

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

28 April 23, 2024


JEFF LEVINSON
INTERIM EXECUTIVE OFFICER



DEPARTMENT OF MENTAL HEALTH
hope. recovery. wellbeing.

LISA H. WONG, Psy.D.
Director

Curley L. Bonds, M.D.
Chief Medical Officer

Connie D. Draxler, M.P.A.
Acting Chief Deputy Director

April 23, 2024

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL TO ENTER INTO AGREEMENTS WITH UP TO 12 LEGAL ENTITIES TO FACILITATE
THE FINAL FINANCIAL RECONCILIATION AND COST SETTLEMENT AMOUNT FOR CERTAIN
FISCAL YEARS
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Request approval to enter into up to 12 Legal Entity cost settlement agreements to finalize financial reconciliation and cost settlement amounts for the Legal Entities identified in Attachment II for the fiscal years indicated below.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and authorize the Director of Mental Health (Director), or designee, to prepare and execute a Mental Health Final Reconciliation and Cost Settlement agreement, substantially similar to Attachment I, with up to 12 Legal Entity Contractors (Contractors) listed in Attachment II, to: 1) establish a final agreement over the amounts payable to the Contractors for services furnished during Fiscal Years (FYs) 2005-06 through 2015-16; 2) waive collection from the Contractor of certain payments related to FYs 2002-03 through 2005-06; and 3) release any outstanding Contractor appeals related to FYs 2005-06 through 2015-16 that have delayed reaching such agreement. These agreements will be subject to the prior review and approval as to form by County Counsel, with written notice to the Board and Chief Executive Office.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The Department of Mental Health (DMH) contracts with providers of mental health services for Medi-

Cal and uninsured residents and reimburses the contracted providers, referred to as legal entities (LEs), pursuant to the terms and conditions in the executed contracts. Payment from DMH to the LEs is performed over a multiyear process, including the reporting of claims to DMH for approval, the submission by the contractor of a year-end cost report, issuance of interim payments, the submission by the contractor of a reconciled cost report, adjustments to interim payments, and the resolution of various audits and appeals. Payments to LEs are based upon information included in the cost reports filed and certified by the LE and accepted by DMH, and are subject to limitations, terms and conditions, and requirements contained in the executed contracts between DMH and the LEs. These contracts, including their financial exhibits, are frequently amended by joint action of the LEs and DMH. In the absence of formally filed disputes or challenges, interim payments to LEs are subject to a final reconciliation process where interim payments are finally settled.

Each of the 12 Contractors are LEs that contract with DMH and which performed services pursuant to executed contracts during FYs 2005-06 through 2015-16. Each of the Contractors filed timely appeals with DMH raising specific, discrete issues that they allege negatively and unfairly impacted the calculation of final payments owed to the Contractor for services rendered during FYs 2005-06 through 2015-16. DMH has met with and exchanged documentation with each of the 12 Contractors regarding these appeal issues over a multiyear process. DMH seeks to conclusively resolve all issues with the Contractors related to FYs 2005-06 through 2015-16. DMH believes that the settlement amounts are appropriate and that achieving final resolution is prudent.

Pursuant to the Final Reconciliation and Cost Settlement agreement, DMH would increase its calculations of the final amount due to each of the Contractors for services they furnished above the amounts that had been previously calculated. In some cases, additional payments would be due to the Contractor, and in others the Contractor would agree to repay the previous interim payments to the County, in accordance with the timelines contained in the agreement.

Execution of the Final Reconciliation and Cost Settlement agreement would allow DMH to complete the final reconciliation and cost settlement for the appealing Contractors for FYs 2005-06 through 2015-16. As part of the same agreement, both the County and the Contractor would release and waive any potential claims related to payments based on the mental health cost reports for those years so that the settlements would be final.

As part of the same Mental Health Final Reconciliation and Cost Settlement agreement, and consistent with the mutual waiver of claims and desire to finalize historical payments, the County would agree not to recoup from the Contractors any amounts disallowed by the State as part of the Assembly Bill 3632 / Senate Bill 90 audit for FY 2002-03 through FY 2005-06. Agreeing not to recoup from the Contractors that have entered into the Mental Health Final Reconciliation and Cost Settlement will facilitate the final resolution of payments during the FY 2005-06 through FY 2015-16 period and will reduce County administrative burden.

Board approval of the recommended action will allow DMH to enter into Mental Health Final Reconciliation and Cost Settlement agreements with up to 12 Contractors listed in Attachment II; the Contractors listed in Attachment II will receive final payments needed to complete cost settlement for FYs 2005-06 through 2015-16 so that final settlement can be conducted.

Implementation of Strategic Plan Goals

The recommended actions support the County's Strategic Plan North Star 3, Realize Tomorrow's Government Today, via Focus Area Goal G.- Internal Controls and Processes strategy ii. Manage

and Maximize County Assets.

FISCAL IMPACT/FINANCING

The recommended action will authorize DMH to enter into an agreement with up to 12 Contractors to facilitate the finalization of payments for FYs 2005-06 through 2015-16. The execution of the Mental Health Final Reconciliation and Cost Settlement with all 12 Contractors would increase County payments for services furnished by the LEs by a maximum of \$9,167,000, which would be accounted for in the cost settlement process with the applicable Contractors and fully funded by State and federal funds. Entering into the Mental Health Final Reconciliation and Cost Settlement with the 12 Contractors would permit the County to conduct final settlement, which will result in additional outlays of a maximum of \$6,985,000 and commitments from LEs to repay the County a maximum of \$7,649,480 pursuant to a repayment plan.

The Mental Health Final Reconciliation and Cost Settlement agreement would also allow DMH not to seek collection from the Contractors of a maximum of \$5,503,990. Of this amount, \$2,364,440 was previously deferred by the County, and \$3,139,550 was identified payable to the County. Waiver of these amounts will reduce the County's administrative burden and facilitate the final reconciliation and cost settlement for FYs 2005-06 through FY 15-16.

The financial impact of the agreements with each Contractor is identified in Attachment II. Information from Attachment II will be incorporated in substantially similar form into the financial exhibits included in the executed Mental Health Final Reconciliation and Cost Settlement agreement.

There is no net County cost impact associated with this action.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Mutual indemnification language has been added to the Final Reconciliation and Cost Settlement agreement, Attachment I. As such, the Contractor would be responsible for any loss arising from that agreement, unless the loss or damage is caused by the County. The proposed indemnification provision is within reason and does not significantly impact the County.

Attachment I is the Mental Health Final Reconciliation and Cost Settlement agreement template for FYs 2005-06 through 2015-16. County Counsel has approved the agreement as to form.

Attachment II is the list of LE Contractors that will receive the Mental Health Final Reconciliation and Cost Settlement agreement.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

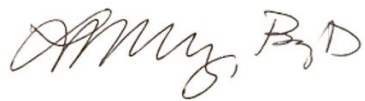
Approval of the proposed settlement agreements will not result in any impact on current services or projects.

The Honorable Board of Supervisors

4/23/2024

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lisa H. Wong, Psy.D.", written in a cursive style.

LISA H. WONG, Psy.D.

Director

LHW:CDD:KN:SK:ZW:atm

Enclosures

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel

**MENTAL HEALTH FINAL RECONCILIATION AND COST SETTLEMENT
AGREEMENT**

THIS MENTAL HEALTH FINAL RECONCILIATION AND COST SETTLEMENT AGREEMENT (“Agreement”) is made effective this ___ day of ___ 2024, by and between the **County of Los Angeles Department of Mental Health** (the “County” or “DMH”) and [INSERT LEGAL ENTITY NAME] (“Legal Entity”). County and Legal Entity are collectively referred to as the “Parties” with reference to the following:

RECITALS

- A. WHEREAS, the County and Legal Entity entered into contracts for the provision of mental health services, including Medi-Cal covered services, for each of fiscal years (“FYs”) 2005-06 through 2015-16, inclusive (the “Subject Fiscal Years”);
- B. WHEREAS, Legal Entity reported to the County the costs it incurred for furnishing services pursuant to such contracts and the County made payments to Legal Entity;
- C. WHEREAS, pursuant to the terms of the contract, the payments made by the County are subject to a reconciliation and settlement process based on the Legal Entity’s final submitted and accepted cost reports and subject to the limitations in the Financial Exhibit in the executed contracts;
- D. WHEREAS, as part of the reconciliation and settlement process for the Subject Fiscal Years, Legal Entity has made formal requests of the County for review of the settlement amounts and has made requests, which if accepted, would impact the amounts payable to the Legal Entity under its contracts, and which have prevented the Legal Entity from accepting the finalization of the reconciliation and cost settlement process for the Subject Fiscal Years;
- E. WHEREAS, the Parties have been working for years in good faith to discuss the requests made by Legal Entity and the issues raised required burdensome review;
- F. WHEREAS, the County and Legal Entity each desire to document final financial reconciliation and settlement amounts for each of the Subject Fiscal Years and to finalize payments between the Parties, in accordance with the terms and conditions below and in the accompanying exhibits;
- G. WHEREAS, the County is willing to make additional payments or provide credits to Legal Entity due to documentation of extraordinary circumstances that increased the Legal Entities’ uncompensated care; and
- H. WHEREAS, each Party agrees that this Agreement is intended to avoid further delays in the finalization of payments for the Subject Fiscal Years and to avoid expenses associated with resolution of any individual request raised by Legal Entity with respect to those Subject Fiscal Years.

NOW THEREFORE, in consideration of these promises and the mutual covenants set forth herein, and for valuable and mutual consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENTS

1. Final Payments and Settlement Schedule. The Final Settlement Payment and Schedule reflecting amounts owed to the Legal Entity from the County or owed to the County from the Legal Entity for the Subject Fiscal Years is attached hereto as **Exhibit A**. County and Legal Entity specifically agree that the payments identified in Exhibit A reflect the Payment Adjustment identified in Section 2, and are the final cost report settlement for the Subject Fiscal Years and that no further reconciliations or adjustments shall be made or proposed by either Party, including as to any County, State, or Federal audits, except for cases of fraud. Payments identified on Exhibit A as due to the Legal Entity will be paid no later than 60 days following execution of the agreement, unless a different timeframe is agreed to by the Parties. Payments identified on Exhibit A as due to the County will be made per the repayment plan schedule identified in **Exhibit A**.
2. Recognition of Additional Payment or Credit Amount. The Final Settlement Payment and Schedule (Exhibit A) includes an additional dollar amount that County will pay or credit to Legal Entity (the "Payment Adjustment"). The Payment Adjustment is provided in addition to amounts initially calculated by the County as due to the Legal Entity for services furnished to Medi-Cal beneficiaries or others during the Subject Fiscal Years. Payment of the Payment Adjustment shall not be limited by any terms of the contracts for the provision of services between the County and Legal Entity for the Subject Fiscal Years, including any applicable contract limits.
3. Waiver of Outstanding SB 90/AB 3632 Disallowance. As part of the final reconciliation and settlement, County waives and will not recoup any amounts related to the AB 3632 / SB 90 State Audit for Fiscal Years 2002-03 through 2005-06, including any such amounts previously identified as owed to County from Legal Entity.
4. Release of Claims. Legal Entity and County on behalf of themselves, their predecessor and successor organizations, their employees and directors, whether past or present, agree to release, waive and forever discharge the other Party, their past and present directors, officers, employees, agents, managers, and any and all other persons or entities who have at any time acted, purported to act, or alleged to have acted on their behalf (collectively, "Releasees"), from any and all claims, lawsuits, arbitrations, causes of action, demands, liabilities, obligations, losses, damages, penalties, costs and expenses (including attorneys' and experts' fees and costs), of every kind and description, whether in law or equity, in tort, in contract, or under statute, known or unknown, whether or not previously raised to the County or the Legal Entity, arising from the Legal Entity contracts with DMH or the related submission, reconciliation, or settlement by DMH of payments associated with mental health cost reports cost report settlements for the Subject Fiscal Years (the "Released Claims"). For the avoidance of doubt, the Released Claims shall include any and all claims, allegations, requests, issues, etc. that could have been raised by Legal Entity or County relating to (a) the amounts paid by the DMH to Legal Entity for mental health services provided in the Subject Fiscal Years; (b) any disputes arising from the submission or processing of claims for such services during the Subject Fiscal Years; and (c) any disputes related to Legal Entity contracts with the DMH related to the provision of mental health services during the Subject Fiscal Years. The Released Claims do not include the obligations stated in this Settlement Agreement. The County

and Legal Entity do not release their rights to protections previously obtained under earlier agreements, including, but not limited to, the Settlement Agreement and Release entered into as of May 20, 2009, among the County, the DMH and the California Department of Health Care Services, and the Legal Entity.

5. Noncompliance. In the event of a material breach, the non-breaching Party shall notify the breaching Party and, if the breach is not cured within 30 days of such notice, may bring an action to enforce the agreement pursuant to Section 13. Failure by either Party to make a required payment within the timeframes identified in this Agreement, if not cured, shall constitute a material breach of this Agreement and may be enforced by law. A material breach by either Party shall render the release of claims by the other Party pursuant to paragraph 4 null and void.

6. Waiver of Civil Code Section 1542. Legal Entity, for itself, and County, for itself, have each conducted their own diligent research regarding the Released Claims. This Agreement is expressly intended to release known and unknown claims, including all past, present and future rights of action related to the requests made by Legal Entity related to the Subject Fiscal Years, and Legal Entity and County expressly waive application of Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

The effect and import of this provision has been fully explained to Legal Entity and County by their own respective legal counsel.

7. Authority to Enter Into Agreement. County and Legal Entity each represent and warrant that they have the full right, power, and authority to enter into this Agreement.

8. Indemnification. Legal Entity and County shall indemnify and hold the other harmless from any claims, lawsuits, arbitrations, causes of action, demands, liabilities, obligations, losses, damages, costs and expenses (including attorneys' and experts' fees and costs), of every kind and description, whether in law or equity, in tort, in contract, or in statute, arising out of or in any way related to any breach of this Agreement.

9. Complete Defense/Enforcement. This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any lawsuit, arbitration, cause of action, demand, liability, obligation, or claim based on any loss, damage, cost and expense (including attorneys' and experts' fees and costs), of every kind and description, whether in law or equity, in tort, in contract, or in statute, or any other proceeding that may be instituted, prosecuted, or attempted, arising out of or in any way related to any of the Released Claims; provided, however, that this Agreement shall not preclude proceedings under Paragraph 13 below to enforce this Agreement's terms.

10. Not an Admission. This Agreement, and any negotiations or proceedings connected with

it, shall not in any event constitute or be construed as, or be deemed to be evidence of, an admission of or concession of any wrongdoing by any party hereto.

11. Interpretation/Enforceability. This Agreement has been negotiated at arm's length between parties sophisticated and knowledgeable in the matters dealt with herein. Each Party has conducted extensive due diligence regarding the Released Claims and has been represented by experienced and knowledgeable legal counsel. Any rule of law, including but not limited to California Civil Code section 1654, or any legal decision that would require interpretation of any ambiguities in this Agreement against the Party that drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in accordance with California law governing negotiated agreements between sophisticated parties who have conducted their own diligent research concerning the matters settled. Furthermore, after advice from experienced and knowledgeable legal counsel, all Parties and their counsel believe that this Agreement is legal and enforceable according to its terms and waives any and all rights they may have to claim otherwise to the maximum extent allowed by law.

12. Confidentiality. The financial terms of this negotiation and any documentation, statements, or other work product created as part of the negotiation of this Agreement are confidential. Legal Entity and County each agree not to disclose (i) any statement, document, or other work product prepared during the course of negotiation, including during the meetings, document exchanges, and settlement discussions that preceded the drafting of this Agreement, or (ii) the financial terms of this Agreement to any person. Legal Entity hereby further represents and warrants that neither it, nor its representatives, agents, and attorneys have revealed, or caused to be revealed, or will hereafter reveal or cause to be revealed to any person or persons, entity or entities, organization or organizations the terms and conditions contained in this Agreement, except by order of a court or as required by law, or as a defense to any claim asserted by any party to this Agreement against any other party to this Agreement, or as necessary to enforce this Agreement. If any party or person acting on behalf of Legal Entity hereto receives an inquiry about this Agreement, Legal Entity will respond only that "the matter has been resolved" or a similar statement. Notwithstanding any other provision, a template version of this Agreement may be made available to the Los Angeles County Board of Supervisors and to the general public, the release of which shall not be deemed a violation of this Agreement provided that it does not identify confidential material specific to the Legal Entity. Notwithstanding the foregoing, Legal Entity may disclose this Agreement or its terms on a confidential basis to any of its officers, directors, attorneys, accountants, tax preparers, paid financial advisors, insurers, and/or any governmental or judicial authority that can compel disclosure. Nothing in this Agreement shall be deemed to interfere with Legal Entity's obligation to report transactions with appropriate governmental, taxing, and/or registering agencies.

13. Applicable Law; Retention of Jurisdiction. This Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California without regard to conflict of laws principles. Any action brought to enforce the provisions of this Agreement shall be brought in the Superior Court of the State of California for the County of Los Angeles. The Parties expressly acknowledge and agree to this term shall be treated as both a choice of law and venue provision.

14. Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement with respect to the Released Claims, and supersedes any and all prior or contemporaneous agreements, representations and understandings pertaining to the Released

Claims. This Agreement may not be changed, modified, altered or amended except by written instrument executed by the authorized representatives of the Parties named in the signature blocks below.

15. Further Assurances. Such further documents as may be needed to carry out the terms of this Agreement will be executed and delivered to the appropriate parties.

16. Attorneys' Fees. No Party shall be liable for any other Party's costs and attorneys' fees incurred in connection with the Released Claims or the negotiation of this Agreement.

17. Severability. In the event any portion of this Agreement is declared void by a court or arbitrator, such portion shall be severed from this Agreement, and the remaining provisions shall remain in effect, unless the effect of such severance would be to substantially alter the Agreement or the obligations hereunder, in which case the Agreement may be immediately terminated.

18. No Waiver. Any failure to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver of any right hereunder must be in writing, signed and dated by the Party waiving the right.

19. Recitals. The recitals are hereby incorporated into this Agreement by this reference.

20. Notices. All notices required or desired to be given under this Agreement shall be in writing and shall be sent by email as follows:

Legal Entity:	Name Title Email
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County:	Name Title Email
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21. Third-Party Beneficiaries. This Agreement shall not create any third-party beneficiary rights for any person or entity; provided, however, that a Party shall be entitled to assert the rights of a Releasee.

22. Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed a single instrument. By their signatures below, each of the following represents that he or she has the authority to execute this binding Agreement.

The undersigned, being duly authorized by their respective companies, execute this Agreement knowingly, with full understanding of its provisions and effect.

**County of Los Angeles
Department of Mental Health**

[LEGAL ENTITY]

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A

DRAFT

LOS ANGELES COUNTY
DEPARTMENT OF MENTAL HEALTH
FINAL RECONCILIATION AND COST SETTLEMENT

ATTACHMENT II

I. LIST OF CONTRACTORS

No	LE#	LE Name
1	00120	Uplift / FamiliesFirst, Inc.+ EMQ Children & Family Svcs (00156)
2	00183	Didi Hirsch Psychiatric Service
3	00191	The Guidance Center
4	00192	Sycamores
5	00194	Hillview Mental Health Center, Inc.
6	00196	Vista Del Mar Child and Family Services
7	00203	Pacific Clinics (+ Portals LE#00205)
8	00207	Child and Family Guidance Center
9	00208	San Fernando Valley CMHC. Inc
10	00320	San Gabriel Children's Center, Inc.
11	00543	Starview
12	00724	Foothill Family Service