

- 1.02 Contractor shall perform third party collection services on delinquent court fees and fines and for referred patient accounts receivable within the limits of the Health Insurance Portability and Accountability Act, the Health and Human Services Department Standards for Individually Identifiable Health Information, 45 C.F.R. Parts 142,160, 162 and 164, the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et.seq., applicable Medicare and Medicaid rules and regulations and other state, federal and local laws.
- 1.03 Contractor shall have the authority to negotiate installment payment plans within the recommended framework as described below on all delinquent accounts of less than one (1) year old as follows:
- | | |
|-----------------|---------------|
| Account Balance | Months to Pay |
| \$300 - \$600 | 3 months |
| \$600 - \$900 | 6 months |
| \$ 900 + | 9 months |
- 1.04 Contractor shall have no authority and is prohibited from negotiating account settlement for amounts less than the full amount of the delinquent account.
- 1.05 Contractor shall be responsible for monitoring all accounts in their possession for compliancy to negotiated agreements. Contractor shall refer all payments directly to the County's destination of choice. Additionally, Contractor shall send any associated account information to Fort Bend County Emergency Medical Service Billing Department and/or to the courts that have assessed or levied the fees and fines being collected pursuant to this Agreement. Contractor reserves the right to return all accounts not collected within one (1) year of referral by County, as well as any accounts identified as being in bankruptcy.
- 1.06 Upon written notification to Contractor, County shall be permitted to withdraw delinquent accounts referred to Contractor. Contractor agrees to return all data and information relating to such delinquent accounts to County within thirty (30) days of its receipt of the notice of withdrawal.
- 1.07 Contractor reserves the right to return all delinquent accounts not collected within one (1) year of referral by County, as well as any accounts identified as being in bankruptcy. Upon return of these accounts, neither party will have any obligation to the other party to this Agreement regarding said returned delinquent accounts.

II. REFERRALS

- 2.01 County agrees to refer all delinquent accounts by electronic or magnetic medium, in a mutually agreed upon format, to Contractor for collection, on or about the first (1st) and fifteenth (15th) day of each month. An account is considered delinquent when not paid within ninety (90) days of the due date posted on the bill or when not paid within ninety (90) days of the scheduled appearance date (if the defendant failed to appear), or any granted extension, or from the date of conviction or judgment, or other court specified due date. However, County may refer accounts in default to Contractor prior to becoming delinquent, at County's option. County will provide Contractor with copies of, or access to, the information and documentation reasonably necessary to collect the fees and fines that are subject to this Agreement. Any computer hardware, software, programming services and/or in-house personnel services required of Contractor to perform the duties of this Agreement shall be subject to a separate written agreement, subject to approval by County prior to the commencement of work.
- 2.02 Contractor shall perform third party collection services on referred patient accounts receivable and on court fees and fines on behalf of County on debts that are in default as determined by County.

III.
NECESSARY INFORMATION TO EFFECTUATE SERVICES

- 3.01 County authorizes Contractor to commence customary and standard third party collection procedures to effectuate payment of a referred account when County provides Contractor with the patient/responsible party information and which pertains to a patient's account receivable and/or when County provides Contractor with copies of, or access to, the information and documentation necessary to collect the fees and fines that are subject to this Agreement.
- 3.02 Contractor has determined that, in order to perform these services for the County specified herein, the following information regarding the patient to whom healthcare services were rendered and the responsible party for payment of such services (if not the patient) constitutes information regarding the patient and the responsible party that may be needed by Contractor.
- 3.03 Contractor understands that the County is relying on Contractor's determination of the minimum information it requires in connection with Contractor services under this Agreement. If, in connection with performing its services hereunder, Contractor determines that it needs or requires additional information from the County regarding the patient or responsible party, as the case may be, Contractor's request for such information will be considered a representation by Contractor that the requested information is reasonable and necessary for the performance of its services under this Agreement.
- 3.04 The parties agree that the following information may be necessary for Contractor to reasonably effectuate services under this Agreement for delinquent Emergency Medical Services accounts:
- (A) Name and address of responsible party;
 - (B) Name and address of patient;
 - (C) Date of birth of responsible party;
 - (D) Date of birth of patient;
 - (E) Social security number of responsible party;
 - (F) Social security number of patient;
 - (G) Payment history pertaining to the account;
 - (H) Name and address of any healthcare provider and/or health plan pertaining to the account;
 - (I) Driver's license number of responsible party if available;
 - (J) Driver's license number of patient, if available;
 - (K) Upon Contractor's receipt of a written request from patient requesting verification of the account information, County shall provide Contractor with an itemization of the services and the date(s) such service(s) were rendered to the patient and which pertain to the account receivable referred to Contractor pursuant to this Agreement; and
 - (L) Insurance information.
- 3.05 The parties agree that each of the above listed items is reasonably necessary for Contractor to perform services under this Agreement and to comply with applicable law.

IV.
TERM AND TERMINATION

- 4.01 This Agreement shall commence upon execution of the last party to sign this Agreement and shall continue until September 30, 2010. This Agreement shall automatically renew for a one year term from October 1, 2010 to September 30, 2011, unless a party to the agreement notifies the other in writing thirty (30) days prior to the renewal date that the agreement will not renew.
- 4.02 Either party may terminate this Agreement at any time by providing thirty (30) days written notice to the other party, with or without causes.

- 4.03 The effective date of any termination by County shall be thirty (30) days from the date the notice of termination is received in writing by Contractor; said thirty (30) day period being deemed adequate for the purpose of Contractor in winding down its affairs with regards to work in progress. In the case of termination by Contractor, the effective date of termination shall be thirty (30) days from the date notice of termination is received.
- 4.04 County is entitled, but is not required, to refer additional accounts to Contractor after notice of termination has been received by Contractor. In any event, Contractor shall be entitled to payment of its fee, pursuant to the terms of this Agreement, for all amounts collected on referred accounts during the thirty (30) day "winding down" period. At the end of that period, all accounts shall be returned to County by Contractor.
- 4.05 To the extent feasible and regardless of the reason for termination of this Agreement, Contractor shall return or destroy all protected health information [as defined by the Health and Human Services Department Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164], received from, or created or received by Contractor on behalf of the County that Contractor still maintains in any form. Contractor shall retain no copies of such information or, if such return or destruction is not feasible, Contractor shall extend the protections of this Agreement to the protected health information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

V.

COMPENSATION OF CONTRACTOR

As compensation for legal and collection services provided pursuant to this contract, County agrees to pay to Contractor a thirty-percent (30%) contingent fee of the total amounts actually collected by the County on those delinquent accounts that are referred to Contractor by the County for collection. This contingent fee will not be calculated upon any legislative reimbursement fee that COUNTY may authorize and submit for collections. County shall pay said funds on a monthly basis by check or wire transfer. County agrees to pay the fee payable under this Agreement no later than the 30th day following the end of the calendar month within which the fee is paid to County.

VI.

USE OF DATA AND INFORMATION

- 6.01 Limitations on Use and Disclosure of Minimum Necessary Information: The parties agree that Contractor may use and disclose the above listed information for the proper management and administration of Contractor and to carry out the legal responsibilities of Contractor, including but not limited to its duties under the Fair Debt Collection Practices Act and as otherwise provided in this Agreement.
- 6.02 Role Based Controls: Contractor agrees to use reasonable efforts and implement reasonable controls to limit access, use and further disclosure, in whole or in part, of the [Information] to those employees, officers, directors, authorized agents, vendors and subcontractors whose ability to perform their job functions or render services to Contractor may require such access, use or disclosure of Information. Authorized agents, vendors and subcontractors of Contractor include, but may not be limited to, its attorneys, accountants and accounting service providers, providers of hardware, software and middleware used by us in connection with services to the County, technical support service providers, letter services, location information services, and phone information services.

- 6.03 County shall have the right to audit Contractor's methods, practices, procedures and/or records as they pertain to this Agreement.
- 6.04 Electronic Data Exchange: County and Contractor shall adhere to the electronic data exchange protocols as provided in Health and Human Services Department Standards for Individually Identifiable Health Information, 45 C.F.R. Parts 142. The following encryption and sender/receiver protocols shall be adhered to by the parties throughout the term of this Agreement: **128bit encryption on Point-to-Point Tunneling Protocol.**

VII.

RECORDS & COMMUNICATIONS COMPLIANCE PROVISIONS

- 7.01 Healthcare Provider Assurances: In addition to all other representations, terms and conditions provided in this Agreement, County represents and agrees that:
- (A) Accounts referred to Contractor pursuant to this Agreement are in default;
 - (B) County has and shall obtain throughout the term of this Agreement, all necessary consents under 45 C.F.R. § 164.506(c), sufficient to permit the disclosure of protected health information to Contractor and to permit Contractor to perform services incidental to this Agreement;
 - (C) The uses and disclosures of protected health information under this Agreement are consistent and in accordance with County's privacy policies and procedures adopted pursuant to the Health and Human Services Department Standards for Individually Identifiable Health Information, 45 C.F.R. Parts 142,160, 162 and 164;
 - (D) County shall immediately notify Contractor of any restrictions placed on the use of protected health information pertaining to a referred account with sufficient detail so as to allow Contractor to honor such restrictions;
 - (E) If County knows or has reason to know that the consumer for whom it has or does provide service disputes the account, is represented by an attorney or has filed bankruptcy, County shall notify Contractor of this knowledge upon receipt thereof;
- 7.02 Business Associate Assurances: In addition to all other representations, terms and conditions provided in this Agreement, Contractor represents and agrees that with respect only to the information provided by the County or "health information" obtained by Contractor in connection with services rendered for the County under the Agreement that:
- (A) Contractor shall not use or further disclose Information pertaining to the recipient of County's services or any responsible party on a referred account other than as permitted or required by this Agreement or as required by law;
 - (B) Contractor shall use appropriate safeguards to prevent the use or disclosure of the Information pertaining to the recipient of County's services or any responsible party on a referred account other than as provided for in this Agreement;
 - (C) Contractor shall notify County of any use or disclosure of the information not provided for by this Agreement of which it becomes aware;
 - (D) Contractor shall make available protected health information in accordance with the Health and Human Services Department Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. § 164.524;
 - (E) Contractor shall make available for amendment and incorporate any amendments to protected health information in accordance with the Health and Human Services Department Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. § 164.526;
 - (F) County has determined that the uses and disclosures of the Information specified in this Agreement, whether by County, Contractor or their authorized agents and subcontractors are

made and authorized as part of treatment, payment and healthcare operations relating to the County. Contractor will use its reasonable best efforts to maintain records of any use or disclosure of Information not provided for in this Agreement by Contractor, its officers, directors, employees, agents and subcontractors and, to the extent known by Contractor, report to the County any use or disclosure by such persons not authorized by this Agreement and provide such information to the County upon written request of the County, which request shall be made only in connection with an accounting request made to the County under the then applicable HIPAA Standards. Information regarding any unauthorized use or disclosure of Information shall be maintained by Contractor for a period of not less than six (6) years from the date of such unauthorized use or disclosure.

- (G) Contractor shall make its internal practices, books and records relating to the use and disclosure of protected health information received from, or created or received by Contractor on behalf of the County, available to the Health and Human Services Secretary for the purposes of determining the County's compliance with the Health and Human Services Department Standards for Individually Identifiable Health Information, 45 C.F.R. Parts 142, 160, 162 and 164.
- (H) Contractor shall train appropriate staff so as to assure compliance with this Agreement and the Health and Human Services Department Standards for Individually Identifiable Health Information, 45 C.F.R. Parts 142, 160, 162 and 164.
- (I) Contractor's obligation to provide Information, to make corrections or amendments to Information, to respond to the written instruction/request of the County; or to deliver Information and documentation to the County shall only be as directed, in writing, by the County.

- 7.03 Document Retention and Availability: In addition to the provisions detailed in Section 7.02 of this Agreement, Contractor shall maintain all books, documents, papers, and other evidence pertaining to costs incurred, labor expended, and work and services performed in connection with this Agreement and shall make such materials available at this office at reasonable times during the Agreement period, and copies thereof shall be furnished upon request to authorized representatives of County.
- 7.04 Document Retention Necessary to Verify Costs: Pursuant to 42 U.S.C. 1395X (v)(1)(I) and 42 C.F.R. 402.300 - 402.304, the parties agree that Contractor shall, until the expiration of four (4) years after the furnishing of the services pursuant to this Agreement, retain and make available, upon written request by the Secretary of the US. Department of Health and Human Services, or upon written request by the U.S. Comptroller General, or any of their duly authorized representatives, the contact and books, documents and records of Contractor that are necessary to verify the nature and extent of the costs of the services under this Agreement.
- 7.05 Limitations on Interaction with Recipients of County's Services: Contractor's communications with any recipient of County's services shall be limited to communications incidental to its performance of accounts receivable collection services to effectuate payment. Unless otherwise agreed by the parties in writing, Contractor shall not be permitted to provide recipients of County's services with any information pertaining to services rendered on their behalf or account information. Any such requests for information shall be the sole responsibility of County.
- 7.06 Audit: Contractor shall make the following records available for an audit at its office at reasonable times upon reasonable prior written notice to Contractor during the Agreement period, said audit to be performed by County's patient and/or court accounting staff, County's internal auditors or their outside accounting firm selected and compensated by County.
- 7.07 Use of Subcontractors or Agents: To the extent Contractor uses agents or subcontractors to assist it in performance of services under this Agreement and performance by the agents or subcontractors necessitates their access to, use or disclosure of any item of Information,

Contractor will not provide its agents or subcontractors any Information unless the agent or subcontractor has agreed, in writing, that the provisions of this Agreement relating to the use, access, disclosure or audit of information are binding upon and applicable to the agent or subcontractor to the same extent such provisions are binding on, and applicable to Contractor.

VIII. CONFIDENTIALITY

- 8.01 Security: Contractor shall at all times during this Agreement maintain security procedures in accordance with the Health and Human Services Department Standards for Security of Individually Identifiable Health Information, 45 C.F.R. Parts 160 & 164.
- 8.02 Maintenance of Confidential Information: Contractor agrees to hold in confidence and safeguard all information that is submitted or provided by County or any data, information, discoveries, materials and compilations developed pursuant to this Agreement (collectively referred to as "Information.")
- 8.03 Contractor agrees not to (A) use such Information for its own benefit or for the benefit of others, (B) to reproduce such Information, (C) to disclose Information to others without the prior written consent of County or (D) to disclose any information received of County pursuant to this Agreement that would violate the requirements of the Health and Human Services Department Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164 if done by the County.
- 8.04 Contractor further represents that neither Contractor, nor any agents or subcontractors of Contractor, will disclose any Information other than as permitted or required by this Agreement or law.
- 8.05 Contractor will take reasonable precautions to prevent the use or disclosure of Information other than as provided in this Agreement or required by law and will report any use or disclosure of Information not allowed under this Agreement or required by law to County.
- 8.06 Contractor represents and agrees that any agents or subcontractors of Contractor shall be contractually required to agree to the same restrictions and conditions pertaining to the use and disclosure of Information as required by Contractor pursuant to this Agreement.

IX. NOTICE

- 9.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the Contractor at the addresses set forth below.
- 9.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 9.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:
- A. If to the Contractor:

Linebarger Goggan Blair & Sampson, LLP
Attention: Director of Client Services
P.O. Box 17428
Austin, Texas 78760

OR

1949 South IH 35
Austin, Texas 78741

B. If to County notice must be sent to both the Fort Bend County Purchasing Agent and County Project Manager:

Fort Bend County Purchasing Department
Gilbert D. Jalomo, Jr., CPPB
4520 Reading Road, Suite A
Rosenberg TX 77471

Jeff Council
County Treasurer
301 Jackson, Suite 514
Richmond, Texas 77469

9.04 Either party may designate a different address by giving the other party ten (10) days written notice.

X.
INDEMNIFICATION

CONTRACTOR SHALL INDEMNIFY AND HOLD COUNTY HARMLESS FROM AND AGAINST ALL LIABILITIES, LOSSES AND/OR COSTS ARISING FROM CLAIMS FOR DAMAGES, OR SUITS FOR LOSSES OR DAMAGES, INCLUDING REASONABLE COSTS AND ATTORNEY'S FEES, WHICH MAY ARISE AS A RESULT OF CONTRACTOR'S PERFORMANCE OF THE SERVICES DESCRIBED IN THIS AGREEMENT. THE INDEMNITY PROVISION OF THIS CONTRACT SHALL HAVE NO APPLICATION TO ANY CLAIM OR DEMAND THAT RESULTS FROM THE SOLE NEGLIGENCE OR FAULT OF COUNTY, ITS OFFICERS, AGENTS, EMPLOYEES OR CONTRACTORS. FURTHERMORE, IN THE EVENT OF JOINT AND/OR SHARED NEGLIGENCE OR FAULT OF COUNTY AND CONTRACTOR, RESPONSIBILITY AND INDEMNITY, IF ANY, SHALL BE APPORTIONED IN ACCORDANCE WITH TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF EITHER PARTY. THE PROVISIONS OF THIS PARAGRAPH ARE INTENDED FOR THE SOLE BENEFIT OF THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHT, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSONS OR ENTITIES.

XI.
MISCELLANEOUS

- 11.01 Contractor shall not, without the prior written consent of County, assign, transfer, or otherwise dispose of this Agreement, any claim thereunder, any interest therein, or any moneys due or to become due thereunder.
- 11.02 Contractor shall provide County with copies of any subcontractor or agent contracts upon request throughout the term of this Agreement.
- 11.03 This Agreement is made and is to be interpreted under the laws of the State of Texas. Venue shall be in Fort Bend County.
- 11.04 In the event that any provision(s) of this Agreement shall for any reason be held invalid, illegal or unenforceable, the invalidity, illegality or unenforceability of that provision(s) shall not affect


any other provision(s) of this Agreement, and it shall further be construed as if the invalid, illegal or unenforceable provision(s) had never been a part of this Agreement.

XII.
EXECUTION

In consideration of the terms and compensation herein stated, Contractor hereby accepts said contract for services and undertakes performance of said Agreement as set-forth above. This Agreement is executed on behalf of County by the presiding officer of its governing body who is authorized to execute this instrument by order heretofore passed and duly recorded in its official minutes. This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes. Signed facsimiles shall be binding and enforceable.

WITNESS the signatures of all parties hereto on the dates so indicated.

FORT BEND COUNTY:

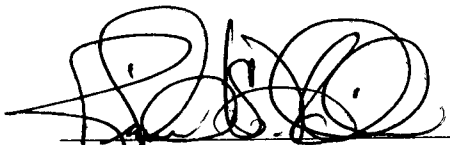
By 
Robert E. Hebert, County Judge

May 26, 2009
Date

ATTEST:


Dianne Wilson, Fort Bend County Clerk

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP


Richard S. Hill,
Attorney at Law

5/26/09
Date