



Board Agenda Item 42

DATE: June 18, 2024

TO: Board of Supervisors

SUBMITTED BY: Susan L. Holt, Director Department of Behavioral Health

SUBJECT: Amendment III to Agreement with J Melton & Associates, and Agreement with J Melton & Associates for Certification Review Hearing Officer Services

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute Amendment III to Agreement with J Melton & Associates to revise the FY 2023-24 budget effective upon execution with no change to the term of July 1, 2018 through June 30, 2024, and increasing the maximum by \$55,000 to a total of \$1,158,329; and**
- 2. Approve and authorize the Chairman to execute an Agreement with J Melton & Associates for the Mental Health Certification Review Hearing Officer services, effective July 1, 2024, not to exceed five consecutive years, which includes a three-year base contract and two optional one-year extensions, total not to exceed \$3,920,000.**

There is no additional Net County Cost associated with this item. Approval of the first recommended action increases the maximum compensation to Agreement with J Melton & Associates (JMA) which is needed to cover increased invoices due to the expansion of hearings under Assembly Bill 2275 and updates the rate to ensure operating costs are covered. Approval of the second recommended action executes an Agreement with JMA for the services of a Certification Review Hearing Officer for County's involuntarily detained adults due to grave disability and/or danger to self and others, as required by the California Welfare and Institutions (W&I) Code, Section 5256. This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative action as services will not be available to clients without the Agreement. If the recommended Agreement is not approved, services will not be provided to approximately 1,920 clients annually.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The first recommended action will increase the maximum compensation by \$55,000 to a total of \$1,158,329, which will be funded with Mental Health Realignment. Sufficient appropriations and estimated revenues will be included in the DBH Org 5630 FY 2023-24 Adopted Budget and will be included in future budget requests. The maximum amount of the recommended agreement (\$3,920,000) for the second recommended action will be fully funded with Mental Health Realignment Funds. Sufficient appropriations and estimated revenues will be included in the DBH Org 5630 FY 2024-2025 Recommended Budget and will be included in subsequent budget requests for the duration of the recommended agreement. Total expenditures will be determined by actual services provided.

DISCUSSION:

On January 10, 2018, the Board approved Agreement No. 18-367 with JMA for Certification Reviewing Hearing Officer services. W&I Code, Section 5256 mandates a certification hearing for adults and minors who are involuntarily detained due to danger to self, danger to others or gravely disabled at Lanterman-Petris-Short (LPS) designated facility.

AB 2275 was approved on September 30, 2022, and amended various sections of the W&I Code under the LPS Act including changes to process for involuntary detentions and certification hearings. AB 2275 specifies when the 72-hour detention begins and requires certification hearings for individuals who continue to be involuntarily detained more than 72 hours under a 5150 application within seven days of the date the person was initially detained. This now requires non-designated facilities such as hospitals and crisis stabilization centers to contact the Patients' Rights Advocate to ensure persons served are advised of their rights and to coordinate a certification hearing.

On February 28, 2023, the Board approved Agreement No. 23-078 (Amendment I) with JMA to update the rates to reflect current market prices, as a licensed clinician is a requirement for a hearing officer. The Board also approved the expansion of hearings at non-designated facilities under AB 2275, which include emergency rooms, crisis stabilization centers, and acute care facilities. The amendment extended the term of the Agreement by one year to June 30, 2024, and added \$383,329 to the Agreement to cover estimated costs of the additional Certification Review Hearings.

On July 18, 2023, the Board approved Agreement No. 23-361 (Amendment II) with JMA to increase FY 2022-23 funds by \$20,000 to cover costs for exceeding the predicted amount of certification review hearings following implementation of AB 2275.

The first recommended action adds funds to the Agreement with JMA for the expansion of hearings under AB 2275.

On February 23, 2024, a Request for Quotation (RFQ) No. 24-042 was issued by County, through the Purchasing Division at the request of DBH. Two bids were received. JMA was the vendor selected for a recommended Agreement as they were the lowest bidder and also showed the capability and full understanding of the requirements set forth within the RFQ.

With the approval of the second recommended action, the vendor will conduct hearings in the manner prescribed by Section 5256 through and including Sections 5270.15 of the California W&I Code, Division 5. Certification Review Hearings will be held within four days of the initial certification for additional involuntary hold of the person certified, unless postponed by request of the person or his/her attorney or advocate. Additional Certification Review Hearings will be held within four (4) days of the date on which the consumer is certified for a 30-day period of intensive treatment (California W&I Code § 5270.15). Based on data from the prior fiscal year, 1,920 hearings are projected to be conducted annually through a contract for these services.

These Hearings shall be held at various psychiatric hospitals/acute psychiatric programs in the County of Fresno that are designated as 72-hour treatment and evaluation facilities. The recommended vendor will be required to maintain all required documentation and shall submit any required documentation in compliance with all applicable State and Federal confidentiality laws.

With your Board's approval, the Certification Review Hearing Officer will provide approximately 160 review hearings per month for mental health clients identified by the Managed Care Division of DBH to be the responsibility of the County.

The recommended Agreement will be effective July 1, 2024, for a maximum of 5 years, including a

three-year base contract and two optional one-year extensions. The Contractor or DBH Director or designee, has the authority to give notification of early termination by giving a 30-day advance written notice.

The Indemnity and Defense clause in the recommended Agreement deviates from the County's standard agreement language by allowing mutual indemnification. The Commercial General Liability insurance coverage listed within Exhibit C of the recommended Agreement deviates from the County's standard agreement language by lowering the per occurrence limit from Two Million Dollars (\$2,000,000) to One Million Dollars (\$1,000,000), and by lowering the annual aggregate limit from Four Million Dollars (\$4,000,000) to Three Million Dollars (\$3,000,000). We are deviating from the language to better suit the needs of the Contractor. Risk Management is aware of the deviation.

OTHER REVIEWING AGENCIES:

The Behavioral Health Board was made aware of the recommended Amendment and Agreement at its June 2024 meeting.

REFERENCE MATERIAL:

BAI #38, July 18, 2023
BAI #33, February 28, 2023
BAI #46, June 10, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment III with J Melton & Associates
On file with Clerk - Agreement with J Melton & Associates

CAO ANALYST:

Ronald W. Alexander, Jr.