



Board Agenda Item 23

DATE: January 12, 2021

TO: Board of Supervisors

SUBMITTED BY: Dawan Utecht, Director, Department of Behavioral Health

SUBJECT: Retroactive Amendment I to Agreement with RH Community Builders

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute retroactive Amendment I to Agreement No. 20-312 with RH Community Builders to revise the terms and conditions related to Termination, Insurance, Waiver of Subrogation, Modification and update the exhibits with no change to the term of July 1, 2020 through June 30, 2022 or compensation maximum of \$2,073,416.

Approval of the recommended amendment will modify the master lease program agreement to increase the timeframe for advance written notice for Non -Allocation of Funds from 30 to 90 days, 60 days advanced written notice to cure any default that would otherwise result in immediate suspension or termination of the agreement due to a breach of contract, and increase the timeframe for Without Cause from 60 to 120 days. The recommended amendment will remove the Real and Personal Property Insurance requirement and remove 'Cyber' from the Waiver of Subrogation section as neither are applicable. Revising Exhibit A will clarify the services and expectations of this agreement and allow for collected tenant rent to fund the furnishing of empty units inherited from the previous provider. Attaching Exhibit B will clearly express the budget for this contract. Exhibit C does not exist in this agreement; therefore, all references to it will be amended to reference Exhibit B. The Modification clause will be amended to remove language that allows the Department of Behavioral Health to modify contracts outside of 10% of the overall budgeted amount, as it conflicts with County practice. This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative action. If your Board does not approve the recommended amendment, RH Community Builders (RHCB) could exercise their Without Cause right to terminate the agreement and the Department will not be able to continue the master lease housing services for Department tenants until a new competitive bidding process is completed.

RETROACTIVE AGREEMENT:

The recommended agreement is retroactive to July 1, 2020. The Department received requests to amend the agreement after the August 18, 2020 action. Rather than delaying the execution of the initial agreement, the Department decided to review the changes after its execution due to retroactive payments that needed to be made. This will also ensure that RHCB can furnish empty units as soon as possible and be made available for persons served.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended action. The maximum compensation of the agreement (\$2,073,416) does not change with this amendment. The agreement is funded with Mental Health Services Act - Community Services and Supports. The new expenditures will be funded by collected tenant rent, which is projected to be approximately \$164,298 in FY 2020-21. The balance of the collected tenant rent will be used to offset the cost of rent to the Department. Sufficient appropriations and estimated revenues are included in the Department's Org 5630 FY 2020-21 Adopted Budget and will be included in future budget requests.

DISCUSSION:

On August 18, 2020, your Board approved Agreement No. 20-312 with RHC B to begin master lease housing and property management services to lease apartments units to individuals who are homeless or at risk of homelessness living with a serious mental illness, who are referred by the Department, a contract provider with the Department, and other County departments and other agencies, retroactive to July 1, 2020.

As the board agenda item for the agreement was being finalized, the Department received a request from RHC B to modify the agreement with the following changes:

- (1) increase the notice periods for termination of contract for Non-Allocation of funds from 30 to 90 days, breach of contract from 0 to 60 days, and without cause from 30 to 120 days;
- (2) amend the Insurance Clause to remove the Real and Personal Property Insurance requirement; and,
- (3) revise Exhibit A to clarify the services and responsibilities of County and Contractor.

Additionally, the amendment will:

- (4) amend the Waiver of Subrogation Clause language;
- (5) amend all references from Exhibit C to Exhibit B;
- (6) attach the agreement's budget in Exhibit B; and,
- (7) remove language from the Modification Clause that conflicts with County practice.

The Department decided to review those changes after the execution of the initial agreement on August 18, 2020, and once approved, request that amendment rather than delaying the Board date due to retroactive payments that needed to be made.

The recommended amendment includes the changes requested by RHC B. The increase to the periods of termination will allow the Department time to transition tenants if another provider is selected after a new competitive bid has been completed. Risk Management reviewed the language relating to the Real and Personal Property Insurance and determined that it is not applicable as the County does not have personal property on the premises. The Waiver of Subrogation language was amended to correct a typographical error. Revising the Summary of Services in Exhibit A will establish that the Contractor is to use collected tenant rent to furnish empty units they inherited at the beginning of the agreement. RHC B will produce and maintain an itemized list of furniture placed in the units, as well as a log of deposits collected from tenants. Furnishing the units with collected tenant rent will allow RHC B to stay within their budget while preparing the units for move-in. The itemized inventory and logs will enable the Department to effectively monitor and track the costs associated with maintenance, repair, and the depreciation/replacement of furniture. Previously, the budget was attached to Exhibit A and did not include projected tenant collected rent or costs associated with furnishing the empty units. Introducing Exhibit B will incorporate these changes. The agreement references Exhibit C, which was a typographical error. All references to Exhibit C will now reference Exhibit B.

The Department is recommending removal of the Modification Clause language allowing the modification contracts outside of 10% of the overall budgeted amount as this is will align the agreement with County practice.

OTHER REVIEWING AGENCIES:

The Behavioral Health Board was notified of the recommended agreement at their July 15, 2020 meeting.

REFERENCE MATERIAL:

BAI #22, August 18, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment I to Agreement No. 20-312 with RHCB

CAO ANALYST:

Sonia M. De La Rosa