

RESOLUTION 2018 - 289

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO ENTER INTO A ONE TIME FUNDING AGREEMENT BETWEEN ST. JOHNS COUNTY AND ST. JOHNS WELFARE FEDERATION D/B/A BAYVIEW ASSISTED LIVING AT BUCKINGHAM SMITH IN AN AMOUNT NOT TO EXCEED \$394,387.00.

WHEREAS, each year St. Johns County provides funding to nonprofit agencies that provide health, human, or social services to the residents of St. Johns County; and

WHEREAS, the St. Johns Welfare Federation d/b/a Bayview Assisted Living at Buckingham Smith has indicated to the County that they are unable to sustain operations without receiving additional one time funding in the amount of \$394,387.00; and

WHEREAS, the Board of County Commissioners approved the one time emergency funding allocation in an amount not to exceed \$394,387.00 on August 7, 2018; and

WHEREAS, the attached contract sets forth the terms and conditions of the agreement with St. Johns Welfare Federation d/b/a Bayview Assisted Living Facility at Buckingham Smith; and

WHEREAS, the Board of County Commissioners has reviewed the terms, conditions and requirements of the agreement and determined that extending the agreement serves the interests of the citizens of St. Johns County.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

Section 1. Incorporation of Recitals.

The above recitals are hereby incorporated into the body of this resolution, and are adopted as findings of fact.

Section 2. Approval and Authority to Execute.

The Board hereby authorizes the County Administrator, or his designee, to enter into a one time funding agreement with the St. Johns Welfare Federation d/b/a Bayview Assisted Living at Buckingham Smith on behalf of St. Johns County in an amount not to exceed \$394,387.00.

Section 3. Correction of Errors.


To the extent that there are typographical, administrative, or scrivener's errors that do not change the tone, tenor, or concept of this resolution, this resolution may be revised without further action by the Board of County Commissioners.

Section 4. Effective Date.

This resolution shall be effective upon its adoption by the Board.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, and this 4 day of September, 2018.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: 
Henry Dean, Chair

ATTEST: HUNTER S. CONRAD, CLERK **RENDITION DATE** 9/6/18

By: 
Deputy Clerk



**ST. JOHNS COUNTY
FUNDING AGREEMENT**

THIS AGREEMENT is entered into this _____ day of _____, 20____ between St. Johns County (the County), a political subdivision of the state of Florida, and St. Johns Welfare Federation, Inc., d/b/a BayView Assisted Living at Buckingham Smith (Bayview), a Florida not-for-profit corporation.

RECITALS

WHEREAS, each year, the County provides funding to nonprofit agencies that provide health, human, or social services to the residents of St. Johns County; and

WHEREAS, Bayview is a nonprofit agency that receives County funding to provide assisted living services and facilities to indigent residents of the County (the Services); and

WHEREAS, Bayview has requested funding from the County in the amount of three hundred ninety-four thousand three hundred eighty-seven dollars (\$394,387.00); and

WHEREAS, Bayview has informed the County that without the requested funding, it will not be able to sustain operations to continue to provide the Services; and

WHEREAS, the County has determined that providing funding to Bayview as a one-time emergency allocation will serve a public purpose.

NOW THEREFORE, in consideration of the provisions set forth below, the sufficiency of which is mutually acknowledged, the County and Bayview agree as follows:

1. **Incorporation of Recitals.** The above recitals are incorporated into the body of this agreement and are adopted as findings of fact.
2. **Duration of Agreement.** This agreement shall be effective upon execution by both parties and shall terminate on September 30, 2019.
3. **Obligations of the County.** The County agrees to provide funding to Bayview in the amount of three hundred ninety-four thousand three hundred eighty-seven dollars (\$394,387.00). Payment shall be made in a lump sum upon execution of this agreement.
4. **Obligations of Bayview.** In consideration for the County providing funding to Bayview as provided in Section 3, Bayview agrees to the following:

- a. Bayview shall provide assisted living services and facilities to no fewer than 32 indigent residents for the duration of this agreement.
- b. Funding provided under this agreement shall be spent in accordance with the budget and sustainability plan attached as Exhibit A and incorporated into this agreement.
- c. In the event of a declaration of a Local State of Emergency, or any event in which the County deems emergency response activities are necessary, Bayview, as a licensed Assisted Living Facility in the State of Florida, and a local agency that provides assisted living services to residents of the community who are indigent, primarily elderly, and medically needy, will support the County's emergency response activities as directed and ordered in accordance with Rule 58A-5.026 of the Florida Administrative Code. Emergency Response activities include, but are not limited to evacuation, reentry, host sheltering, and maintaining constant communications with the County in response to the emergency. These activities will be accomplished through the implementation and execution of the facility's approved Comprehensive Emergency Management Plan (CEMP). In addition to supporting emergency activities, Bayview shall:
 - i. Designate a single point of contact and grant this person authority to directly communicate with the County and implement and execute the facility's approved CEMP as required; and
 - ii. Update its CEMP with the name, title, telephone number, email, and mailing address of the person designated to execute emergency responsibilities on behalf of Bayview.

Within 15 days of executing this agreement, Bayview shall notify the County in writing of the designated point of contact's name, title, telephone number, email, and mailing address. Should the designated point of contact change, Bayview shall notify the County in writing within one business day.

- d. To the extent that Bayview is required to secure or maintain any permits, licenses, or approvals to perform the Services, Bayview, at its sole cost and expense, shall be responsible for securing and maintaining all such permits, licenses, or approvals in accordance with local, state, or federal law for the duration of this agreement.

If Bayview fails to comply with the requirements of this section, the County may, at its sole option, disallow any or all of the funding provided under this agreement as provided in Section 6 below.

5. Retention, Auditing, and Review of Records. Bayview shall retain all supporting documentation, statistical records, and any other records necessary to document its expenditures

during the term of this agreement for 5 years from the termination or expiration of this agreement. If any litigation, claim, negotiation, audit, or other action involving the records is initiated prior to the expiration of the 5-year period, the records shall be retained for one year after the final resolution of the action.

Bayview authorizes the County to review, inspect, and/or audit its books and records in order to determine whether compliance has been achieved with respect to the provisions of this agreement. It is specifically noted that Bayview is under no duty to provide access to documentation not related to this agreement or that is otherwise protected by local, state, or federal law.

Any audit required under this section shall be submitted to the County no later than 180 days following the end of Bayview's fiscal year along with any corrective action plan if applicable. Failure by Bayview to submit the audit within the required time shall result in the withholding of requested payments. In addition, the County may, at its option terminate this agreement.

6. Disallowance of Funds. If Bayview fails to comply with one or more of the requirements of this agreement or if, as a result of review, inspection, or audit, Bayview cannot provide documentation of expenses or it is determined that expenses were unallowable, the County may, at its sole option, disallow any or all of the funding provided under this agreement. Bayview shall refund all disallowed funds to the County. Disallowed funds shall be refunded to the County within 30 days of Bayview's receipt of written notice from the County regarding the overpayment or noncompliance. If Bayview does not timely refund the disallowed funds, the County may charge interest in the amount of 1 percent per month compounded on the outstanding balance beginning 40 days after the date of notice.

7. No Commitment of County Funds. This agreement is neither a general obligation of the County nor is it backed by the full faith and credit of the County. Although the County will make all reasonable efforts to provide grant funds, the County makes no express commitment to provide such funds in any given County fiscal year. Pursuant to the requirements of Section 129.07, Florida Statutes, payment of each grant payment is subject to specific annual appropriations by the St. Johns County Board of County Commissioners sufficient to pay the grant payments during that County fiscal year. It is expressly acknowledged that Bayview cannot demand that the County appropriate or provide any such funds in any given County fiscal year.

8. Notices. All official notices to the County shall be delivered either by hand (receipt of delivery required) or by certified mail to:

Shawna Nowak
Director of Health and Human Services
200 San Sebastian View, Suite 2300
St. Augustine, FL 32084

All official notices to Bayview shall be delivered either by hand (receipt of delivery required) or by certified mail to:

Catherine Taylor
161-B Marine Street
St. Augustine, FL 32084

An official notice is any notice or other communication required pursuant to paragraphs 4, 5, 6, and 21 of this agreement. All other correspondence not classified as official notices may be delivered by any means acceptable to both parties, including faxing or emailing. It is expressly acknowledged by both parties that text messaging is not an acceptable means of correspondence under this agreement.

9. Relationship of the County and Bayview. This agreement shall not be deemed to create any agency relationship, partnership, association, or joint venture between the County and Bayview.

10. Use of County Logo. Pursuant to St. Johns County Ordinance 1992-2 and St. Johns County Administrative Policy 101.3, Bayview may not manufacture, display, or otherwise use the St. Johns County Seal/Logo or any facsimile or reproduction thereof without the express written approval of the Board of County Commissioners.

11. Authority to Practice. Bayview warrants that it has, and will continue to maintain all licenses and approvals required to conduct its business and the scope of services provided in this agreement. Bayview further warrants that it will at all times conduct its business activities in a reputable manner.

12. Compliance with Applicable Laws and Regulations. Both Bayview and the County shall comply with all applicable local, state, and federal laws and regulations in their performance under this agreement. Failure to abide by all applicable local, state, and federal laws and regulations may result in the disallowance of grant funds by the County as provided above in Paragraph 7.

13. Non-Discrimination. Bayview shall comply with the following Equal Opportunity Statement:

"No person shall, on the grounds of race, creed, color, handicap, national origin, sex, age, political affiliation, or beliefs be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole, or in part, with funds made available by St. Johns County."

14. No Conflict of Interest. Bayview represents and warrants to the County that it has not employed or retained any elected official, officer, or employee of the County in order to secure this

agreement. Moreover, Bayview represents and warrants to the County that it has not paid, offered to pay, or agreed to pay any fee, commission, percentage, brokerage, or gift of any kind contingent upon or in connection with securing and executing this agreement.

15. Non-lobbying. Bayview agrees that funds received from the County under this agreement shall not be used to lobby any organization, entity, person, or governmental unit in a manner inconsistent with the scope of this agreement.

16. Access to Records. The access to, disclosure, non-disclosure, or exemption of records, data, documents, or materials associated with this agreement shall be subject to the applicable provisions of the Florida's Public Records Law (Chapter 119, Florida Statutes), and other applicable State or Federal law. Access to such public records may not be blocked, thwarted, or hindered by placing the public records in the possession of a third party.

17. Effect of Failure to Insist on Strict Compliance. The failure of either party to insist on strict compliance with any provision of this agreement shall not be construed as a waiver of such provision on any subsequent occasion.

18. Indemnification. Bayview shall indemnify, defend, and hold the County and its employees and agents in both their individual and official capacity harmless from any liabilities, claims, damages, and expenses, including attorney's fees and litigation costs, arising directly or indirectly out of any negligent, reckless, or intentional act or omission of Bayview's officers, employees, or agents in connection with this agreement.

19. Insurance. Bayview shall not commence work under this agreement until it has obtained all required insurance as set forth in Exhibit B to this agreement and such insurance has been approved by the County. Bayview shall furnish certificates of insurance to the County naming the County as an additional insured. Each certificate shall clearly indicate that Bayview has obtained insurance of the type, amount, and classification as required by this agreement and that no material change or cancellation of the insurance shall be effective without 30 days' prior written notice to the County. A copy of the endorsement shall accompany the certificate. Bayview shall not be required to name the County as an additional insured for workers' compensation or professional liability insurance. Compliance with the foregoing requirements shall not relieve Bayview of any liability or obligation under this agreement.

Certificate Holder Address: St. Johns County, a political subdivision of the state of
Florida
500 San Sebastian View
St. Augustine, FL 32084

20. Force Majeure. Neither party shall be held to be in non-compliance with this agreement, or suffer any enforcement or penalty relating to this agreement, where such non-compliance occurs as the result of a force majeure event. For the purposes of this section, a force majeure event is defined as an event beyond the control and without the fault or negligence of the affected party which could not have been prevented through the exercise of reasonable diligence, including natural disaster (including hurricane, flood, or other acts of nature), strike, riot, war, terrorism or threat of terrorism, or other event that is reasonably beyond either party's ability to anticipate or control. When there is an event of force majeure, the affected party shall immediately notify the other party in writing giving the full particulars of the event of force majeure. The affected party must use reasonable efforts to mitigate the effect of the event of force majeure upon its performance under this agreement. Upon completion of the event of force majeure, the affected party shall resume its performance under this agreement as soon as reasonably practicable. If, due to an event of force majeure, Bayview is unable to complete the scope of services within the term of this agreement, the term of this agreement may be extended for an amount of time not to exceed the length of the event of force majeure.

21. Assignment. In light of the scope and rationale for this agreement, neither party may assign or transfer any of the rights associated with this agreement without the express written consent of the other party. Should either party attempt to assign or transfer any of the rights associated with this agreement without such written consent, this agreement shall automatically terminate without further notice or action required on the part of the other party.

22. Amendments. Both parties acknowledge that this agreement constitutes the complete understanding between the parties. Any modification to this agreement shall be in writing and executed by the duly authorized representatives of each party.

23. Governing Law and Venue. This agreement shall be construed according to the laws of Florida. Venue for any administrative or legal action arising in connection with this agreement shall lie exclusively in St. Johns County, Florida.

24. Severability. If any portion of this agreement, or the application thereof to any person or circumstance, is determined by a court of competent jurisdiction to be void, invalid, or otherwise unenforceable for any reason, such portion or application shall be severable. The remaining portions of this agreement, and all applications thereof, not having been declared void, invalid, or otherwise unenforceable, shall remain in effect.

25. Merger. This agreement constitutes the entire agreement and understanding between the parties as to the matters addressed herein. This agreement supersedes all prior and contemporaneous agreements, understandings, representations, and warranties, whether oral or written, relating to such matters.

26. **Execution in Counterparts.** This agreement may be executed in counterparts, each of which shall be deemed to be an original, and all of which together shall constitute the same agreement.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date set forth above.

ATTEST: Hunter S. Conrad, Clerk

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
County Administrator

ST. JOHNS WELFARE FEDERATION,
INC., d/b/a BayView Assisted Living at
Buckingham Smith

By: _____

Name and title: _____

EXHIBIT A

Budget and Sustainability Plan

St. Johns Welfare Federation d/b/a BayView Assisted Living at Buckingham Smith
Proposed Budget: January 1, 2018 to September 30, 2018

	1. Proposed HHS Program Budget	2. Other Funding Amount	3. Total Program Budget
A. PERSONNEL EXPENSES			
1. Salaries	213,716	171,358	385,074
2. Fringe Benefits	52,744	42,290	95,034
A. Subtotal Personnel	266,460	213,648	480,108
B. PROGRAM EXPENSES			
3. Resident Activities	5,662	4,540	10,202
4. Space & Utilities	23,672	18,981	42,653
5. Communications	2,747	2,203	4,950
6. Printing & Supplies	24,222	19,422	43,644
7. Maintenance Costs	23,219	18,618	41,837
8. Professional Fees	-	15,264	15,264
9. Food Costs for residents	48,405	23,546	71,951
B. Subtotal Program Expenses	127,927	102,574	230,501
C. TOTAL PERSONNEL + PROGRAM PROGRAM EXPENSES (A+B)	394,387	316,222	710,609
D. ADMINISTRATIVE COSTS <i>(maximum 15% of C, above)</i>			
E. TOTAL EXPENSES (C+D=E)	394,387	316,222	710,609

Based on estimated budgeted expenditures during reporting period		
EXPENSE	\$ AMOUNT	NARRATIVE (JUSTIFICATION)
1. Salaries (See attached)	385,074	See attached detail for positions and amounts. (No executive salaries included)
2. Fringe Benefits (See attached)	95,034	FICA, FUTA, Workers' Comp, Health insurance (See attached)
3. Resident Activities	10,202	Supplies and Entertainer costs for activities
4. Space & Utilities	42,653	Electric, gas, water and cable
5. Communications	4,950	Telephone
6. Printing & Supplies	43,644	Laundry, Housekeeping, Medical and office supplies
7. Maintenance Costs	41,837	Lawn, pest control, repairs and outside contrac
8. Professional Fees (Excludes Insurance, Audit, and Fundraising)	15,264	Legal and accounting fees
9. Food Costs	71,951	Raw Food Costs for resident meals

St. Johns Welfare Federation d/b/a BayView Assisted Living at Buckingham Smith

Proposed Budget: January 1, 2018 to September 30, 2018

<u>Position</u>	<u>Wages</u>	<u>Fringe Benefits</u>
Wages - Director of Resident Services	52,632	12,989
Wages - Director of Dietary	10,662	2,631
Wages - Director of Maintenance	5,760	1,422
Wages - Resident Services Staff	211,886	52,292
Wages - Maintenance Staff	5,823	1,437
Wages - Administrator	11,892	2,935
Wages - Accounting Director	1,676	414
Wages - Accounting	1,353	334
Wages - Human Resources	1,809	446
Wages - Reception/Secretarial	1,239	306
Wages - Cooks	10,890	2,688
Wages - Dietary Supervisor	15,531	3,833
Wages - Dietary Aides	48,962	12,083
Wages - Dishwashers	4,961	1,224
Totals	385,074	95,034

EXHIBIT B

Insurance Requirements

Insurance

Bayview shall not commence work under this Agreement until it has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. Bayview shall furnish proof of insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate Bayview has obtained insurance of the type, amount, and classification as required by contract and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically include the County as Additional Insured for all lines of coverage except Workers' Compensation and Professional Liability. A copy of the endorsement must accompany the certificate. Compliance with the foregoing requirements shall not relieve Bayview of its liability and obligations under this Agreement.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida
500 San Sebastian View
St. Augustine, FL 32084

Bayview shall maintain during the life of this Agreement, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, to protect Bayview from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this contract, whether such operations be by Bayview or by anyone directly employed by or contracting with Bayview.

Bayview shall maintain during the life of the contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000, if applicable.

Bayview shall maintain during the life of this Agreement, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 combined single limit for bodily injury and property damage liability to protect Bayview from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles whether such operations be by Bayview or by anyone directly or indirectly employed by Bayview.

Bayview shall maintain during the life of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by the law for all of its employees.