

**AMENDMENT ONE TO THE AGREEMENT
BETWEEN THE COUNTY OF SAN MATEO AND
OMBUDSMAN SERVICES OF SAN MATEO, INC.**

THIS AMENDMENT TO THE AGREEMENT, entered into this _____ day of _____, 20____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and the OMBUDSMAN SERVICES OF SAN MATEO, INC., hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, the parties entered into Agreement 68151 for the provision of a Ombudsman Program on July 18, 2006;

WHEREAS, the parties wish to amend the Agreement increasing funding for the Ombudsman Program by \$3,000 for a total of \$306,702; and

WHEREAS, the parties wish to further amend the Agreement to add Section 22. Grievance Procedures:

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Section 3 of the Original Agreement is amended to read as follows:

3. Payments.

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Schedule A (revised), County shall make payment to Contractor based on the rates and in the manner specified in Schedule B (revised). The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed THREE HUNDRED SIX THOUSAND SEVEN HUNDRED TWO DOLLARS (\$306,702).

2. Section 22 is added to the Original Agreement as follows:

22. Grievance Procedures

Consumers of services funded through Aging and Adult Services (AAS) shall have the opportunity to file a written complaint against an AAS-funded program or an employee or volunteer of that program. All service providers must have a written grievance/complaint process for reviewing and attempting to resolve

consumer complaints. Should the complaint not result in resolution at the provider level, the consumer or his/her representative may bring the complaint to AAS. The levels of resolution are as follows:

- First Level: The service provider (AAS subcontractor)
- Second Level: The Health Services Manager over the Commissions and Provider Services Unit
- Third Level: The AAS Director
- Final Level: The Health Department Director

A copy of the policy and procedures for handling complaints is available through Aging and Adult Services at 650-573-2700.

3. Schedule A and Schedule B of the Original Agreement are deleted and replaced and incorporated herein as Schedule A (revised) and Schedule B (revised) as attached.
4. **All other terms and conditions of the agreement dated July 18, 2006, between the County and Contractor shall remain in full force and effect.**

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Rose Jacobs Gibson, President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

OMBUDSMAN SERVICES OF SAN MATEO, INC.



Contractor's Signature

Date: 3/1/07

SCHEDULE A – AMENDMENT ONE

OMBUDSMAN SERVICES OF SAN MATEO COUNTY, INC.

FY 2006-2007 DESCRIPTION OF SERVICES

Contractor shall operate the following Older Americans Act (OAA) and/or Community-Based Services (CBSP) program(s): an Ombudsman Program. Services described in this Schedule A reflect program performance requirements (units of service) during fiscal year July 1, 2006 through June 30, 2007. This program shall operate in accordance with the California Department of Aging and/or state licensing regulations and the standards and requirements established by Aging and Adult Services of San Mateo County. Monitoring will be conducted annually and onsite, in accordance with the Area Agency on Aging Contract Monitoring Procedures Manual compliance. Contractor agrees to provide requested programmatic and administrative documentation as part of the contract monitoring process.

I. OMBUDSMAN PROGRAM

A. Units of Service

Contractor agrees to provide a minimum of 500 units of community education/advocacy; 8,000 units of complaint/abuse investigation and facility monitoring for a minimum of 1,200 unduplicated cases for clients in long term care facilities for the elderly and; 1,200 hours of volunteer recruitment for recruiting a minimum of 10 volunteers. Contractor also agrees to provide a minimum of 400 units of community education/advocacy and 400 units of complaint/abuse investigation and facility monitoring for a minimum of 120 unduplicated cases in adult residential facilities for the developmentally disabled.

B. Unit Definitions

Community Education: To provide in-service training, consultation and information to facility staff, resident councils, community groups, families and individuals regarding long-term care.

Unit of Service: One hour

Complaint/Abuse Investigation and Facility Monitoring: To participate in activities related to receiving, verifying, investigating, and resolving a complaint. Includes all hours spent in facilities by staff or volunteers, traveling to or from facilities, and completing required records.

Unit of Service: One hour

Volunteer Recruitment: To engage in activities directed towards the recruitment and training of volunteer workers (need not be over 60 years of age).

Unit of Service: One hour

Special Volunteer Recruitment Campaign: To engage in activities directed towards the recruitment of volunteer workers (need not be over 60 years of age) through the use of two targeted radio stations and newspaper ads.

C. Program Requirements

1. Contractor agrees to provide ombudsman services in accordance with the California Department of Aging and the Area Agency on Aging requirements;
2. Contractor agrees to submit monthly reports that specify the number of individual referrals received and monthly reports that include multiple referrals;
3. **State Long-Term Care Ombudsman Program** means the CDA program recognized by the State Legislature and in compliance with the Older Americans Act and the Older Californians Act. The legislative intent of this program is to use volunteers and volunteer programs to effectively assist older individuals residing in long-term care facilities in the assertion of their civil and human rights. [OAA 712(a) (1) (B); WIC 9700, 9701(f)];
4. **Office of the Long-Term Care Ombudsman** means the office established and operated by CDA to carry out the State Long-Term Care Ombudsman Program, both directly and by contract with the Area Agencies on Aging (AAAs). As a program of CDA, the Office is responsible for activities that promote the development, coordination, and utilization of Ombudsman services. The Office establishes and maintains effective communication with programs that provide legal services for the elderly and advocacy services of similar nature that receive funding or official designation from the state. The Office analyzes data, monitors government actions, and provides recommendations pertaining to long-term care facilities and services. The Office periodically updates training procedures for Local Ombudsman Programs and provides them with administrative and technical assistance. [OAA 712(a) (1) (A), 712(a) (3) (C&F), 712(h); WIC 9710, 9716, 9717];
5. **State Ombudsman** means the individual who serves as the full-time head of the Office of the Long-Term Care Ombudsman. The State Ombudsman is appointed by the CDA director and reports directly to this director. With the participation of the Area Agencies on Aging, the State Ombudsman develops policies and procedures for the State Ombudsman Program, including AAA responsibilities for the provision

of Ombudsman services in their Planning and Service Area (PSA) – including their resolution of concerns with respect to Local Ombudsman Program activity. [OAA 712(a) (2&3), 712(a) (5) (D) (ii), 712(e); WIC 9711];

6. **Local Ombudsman Program** means either a program of the Area Agency on Aging or its subcontractor that is selected to carry out the duties of the State Long-Term Care Ombudsman Program with respect to the planning or service area. The selection is in accordance with policies and procedures established by the State Ombudsman and meet the State Ombudsman's criteria for designation and concurrence. [OAA 711(3), 712(a) (5) (D); WIC 9701(a)];
7. **Local Ombudsman Coordinator** means the individual selected by the governing board or executive director responsible for the Local Ombudsman Program to represent the Local Ombudsman Program and manage the day-to-day operations, including implementation of federal and State requirements. The Local Ombudsman Coordinator is required to be a State Certified Ombudsman Representative, complete State training for new Coordinators, and participate in State Ombudsman sponsored meetings at least twice each year. The selection is in accordance with policies and procedures established by the State Ombudsman and meet the State Ombudsman's criteria for designation and concurrence. [OAA 712(a)(5) (A), 712(h) (5); 9701(e), 9719];
8. **State Certified Ombudsman Representative** means the volunteer or employee of the Local Ombudsman Program who is individually certified in accordance with policies and procedures established by the State Ombudsman to serve as representative of the State Long-Term Care Ombudsman Program. Prior to acceptance by the State Ombudsman for certification, the individual is required to complete a minimum of 36 hours of training in accordance with policies and procedures established by the State Ombudsman. [OAA 711(5), 712(a) (5) (A), 712(h) (5); WIC 9719];
9. **Volunteer Recruitment** means those activities associated with engaging and retaining the services of volunteers to serve as a State Certified Ombudsman Representative. [OAA Section 712(a) (5) (B) (vii)];
10. **Eligible Service Population** means older individuals, 60 years of age or older, who are residents of long-term care facilities (i.e. nursing, skilled nursing, distinct part facilities, residential care facilities for the elderly, and other adult care homes similar to these facilities) regardless of their socio-economic status or area of residence. [OAA Sections 102(35), 321(a)(10), WIC 9701(b). The Local Ombudsman

Program may serve residents under 60 years of age if:

- a. A majority of the residents of the facility where the younger person resides are over age 60;
- b. Such service does not weaken or decrease service to older individuals covered by the Older Americans Act [Policy of the Office of Elder Rights Projection, Administration on Aging; July 15, 1996]; and
- c. County General Funds are used to fund the services;

11. The Contractor shall ensure that the Local Ombudsman Program, in accordance with policies and procedures established by the State Ombudsman, will:

- a. Provide services to protect the health, safety, welfare and rights of residents. [OAA 712(a)(5)(i); 9701(a)].
- b. Ensure residents in the service area of the Local Ombudsman Program have regular, timely access to State Certified Ombudsman Representatives, and timely responses to complaints and requests for assistance. [OAA 712(a)(5)(B)(ii)].
- c. Identify, investigate, and seek to resolve complaints made by or on behalf of residents that relate to their rights and well-being as residents. Complaint investigations shall be done in an objective manner to ascertain the pertinent facts. Findings shall be reported to the complainant. If a complaint is not investigated; the complainant shall be notified in writing the decision not to investigate and the reasons for the decision. [OAA 712(a)(5)(B)(iii); WIC 9701(a), 9720].
- d. Witness advance health care directives and property transfers of more than \$100 for residents of skilled nursing facilities. [HSC 1289, PC 4675, PC 4700 et seq.].
- e. Collect and submit data in accordance with the statewide uniform reporting system established by the State Ombudsman and the reporting provisions specified in Exhibit E of this contract. [OAA 712(c)].
- f. Represent the interests of residents before governmental agencies and seek administrative, legal, and other remedies to protect the rights and well-being of residents. [OAA 712(a)(5)(B) iv)].

- g. Review, comment, and facilitate the ability of the public to comment on laws, regulations, policies, actions, and legislative bills that pertain to the rights and well-being of residents. [OAA 712(a)(5)(B)(v)].
- h. Support the development of resident and family councils. [OAA 712(a)(5) (B)(vi)].
- i. Carry out other activities that the State Ombudsman determines to be appropriate, including periodic updating of a plan for maintaining an ongoing presence in long-term care facilities, and participation in special initiatives to recruit volunteers to serve as State Certified Ombudsman Representatives. [OAA 712(a)(5)(B)(vii)];
- j. Have the option to provide additional services, if they do not weaken or decrease required Ombudsman responsibilities and duties, including the following services:
 - (1) Provide public information and technical support pertaining to long-term care services, including inspection reports, statements of deficiency, and plans of correction for long-term care facilities within the service area. [WIC 9726.1(a)].
 - (2) Promote visitation programs and other community involvement in long-term care facilities within the service area. [WIC 9726.1(b&d)].
 - (3) Establish (in addition to support) resident, family and friends' councils. [WIC 9726.1(c)].
 - (4) Present community education and training programs to long-term care facility staff, human service workers, and the general public about long-term care and residents' rights. [WIC 9726.1(e)].
 - (5) Refer to the appropriate governmental agency the complaints and concerns of other residents in long-term care facilities that are not eligible to receive the services of the State Long-Term Care Ombudsman Program. [WIC 9720];

12. The Contractor shall ensure that the Local Ombudsman Program, in accordance with policies and procedures established by the State Ombudsman, will:
 - a. Use Federal Citation Penalties Account and Medi-Cal Reimbursement funds to provide an increase in the number of certified volunteer Ombudsmen that provide services to residents living in Skilled Nursing Facilities (SNF) and Distinct Part SNFs in acute care hospitals. These programs provide staff and resources to recruit, hire, train, and manage additional volunteer certified Ombudsmen. Allowable expenditures include: increased staffing, office space, equipment and furniture for new staff, increased utilities usage, additional funding for volunteer mileage, training, volunteer recognition activities, and materials and space to conduct community awareness activities;
 - b. Ensure that before the funds referred to in paragraph 1 are requested from the Department, the Long-Term Care Ombudsman Program(s) shall submit an annual plan to the Department that includes:
 - (1) Estimated number of volunteers to be certified during the State fiscal year who will perform Ombudsman activities primarily in SNFs and Distinct Part SNFs in acute care hospitals;
 - (2) Number of staff to be hired or number and percentage of additional Full-time Equivalents (FTEs) dedicated to volunteer recruitment activities during the State fiscal year;
 - (3) Anticipated time period during which staff will be hired; and
 - (4) Number and type of community awareness activities for the purpose of recruiting volunteers (e.g., speaking engagements, attending senior fairs, health fairs, etc.) during the State fiscal year.
 - c. Review and approve claims for Medicaid reimbursement and federal Citation Penalties Account funds; and
 - d. Submit monthly fiscal documents to CDA, as determined by the Department, for Medicaid reimbursement and federal Citation Penalties Account funds.

13. Assurances Specific to the Ombudsman Program:

Contractor shall assure the following:

- a. Representatives of the Local Ombudsman Program and members of

Ombudsman Services of San Mateo County, Inc. – Schedule A (revised)

their immediate family shall be free of conflicts of interest and not stand to gain financially through the following:

- (1) Remuneration (in cash or in kind) received directly or indirectly under a compensation arrangement with a long-term care facility. [OAA 712(f)]
 - (2) An action or potential action brought on behalf of individuals the Program serves. [OAA 712(a)(5)((C)(ii)].
- b. Representatives of the Local Ombudsman Program shall have access to long-term care facility residents and their medical and social records, with documentation of consent in accordance to section (3)(a), between the hours of 7:00 a.m. and 10:00 p.m. seven days a week [OAA 712(b)(1); WIC 9722 and 9724; CCR 8020(a)]. Authorization is required by the State Ombudsman for entry outside of these hours and for access to resident records when a legal guardian refuses to give permission and there is reason to believe the guardian is not acting in the best interests of the resident [OAA 712(b)(1)(B)(ii); WIC 9724(c and d); CCR 8020(b)];
- c. Representatives of the Local Ombudsman Program shall not carry out the responsibilities of the Program until the State Ombudsman accepts them for certification [OAA 712(h)(5)(B)];
- d. Complaint information collected and maintained by the Local Ombudsman Program, including the identity of the complainant or resident, shall only be disclosed [OAA 712(d); WIC 9725]:
- (1) At the discretion of the Local Ombudsman Program [OAA 712(d)(2)(A); and
 - (2) With documentation of one of the following:
 - i. Written consent of the complainant or resident, or his or her legal representative as appointed by the court [OAA 712(d)(2)(B)(i)];
 - ii. Oral consent of the complainant or resident, documented by the State Certified Ombudsman Representative at the same time it is granted by the consenter [OAA 712(d)(2)(B)(ii)]; or
 - iii. Disclosure is ordered by the court [OAA 712(d)(2)(B)(iii)];
- e. The Local Ombudsman Program shall enter into a memorandum of understanding with the Legal Services Provider (LSP) which will

address conflict of interest, provision of legal advice, procedures for referral, and other technical assistance. The LSP may assist the State in providing legal representation to the Program when an Ombudsman Representative has been subpoenaed or in a suit or other legal action threatened or brought against the performance of the official duties of the Ombudsman Representative [OAA 712(h)(7); WIC 9717(c); Statewide Standards for Legal Assistance in California];

- f. Each Local Ombudsman Program shall maintain a separate budget. The Local Ombudsman Coordinator shall be responsible for managing the day-to-day operation of the Program, develop or participate in budget preparation, and be informed of budget allocations by the Contractor specific to the Ombudsman Program;
- g. Representatives of the Local Ombudsman Program shall conduct interviews/investigations in a confidential manner and the Program shall have office space and telecommunications that protect the confidentiality of all complaint-related communications and records. [OAA 705(a)(6)(C), WIC 9725, WIC 25633(b)(2)(B)]; and
- h. Each Local Ombudsman Program shall have information systems sufficient to run State-approved database systems and to receive and send confidential e-mail messages to and from the Department. [OAA 712(C); WIC 9716].

14. Obligations Upon Termination Specific to the Ombudsman Program

a. Transition of Local Ombudsman Services

Contractor shall assure that a subsequent Local Ombudsman Program is available to carry out the federal and State mandates and responsibilities without any break in the provision of Ombudsman services. The Contractor shall notify the OSLTCO in writing in response to the following:

- (1) Within three working days of either a Contractor or subcontractor written notice of intent to terminate responsibility for Local Ombudsman services, and
- (2) Within one working day of any change in Local Ombudsman Program phone services as a result of a transition of responsibilities [OAA 712(a)(5)(i), 712(a)(5)(B)(ii); WIC 9726].

b. Transition Plan

- (1) Contractor shall submit a Transition Plan (TP) within 15 days from delivery of the following:

- i. Written notice to the Contractor of the subcontractor's intent to terminate Ombudsman services;
 - ii. Written notice to the subcontractor of the Contractor's intent to terminate the subcontract for Ombudsman services; or
 - iii. Written notice to the Contractor of the State Termination of the Contract, in whole or, from time to time, in part related to the provision of Ombudsman services.
- (2) Contractor shall identify in the TP which option it has chosen to ensure that there will be no break in continued services, based on the following:
- i. Continue the mandated Ombudsman provisions as a direct service of the Contractor, utilizing experienced State Certified Ombudsman Representatives and a Local Program Coordinator selected by the Contractor and designated by the State Ombudsman to represent the Local Ombudsman Program.
 - ii. Continue the mandated Ombudsman provisions as a subcontracted service with a subsequent provider selected in response to a Request for Proposals requiring the utilization of experienced State Certified Ombudsman Representatives, and designated by the State Ombudsman to carry out Ombudsman duties with respect to the planning or service area.
- (3) The TP shall at a minimum include the following:
- i. A plan for providing an adequate level of State Certified Ombudsman Representatives and for maintaining continuity of services during the transition to a subsequent Local Ombudsman Program.
 - ii. A plan for notifying all the impacted facilities and community referral sources of the change in the parties providing Local Ombudsman Program services.
 - iii. A plan to ensure the delivery to the subsequent Local Ombudsman Program of a full inventory of updated confidential client records, public facility records, and records documenting Ombudsman certification and training.

- iv. A plan for ensuring the destruction of confidential Local Ombudsman Program records that will not be transferred to the subsequent Local Ombudsman Program.
 - v. A description of how the subsequent Local Ombudsman Program will be assisted in assessing the status of all active clients records at the point of transfer to ensure timely continuation of Ombudsman services.
 - vi. A description of how residents and their families will be notified about the changes in their Ombudsman services provider.
- (4) Contractor shall implement the transition plan as approved by the OSLTCO. The OSLTCO will monitor the Contractor's progress in carrying out all elements of the TP.
- (5) If the Contractor fails to provide and implement the TP as required above, the Contractor agrees to implement a TP submitted by the OSLTCO to the Contractor. This TP may utilize State Certified Ombudsman Representatives from either the terminating subcontractor or from a neighboring Local Ombudsman Program.

SCHEDULE B – AMENDMENT ONE

OMBUDSMAN SERVICES OF SAN MATEO COUNTY, INC.

FY 2006-2007 FISCAL SERVICES

Contractor shall operate the following Older Americans Act (OAA) and/or Community-Based Services (CBSP) program(s): an Ombudsman Program. Services described in this Schedule B reflect program funding and payment method during fiscal year July 1, 2006 through June 30, 2007. This program shall operate in accordance with the California Department of Aging and/or state licensing regulations, applicable federal laws, and the standards and requirements established by Aging and Adult Services of San Mateo County.

I. OMBUDSMAN PROGRAM

Aging and Adult Services will pay the contractor in consideration of community education services, complaint investigation, and volunteer recruitment rendered \$199,933 in OAA funding, and in consideration of services rendered to individuals under 60 years of age in residential care facilities \$50,000 in County General Funds, the rate of one-twelfth of the total reimbursement for this program per month, as long as this amount does not exceed the total cost of ombudsman services rendered.

The maximum reimbursement for the Ombudsman Program in OAA and County General Funds funding during the contract term July 1, 2006 through June 30, 2007 shall not exceed TWO HUNDRED FORTY-SIX THOUSAND NINE HUNDRED THIRTY-THREE DOLLARS (\$249,933).

Contractor agrees to the following:

- A. Contractor is responsible for covering the cost of all components of each program outlined above and shall be reimbursed for actual expenditures on the approved budget for each program;
- B. A mid-year review, scheduled for January, will require a reconciliation of year-to-date outcomes. Based on these outcomes, a budget revision may be required;
- C. Submit client intake forms as appropriate, monthly program reports and invoices by the tenth (10th) of each month. (Invoices submitted more than two months past the month of service may not be reimbursed. Statistical reports submitted more than one month past the month of service may result in withholding of payments until reports are brought current.);

- D. Offer services throughout the twelve-month contract period, unless prior written approval is received from Aging and Adult Services;
- E. Submit a closing report by July 31, 2007;
- F. Program Income must be reported and expended under the same terms and conditions as the program funds from which it is generated; and
- G. Program Income must be used to pay for current allowable costs of the program in the same fiscal year that the income was earned.

The maximum reimbursement for contracted services between San Mateo County Aging and Adult Services and Ombudsman Services of San Mateo County, Inc., is \$199,933 in OAA funds, \$50,000 in County General Funds to serve individuals under 60 years of age in residential care facilities, and \$56,769 in County General Funds for general program support for a total amount of THREE HUNDRED SIX THOUSAND SEVEN HUNDRED TWO DOLLARS (\$306,702) for the contract term July 1, 2006 through June 30, 2007.