

**THE STATE OF TEXAS**           §  
  §  
**COUNTY OF FORT BEND**       §

**AGREEMENT TO PROVIDE MEDICAL SERVICES**

This Agreement is entered into by and between Fort Bend County, a body corporate and politic, acting herein by and through its Commissioners Court (hereinafter referred to as “County”) and Oak Bend Medical Group, Inc., authorized to conduct business in the State of Texas (hereinafter referred to as “Group.”)

**WITNESSETH:**

WHEREAS, Group is a Texas non-profit corporation and authorized to practice medicine by the Texas Medical Board; and,

WHEREAS, Group desires to provide and/or arrange to provide medical services to Eligible Residents in Fort Bend County through a written agreement with County; and,

WHEREAS, Group and County have operated under an agreement dated January 5, 2005, wherein services were provided by Polly Ryon Medical Group, Inc.; and

WHEREAS, County has determined that this Agreement is for personal or professional services and therefore exempt from competitive bidding under Chapter 262, TEXAS LOCAL GOVERNMENT CODE.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged and confessed by the parties hereto, the parties hereby agree as follows:

**I.**  
**DEFINITIONS**

- 1.01 “Eligible Resident” shall mean a Fort Bend County resident determined to meet the financial criteria, as determined by County.
- 1.02 “Department” shall mean the Texas Department of State Health Services.
- 1.03 “Primary Care” shall mean care that is provided by Group to Eligible Residents with any diagnosed or undiagnosed sign, symptom, or health concern, and includes health promotion, disease prevention, health maintenance, counseling, patient education, diagnosis and treatment of acute and chronic illnesses healthcare, and shall include minor procedures, testing and injections.

**II.**  
**APPLICABLE LAW**

- 2.01 This Agreement is subject to the provisions of the Texas Indigent Health Care and Treatment Act (“the Act”), Section 61.001 et seq., TEXAS HEALTH & SAFETY CODE.



- 2.02 Nothing in this Agreement shall be construed as increasing County's responsibility for the treatment of indigents, including the dollar limit per individual Eligible Resident, beyond that contained in the Act.

III.  
ELIGIBILITY & DISPUTES

- 3.01 Group will provide Primary Care for County Eligible Residents.  
3.02 In the event Group and County are unable to agree as to the eligibility of any person seeking medical treatment, Group or County may submit the matter to the Department as provided in Section 61.004 of the Act.

IV.  
SCOPE OF SERVICES

- 4.01 County's Responsibilities:
- A. In advance of treatment, County shall screen and register County residents in accordance with the provisions of the Act and County's internal procedures.
  - B. County shall provide each Eligible Resident with a card that identifies the individual as an Eligible Resident.
  - C. County shall refer Eligible Residents through its Indigent Health Care Office to Group for Primary Care. Nothing in this Agreement shall prevent County from referring Eligible Residents to providers other than Group.
- 4.02 Group Responsibilities:
- A. Group shall comply with County's Indigent Health Care Department's referral process.
  - B. Group agrees to provide Primary Care to a maximum of 120 Eligible Residents in accordance with the terms of this Agreement. In the event an Eligible Resident(s) no longer meets eligibility requirements for services, or County refers an Eligible Resident to a provider other than Group for Primary Care, another Eligible Resident may be substituted, so long as the number of Eligible Residents serviced by Group does not exceed 120 during the term of this Agreement.
  - C. Group shall be responsible for all costs of providing treatment for Eligible Residents and shall coordinate with County to monitor medications, reduce the costs of unnecessary emergency room visits and referrals to specialists.
  - D. Group will provide Eligible Residents appointments with physicians Monday through Friday during normal business hours. Group shall schedule appointments for Eligible Residents as Group determines necessary, based upon accepted standards of care for each individual Eligible Resident. After hour coverage will be by phone 24 hours a day 7 days a week. Group shall be responsible for verifying eligibility prior to providing any services to an Eligible Resident, even if an eligibility card as described in Section 4.01(B) is provided at the time services are rendered. Failure to verify eligibility may result in the denial of payment for services.
  - E. Group shall seek to reduce the number of Eligible Residents who seek Primary Care or non-emergency treatment at hospital emergency rooms or urgent care clinics by 10 %.



claim/\$900,000 annual aggregate.

- 7.02 With respect to the required insurances listed in Section 7.01, Group shall, if allowed by law and the insurance carrier:
- A. Name Fort Bend County as additional insured as their interests may appear, with the exception of worker's compensation insurance and professional liability insurance;
  - B. Provide County a waiver of subrogation regarding Group's worker's compensation insurance;
  - C. Provide County with a thirty (30) day advance written notice of cancellation or material change to said insurance; and,
  - D. Provide County with Certificates of Insurance evidencing required coverages upon acceptance of this Agreement by Commissioners Court

VIII.  
MISCELLANEOUS

- 8.01 The parties agree that this Agreement shall be construed in accordance with the laws of the State of Texas, and any action arising hereunder shall be brought in a court of competent jurisdiction in Fort Bend County, Texas.
- 8.02 To the extent either party comes into contact with information considered Protected Health Information ("PHI") under the privacy regulations promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996, 45 CFR Part 164 ("HIPAA Privacy Regulations"), the parties agree to keep such information confidential in accordance with federal law.
- 8.03 The parties agree only to use and disclose PHI as required to be perform the services outlined in the Agreement or as "required by law," as that term is defined in the HIPAA Privacy Regulations. Neither party will use or further disclose PHI other than as permitted under this Agreement and both parties will use appropriate safeguards to prevent the use or disclosure of PHI for any reason other than as provided by this Agreement. Both parties agree to promptly notify the other of its corrective actions to cure any breaches as soon as possible. Both parties understand that either party may terminate this Agreement immediately if the other party's actions are not successful in remedying the breach and the non-breaching party pay report the problem to the Secretary of Health & Human Services. Both parties shall require any agents or subcontractors who receive PHI to be bound by the same restrictions and conditions outlined in this Agreement. Notwithstanding the foregoing, a party may use PHI if necessary for the proper management and administration of the party, or to carry out its legal responsibilities. Furthermore, a party may disclose PHI for the proper management and administration of the party, or to carry out its legal responsibilities, provided that in such cases: (1) disclosure of PHI is required by law, or (2) the party obtains reasonable assurances from the person to whom the information is to be disclosed that it will be held confidential and used or further disclosed only as required by law or if the party of any instances of which it is aware in which the confidentiality of the PHI has been breached.
- 8.04 The parties agree to comply with Sections 164.524 (Access to Individuals to PHI), 164.526 (Amendment of PHI), and 164.528 (Accounting of Disclosures of PHI) of the HIPAA Privacy Regulations. The parties agree to make their internal practices, books, and records relating to the use and disclosure of PHI received from or created or received

by the other party available to the Secretary of Health & Human Services of the Secretary's designee for purposes of determining the other party's compliance with the HIPAA Privacy Regulations. After the parties have completed working with or using PHI provided by the other party, both parties agree to continue to protect PHI from wrongful uses and disclosures.

- 8.05 This Agreement may only be amended in writing, signed by both parties. The parties, however, agree to amend this Agreement from time to time, as necessary, in order to allow the parties to comply with the requirements of the HIPAA Privacy Regulations.
- 8.06 Nothing in this Agreement shall be construed to (i) create a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, (ii) any fiduciary duty owed by one party to another party or any of its affiliates, or (iii) a relationship of employer and employee between the parties.
- 8.07 Failure or delay on the part of either party to exercise any right, power, privilege, or remedy hereunder shall not constitute a waiver thereof. No provision of this Agreement may be waived by either party except by a writing signed by an authorized representative of the party making the waiver.
- 8.08 The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.
- 8.09 Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this Agreement nor imposing any obligations on either party hereto to persons not a party to this Agreement.
- 8.10 Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Privacy Regulations. The provision of this Agreement shall prevail over the provisions of any other agreement that exists between the parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Privacy Regulations.
- 8.11 A citation in this Agreement to the Code of Federal Regulations shall be the cited sections as that section may be amended from time to time.
- 8.12 Notices shall be effective only when in writing and addressed as follows:

- A. Oak Bend Medical Group  
Donna Ferguson, C.O.O.  
1750 Jackson Street  
Richmond, Texas 77469

- B. Honorable Robert E. Hebert  
Fort Bend County Judge  
301 Jackson, Suite 719  
Richmond, Texas 77469

Karl Lavine  
Indigent Health Care Manager  
4520 Reading Road, Suite A  
Rosenberg, Texas 77471

IX.  
INDEPENDENT CONTRACTOR

- 9.01 In the performance of work or services hereunder, Consultant 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 Consultant.
- 9.02 Consultant 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 the County and shall not be entitled to any of the privileges or benefits of County employment.

X.  
INDEMNIFICATION

10.01 By Group.

- A. GROUP SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, BUT ONLY TO THE EXTENT OR DEGREE ON A COMPARATIVE BASIS OF FAULT ARISING FROM ACTIVITIES OF THE GROUP, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF GROUP OR ANY OF GROUP'S AGENTS, SERVANTS OR EMPLOYEES.
- B. GROUP SHALL ALSO SAVE HARMLESS COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY COUNTY, IN LITIGATION OR OTHERWISE, ARISING FROM SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON COUNTY AS THE RESULT OF SUCH NEGLIGENT ACTIVITIES BY GROUP, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

10.02 By County.

- A. TO THE EXTENT PERMITTED BY LAW, COUNTY SHALL SAVE HARMLESS GROUP FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, BUT ONLY TO THE EXTENT OR DEGREE ON A COMPARATIVE BASIS OF FAULT ARISING FROM ACTIVITIES OF THE COUNTY, ITS AGENTS, CONTRACTORS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF COUNTY OR ANY OF COUNTY'S AGENTS, SERVANTS OR EMPLOYEES.
- B. TO THE EXTENT PERMITTED BY LAW, COUNTY SHALL ALSO SAVE HARMLESS GROUP FROM AND AGAINST ANY AND ALL EXPENSES, IN

LITIGATION OR OTHERWISE, ARISING FROM SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON GROUP AS THE RESULT OF SUCH NEGLIGENT ACTIVITIES BY COUNTY, ITS AGENTS, CONTRACTORS OR EMPLOYEES.

XI.  
AUDIT

County or its authorized representative(s) shall have the right to review and audit all books, records, vouchers and documents of whatever nature related to Group's performance under this Agreement during the period of performance of this agreement and for three (3) years thereafter or for so long as there exists any dispute or litigation arising from this Agreement.

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XII.  
EXECUTION

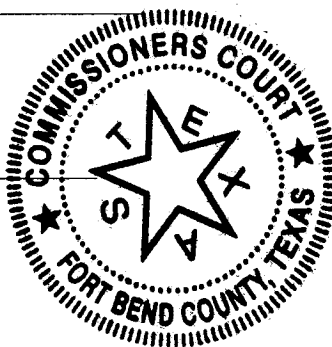
IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

COUNTY:  
FORT BEND COUNTY, TEXAS

By: *Robert E. Hebert*  
Robert E. Hebert, County Judge

June 14, 2011  
Date

Attest: *Dianne Wilson*  
Dianne Wilson, County Clerk



Approved: *Karl Lavine*  
Karl Lavine,  
Manager, FBCIHC

6/7/11  
Date

GROUP:  
Oak Bend Medical Group, Inc.

By: *Joseph Freudenberger*  
Joseph Freudenberger, President

6/7/11  
Date

MER:Oak Bend Medical Group. 2750(05112011)

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$ 225,000 to accomplish and pay the obligation of the Fort Bend County under this Agreement.

*Ed Sturdivant*  
Ed Sturdivant, Fort Bend County Auditor

*[Handwritten mark]*

EXHIBIT – A

MONTHLY REPORTS

1. Number of clients seen per month and by clinical day.
2. Number of clinic visits per clients.
3. Client concentration by zip code.
4. Client report of cancellations/no Shows and Re-schedules.
5. List of clients referred to ER (Monday – Friday).
6. Number of clients referred to each Specialist and type of specialty.
7. Top ten diagnosis and number of clients in each.

