

EXHIBIT B: SUBSTANCE USE DISORDER TERMS AND CONDITIONS OF PAYMENT

In addition to all terms of payment described in the Master Contract Terms and Conditions and all relevant Exhibits and Attachments, the Parties shall abide by the terms of payment contained herein.

I. ATTACHMENTS

The following exhibits are attached hereto and made a part of the Agreement. Contractor's use of funds, and Alameda County Behavioral Health Department's (ACBHD's) reimbursement to Contractor, shall comply with these exhibits.

- Exhibit B-1: Funded Program Budget (for Actual Cost reimbursed programs only)
- Exhibit B-2: Method and Rate of Reimbursement (Rate Sheet)

II. MAXIMUM CONTRACT AMOUNT

A. Contract Maximum

Total payments under this Contract shall in no event exceed the Contract Maximum.

B. Available Resources

Parties to this Contract acknowledge the uncertainty of the funding resources supporting this Contract, which may impact the ACBHD dollar allocation for contracted services. Should it be necessary to adjust the amount of the funding during the term of this Contract, ACBHD shall notify Contractor at least 30 days prior to the effective date of the adjustment.

III. DEFINITIONS

A. Services

1. Nonresidential Programs: Outpatient and Intensive Outpatient Programs:

- i. Individual Service: includes early intervention, intake, assessment, crisis intervention, patient education, family therapy, medicines for addiction treatment, and care coordination for adults (also includes family contact, screening and engagement for adolescents).
- ii. Group Service: A face-to-face contact in which one or more counselors/therapists treat a minimum of two and a maximum of twelve clients at the same time.
- iii. Intensive Outpatient Service (IOS): A visit in which a client actively participates for a minimum number of hours per week as defined in Exhibit A.

2. Prevention and Transition-to-Treatment Programs:

- i. Unit of Service: The unit of service is equal to one staff hour of labor.
- ii. Direct Staff Hours: The face-to-face time spent on an activity.
- iii. Indirect Staff Hours: The time spent preparing for the activity, and travel to and from the activity site.

3. Residential and Recovery Residence Programs:

- i. Residential Bed Day: A calendar day (12:01 a.m. to midnight) in which a client participates and resides in a program.
- ii. Recovery Residence Bed Day: A calendar day (12:01 a.m. to midnight) in which a client resides in an alcohol and drug-free living environment.
- iii. If a client participates in a program for more than one Residential or Recovery Residence Bed Day (Resident Day), the following shall also apply: The calendar day of admission shall constitute a Resident Day, regardless of the time of admission. The calendar day of discharge shall not constitute as a Resident Day.
- iv. Residential Detoxification Bed Day: When a client occupies a bed for more than three hours.
- v. A client admitted to a residential program more than once during any calendar day shall be counted as only one Residential Bed Day, one Recovery Residence Bed Day or one Residential Detoxification Bed Day.

B. General

1. Actual Cost:

The total costs incurred by Contractor for providing contracted services.

2. Actual Cost Per Unit:

The total costs incurred by Contractor for providing each unit of contracted services.

3. Actual Net Cost:

Actual Cost less all revenues received from Other Payers.

4. Available Staff Hours:

All hours in which staff are available to work, exclusive of time off, such as vacation, sick leave and lunch. One full time equivalent (FTE) has an average of 1,779 available hours per year.

5. Capital Expenditures:

Improvements to land, buildings or equipment, which materially increase the value of the property or appreciably extend its useful life. These are not allowable as a direct cost except where explicitly approved in writing by ACBHD and must be depreciated.

6. Contract Maximum:

The maximum total compensation payable to Contractor under this Agreement.

7. County Contract Maximum Rate (CCMR):

The maximum rate of reimbursement for provisional rate services under this Agreement. The CCMR is published annually by ACBHD.

8. Drug Medi-Cal Organized Delivery System (DMC-ODS) Program:

State of California system wherein eligible members receive covered services from DMC-ODS certified substance use disorder treatment providers who are reimbursed for the services with Realignment funds and Federal Medicaid funds.

9. Exhibits A and B:

Program descriptions and scope of work for each program is defined in the Exhibit A. Each contracted program is represented in a separate row in Exhibit B-1: Funded Program Budget.

10. Federal Financial Participation (FFP):

FFP provides federal Title XIX/Medi-Cal reimbursement for approved State programs providing substance use treatment.

11. Grant-Funded Program:

A program that includes funding, at least in part, from special grant(s), including but not limited to federal grant(s) under the Substance Abuse and Mental Health Services Administration (SAMHSA).

12. Indirect Cost:

Cost that is not directly accountable to a cost object (such as a particular program or site). It may be either fixed or variable and may include administration, personnel and security costs.

13. Major Budget Expenditure Categories:

Personnel Expenses (such as salaries and benefits), and Operating Expenses.

14. Other Payers:

Applicable and appropriate payers other than ACBHD, which may include but shall not be limited to Medicare and/or other health insurance.

15. Program Maximum Amount

The maximum total compensation payable to Contractor for an applicable program in Exhibit B-2.

16. Published Charge (Usual and Customary Charge):

The rate published by Contractor for its usual and customary charges for specific services.

17. Trial Balance:

An accounting term used to identify a listing of the individual ledger accounts along with their respective debit or credit balances.

18. Utilization:

The total actual units of service provided.

IV. APPLICABLE FUNDING SOURCE REQUIREMENTS

A. Funding Source

ACBHD may, at its sole discretion, with or without notice to Contractor, add or delete sources of funding used by ACBHD for purposes of reimbursement for Contractor costs and/or services provided which are covered by this Contract as set forth in Exhibits A and B. Costs incurred through this Contract shall be reasonable and shall comply with all regulatory requirements and restrictions based on the funding source. All costs are subject to requirements set forth by County, and applicable agreement(s) between ACBHD and the California Department of Health Care Services (DHCS), or other funding entity.

B. Revenue Enhancement

ACBHD may establish targets for revenues earned by contractors, with those targets becoming part of operational budgets. Future contract allocations will be impacted by the revenue generated and by deficits. Contractor shall implement any new procedures related to local, State and/or Federal insurance revenue maintenance or enhancement requirements within 30 days from ACBHD notice. ACBHD shall provide Contractor with specific information on how to operationalize any new procedures.

1. Federal Financial Participation (FFP)

In order for Contractor to be reimbursed up to the Program Maximum Amount for programs with FFP, Contractor must earn a minimum amount of FFP. If year-end FFP revenue is less than the minimum, the revenue shortfall may be deducted from the Program Maximum Amount.

ACBHD may apply any excess FFP earned in Contractor's program to another program within this Contract whose FFP is below the required amount.

ACBHD may waive these provisions in the event that the cost for each unit of service is less than maximum rate of reimbursement specified.

For services provided under this Contract, Contractor must bill for said services to any third-party payer and/or for share-of-cost DMC to client responsible for payment of services. Charges must be billed in accordance with Contractor's Published Charge or negotiated insurance rate for services covered by such third-party payers and/or Share-of-Cost DMC.

2. Medi-Cal Funding Provisions

Contractor shall comply with Federal and State laws requiring Medi-Cal members to report Other Health Coverage (OHC) and share of cost to ensure Medi-Cal is the payer of last resort (California Welfare and Institutions Code, Section 14124.90)¹. Contractor shall maintain, implement and utilize procedures to collect appropriate charges from clients for services provided under this Contract. Contractor must bill charges for said services to any third-party payer and/or for Share of Cost Medi-Cal to client responsible for payment of services in compliance with 42 C.F.R. 438.900. Charges must be billed

¹ <https://www.dhcs.ca.gov/services/Pages/OHCResources.aspx>

in the amount of Contractor's Published Charge or negotiated insurance rate. All revenue collected from third-party payers and/or from clients must be reported to the County in accordance with instructions included in the Denied Correction Report (DCR) Cover Letter, Year-End Final Report for Cost Settlement instructions and any subsequent letters or instructions from the County.

Contractor shall complete monthly Medi-Cal eligibility verification for all clients prior to submission of Medi-Cal claims to the State. ACBHD will provide test claim reports for all Medi-Cal billable services prior to submission to the State. In the event ACBHD receives notification of services denied by the State for any Medi-Cal claims submitted for reimbursement, a notice of the denial of claim(s) will be communicated to Contractor via a DCR. Contractor shall research the DCR and submit a response on the DCR to ACBHD to include any necessary corrections for the denied claim within the timeframe noted in the DCR Cover Letter. Upon research by Contractor, if the DCR is due to input or entry errors, Contractor to submit the DCR response to ACBHD and follow Claims Correction Form guidance located on ACBHD Provider website <https://bhcsproviders.acgov.org/providers/Forms/Forms.htm>.

C. Measure A Funding

Measure A funding shall not be used in programs that are funded entirely by Medicare, Medi-Cal, State or Federal grants.

V. BUDGET

A. Detailed Line-Item Budget

Contractor shall maintain a detailed line-item budget and expenditures for each of their ACBHD-funded programs which conforms to all requirements stated in this Agreement and the State-County Plan(s). Contractor shall provide a copy of the detailed line-item budget and expenditures to ACBHD within 30 days of notice.

B. Allowable Expenses

1. Indirect Cost Rate²:

The total indirect costs applicable to this Agreement shall not exceed 15 percent of gross costs (minus the administrative indirect costs) or, if applicable, the indirect cost rate set forth by the Federal Government through the Non-Profit Rate Agreement that is effective on or before the effective date of this Agreement, whichever is higher.

2. Non-Federally Funded Programs

Non-profit organizations without an established indirect cost rate with the Federal Government, who wish to claim reimbursement, must submit an Indirect Cost Rate Proposal (ICRP) based on the organization's consolidated operating budget to the ACBHD Contract Manager(s) for approval. Indirect costs reimbursed by ACBHD for programs with no federal funding shall not exceed fifteen percent (15%) of a program's Modified Total Direct Costs (MTDC) or the lowest corresponding percentage of

² <https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200-appIV.pdf>

indirect costs reimbursed by any other funding sources or entities as reflected on the ICRP. Calculation of the program's MTDC shall comply with guidance issued by the Office of Management and Budget (OMB) 2CFR §200.68, §200.412 – 200.415.

C. Salary Requirements and Cost Principles

1. Prevailing Minimum Wage Standards:

Contractor shall comply with all federal, state and local minimum wage standards.

2. Restrictions on Salaries:

Contractor agrees that no part of any Federal grant funds, including but not limited to, Substance Use Prevention, Treatment and Recovery Services Block Grant (SUBG) funds provided under this Agreement shall be used by Contractor to pay the salary and wages of an individual at a rate in excess of Level II of the Executive Schedule published by the United States Office of Personnel Management.³

Federal grant funds used to pay salary in excess of the rate of basic pay for Level II Executive Schedule shall be subject to disallowance. The amount disallowed shall be determined by subtracting the individual's actual salary from the Level II rate of basic pay and multiplying the result by the percentage of the individual's salary that was paid with the Federal grant funds.

3. Salary and Wage Cost Principles:

Standards for charging costs of personnel expenses shall be in accordance to Uniform Administrative Requirements pursuant to Cost Principles, Title 2, Part 200, Subpart E, §200.430 – 200.431.⁴

4. Funding for Non-DMC clients:

Contractor shall not exceed the maximum allocation for Non-DMC funded clients if applicable and stipulated in Exhibit B-2.

D. Purchase of Equipment/Supplies and Fixed Assets

Purchase of items over \$5,000 requires prior written approval of the ACBHD Contract Manager(s). Equipment/Supplies having a useful life of three or more years and with an acquisition cost over \$5,000 or more per unit must be capitalized and depreciated pursuant to regulatory requirements.

Programs funded with Drug Medi-Cal (DMC), a combination of State Realignment and DMC or Federal Grant awards are subject to Federal Medicaid rules and Internal Revenue Service Notice 2015-82 for any qualifying fixed assets purchased with a per invoice or per unit cost of over \$5,000 if provider has an applicable financial statement (AFS), or over \$2,500 if provider does not have an AFS. These qualifying fixed assets must be capitalized and depreciated over the life of the asset. Refer to 26 CFR §1.263(a)-1(f)(4) for AFS

³ <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages>

⁴ [Part 200—Uniform Administrative Requirements, Cost Principles, And Audit Requirements For Federal Awards](#)

definitions. Computing devices such as laptops, tablets and smartphones do not meet the threshold requirements and are considered **equipment**/supplies.

Contractor shall conduct procurement related to this Agreement in compliance with any applicable DHCS requirements. Contractor shall maintain an annual inventory of property and equipment over \$5,000 purchased through ACBHD funding through the useful life of the asset.

E. Rent or Lease of Equipment or Facilities

Contractor shall not, without written approval of the ACBHD Contract Manager(s), rent or lease equipment or facilities from a parent organization or individual who is a "common owner" (as defined by the Centers for Medicare and Medicaid Services Provider Reimbursement Manual 15-1, Chapter 10, Paragraph 1002.2)⁵

F. Budget Revision Procedures

1. Revisions to Personnel and/or Operating Expenses

Contractor must request written approval from the ACBHD Contract Manager(s) of any variance of ten percent or greater between Actual Costs and approved budget costs in each program budget row for Personnel and/or Operating Expenses.⁶

2. Program Maximum Amount Funding and Movement of Funds

Maximum allocations for each program for each year of the contract term are provided in the contract renewal package. Movement of funds between programs may be requested and must also follow the terms below.

i. Contract Awards Resulting from Request For Proposal (RFP)

Contract/program awards resulting from an RFP process must be tracked separately, and have a separate Exhibit A: Scope of Work, and a separate Funded Program Budget row for a minimum of three years. These programs will also be specified as RFP programs on the Exhibit B-2: Method and Rate of Reimbursement for a minimum of three years. Contractor shall implement new program(s) resulting from RFP award according to the budget and deliverables in Contractor's RFP bid submission. Contractor shall not revise the budget or deliverables prior to program implementation without prior written consent from ACBHD. Contractor may request changes during the first year after program implementation provided such changes will not result in a material difference in the scope of work awarded through the RFP. Contractor must submit these change requests in writing to the ACBHD Contract Manager(s), and ACBHD is ultimately responsible for reviewing and approving/denying all requested changes. Budget revision changes can be requested by Contractor after the first full year of program implementation. Requests must be submitted in writing to the ACBHD Contract Manager(s). If

⁵ <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals-Items/CMS021929>

⁶ A singular or cumulative shift in excess of 10 percent of the amount within the budget category requires prior written approval from the Grantor. This is a common requirement for federal and state funding sources that the County also requires.

approved by ACBHD, funding augmentations must be submitted to and approved by the Board of Supervisors prior to being added to the contract.

ii. *Exhibit B-1 Line Item Revisions*

Notwithstanding the requirement set forth in Section V.D. and Section V.G.1., Contractor must obtain written approval from the ACBHD Contract Manager(s) for line item revisions of \$5,000 or more within a program, Contractor shall submit a revised Exhibit B-1: Funded Program Budget to the ACBHD Contract Manager(s) with detailed written justifications for revisions of \$5,000 or more in any one line-item.

iii. *Movement of Funds Between Programs*

a. For providers with two or more programs, in the event that the net reimbursable cost for any single program is less than the Program Maximum Amount, ACBHD may apply or move the underutilized funding to provider's other programs whose net costs have exceeded the maximum funding allocation, as long as the movement of funding does not:

1. Impact the amount of required County match; and/or
2. Move services between age-based Systems of Care (i.e., Adolescent, Adults); and/or
3. Move services between different service modalities (i.e., outpatient versus residential); and/or
4. Modify an allocation that has been set by a competitive procurement request for proposals (RFP) process; and/or
5. Impact a categorical allocation and/or funding stream for a particular program including but not limited to grants; and/or
6. Shift funds between programs that have a different method of reimbursement such as Provisional Rate, Fee-For-Service, Negotiated Rate or Actual Cost; and/or
7. Result in a program expansion of greater than 25 percent for the smaller program when there is a funds transfer from a larger program/Reporting Unit (RU) into a smaller program; and/or
8. Cause a cumulative transfer of funds from numerous programs to be greater than 20 percent of the total contract allocation during the contract term.

b. ACBHD may retrospectively approve written requests to move more than ten percent of funds between programs in response to unforeseen events which meet the following criteria:

1. Natural disasters, terrorist attacks, act of war; and
2. Emergency purchases as necessary to protect client and public safety, avoid interruption of services, and/or to avoid financial loss, property loss and damage, or idled workers.

c. All requests that require ACBHD's prior written approval must include the following:

1. The names of all impacted programs;
2. The amounts to be moved;
3. Whether the changes are being requested on a one-time versus ongoing basis; and

4. Justification of why funds are needed in one program more than the other, and any available information about the timing of changes in specific program(s), e.g., when utilization began to decrease/increase.

Contractor must receive prior written approval from ACBHD for the movement of funds between programs that fit under any of the circumstances described prior to moving funds or making program changes. Contractor may request updates on the status of the request one month from submission.

Failure to seek and receive ACBHD approval for the contract changes described in this section may result in denied claims against the program allocation, unreimbursed costs or increased amount due to the County per Cost Settlement, reduced allocations in future contract years or termination of impacted programs within the contract.

VI. PAYMENT METHODOLOGY

See Exhibit B-2: Method and Rate of Reimbursement to identify which of the following method(s) apply to your contract:

A. Actual Cost Reimbursement Method

The monthly interim reimbursement and final total reimbursement amount shall be calculated based on the Actual Cost, minus all applicable revenues collected from Other Payers, and subject to any Program Maximum Amount and the Contract Maximum. Contractor shall reflect cost savings when budgeted positions in Exhibit B-1 are vacant. For the purposes of this Agreement, a position is considered vacant when there is no staff in the position and the position is not being covered by temporary staff.

B. Negotiated Rate Reimbursement Method

The monthly interim reimbursement and final total reimbursement amount shall be calculated based on Utilization and negotiated rates per unit of service, minus all applicable revenues collected from Other Payers, and subject to any Program Maximum Amount and the Contract Maximum.

C. Provisional Rate Reimbursement Method

The monthly interim reimbursement amount shall be calculated based on Utilization and provisional rates per unit of service, minus all applicable revenues collected from Other Payers, and subject to any Program Maximum Amount and the Contract Maximum. The final total reimbursement amount shall be calculated based on Utilization and the lowest of: (a) Actual Cost Per Unit; (b) the Published Charge; or (c) the CCMR; minus all applicable revenues collected from Other Payers, and subject to any Program Maximum Amount and the Contract Maximum.

D. Reserved

VII. INVOICES

A. Monthly – Provider Claim / Service Report (Invoice)

Submissions must be made to the ACBHD Accounts Payable Unit. Contractor shall submit a monthly Provider Claim / Service Report (Invoice) for services rendered that month and applicable attachments, using a template approved by ACBHD.

Costs for separate programs must be tracked by Contractor separately and must be invoiced to ACBHD separately by program, subject to any Program Maximum Amount and the Contract Maximum. Invoices that do not contain the information required under this section are incomplete and will not be paid until complete information is submitted. Contractor shall follow-up timely on requests for corrections or additional information related to claims as requested by ACBHD Accounts Payable Unit.

Contractor shall submit claims by the tenth calendar day of the month following the service month. Monthly claims submitted after the twentieth calendar day of the month following the service month, or multiple claims held by the provider and submitted to ACBHD simultaneously, may result in claim repayment being delayed. Claims submitted late may be reimbursed during the year-end cost settlement process, at ACBHD's sole discretion.

For Grant-Funded Programs with an invoice deadline specified by the grantor, Contractor must submit invoices by the deadline indicated by ACBHD in order to be reimbursed for the program costs. Failure to submit invoices for Grant-Funded Programs by the stated deadline may result in loss of grant funding to ACBHD, therefore loss of reimbursement to Contractor. ACBHD will provide Contractor with applicable grant deadline date(s) or changes to invoice deadline date(s) with a minimum of 30 days' notice.

For specialty funding sources, including but not limited to grants, ACBHD will inform Contractor of any changes to invoice deadline date(s) required to meet funding source requirements with a minimum of 30 days' notice.

1. For recovery residence programs:

Monthly reimbursement shall not exceed the monthly pro rata of the annual Program Maximum Amount unless the following conditions are met. Contractor must submit a written request to exceed the monthly pro rata to the ACBHD Accounts Payable Unit which demonstrates Contractor's prior month's payments were less than the monthly pro rata and that savings are being applied to documented costs in excess of the pro rata. Authorization to exceed the monthly pro rata is subject to ACBHD's approval.

B. Invoice/Claim Attachments

1. For program(s) or portion of program(s) paid under the Actual Cost Reimbursement Method:

Contractor shall submit invoices which shall include detailed, line-item monthly expenditures (i.e., Trial Balance) incurred, less revenues collected by Contractor from Other Payers to perform the contracted services as indicated herein.

2. For program(s) or portion of program(s) paid under the Negotiated Rate Reimbursement Method or Provisional Rate Reimbursement Method:

The claim shall include units of service based on the rates in Exhibit B-2: Method and Rate of Reimbursement. Contractor shall indicate revenues collected by Contractor from Other Payers to perform the contracted services as indicated herein. Contractor shall attach the corresponding reports from the ACBHD electronic claims system to the monthly invoice/claim.

C. Supplemental Claims

County shall allow a maximum of two supplemental invoices per fiscal year for the following:

1. Rate Differential:

If the approved rates for services are increased during the term of the Contract, Contractor may submit a supplemental invoice for reimbursement of the difference in the rate previously reimbursed by County to the effective date of the rate increase.

2. Missed Billings:

In the fourth quarter of the fiscal year, Contractor may submit a supplemental invoice for any services performed during the fiscal year that were not previously billed to County.

D. Reimbursement of Claims After End of Contract Term

Contractor shall submit any supplemental claim for reimbursement under this Contract within 60 calendar days following the end of the term of this Contract, or within 30 days following the end of the term of this Contract for programs with grant funding. All claims submitted after 60 calendar days following the end date of this Contract will be subject to reimbursement at the sole discretion of ACBHD.

VIII. FINAL REPORT, SETTLEMENT AND PAYMENT

A Cost Settlement at the end of each fiscal year covered by this Agreement between ACBHD and Contractor will be considered a final settlement. Final reimbursement for DMC-ODS Programs is contingent upon and limited to funds made available to the County as a result of participation in the State DMC-ODS program.

Contractor shall account for each program separately and provide specific cost centers and audit trails for each program and service site per the Final Report instructions set forth by ACBHD.

A. Year-End Final Report

Contractor shall submit a Year-End Final Report in the format and by the due date issued by ACBHD. Contractor shall submit a separate Year-End Final Report for each program and site contained in this Contract for the Actual Cost and Provisional Rate reimbursement methods. Year-End Final Reports not received within 15 calendar days after the due date issued by ACBHD will result in a hold of all provider invoices for payment until a satisfactory report is received.

Excess Fees: In the event Contractor has participant-generated fees (e.g., public benefits and/or other payer sources, such as food stamps) which are unexpended as of June 30, Contractor must include these fees as “Revenue” in the Year-End Final Report’s revenue section. These funds cannot be held by the provider and applied to subsequent fiscal years.

Indirect Cost Rate Report: Contractor shall submit a final Indirect Cost Rate Report with the Year-End Final Report, which shall include all of the following:

- Line-item detail showing actual indirect costs; and
- A worksheet showing the allocation of the indirect costs to each direct service program.

B. Final Reimbursement

Should Contractor’s final total reimbursement amount be less than the total interim payments made pursuant to submitted invoices, Contractor agrees to remit said difference to County within 60 calendar days of Contractor’s receipt of Final Cost Settlement, unless otherwise approved in writing by ACBHD.

If applicable to Contractor’s funding source, ACBHD will provide the Final Medi-Cal Reconciliation data submitted to State of California based on the Final Mental Health Valid or Paid Units under Medi-Cal, the monthly 835 Form or equivalent, for Contractor’s review. If Contractor has any adjustments that would impact Medi-Cal, non-Medi-Cal, crossover units or crossover revenue, Contractor must advise ACBHD prior to the appropriate State of California department determining the Final Medi-Cal Reconciliation. No adjustment to total cost or units can be made after the Final Medi-Cal Reconciliation.

IX. OTHER REQUIRED DOCUMENTATION

Contractor shall comply with the following additional financial reporting requirements:

A. Third-Quarter Financial Report and Adjustment

Contractor shall provide ACBHD with a detailed Third-Quarter Financial Report (expenditure and revenue reports) of actual costs and revenues applicable to each program reflected in Exhibit B-1: Funded Program Budget within 30 days of any ACBHD request for this information. If applicable, Contractor shall submit the Third-Quarter Financial Report in the most current template provided by ACBHD, covering July 1 – March 31 costs, to the ACBHD Accounts Payable Unit. In the event that Third-Quarter Financial Reports are requested by ACBHD:

For recovery residence programs: Total costs reported through the third quarter will be compared to total invoice reimbursements through the third quarter. Any unreimbursed costs, up to the pro rata, will be reimbursed as an upward adjustment to the subsequent invoice. ACBHD may, at its sole discretion, recoup any overpayment as a downward adjustment to the subsequent invoice.

For all other programs: Total costs reported will be compared to total of invoice reimbursements for the first three quarters. Any unreimbursed costs will be reimbursed as

an upward adjustment to the subsequent invoice. **ACBHD may, at its sole discretion, recoup any overpayment** as a downward adjustment to the subsequent invoice.

X. AUDIT

Notwithstanding any provision to the contrary in this Contract, including without limitation, provisions referencing “final” with respect to reimbursement, payment, settlement, or other similar term, Contractor’s records shall be subject to audit and disallowances by all applicable County, State and Federal authorities.

Audit results shall supersede the information previously provided by Contractor and accepted by ACBHD. Should County, State and Federal or any other funding agency refuse to reimburse ACBHD or disallow previous payments, Contractor agrees to refund excess to ACBHD within 60 days of closure of appeals period or ACBHD notification to Contractor (whichever is later), unless otherwise approved in writing by ACBHD. ACBHD may withhold all funds owed from any subsequent payments due to Contractor until the settlement is satisfied in full.

XI. PAYMENT WITHHOLDING

ACBHD may withhold payments to Contractor due to one or more of the following conditions.

A. Contractor Non-Compliance Sanction Policy

If ACBHD determines that Contractor is not in compliance with any provisions of this Contract, ACBHD will provide Contractor with a written notice of non-compliance and may withhold payment, or a portion of payment, or apply a payment reduction of one percent of the total of the next monthly claim if the identified issue is not remedied within the timeline specified in the notice of non-compliance. For purposes of this provision, such notice provided by ACBHD shall be by First Class Mail (United States Postal Service), overnight delivery, facsimile, or email. Contractor non-compliance includes failure to comply with County, State, and Federal requirements and/or failure to submit required programmatic and/or fiscal reports, which are complete and accurate by the specified due date, such as but not limited to Contract Renewal documents, Third-Quarter Financial Reports, Year-End Final Reports, cost data, audits, current insurance documentation, or other information required for contract administration, monitoring and/or renewal.

ACBHD may, after three months of withholding funds or applying payment penalties for non-compliance, impose a non-refundable reduction of one percent of the total contract amount each month thereafter, until ACBHD deems Contractor in compliance with the Contract.

B. Disallowances

ACBHD may withhold all funds owed to Contractor based on disallowances and/or penalties until settlement is satisfied in full. If applicable, Contractor shall refund any disallowances and/or penalties resulting from the Medi-Cal/DMC Utilization Review Process within 60 days of notice, unless otherwise agreed upon by ACBHD.

County will indemnify Contractor as set forth in the general provisions of the Contract between the Parties should the disallowance and/or penalties be the result of: a) County's negligence or intentional acts or omissions; or b) Contractor's compliance with the written directions, guidelines, policies or instructions of the County.

Any disallowance and/or penalties where County is not required to, or does not, indemnify Contractor shall be the sole responsibility of Contractor. This includes any and all State disallowances and/or penalties.

C. Contract or Program Termination

In the event of termination of this Contract or any program within this Contract, ACBHD may withhold a sum not to exceed ten percent of the total contract amount or applicable program, until all provisions of this Contract are satisfied by Contractor and accepted by ACBHD.

D. Overpayments, Reporting and Recovery

1. Contractor shall notify ACBHD Accounts Payable in writing immediately or within ten calendar days of receipt of an overpayment made to Contractor from the County (including overpayments due to fraud), with an explanation of the reason for the overpayment. Contractor shall return any overpayment to the County within 60 calendar days of discovery of the overpayment.
2. When an audit or review performed by the County, State, Federal Government, or any other authorized agency discloses that Contractor has been overpaid under this Contract, or where the total payments exceed the total liability under this Contract, Contractor covenants that any such overpayment or excess payments over liability may be recouped by the County via withholding the amount due from future payments, seeking recovery by payment from Contractor, or a combination of these two methods.

XII. TERMINATION

A. Notice of Termination

In the event of termination of a program within this Contract or this Contract;

1. If initiated by Contractor, Contractor shall provide written notice to ACBHD Contract Manager(s) at least 30 calendar days prior to termination; and
2. If initiated by ACBHD, ACBHD Contract Manager(s) shall provide written notice to Contractor at least 30 calendar days prior to termination.

B. Contractor Responsibility

Upon notice of a program or Contract termination, Contractor shall do the following:

1. Immediately eliminate all new costs and expenses under the program or this Contract.
2. Provide accounting of any unused or unexpended equipment and/or supplies purchased by Contractor with funds obtained through this Contract and deliver such equipment and/or supplies to ACBHD upon written request from ACBHD.
3. Promptly submit a written report of all information necessary for the reimbursement of any outstanding claims and/or continuing costs to the ACBHD Contract Manager(s).

4. Surrender all fiscal records to ACBHD, if requested by ACBHD.

For a Contract termination, Contractor must complete a Final Report within 30 calendar days of receipt of the Final Report template from ACBHD.

ACBHD may reimburse Contractor for reasonable and necessary costs or expenses incurred after ACBHD's receipt of Contractor's notice of termination, within the Contract Maximum.

C. Termination for Cause

If County determines that Contractor has failed, through any cause, to fulfill in a timely and proper manner its obligations under the Agreement, or if County determines that Contractor has violated any of the covenants, agreements, provisions, or stipulations of the Agreement, County shall thereupon have the right to terminate the Agreement by giving written notice to Contractor of such termination and specifying the effective date of such termination, which may be the same date as the notice.

XIII. ADDITIONAL PROVISIONS

A. Reserved

B. Cash Advance

Contractor may be eligible to receive a one-time cash advance, consistent with Alameda County's Cash Advance Policy located on ACBHD's Provider website: <https://bhcsproviders.acgov.org/providers/network/cbos.htm>.

The repayment method requested is subject to ACBHD approval. ACBHD may make repayment adjustments or demand full repayment at any time to ensure service levels, contract compliance and adequate reimbursement, including suspending payment of invoices until repayment is satisfied.

C. Hold Harmless

Contractor agrees to hold harmless the State, County and clients or members in the event that ACBHD cannot or does not pay for services performed by Contractor pursuant to this Agreement.