

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

<b>IN RE:</b>  <b>FOREST PARK MEDICAL CENTER AT FRISCO, LLC,</b>  <p style="text-align: center;"><b>DEBTOR.</b></p>	§ § § § § § § § § §	<b>CHAPTER 11</b>  <b>CASE NO. 15-41684 - BTR</b>  <b>Complex Case</b>
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**EXPEDITED MOTION FOR INTERIM AND FINAL ORDERS PURSUANT TO  
SECTIONS 105(a) AND 366 OF THE BANKRUPTCY CODE (I) PROHIBITING  
UTILITIES FROM ALTERING, REFUSING, OR DISCONTINUING SERVICE, (II)  
DEEMING UTILITIES ADEQUATELY ASSURED OF FUTURE PERFORMANCE,  
AND (III) ESTABLISHING PROCEDURES FOR DETERMINING  
ADEQUATE ASSURANCE OF PAYMENT**

**NO HEARING WILL BE CONDUCTED ON THIS MOTION UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AND SERVED UPON THE PARTY FILING THIS PLEADING WITHIN TWENTY-ONE (21) DAYS FROM DATE OF SERVICE UNLESS THE COURT SHORTENS OR EXTENDS THE TIME FOR FILING SUCH OBJECTION. IF NO OBJECTION IS TIMELY SERVED AND FILED, THIS PLEADING SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT. IF AN OBJECTION IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING. IF YOU FAIL TO APPEAR AT THE HEARING, YOUR OBJECTION MAY BE STRICKEN. THE COURT RESERVES THE RIGHT TO SET A HEARING ON ANY MATTER.**

**EXPEDITED CONSIDERATION HAS BEEN REQUESTED**

TO THE HONORABLE BRENDA T. RHOADES,  
CHIEF UNITED STATES BANKRUPTCY JUDGE:

Forest Park Medical Center at Frisco, LLC (the “Debtor”), debtor and debtor-in-possession, hereby submits this expedited motion (the “Motion”) requesting the Court to enter

interim final orders (i) prohibiting the Debtor's utility companies from altering, refusing, or discontinuing services to the Debtor on account of prepetition invoices, unless and until this Court issues an order authorizing such action; and (ii) establishing procedures the Debtor's utility companies must follow in order to request additional adequate assurance payments. In support of the Motion, the Debtor respectfully represents as follows:

**I.**  
**STATUS OF THE CASE AND JURISDICTION**

1. On September 22, 2015 (the "Petition Date"), the Debtor commenced this case by filing a voluntary petition for relief under Chapter 11 the Bankruptcy Code. The Debtor has continued in the possession of its property and is operating and managing its business as debtor and debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

2. No request for a trustee or examiner has been made. The Official Unsecured Creditors' Committee was appointed on September 30, 2015. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(2). Venue of these proceedings and this Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory predicates for the relief sought herein are Sections 105(a) and 366 of the Bankruptcy Code.

**II.**  
**BACKGROUND**

**A. General.**

4. The Debtor is a doctor-owned Texas limited liability company that owns and operates a 54-bed state-of-the-art medical facility, including 30 private rooms, 14 family suites, and 10 intensive care rooms (the "Hospital") in Frisco, Texas. The Hospital is a luxury medical facility located at 5500 Frisco Square Boulevard in Frisco, Texas, off of the Dallas North Tollway and Main Street. It is currently minimally staffed for an average daily census of 1-3 inpatients per day and up to 200 outpatients per month, but has a fully staffed maximum capacity of 54 inpatients per day and 1,000 outpatients per month. The Debtor's leased facility is comprised of over 136,759 useable square feet and is situated on approximately 4.7 acres. Prior to the Petition Date, approximately 159 employees worked at the Hospital, including 100 full-time employees and 59 part-time employees.

5. The Debtor offers a range of surgical services, including, but not limited to, pediatric, bariatric, brain, orthopedic, pain management, plastics and reconstructive, spine, and neurosurgery. The Hospital's back office services and employees are contracted through FPMC Services, LLC ("Shared Services"). Shared Services manages all revenue for the Debtor, as well as six other affiliates and is owned in equal parts by those seven entities for which it performs these services.

**B. Pre-Petition Secured Lender.**

**Pre-Petition Financing**

6. On or about October 10, 2012, the Debtor entered into that certain *Loan and Security Agreement*, dated as of October 10, 2012, by and between the Debtor and Texas Capital Bank ("TCB"), as such may have been amended and/or supplemented from time to time (the

"Line of Credit Agreement"). The Debtors currently owe approximately \$2,500,000.00 under the Line of Credit Agreement, secured by essentially all of the Debtor's assets ("Line of Credit"). The Line of Credit matured on or about December 31, 2014, with an additional extension to April 1, 2015. Around the time of the December 31, 2014 maturity date, the Debtor learned that TCB would not be renewing the Debtor's Line of Credit nor providing further extensions of credit beyond the extended maturity.

7. In addition, the Debtor is also indebted to TCB under that certain *Master Equipment Lease* dated May 30, 2012 (the "Master Equipment Agreement") for certain of the Debtor's equipment. The Debtor is indebted to TCB in the approximate amount of \$5.8 million secured by the Debtor's assets. The remainder of the equipment is leased through various parties, including General Electric Capital Corporation, Karl Storz, Commerce Bank and Olympus Corporation.

8. The Line of Credit was critical to the management of the Debtor's operations. Currently, based upon a trailing three (3) months ending in July 2015, the Debtor generates approximately \$3,400,000.00 a month in revenue, and has operational expenses of approximately \$4,300,000.00 a month (not including restructuring costs and debt service obligations). As such, the Debtor does not generate sufficient revenue to operate the Hospital and to service its debt unless the number of patients exceeds recent levels.

#### Landlord and DIP Financing

9. The Debtor leases the real property and fixtures on which the Hospital operates, from Sabra Texas Holdings, L.P. ("Sabra") pursuant to the terms of that certain *Lease Agreement* dated December 6, 2010, which was thereafter amended pursuant to that certain *First Amendment to Lease Agreement* dated as of October 22, 2013 (the "Lease") assigning the Lease from FPMC Frisco Realty Partners, LP to Sabra. The Lease is for an initial term of 20 years,

accruing rent in the amount of \$842,290.00 per month for the Hospital and the parking structure, to increase every calendar year over the term of the Lease by 3%.

10. Prior to the Petition Date, the Debtor anticipated that without continuing liquidity, the value of its assets would rapidly diminish and would more than likely require the Debtor to close down the Hospital and liquidate its assets. Sabra has offered the Debtor debtor-in-possession (“DIP”) financing in the approximate amount of \$18,500,000.00, available in draws and accruing interest at a 5% interest rate, payable monthly in arrears (“DIP Financing”) pursuant to that certain Senior Secured Superpriority Debtor-In-Possession Loan and Security Agreement (“DIP Agreement”). The DIP Financing would mature upon the occurrence of certain events, including the conversion of this Case, dismissal of this Case, the sale of substantially all of the Debtor’s assets, the revocation of the Debtor’s license to operate or the expiration of 35 days after the filing of a Petition if a final order approving the DIP Credit Facility has not been entered by the Bankruptcy Court. At the hearing on September 23, 2015 on “first day” matters, the Court authorized the proposed DIP Financing on an interim basis.

**C. Reorganization Efforts.**

11. The Debtor’s operations were developed based upon an “out-of-network” model. This model relied upon higher reimbursement rates as an out-of-network facility. However, prior to the Petition Date, the Debtor determined that it would be unable to sustain the level of revenue needed to operate by operating solely out of network. Consequently, it attempted to increase its revenues by entering into network contracts with various insurance providers. Although being “in network” with various insurance providers would result in discounted reimbursement rates, it was thought that being in network would increase the volume of procedures at the Hospital and thus increase revenue. However, the reduced rates that the insurance providers contracted for

were too low for the Hospital to schedule enough procedures to reap any financial benefit from the contracts.

12. The Debtor engaged Juniper Advisory, LLC for assistance to pursue a sale of the Hospital to a purchaser in June, 2014. Despite many possible purchasers performing due diligence and even one offer for purchase, (such offer included a purchase of the real estate owned by Sabra and Sabra was unwilling to sell the real estate at the proposed purchase price) the Debtor was unable to close a sale.

13. In addition to seeking a potential purchaser, the Debtor's Management Company, Vibrant Healthcare Frisco, LLC, ("Management Company") also sought and located a replacement revolving lender who would pay off the TCB Line of Credit and provide up to an additional \$6.5 million in additional availability based upon the amount of the Debtor's accounts receivable. However, this demand note, bearing 15% interest, provided a decreasing amount of liquidity due to the Debtor's declining accounts receivable balance while the Debtor worked to resolve obstacles to closing such as intervening lawsuits, a delay in signing a new management contract and Sabra's impending eviction of the Debtor from its leased space. Ultimately, this financing never closed.

14. Finally, to address the increasingly exigent financial and operational issues, the Debtor retained Deloitte CRG ("Deloitte") on September 11, 2015. Deloitte was retained to assist the Debtor to, among other things, create short-term budgets, negotiate appropriate waivers and forbearances, and assess the Debtor's available assets and options by which to improve the Debtor. At the hearing on September 23, 2015 on "first day" matters, the Court authorized the Debtor's retention of Michael Miller as Chief Restructuring Officer on an interim basis. Mr. Miller, a Senior Vice President with Deloitte who will act as CRO for the Debtor, has more than

30 years of experience in healthcare administration and finance through various hospital administrative and executive roles.

15. In Chapter 11, the Debtor has an opportunity to quickly evaluate whether a plan of reorganization or a sale of the Debtor's assets will provide for the most recovery to the Debtor's creditors. This would avoid further deterioration of the Debtor's business, would preserve over one hundred jobs, and would achieve maximum values for all creditors. In order to evaluate the strategies set forth herein, and maximize values for all creditors, including unsecured creditors, the Debtor was forced to commence this Chapter 11 Case.

### **III. RELIEF REQUESTED**

16. The Debtor currently uses electricity, gas, water, waste management services and cable/internet at the Hospital provided by Co-Serv, City of Frisco, Progressive Waste, and Grande Communications Network, LLC (collectively, the "Utilities"). A list of each Utility is attached hereto as **Exhibit "A"** (the "Utility Service List").<sup>1</sup>

17. Uninterrupted utility services are critical to the Debtor's ability to operate and maintain the value of its business. The Debtor could not continue normal business operations without any of the above utility services. Should any Utility refuse or discontinue service, even for a brief period, the Debtor would more than likely be forced to cease operations because, without these services, the Debtor could not operate the Hospital. Such a cessation would substantially disrupt operations and result in loss of revenues, which could irreparably harm and jeopardize the reorganization efforts of the Debtor. Moreover, the Debtor cannot risk utilities being shut off while patients are receiving treatment or while a doctor is performing a procedure. Such circumstances would potentially be harmful to both the patients and the staff.

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<sup>1</sup> Debtor has made a good faith effort to identify all Utilities and include them and their relevant information on the Utility Service List.

18. As described in **Exhibit “A,”** as of the Petition Date, the Debtor owes pre-petition amounts to certain of the Utilities which could not be paid upon the filing of the bankruptcy. Upon information and belief, one of the Utilities is holding a deposit on behalf of the Debtor.

19. Debtor intends to remain current on its post-petition obligations to the Utilities by paying them from post-petition receivables and from post-petition financing. Sufficient amounts will be included in any budgets to pay such amounts on a current basis.

20. Pursuant to Sections 105(a) and 366 of the Bankruptcy Code, the Debtor seeks entry of interim and final orders: 1) determining that the Utilities have been provided with adequate assurance of payment within the meaning of Section 366 of the Bankruptcy Code; 2) approving the Debtor’s proposed offer of adequate assurance and procedures governing any Utility’s request for additional or different adequate assurance; and 3) prohibiting the Utilities from altering, refusing, or discontinuing services on account of pre-petition amounts outstanding or on account of any perceived inadequacy of the Debtor’s proposed adequate assurance, without further order of this Court.

**A. Adequate Assurance**

21. In light of the severe consequences to the Debtor, and potentially, the Debtor’s patients, if utility services were interrupted, but recognizing the right of the Utilities to evaluate the proposed adequate assurance, counsel for the Debtor attempted to contact each of the Utilities to discuss providing adequate assurance. At the time of the filing of the Motion, agreements had not been reached with the Utilities as to the proposed adequate assurance. Consequently, the Debtor requests the Court enter an order approving and adopting the following procedures (the “Adequate Assurance Procedures”):

- (a) As adequate assurance of future payment to each Utility listed in Exhibit A, the Debtor proposes to pay, within fifteen (15) days after entry of an order hereon each Utility the amounts below (the



“Deposits”). The specific amount of each proposed Deposit is identified in Exhibit A. Each Utility will be deemed to have received adequate assurance of payment, as that term is used in Section 366 of the Bankruptcy Code;

- (b) In the event certain utilities are inadvertently not included on the Utility Service List, the Debtor purposes to provide, upon discovery of those utilities, adequate assurance of future payment to each of those utilities not already holding a deposit, an amount equal to the approximate aggregate cost of two weeks of service. Each Utility will be deemed to have received adequate assurance of payment, as that term is used in Section 366 of the Bankruptcy Code;
- (c) If a Utility is not satisfied with the assurance of future payment being provided by the Debtor pursuant to the Motion, the Utility must serve a written request upon the Debtor setting forth the account number for the Debtor, the outstanding balance on the account, a summary of the Debtor’s payment history on the account, and an explanation of why the adequate assurance provided in this Motion is inadequate assurance of payment. Additionally, the Utility may seek further relief from this Court in order to receive further adequate assurance;
- (d) A Utility may not alter, discontinue, or refuse further service to the Debtor until and unless the Utility receives authorization from this Court without further order of this Court;
- (e) If, at any time during the post-petition period the Debtor fails to pay a regularly billed utility payment invoiced post-petition by the Utility (a “Post-Petition Utility Payment”), such Utility shall provide the Debtor and its bankruptcy counsel written notice of such failure outlining the account number for which such post-petition payment is due as well as the amount of the missed payment. The Debtor shall have five (5) days to cure such missed payment; and
- (f) At any time, the Debtor may terminate service from any Utility, such termination being effective immediately upon the Debtor’s notice to the Utility. At such time, the Debtor shall not be required to make any further payments to such Utility for any services provided after such termination, and any excess deposit shall be returned within thirty (30) days.

**B. Argument and Authorities**

22. Congress enacted Section 366 of the Bankruptcy Code to protect debtors from utility service cutoffs upon a bankruptcy filing while, at the same time, providing utility

companies with adequate assurance that the debtors will pay for post-petition services. *See* H.R. REP. No. 95-595, at 350 (1977), reprinted in 1978 U.S.C.C.A.N. 5963, 6306. Section 366 states,

- (a) Except as provided in subsections (b) and (c) of this section, a utility may not alter, refuse, or discontinue service to, or discriminate against, the trustee or the debtor solely on the basis of the commencement of a case under this title or that a debt owed by the debtor to such utility for service rendered before the order for relief was not paid when due.
- (b) Such utility may alter, refuse, or discontinue service if neither the trustee nor the debtor, within 20 days after the date of the order for relief, furnishes adequate assurance of payment, in the form of a deposit or other security, for service after such date. On request of a party in interest and after notice and a hearing, the court may order reasonable modification of the amount of the deposit or other security necessary to provide adequate assurance of payment.
- (c)(1)(A) For purposes of this subsection, the term “assurance of payment” means—
  - (i) a cash deposit;
  - (ii) a letter of credit;
  - (iii) a certificate of deposit;
  - (iv) a surety bond;
  - (v) a prepayment of utility consumption; or
  - (vi) another form of security that is mutually agreed on between the utility and the debtor or the trustee.
- (B) For purposes of this subsection an administrative expense priority shall not constitute an assurance of payment.

(2) Subject to paragraphs (3) and (4), with respect to a case filed under chapter 11, a utility referred to in subsection (a) may alter, refuse, or discontinue utility service, if during the 30-day period beginning on the date of the filing of the petition, the utility does not receive from the debtor or the trustee adequate assurance of payment for utility service that is satisfactory to the utility.

(3)(A) On request of a party in interest and after notice and a hearing, the court may order modification of the amount of an assurance of payment under paragraph (2).

(B) In making a determination under this paragraph whether an assurance of payment is adequate, the court may not consider—

- (i) the absence of security before the date of the filing of the petition;
- (ii) the payment by the debtor of charges for utility service in a timely manner before the date of the filing of the petition; or
- (iii) the availability of an administrative expense priority.

(4) Notwithstanding any other provision of law, with respect to a case subject to this subsection, a utility may recover or set off against a security deposit provided to the utility by the debtor before the date of the filing of the petition without notice or order of the court.

11 U.S.C. § 366.

23. Pursuant to Section 366, the bankruptcy court retains the authority to determine the amount of payment necessary for adequate assurance. 11 U.S.C. § 366(b) and (c)(3)(A). In fact, Section 366(b) permits a court to find that no adequate assurance payment at all is necessary to provide a utility with adequate assurance of payment under certain circumstances. *Virginia Elec. & Power Co. v. Caldor, Inc.*, 117 F.3d 646, 650 (2d Cir. 1997) (“Even assuming that ‘other security’ should be interpreted narrowly, we agree with the appellees that a bankruptcy court’s authority to ‘modify’ the level of the ‘deposit or other security,’ provided for under § 366(b), includes the power to require *no* ‘deposit or other security’ where none is necessary to provide a utility supplier with ‘adequate assurance of payment.’”) (emphasis in original). Accordingly, in a bankruptcy court’s discretion to determine the amount of an adequate assurance payment, it may also determine that no such payment is necessary.

24. Additionally, Section 366 requires only that the utility’s assurance of payment be “adequate.” Adequate assurance of payment does not constitute an absolute guarantee of a debtor’s ability to pay. *In re Adelphia Business Solutions, Inc.*, 280 B.R. 63, 80 (Bankr. S.D.N.Y. 2002); *Steinebach, Jr. v. Tucson Elec. Power Co. (In re Robert E. Steinebach, Jr.)*, 303 B.R. 634, 641 (Bankr. D. Ariz. 2004). In determining the amount of adequate assurance, bankruptcy courts should focus on “the need of the utility for assurance, and to require that the

debtor supply *no more than that*, since the debtor almost perforce has a conflicting need to conserve scarce financial resources.” *Caldor*, 117 F.3d at 650 (emphasis in original) *citing In re Penn Jersey Corp.*, 72 B.R. 981, 985 (Bankr. E.D. Pa. 1982). Therefore, demands by a utility provider where adequate assurance of payment has already been provided in light of Debtor’s specific circumstances should be denied.

25. Accordingly, the Debtor submits that the proposed adequate assurance is sufficient adequate assurance of payment within the meaning of Section 366. Furthermore, the Debtor is incentivized to maintain its post-petition utility obligations, as a loss of utility services would cripple the Debtor’s business. Should the Utilities subsequently object to the proposed Adequate Assurance Procedures, such Utilities are in no way prevented from seeking relief from this Court.

26. The Court has the authority pursuant to Section 105(a) of the Bankruptcy Code to approve the proposed Adequate Assurance Procedures. The Adequate Assurance Procedures set forth a fair process that will allow the parties to negotiate and seek court intervention where necessary; preserving the Utilities’ rights under Section 366 without jeopardizing the Debtor’s bankruptcy case. Courts in the circuit have approved similar procedures in other Chapter 11 cases filed after BAPCPA became effective. *See, e.g., In re Allen Hospitality, LLC*, Case No. 11-41438 (Bankr. E.D. Tex. May 17, 2011) [Docket No. 28]; *In re SWHG Hospitality, Ltd.*, Case No. 11-41439 (Bankr. E.D. Tex. May 17, 2011) [Docket No. 26]; *In re Opus West Corp., et al*, Case No. 09-34356 (Bankr. N.D. Tex. August 11, 2009) [Docket No. 274]; *In re Renaissance Hospital Grand Prairie, Inc.*, Case No. 08-43775 (Bankr. N.D. Tex. Sept. 5, 2008) [Docket No. 120]; *In re Hi Rockwall, LLC.*, Case No. 09-32159 (Bankr. N.D. Tex. May 28, 2009) [Docket No. 48]; *In re Pilgrim’s Pride Corporation*, Case No. 08-45664 (Bankr. N.D. Tex. January 5, 2009) [Docket No. 447]; *In re Spanish Point, LP*, Case No. 10-37791 (Bankr. N.D. Tex.

December 3, 2010) [Docket No. 39]. Accordingly, the Adequate Assurance Procedures should be approved.

**C. Subsequent Modification(s) to the Utility Service List**

27. Despite good-faith efforts by the Debtor to list every Utility, certain Utilities may not be included on this Utility Service List. If the Debtor discovers those certain Utilities, then the Debtor will amend the Utility Service List, and shall serve a copy of the applicable order (the “Order”) on such newly identified Utilities. Debtor requests that the Order be binding on all Utilities, subject to its rights to request additional adequate assurance, regardless of when any such Utility was added to the Utility Service List.

**IV.  
NOTICE**

28. Notice of this Application has been given by e-mail, facsimile, overnight delivery, and/or courier to the Master Service List including the following parties or, in lieu thereof, to their counsel, if known: (a) the Office of the United States Trustee for the Eastern District of Texas; (b) the Office of the Texas Attorney General; (c) the Office of the United States Attorney General; (d) Texas Department of State Health Services; (e) Texas Capital Bank; (f) Sabra Texas Holdings, L.P.; (g) each of the Debtor's twenty (20) largest unsecured creditors; and (h) each Utility. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

29. In conclusion, the Debtor respectfully requests the Court grant the Motion and issue interim and final orders as to any Utility that does not timely file an objection, and grant Debtor such other and further relief as the Court may deem proper.

Dated: October 7, 2015.

Respectfully submitted,

/s/ William L. Medford

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**PROPOSED COUNSEL FOR THE DEBTOR**

**CERTIFICATE OF CONFERENCE**

I certify that, on October 7, 2015, I conferred with the Office of United States Trustee, regarding the relief requested in this Motion, and stated that the United States Trustee takes no position with respect to the relief requested herein.

/s/ William L. Medford

William L. Medford

**CERTIFICATE OF CONFERENCE**

I certify that, on October 2-6, 2015, I contacted each Utility via telephone regarding the relief requested in this Motion. As of the time of the filing of this Motion, I have not received substantive information from any Utility with regard to their position on the relief requested in this Motion.

/s/ Christina W. Stephenson  
Christina W. Stephenson

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing pleading was served by Donlin, Recano & Company upon the parties listed on the current Master Service List via electronic transmission via the Court's ECF facilities, and/or United States Mail, First Class on this 7th day of October, 2015.

/s/ William L. Medford  
William L. Medford

UTILITY	ADDRESS	CUSTOMER NUMBER	ACCOUNT NUMBER/ DEPOSIT	PRE-PETITION AMOUNTS OWED	APPROXIMATE AVERAGE MONTHLY BILL	ADEQUATE ASSURANCE PROPOSAL
Co-Serv (Electric – Parking Garage)	P.O. Box 650785 Dallas, TX 75265 940-321-7800 Email: contact@coserv.com	XXXXXX9166	XXXXXX4235/ NO DEPOSIT	\$2,092.98	\$1,675.00	\$838.00
Co-Serv (Gas & Electric – Hospital)	P.O. Box 650785 Dallas, TX 75265	XXXXXX9166	XXXXXX6530/ NO DEPOSIT	\$90,723.97	\$64,015.00	\$32,008.00
City of Frisco (Water, Sewer, Storm Water)	P.O. Box 2730 Frisco, TX 75034 972-292-5575 Email: utilitybilling@FriscoTexas.gov	XX-XX08-02	(\$75.00 DEPOSIT)	\$766.97	\$380.00	\$190.00
City of Frisco (Water, Sewer, Storm Water, Compactors)	P.O. Box 2730 Frisco, TX 75034	XX-XX10-01	(\$75.00 DEPOSIT)	\$4,720.10	\$1,775.00	\$888.00
City of Frisco (Water)	P.O. Box 2730 Frisco, TX 75034	XX-XX27-01	(\$75.00 DEPOSIT)	\$2,082.82	\$240.00	\$120.00
City of Frisco (Water, Sewer)	P.O. Box 2730 Frisco, TX 75034	XX-XX11-02	(\$75.00 DEPOSIT)	\$9,223.65	\$3,930.00	\$1,965.00
Progressive Waste (Trash)	2301 Eagle Parkway, Suite 200 Fort Worth, TX 76177 Phone: 469-452-8000 Fax: 972-547-0922	XXXXXX8259	NO DEPOSIT	\$3,449.07	\$795.00	\$398.00
Grande Communications Network LLC	401 Carlson Circle San Marcos, TX 78666 Phone: 877-881-7575 Fax: 972-410-0005	XX7313	NO DEPOSIT	\$18,520.08	\$4,710.00	\$2,355.00
<b>TOTAL</b>						\$38,762.00



UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

<b>IN RE:</b>  <b>FOREST PARK MEDICAL CENTER AT FRISCO, LLC,</b>  <p style="text-align: center;"><b>DEBTOR.</b></p>	§ § § § § § § § § §	<b>CHAPTER 11</b>  <b>CASE NO. 15-41684 - BTR</b>  <b>Complex Case</b>
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**INTERIM ORDER PURSUANT TO SECTIONS 105(a) AND 366 OF THE  
BANKRUPTCY CODE (I) PROHIBITING UTILITIES FROM ALTERING, REFUSING,  
OR DISCONTINUING SERVICE, (II) DEEMING UTILITIES ADEQUATELY  
ASSURED OF FUTURE PERFORMANCE, AND (III) ESTABLISHING  
PROCEDURES FOR DETERMINING ADEQUATE ASSURANCE OF PAYMENT**

Upon consideration of the *Emergency Motion for Interim and Final Orders Pursuant to Sections 105(a) and 366 of the Bankruptcy Code (I) Prohibiting Utilities from Altering, Refusing, or Discontinuing Service, (II) Deeming Utilities Adequately Assured of Future Performance, and (III) Establishing Procedures for Determining Adequate Assurance of Payment* (the “Motion”) filed by Forest Park Medical Center at Frisco, LLC (the “Debtor”), debtor and debtor-in-possession, on October 7, 2015, pursuant to Sections 105(a) and 366 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et. seq.* (the “Bankruptcy Code”) in the above-referenced bankruptcy case, and the Debtor having contacted each of the identified utility providers and having proposed adequate assurance payments in the form of deposits to be issued, the Court finds that it has jurisdiction to grant the relief requested in the Motion pursuant to 28 U.S.C. §§ 1334(b) and 157.

The Court further finds that due and adequate notice of the Motion was served via electronic means and/or United States First Class Mail upon the Debtor's pre-petition and post-petition lenders, the twenty largest unsecured creditors, all parties requesting notice, the United States Trustee.

The Court further finds that due and adequate notice of the Motion was served via electronic mail, facsimile and/or United States First Class Mail upon the Utilities at their address listed on "Exhibit A" (the "Utility Service List") to the Motion.<sup>1</sup>

The Court further finds, after due deliberation and sufficient cause appearing therefore, that the relief requested is essential and appropriate pursuant to Section 366 of the Bankruptcy Code and in the best interest of the Debtor, its estate and all parties-in-interest. It is therefore,

**ORDERED** that the Motion is **GRANTED**. It is further

**ORDERED** that, as set forth herein, each Utility has been provided with adequate assurance of payment within the meaning of Section 366 of the Bankruptcy Code. It is further

**ORDERED** that each Utility is prohibited from altering, refusing, or discontinuing services on account of pre-petition amounts outstanding or on account of any perceived inadequacy of the Debtor's adequate assurance, without further order of this Court. It is further

**ORDERED** that as adequate assurance of future payment to each Utility the Debtor will pay each Utility within fifteen (15) days after entry of this Order the Deposit amounts identified on the Utility Service List. It is further

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<sup>1</sup> The Debtor has made a good faith effort to identify all Utilities and include them and their relevant information on the Utility Service List.

**ORDERED** that upon receipt of the Deposits identified on Utility Service List, each Utility is deemed to have received adequate assurance of payment, as that term is used in Section 366 of the Bankruptcy Code. It is further

**ORDERED** that within fifteen (15) days after discovery of a utility not included on the Utility Service List, Debtor will provide adequate assurance of future payment to such utility not already holding a deposit, in an amount equal to the approximate aggregate cost of two weeks of service. Upon receipt of deposit, any such utility is deemed to have received adequate assurance of payment, as that term is used in Section 366 of the Bankruptcy Code. It is further

**ORDERED** that the Utilities may not alter, discontinue, or refuse further service to the Debtor until and unless the Utility receives authorization from this Court upon further order of this Court. It is further

**ORDERED** that if, at any time during the post-petition period the Debtor fails to pay a regularly billed utility payment invoiced post-petition by a Utility (a “Post-Petition Utility Payment”), the Utility shall provide the Debtor and its bankruptcy counsel written notice of such failure outlining the account number for which such post-petition payment is due as well as the amount of the missed payment. The Debtor shall have five (5) days to cure such missed payment. It is further

**ORDERED** that at any time, the Debtor may terminate service from a Utility, such termination being effective immediately upon the Debtor’s notice to the Utility. At such time, the Debtor shall not be required to make any further payments to the Utility for any services provided after such termination, and any excess deposit shall be returned within thirty (30) days. It is further

**ORDERED** that the Court shall retain jurisdiction with respect to all matters arising from  
or related to the implementation of this Order.

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HONORABLE CHIEF JUDGE BRENDA T. RHOADES  
CHIEF UNITED STATES BANKRUPTCY JUDGE

PREPARED BY:

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**PROPOSED DEBTOR'S COUNSEL**