



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: April 20, 2011
BOARD MEETING DATE: May 24, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jean S. Fraser, Chief, Health System
Lisa Mancini, Director, Aging and Adult Services

SUBJECT: Agreement with Lakeview Lodge, Inc.

RECOMMENDATION:

Adopt a Resolution authorizing the:

- A) President of the Board to execute an Agreement Superseding Agreement 57000-11-D013 with Lakeview Lodge, Inc., for provision of residential long-term care services in the amount of \$250,000 for the term of May 1, 2011 through June 30, 2012; and
- B) Chief of the Health System or designee to execute contract amendments which modify the funding amount by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

BACKGROUND:

Since December 17, 1985, your Board has approved resolutions authorizing expenditures for residential care facilities serving mentally ill clients. Under the B-1 Administrative Memorandum, the selection of providers for residential services for mental health clients is exempt from the Request for Proposals requirement. Lakeview Lodge, Inc., is a board and care facility that specializes in caring for clients who are difficult to place due to behavioral issues.

The San Mateo County Public Guardian's Office (PG) is required to place conservatees in the lowest level of care that is appropriate to the conservatees' needs. Lakeview Lodge, Inc., is a board and care facility in San Mateo County that is successfully caring for two of the PG's conservatees with challenging behavioral issues. This facility offers a community environment where conservatees can thrive, while receiving specialized assisted living services based on each conservatees' needs. Without the services provided through Lakeview Lodge, Inc., these conservatees would need to be placed in a locked facility such as a skilled nursing facility or an acute psychiatric facility.

On March 14, 2011, the Chief of the Health System approved Agreement 57000-11-D013 with Lakeview Lodge, Inc., for the provision of residential long-term care services in the amount of \$25,000 for the term March 1, 2011 through August 31, 2011.

DISCUSSION:

Approval of this Agreement would allow two conservatees, and potentially other future conservatees, to remain at or be placed at Lakeview Lodge, Inc., where they have an opportunity to flourish in a community environment.

The cost of placement is covered by conservatee income and by a special PG fund for the benefit of conservatees. The PG recently received a settlement to be used, at the PG’s discretion, to directly benefit San Mateo County PG conservatees. The PG will use funding from the settlement to pay this facility the difference between the cost of the placement from the amount that the conservatees can pay with their monthly income in order to allow the conservatees to remain at the facility.

The Contractor has assured compliance with contract provisions that are required by County ordinance and administrative memoranda, including but not limited to insurance, hold harmless, non-discrimination and equal benefits.

The County Manager has approved a waiver of the Contractor Employee Jury Service Ordinance requirement. The Contractor’s insurance has been reviewed and approved by Risk Management. County Counsel has reviewed and approved the Resolution and Agreement as to form and content.

This Agreement contributes to the Shared Vision 2025 outcome of a Healthy Community by allowing Aging and Adult Services (AAS) to continue to provide services that allow at-risk individuals to remain in the least restrictive setting possible. It is anticipated that 95% of at-risk individuals will be maintained in a least restrictive setting through case management.

Performance Measure:

Measure	FY 2009-10 Actual	FY 2010-11 Projected
Percent of at-risk individuals maintained in a least restrictive setting through case management	99%*	95%

* The FY 2009-10 performance exceeded the division’s expectations in this measure.

FISCAL IMPACT:

The term of this Agreement is May 1, 2011 through June 30, 2012. The total amount of the Agreement is \$250,000. There is no Net County Cost associated with this action. Funds are provided through a settlement obtained by the PG and are managed outside of the AAS General Fund Budget.

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION AUTHORIZING THE: A) PRESIDENT OF THE BOARD TO EXECUTE AN AGREEMENT SUPERSEDING AGREEMENT 57000-11-D013 WITH LAKEVIEW LODGE, INC., FOR PROVISION OF RESIDENTIAL LONG-TERM CARE SERVICES IN THE AMOUNT OF \$250,000 FOR THE TERM OF MAY 1, 2011 THROUGH JUNE 30, 2012; AND B) CHIEF OF THE HEALTH SYSTEM OR DESIGNEE TO EXECUTE CONTRACT AMENDMENTS WHICH MODIFY THE FUNDING AMOUNT BY NO MORE THAN \$25,000 (IN AGGREGATE), AND/OR MODIFY THE CONTRACT TERM AND/OR SERVICES SO LONG AS THE MODIFIED TERM OR SERVICES IS/ARE WITHIN THE CURRENT OR REVISED FISCAL PROVISIONS

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, since December 17, 1985, this Board has approved resolutions authorizing expenditures for residential care facilities serving mentally ill clients as under Administrative Memorandum B-1, the selection of providers for residential services for mental health clients is exempt from the Request for Proposals requirement; and

WHEREAS, Lakeview Lodge, Inc., is a board and care facility that specializes in caring for clients who are difficult to place due to behavioral issues; and

WHEREAS, on March 14, 2011, the Chief of the Health System approved Agreement 57000-11-D013 with Lakeview Lodge, Inc., for the provision of residential long-term care services in the amount of \$25,000 for the term March 1, 2011 through August 31, 2011; and

WHEREAS, there has been presented to this Board of Supervisors for its consideration and acceptance a Superseding Agreement between the County of San

Mateo and Lakeview Lodge, Inc., reference to which is hereby made for further particulars, for the Aging and Adult Services Division to provide residential long-term care services; and

WHEREAS, both parties now wish to enter into said Agreement to provide residential long-term care services for the period May 1, 2011 through June 30, 2012, in the amount of \$250,000; and

WHEREAS, this Board of Supervisors has examined the Agreement and approved it as to both form and content.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be and is hereby authorized and directed to execute said Agreement for and on behalf of the County of San Mateo, and the Clerk of this Board shall attest the President's signature thereto.

BE IT FURTHER RESOLVED that the Chief of the Health System or her designee be authorized to execute contract amendments which modify the funding amount by not more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

* * * * *

**AGREEMENT SUPERSEDING AGREEMENT 57000-11-D013
BETWEEN THE COUNTY OF SAN MATEO AND LAKEVIEW LODGE, INC.**

THIS AGREEMENT, entered into this _____ day of _____,
20____, by and between the COUNTY OF SAN MATEO, hereinafter called "County,"
and LAKEVIEW LODGE, 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, it is necessary and desirable that Contractor be retained for the purpose of non-medical custodial residential care home facility services for the elderly;

WHEREAS, it is determined that this Agreement supersedes Agreement 57000-11-D013 dated March 14, 2011, previously approved by the Chief of the Health System.

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

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A—Services

Exhibit B—Payments and Rates

Attachment H—HIPAA Business Associate Requirements

Attachment I—§ 504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." 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 TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from May 1, 2011 through June 30, 2012.

This Agreement may be terminated by Contractor, the Chief of the Health System or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

If in good faith, the County determines that the quantity or quality of the work performed by Contractor is unacceptable, the County shall provide a 3-day notice to the Contractor to cure any deficiencies. The notice shall specify all alleged deficiencies in the quantity or quality of work performed, and provide recommendations for the cure of such deficiencies. In the event that said deficiencies are not cured by Contractor at the end of the three-day period the County may terminate this Agreement and withhold further payments upon written notice.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all federal regulations

promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct. Contractor does not agree to indemnify the County, its employees and agents from any and all claims, damages and liability in any way occasioned by or arising out of the negligence of the County in the performance of this Agreement.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and will comply with such provisions before commencing the performance of the work of this Agreement.
- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this

Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by himself/herself or by any subcontractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
- (b) Motor Vehicle Liability Insurance \$1,000,000
- (c) Professional Liability \$1,000,000

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with Laws; Payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable federal, State, County, and municipal laws, ordinances and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Federal Regulations promulgated thereunder, as amended, and will comply with the Business Associate requirements set forth in Attachment "H," and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and State, federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractors who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this paragraph, the County Manager shall have the authority to: i) upon reasonable written notice of not less than 24 hours, examine Contractor's employment records with respect to compliance with this paragraph; ii) set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Retention of Records, Right to Monitor and Audit

(a) Contractor shall maintain all required records for three (3) years after the County makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: Contractor shall comply with all program and fiscal reporting requirements set forth by appropriate federal, State and local agencies, and as required by the County.

(c) Contractor agrees to provide to County, to any federal or State department having monitoring or review authority, to County's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

13. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the Agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this Agreement, the provisions of this body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

14. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

15. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United State mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt, for transmittal, charges prepaid, addressed to:

In the case of County, to:

**Rosalinda Hartwig, President
Lakeview Lodge, Inc.
530 Lakeveiw Way
Redwood City, CA 94062
Telephone: (650) 369-7479
Facsimile: (650) 369-7491**

In the case of Contractor, to:

**Heather Ledesma, Financial Services Manager II
Aging and Adult Services
225 37th Avenue
San Mateo, CA 94403
Telephone: (650) 573-2856
Facsimile: (650) 573-2193**

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

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

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo
County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

LAKEVIEW LODGE, INC.

Lakeview Lodge, Inc.
Dorinda Hartney President

Contractor's Signature

Date: 4-19-11

Long Form Agreement/Business Associate v 8/19/08

Exhibit "A"

In consideration of the payments set forth in Exhibit "B", Contractor shall provide the following services:

The following residential care services for referred San Mateo County Public Guardian conservatees are to be provided upon approval of Contractor's Admission Agreements completed by a Deputy Public Guardian or other authorized Aging and Adult Services staff:

- 1) Lodging: Contractor will provide private or shared rooms, as appropriate for each conservatee;
- 2) Basic Meal Services:
 - 3 meals/day
 - 3 snacks or more if required
 - Physician prescribed diet;
- 3) Laundry Services (excludes dry cleaning charges);
- 4) Room Cleaning Service;
- 5) Weekly linen changes;
- 6) Transportation arrangements as per Admissions Agreement;
- 7) Planned activity program;
- 8) Assistance with activities of daily living;
- 9) Observation, care and supervision as required;
- 10) Bedside care for a maximum of three days for a minor and temporary illness;
- 11) Assistance with taking prescribed medications as ordered by the Physician, as allowed by the regulatory agency; and
- 12) Monitoring and appropriate reporting of resident needs and condition.

Exhibit "B"

In consideration of the services provided by Contractor in Exhibit "A", County shall pay Contractor based on the following fee schedule:

Both parties agree that tenancy is from month-to-month beginning the 1st day of the month. The 1st month of occupancy is pro-rated if occupied after the 1st day of the month, and the facility will give the County 60 days written notice in advance of any changes to rates.

The monthly rate will be negotiated with the County prior to placement of a conservatee and will be reflected in the Admissions Agreement between Lakeview Lodge and the County.

Fees are due by the 5th of the each month.

Conservatee shall pay \$961 is/her current SSI rate per month, and AAS shall pay the difference for the private or shared room rate.