
MANAGEMENT SERVICES AGREEMENT

BETWEEN

WILLIAMSON COUNTY

AND

WILLIAMSON COUNTY CLINICAL SERVICES, INC.

MANAGEMENT SERVICES AGREEMENT

This Management Services Agreement (this "**Agreement**") is entered into to be effective as of the 1st day of October, 2010 (the "**Effective Date**") by and between WILLIAMSON COUNTY ("**County**"), a political subdivision of the State of Texas, and WILLIAMSON COUNTY CLINICAL SERVICES, INC., a Texas certified health organization ("**WCCS**").

RECITALS

A. County is a political subdivision of the State of Texas which desires to enhance the health and wellness of its residents by making high quality, affordable healthcare services accessible to all.

B. WCCS is a Texas non-profit corporation organized under Section 162.001 of the Texas Occupations Code and created to facilitate the delivery of health services by physicians and allied health professionals.

C. WCCS has entered, or will enter, agreements with providers (each a "**Provider**" and, collectively, the "**Providers**") whereby each Provider will provide professional health care or management services to indigent patients residing in the County (collectively, the "**Provider Agreements**").

D. WCCS and County wish to enter into this Agreement to establish and maintain uniform and consistent delivery of economically efficient administrative and support services to enable WCCS to provide the highest quality of care to its patients.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby contract and agree as follows:

ARTICLE I COUNTY OBLIGATIONS

During the term hereof, the County hereby agrees to provide to WCCS the following services (the "**Management Services**") necessary to the daily operations of managing and supervising the Provider Agreements:

Section 1.1 **Personnel**. County or its designee shall provide qualified staff support personnel who shall provide management supervision of the Provider Agreements. Support personnel shall be provided by County or the County's designee and shall have the necessary operational and financial authority to manage the business operations of the Agreement. The selection and retention of such personnel in administrative matters shall at all times rest with County.

Section 1.2 Eligibility Determinations. County or its designee shall perform eligibility assessments to determine which patients are eligible to receive health care services in accordance with criteria set forth in each Provider's Provider Agreement.

Section 1.3 Provider Agreements. County or its designee shall assist with the preparation, negotiation and review of Provider Agreements for WCCS. Such Provider Agreements shall contain express provisions for potential assignment as is contemplated under sections 1.4, 2.2 and 3.4 herein.

Section 1.4 Acceptance of Assignment. At any time, upon seven (7) days written notice to County, WCCS may assign the Provider Agreements, individually or collectively, to County, and County agrees to accept such assignment. WCCS shall act in good faith with Providers to avoid assignment of a Provider Agreement to the County.

ARTICLE II WCCS OBLIGATIONS

Section 2.1 Assignment of Provider Agreements. Upon request of County, with seven (7) days prior written notice, WCCS shall assign the Provider Agreements, individually or collectively, to County.

Section 2.2 Notify Providers of Assignment of Provider Agreements. In the event of assignment of a Provider Agreement pursuant to Section 1.4 or Section 2.1, WCCS shall be responsible for providing written notification of the assignment to each Provider.

Section 2.3 Notify County of Changes in Providers. In the event any additional party shall become a Provider or WCCS intends to terminate any Provider Agreement, WCCS shall give ten (10) days prior written notice of such affiliation to County.

ARTICLE III TERM AND TERMINATION

Section 3.1 Term. This Agreement shall remain in full force and effect for a term of one (1) year from and after the Effective Date, and for so long thereafter until either party hereto gives the other party at least sixty (60) days prior written notice of its election to terminate this Agreement. If all of the Provider Agreements are assigned to County or terminated, this Agreement shall automatically terminate.

Section 3.2 Termination by Agreement. In the event County and WCCS shall mutually agree in writing, this Agreement may be terminated on the terms and date stipulated therein.

Section 3.3 Termination without Cause. This Agreement may be terminated by either party without cause upon sixty (60) days prior written notice to the other.

Section 3.4 Assignment on Termination. Upon termination of this Agreement pursuant to Sections 3.2 or 3.3 above, WCCS may immediately assign the Provider Agreements to County, and County shall accept such assignment.

ARTICLE IV MISCELLANEOUS

Section 4.1 Laws and Regulations. The parties hereby acknowledge and agree that the respective rights, powers, duties and responsibilities of WCCS and County may be limited by changes to applicable federal, state and local laws and regulations, or by changes to the interpretation or application thereof, affecting WCCS and the services to be provided by County. WCCS and County agree to comply fully with all applicable laws and regulations in the performance of their responsibilities. Both parties covenant and agree to negotiate in good faith to implement any necessary changes with the goal of maintaining the basic structure of this Agreement and the rights and duties established by this Agreement.

Section 4.2 Governing Law. This Agreement shall be governed, interpreted and construed according to the laws of the State of Texas, excluding any such law, which would direct the application of the law of a different jurisdiction.

Section 4.3 Entire Agreement. This Agreement constitutes the sole and entire agreement between the parties and supersedes all previous agreements or understandings relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of each of the parties, their respective heirs, successors and permitted assigns.

Section 4.4 Severability. If any provision, covenant or condition in this Agreement, or the application thereof to any person or circumstance, shall to any extent be held by a court to be illegal, void or unenforceable, the validity of the remaining portions of this Agreement shall not be affected, and the rights and obligations of the parties shall be enforced to the fullest extent possible as if the Agreement did not contain such provision or condition.

Section 4.5 Legal Action. In the event either party resorts to legal action against the other party to enforce the terms and provisions of this Agreement, each party will pay its own costs of such action, including, without limitation, the legal fees and related costs in connection therewith.

Section 4.6 Failure to Declare Default; Waiver. The failure of either party to declare any default, breach or violation of any provisions of this Agreement immediately upon the occurrence thereof, or delay in taking any action in connection therewith, shall not waive such default, breach or violation, but said party shall have the right to declare any such default at any time. Any waiver by a party of a default, breach or violation of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach thereof.

Section 4.7 Paragraph Headings. The article and paragraph headings contained in this Agreement are for convenience of reference only and shall in no manner be construed as a part of this Agreement or be used in the interpretation of anything in this Agreement.

Section 4.8 Independent Contractor. It is mutually understood and agreed that County and WCCS are at all times acting and performing as independent contractors under this Agreement. Neither party shall have nor exercise any control or direction over the methods by which the other party performs its management or professional services except as expressly granted by the terms of this Agreement. No relationship of employer and employee is created by

this Agreement. In no event will this Agreement be construed as establishing a partnership or joint venture or similar relationship between the parties.

Section 4.9 Third Party Beneficiaries. This Agreement is entered into for the sole benefit of County and WCCS. Nothing contained herein or in the parties' course of dealings shall be construed as conferring any third party beneficiary status on any person or entity not a party to this Agreement, including, without limitation, any Provider or its employee or representative.

Section 4.10 Confidentiality. To the extent allowed by law, this Agreement is confidential and its substance may only be disclosed to the parties hereto, appropriate third parties (such as insurance carriers and government agencies) as mutually agreed upon by the parties hereto, or such parties as may be required by law. Furthermore, in the performance of this Agreement there may be an exchange of data, which is confidential and proprietary in nature. To the extent either party notifies the other that any information released by that party to the other (including information such as plans for the expansion, relocation or further development of WCCS and/or the operations of County) is confidential, the other party agrees to maintain the confidentiality of that information and not to disclose it to others (excepting officers or employees of the parties having a legitimate need to know) to the extent allowed by law. The parties understand and agree that County is subject to the Texas Public Information Act and to the extent County is ordered by an appropriate authority to release information made confidential hereunder, it may do so without further recourse under this Agreement. In such event, County shall endeavor to notify WCCS of its intent to release information made confidential herein.

Section 4.11 Representations and Warranties. WCCS and County each independently represent and warrant that neither WCCS, County, nor any of their representatives are (i) currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) (the "**Federal health care programs**"); (ii) convicted of a criminal offense related to the provision of health care items or services but not yet excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) under investigation or otherwise aware of any circumstances which may result in the exclusion of WCCS or County, or any of their representatives from participation in Federal health care programs.

Section 4.12 Compliance with HIPAA and Access to Records.

A. To the extent applicable to this Agreement, WCCS and County and its designee agree to comply with the Health Information Technology for Economic and Clinical Health Act of 2009 (the "**HITECH Act**"), the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. Section 1320d *et seq.* ("**HIPAA**") and any current and future regulations promulgated under the HITECH Act or HIPAA, including, without limitation, the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the "**Federal Privacy Regulations**"), the federal security standards contained in 45 C.F.R. Parts 160, 162 and 164 (the "**Federal Security Regulations**"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162 (the "**Federal Electronic Transactions Regulations**"), all as amended from time to time and, all collectively referred to herein as "**HIPAA Requirements**". WCCS and County and its designee agree not to use or further disclose any Protected Health Information (as defined in the Federal

Privacy Regulations) or EPHI (as defined in the Federal Security Regulations), other than as permitted by the HIPAA Requirements and the terms of this Agreement. In addition, WCCS and County and its designee agree to comply with any state laws and regulations that govern or pertain to the confidentiality, privacy, security of, and electronic transactions pertaining to, health care information.

B. As and to the extent required by law, upon the written request of the Secretary of Health and Human Services, the Comptroller General or any of their duly authorized representatives, WCCS and County shall make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of providing services under this Agreement. Such inspection shall be available for up to four (4) years after the rendering of such services. If WCCS or County carry out any of the duties of this Agreement through a subcontract with a value of \$10,000.00 or more over a twelve (12) month period with a related individual or organization, WCCS and County agree to include this requirement in any such subcontract. This section is included pursuant to and is governed by the requirements of 42 U.S.C. § 1395x(v)(1) and the regulations thereto.

Section 4.13 Assignment. Except as provided in this Agreement, neither party shall have the right to assign any of its rights, obligations or performance of professional services hereunder to any other person or entity without the prior written consent of the other party.

Section 4.14 General. This Agreement and any affidavit, certificate, instrument agreement or other document required to be provided hereunder may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument. Unless the context shall otherwise require, the singular shall include the plural and vice-versa, and each pronoun in any gender shall include all other genders. The terms and provisions of this Agreement constitute the entire agreement among the parties hereto in respect of the subject matter hereof, and neither County nor WCCS has relied on any representations or agreements of the other, except as specifically set forth in this Agreement. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, trustees, receivers and permitted assigns.

Section 4.15 Notices. All notices or other communication permitted or required pursuant to this Agreement shall be deemed validly given when received by personal delivery or by certified mail, return receipt requested, addressed as follows:

County: Williamson County and Cities Health District
Attn: Bride Roberts, LBSW
Assistant Director
Social Services Division
211 Commerce Blvd., Suite 114
Round Rock, Texas 78664

With a copy to: Dan A. Gattis
Williamson County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

WCCS: Williamson County Clinical Services, Inc.
Attn: President
98 San Jacinto Boulevard, Suite 1800
Austin, TX 78701

With a Copy to: Gjerset & Lorenz, LLP
2801 Via Fortuna, Suite 500
Austin, Texas 78746
Attn: Shauna Lorenz

or to such other addresses and to such other persons as either party may from time to time designate by notice given as herein provided. Such notices or communications shall be deemed to have been given three (3) days after deposit in the United States mail if sent by regular, registered or certified mail, postage prepaid, or one (1) day after delivery to an overnight delivery service.

Section 4.16 Waiver; Amendments. No waiver, alteration, amendment or modification of provisions contained in this Agreement shall be binding unless made in writing and signed by both parties.

Section 4.17 Immunity Retained. No Party waives or relinquishes any immunity or defense on behalf of itself, its officers, employees and agents as a result of its execution of this Agreement and the performance of the covenants contained herein.

Section 4.18 Non-Appropriation. This Agreement is subject to termination, either in whole or in part, without penalty to County, subject to appropriation or availability of budgeted funds. The County is a political subdivision whose authority and appropriations are subject to actions of the Commissioners Court and whose availability of funds may be subject to governmental action. If County becomes subject to a legislative change, revocation of statutory authority, lack of appropriated funds, or unavailability of funds which would render County's delivery or performance of its obligations under this Contract impossible or unnecessary, this Agreement will be terminated, either in whole or in part. In the event of a termination under this Section 4.18, County will not be liable to WCCS or any other person or entity for any payments, damages or any other amounts which were otherwise due or which may be caused or associated with such termination.

Section 4.19 Mediation. The parties may, but are not obligated to, submit any dispute or controversy arising under or in connection with this Agreement to non-binding mediation.

Section 4.20 Venue. This Agreement is executed and shall be performed in whole or in part in Williamson County, Texas, where venue shall lie for all purposes.

IN WITNESS WHEREOF, the parties have entered into this Agreement to be effective as of the date first set forth above.

WILLIAMSON COUNTY

By: _____

Title: _____

ATTEST:

By: _____

Title: _____

**WILLIAMSON COUNTY CLINICAL
SERVICES, INC.**

By: _____

Title: _____