERSONAL PROPERTY LOCATED AT OR NEAR THE LEASED PREMISES.

**XIII.
MISCELLANEOUS**

- A. Neither party will transfer, assign, in whole or in part, all or any portion, or abandon, or otherwise dispose of its rights under this Agreement, without prior express written consent of the other party.
- B. This Agreement does not confer any enforceable rights or remedies upon any person other than the parties. No provision of this Agreement constitutes consent to suit.
- C. A waiver by either party of a breach of this Agreement by the other party does not constitute a continuing waiver or a waiver of any subsequent breach of the Agreement.
- D. The Parties agree that no representations or grants or rights or privileges shall be binding upon either party unless expressed in writing in this Agreement.
- E. If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the parties.
- F. This Agreement shall supersede any and all prior agreements between the parties hereto relating to the Leased Premises and to the extent of any inconsistencies in the provisions of this Agreement with the provisions of any said prior agreement, the provisions of this Agreement shall control.
- G. Except as otherwise provided for herein, all consents, rules, and regulations as provided for herein by the County shall only be those approved or adopted by the Commissioners Court of Fort Bend County, Texas.

{EXECUTION PAGE FOLLOWS}

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**XIV.
EXECUTION**

This Occupancy Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the County, acting through its Commissioners Court, and ACCESS.

IN WITNESS WHEREOF, this Agreement is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Agreement. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY:

Robert E. Hebert, County Judge
Fort Bend County Commissioners Court

Date

ATTEST:

Laura Richard, County Clerk

ACCESS HEALTH:



Authorized Agent - Signature

MICHAEL R. DOTSON

Authorized Agent - Printed Name

C.E.O

Title

8/3/18

Date

AUDITOR'S CERTIFICATE

I hereby certify that funds available from current revenues legally available in the amount of \$ 0.00 to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert E. Sturdivant, County Auditor