

**AMENDMENT NO. 4  
TO STANDARD AGREEMENT A-13554  
BETWEEN COUNTY OF MONTEREY AND  
EVALCORP**

**THIS AMENDMENT** is made to the AGREEMENT A-13554 for evaluation services by and between **EVALCORP**, hereinafter “CONTRACTOR”, and the **County of Monterey**, a political subdivision of the State of California (hereinafter referred to as “COUNTY.”

**WHEREAS**, the COUNTY entered into STANDARD AGREEMENT A-13554 with CONTRACTOR in the amount of \$145,000 for the term of May 31, 2017 to September 30, 2018 for services necessary to develop and implement an evaluation infrastructure for Monterey County’s Mental Health Services Act Prevention and Early Intervention-funded projects and strategies; and

**WHEREAS**, the COUNTY entered into AMENDMENT NO. 1 to AGREEMENT A-13554 with CONTRACTOR to extend the term of the AGREEMENT through June 30, 2020, as well as to revise the EXHIBIT A: SCOPE OF SERVICES/PAYMENT PROVISIONS and the EXHIBIT B: INVOICE FORM to reflect additional evaluation services for a revised total Agreement in the amount of \$314,875; and

**WHEREAS**, the COUNTY entered into AMENDMENT NO. 2 to AGREEMENT A-13554 with CONTRACTOR to revise the EXHIBIT A: SCOPE OF SERVICES/PAYMENT PROVISIONS; and the EXHIBIT B: INVOICE FORM to reflect additional evaluation services to be provided during the current term and to revise the total Agreement amount to \$327,075; and

**WHEREAS**, the COUNTY entered into AMENDMENT NO. 3 to AGREEMENT A-13554 with CONTRACTOR to extend the term through June 30, 2022, and to revise the EXHIBIT A: SCOPE OF SERVICES/PAYMENT PROVISIONS and the EXHIBIT B: INVOICE FORM to reflect additional evaluation services for a revised total Agreement in the amount of \$577,075; and

**WHEREAS**, the COUNTY and CONTRACTOR wish to amend the AGREEMENT to revise the EXHIBIT A: SCOPE OF SERVICES/PAYMENT PROVISIONS and the EXHIBIT B: INVOICE FORM to reflect additional evaluation services in Fiscal Year 2021-22 for a revised maximum total Agreement in the amount of \$633,575, and to revise the EXHIBIT C: BUSINESS ASSOCIATE AGREEMENT;

**NOW THEREFORE**, the COUNTY and CONTRACTOR hereby agree to amend the AGREEMENT in the following manner:

1. EXHIBIT A-4: SCOPE OF SERVICES/PAYMENT PROVISIONS replaces EXHIBITS A-3, A-2, A-1, and A. All references in the Agreement to EXHIBIT A shall be construed

to refer to EXHIBIT A-4. This EXHIBIT A-4 reflects an additional \$56,500 for a revised maximum annual amount of \$181,500 for Fiscal Year 2021-22 and a total maximum Agreement not to exceed \$633,575.

2. EXHIBIT B-4: INVOICE FORM replaces EXHIBITS B-3, B-2, B-1, and B. All references in the Agreement to EXHIBIT B shall be construed to refer to EXHIBIT B-4. This EXHIBIT B-4 reflects an additional \$56,500 for a revised maximum annual amount of \$181,500 for Fiscal Year 2021-22 and a total maximum Agreement not to exceed \$633,575.
3. EXHIBIT C-1: BUSINESS ASSOCIATE AGREEMENT replaces EXHIBIT C. All references in the Agreement to EXHIBIT C shall be construed to refer to EXHIBIT C-1.
4. Except as provided herein, all remaining terms, conditions and provisions of the AGREEMENT are unchanged and unaffected by this AMENDMENT and shall continue in full force and effect as set forth in the AGREEMENT.
5. A copy of this AMENDMENT No. 4 shall be attached to the original AGREEMENT executed by the COUNTY on May 30, 2017.

*(The remainder of this page is intentionally left blank)*

IN WITNESS WHEREOF, COUNTY and CONTRACTOR have executed this Amendment No. 4 to Agreement A-13554 as of the day and year written below.

**COUNTY OF MONTEREY**

**CONTRACTOR**

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Department Head

Date: \_\_\_\_\_

Approved as to Form 1  
By: \_\_\_\_\_  
DocuSigned by:  
*Maina Pantche*  
County Counsel  
Date: 1/25/2022 | 4:45 PM PST

Approved as to Fiscal Provisions<sup>2</sup>  
By: \_\_\_\_\_  
DocuSigned by:  
*Gary Giboney*  
Auditor-Controller  
Date: 1/25/2022 | 4:56 PM PST

Approved as to Liability Provisions<sup>3</sup>  
By: \_\_\_\_\_  
Risk Management  
Date: \_\_\_\_\_

\_\_\_\_\_  
EVALCORP  
Contractor's Business Name\*

By: \_\_\_\_\_  
*Kristen Donovan*  
\_\_\_\_\_  
(Signature of Chair, President, or Vice-President)\*  
Kristen Donovan, President

\_\_\_\_\_  
Name and Title  
Date: 1/20/2022 | 4:26 PM PST

By: \_\_\_\_\_  
DocuSigned by:  
*Ivan Polic*  
\_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

\_\_\_\_\_  
Ivan Polic, Treasurer  
\_\_\_\_\_  
Name and Title  
Date: 1/20/2022 | 5:14 PM PST

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership.

<sup>1</sup> Approval by County Counsel is required.  
<sup>2</sup> Approval by Auditor-Controller is required  
<sup>3</sup> Approval by Risk Management is necessary only if changes are made in Sections XI or XII.

**EXHIBIT A-4**

**To the Agreement by and between  
County of Monterey, Health Department, Behavioral Health Bureau,  
hereinafter referred to as “County”**

**AND**

**EVALCORP, hereinafter referred to as “CONTRACTOR”**

**SCOPE OF SERVICES/PAYMENT PROVISIONS**

**A. SCOPE OF SERVICES**

The Monterey County Health Department, Behavioral Health Bureau has an ongoing need to conduct a comprehensive evaluation to assess the Mental Health Services Act (MHSA) Prevention and Early Intervention (PEI) funded strategies/projects’ implementation and resulting impacts, and to issue a report of findings to the State Department of Health Care Services, the Monterey County Behavioral Health Commission, the Board of Supervisors, and the public.

The evaluation for the MHSA PEI programs requires an infrastructure, including data collection tools and processes, to capture evaluation data aligned with State requirements and County-specific needs. An analysis of the data and summary of findings is presented in an annual report. As required by State PEI regulations, a 3-Year Evaluation Report covering the Fiscal Years 2018-19 through 2020-21, will also be produced, consisting of a high-level, key findings report.

Additionally, the MHSA requires an annual Community Program Planning Process (CPPP) to inform how counties construct their MHSA 3-Year Program and Expenditure Plans and Annual Updates. This contract will provide for the implementation and analysis of an annual Needs Assessment of community members and service providers, inclusive of a Report of Findings Document, that will inform resource allocation and prioritization of programs, strategies, and initiatives to be funded under the MHSA.

**1. CONTRACTOR RESPONSIBILITIES:**

See the following pages for the MHSA PEI Evaluation Project Plan, i.e. Scope of Services, Deliverables, and Timeline.

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**MONTEREY COUNTY MHSA PEI EVALUATION PROJECT PLAN**  
**July 1, 2020 – June 30, 2022**

SCOPE OF SERVICES	DELIVERABLE(S)	TIMELINE
<b>Objective A. FY19-20 and FY20-21 &amp; Three-Year (FY18-19, FY19-20 &amp; FY20-21) Evaluation Data Aggregation, Analysis &amp; Report Development</b>		
<ol style="list-style-type: none"> <li>1. Obtain program-level data and reports for each funded program to inform development of PEI Evaluation Reports for FY19-20 &amp; FY20-21.</li> <li>2. Review program-level data and reports for data quality and consistency and liaise with MCBH staff and/or Providers as needed regarding any data quality concerns or questions.</li> <li>3. Conduct analyses and aggregation of the following: available program-level quantitative data, available program-level outcome data, available program-level qualitative data.</li> <li>4. Create data tables, graphs, and charts of program-level data for inclusion in the FY19-20 &amp; FY20-21 PEI Evaluation Reports.</li> <li>5. Provide recommendations based upon analysis of available data to assess effectiveness and impact of PEI programs to inform decision making of MCBH staff related to resource allocation for PEI funded programs and strategies.</li> <li>6. Finalize FY 19-20 &amp; FY20-21 PEI Evaluation Reports for submission to Monterey County and the State.</li> <li>7. Develop an overarching Summary of Key Findings for FY’s 18/19 through20/21 that present high level findings and data summaries across the fiscal years.</li> <li>8. Provide recommendations based upon analysis of available data to assess effectiveness and impact of PEI programs to inform decision making of MCBH staff related to resource allocation for PEI funded programs and strategies.</li> <li>9. Provide consultation and assistance to Prevention Manager in developing a Monterey County Prevention Report for communicating outcomes and impact of PEI funded programs to community groups and stakeholders, in alignment with annual plans and other MHSA required reporting.</li> </ol>	<ul style="list-style-type: none"> <li>• Inventory of FY 19-20 &amp; FY20-21 program-level data and reports submitted by Providers and County -programs</li> <li>• FY19-20 &amp; FY20-21 PEI Evaluation Reports inclusive of program-level quantitative, qualitative analyses and outcome data</li> <li>• The due date for the final version of the “FY19-20 PEI Evaluation Report” coincides with County’s preparation of the final draft “MHSA FY 22 Annual Update” to be posted March 2021. Draft Report will be submitted to County at least 30 days prior to each Report’s posting date to allow for review and revisions as may be needed.</li> <li>• The due date for the final version of the “FY20-21 PEI Evaluation Report” coincides with County’s preparation of the final draft “MHSA FY 23 Annual Update” to be posted March 2022. Draft Report will be submitted to County at least 30 days prior to each Report’s posting date to allow for review and revisions as may be needed, as well as translation of the Report into Spanish.</li> <li>• The draft version of the “Three-Year (FY18-19, FY19-20 &amp; FY20-21) PEI Evaluation Report” will be submitted to County by May 16, 2022 to allow for review and revisions as may be needed. The final version of this Report will be delivered to the County by May 31, 2022, in advance of submittal by the County to the State by June 30, 2022.</li> </ul>	<ul style="list-style-type: none"> <li>• July 2020 – June 2021</li> <li>• July 2021 – June 2022</li> </ul>

<b>Objective B. Evaluation Infrastructure &amp; Implementation for FY20-21 &amp; FY21-22</b>		
<ol style="list-style-type: none"> <li>1. Conduct best practice/literature review for California counties PEI impact benchmarks to inform how Monterey County assesses local program effectiveness.</li> <li>2. Develop summary report of best practices including benchmarks utilized for program effectiveness/quality and service delivery. Identify counties and practices utilizing Return on Investment metrics and strategies for evaluation and planning purposes.</li> <li>3. Provide consultation to MCBH in support of RFP process for mental health service delivery in FY 21-22.</li> <li>4. Collaborate with MCBH staff and provide recommendations on selection of core evaluation metrics to assess effectiveness and impact of PEI programs.</li> <li>5. Develop model and criteria for Return on Investment in collaboration with MCBH and results of county best practice review/analysis..</li> <li>6. Conduct ongoing document review to inform evaluation activities, including review of Provider scopes of work, program-level data collection tools and reports, state regulations and requirements, and other relevant materials as needed.</li> <li>7. Develop/refine data collection guidelines and conduct trainings with MCBH staff and funded Providers as needed to inform consistent collection of valid, reliable evaluation data based upon lessons learned and any changes in State Regulations.</li> <li>8. Provide ongoing technical assistance to MCBH staff and Providers as needed to strengthen data quality.</li> <li>9. Maintain provider training and technical assistance tracking log.</li> <li>10. Attend meetings (via teleconference and in person) with MCBH staff and Providers as needed regarding evaluation data collection.</li> <li>11. Monitor quality of evaluation data submitted by Providers and MCBH staff on an ongoing basis.</li> <li>12. Contractor will facilitate monthly calls with MCBH staff to monitor evaluation efforts.</li> </ol>	<ul style="list-style-type: none"> <li>● Provide consultation and written recommendations pertaining to PEI programs and implementation</li> <li>● Data collection guidelines and training materials</li> <li>● Inventory of FY 20-21 program-level data and reports submitted by Providers (to be reviewed with MCBH staff on quarterly basis)</li> <li>● Training, technical assistance, and site visit tracking log</li> <li>● Meeting agendas/materials for review</li> <li>● High-Level Summary of Meeting</li> <li>● Best Practices Summary Report</li> <li>● Core Evaluation Metrics developed in collaboration with MCBH</li> </ul>	<p>July 1, 2020 through June 30, 2022</p>

<b>Objective C. Monterey County Needs Assessment for Community Program Planning Process which culminates in the creation of the County’s MHSa FY21-22 &amp; FY22-23 Annual Update documents.</b>		
<b>Needs Assessment Surveys</b>		
<ol style="list-style-type: none"> <li>1. Refine provider needs assessment surveys that will be used to obtain perceptions and recommendations from a broad reach of systems interfacing directly with persons receiving or in need of mental health services. Survey will be administered online with “direct service providers” in law enforcement, hospitals, BH treatment, schools, etc. Work in collaboration with MCBH to disseminate survey countywide. Conduct all quantitative and qualitative analyses for survey. Create mechanism for survey respondents to opt in to provide an email address so that MCBH can share information related to MHSa Three-Year plans and Annual updates.</li> <li>2. Refine community member surveys that will be used to obtain their perceptions and recommendations, to be administered by MCBH Staff.</li> <li>3. Conduct all quantitative and qualitative analyses for surveys. Develop summary report of findings.</li> <li>4. Crosswalk Needs Assessment findings with evaluation data to identify any unmet needs.</li> <li>5. Provide consultation to MCBH on use of Needs Assessment data in service delivery/program planning.</li> </ol>	<ul style="list-style-type: none"> <li>• Provider Needs Assessment Survey</li> <li>• Creation of online survey including administration protocol</li> <li>• Analyses of all collected survey data (quantitative and qualitative)</li> <li>• Develop Provider Needs Assessment Survey Summary Report of Findings and provide draft for review by MCBH staff prior to finalization</li> <li>• Community Members Needs Assessment Survey</li> <li>• Analyses of all collected survey data (quantitative and qualitative)</li> <li>• Develop Community Member Needs Assessment Survey Summary Report of Findings and provide draft for review by MCBH Staff prior to finalization</li> <li>• Provide email addresses of survey respondents for future email communications for those who have opted to share their contact information.</li> </ul>	<p>July 1, 2020 – June 30, 2022</p>
<b>Focus Groups</b>		
<ol style="list-style-type: none"> <li>1. Develop Focus Group Protocol with input from MCBH Staff. Work in collaboration with MCBH Staff to confirm community-based agencies to serve as “host” for each Focus Group and provide assistance to agencies in recruitment for participation in each Focus Group.</li> </ol>	<ul style="list-style-type: none"> <li>• Develop Focus Group Protocol</li> <li>• Conduct Focus Groups via Zoom in English and Spanish when requested by host agency.</li> <li>• Analyses of all input collected (quantitative and qualitative)</li> <li>• Incorporate Focus Group Report of Findings into the above-referenced Needs Assessment Findings and provide a “high-level” summary by 01/20/22, with the final draft Report by 02/28/22 for review by MCBH Staff prior to finalization</li> <li>• Develop a “community friendly” Executive Summary of the Report</li> <li>• Deliver final Report by 03/10/2022.</li> <li>• Provide email addresses of Focus Group participants for future email</li> </ul>	<p>October 15, 2021 – June 30, 2022</p>

	communications for those who have opted to share their contact information.	
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COUNTY and CONTRACTOR acknowledge that the above Project Plan Timeline is a forecast, and if needed can be modified upon mutual written agreement.

## 2. COUNTY RESPONSIBILITIES

- a. Provide timely access to Provider documentation, contracts/scopes of work, data collection tools, data/reports, contact information and other relevant materials as requested by EVALCORP. Assist with requests to County staff and Providers for program-level PEI data and/or reports as needed.
- b. Provide any new MHSA PEI related documentation or reports pertaining to established goals, objectives, outcomes, or other key elements that could impact evaluation or data collection efforts moving forward.
- c. Provide access to internal Quality Improvement staff, PEI contract monitors, and IT database development staff as needed to work with the EVALCORP team.
- d. Participate in meetings with EVALCORP regarding evaluation and data collection needs, issues, and priorities.
- e. Provide information such as dates, times, and locations for meetings at which EVALCORP should attend either via teleconference or in person.

## B. PAYMENT PROVISIONS

### 1. COMPENSATION/ PAYMENT

A. County shall pay an amount not to exceed \$633,575. for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. There shall be no separate travel reimbursement allowed during this Agreement.

Maximum Liability:

FISCAL YEAR PERIOD	MAXIMUM AMOUNT
Initial Agreement: May 31, 2017 – September 30, 2018	\$145,000
Amendment No. 1: October 1, 2018 – June 30, 2020	\$169,875
Amendment No. 2: October 23, 2019 – June 30, 2020	\$12,200
Amendment No. 3: July 1, 2020 – June 30, 2021	\$125,000



Amendments No. 3 & 4: July 1, 2021 – June 30, 2022	\$181,500
<b>TOTAL AGREEMENT MAXIMUM LIABILITY</b>	<b>\$633,575</b>

<b>MONTEREY COUNTY NEEDS ASSESSMENT &amp; PEI EVALUATION SERVICES FY 2020-22</b>	
<b>Project Plan Objective</b>	<b>Percentage of Total Amount of Hours (Estimated)</b>
Objective #1	45%
Objective #2	40%
Objective #3	15%

CONTRACTOR'S compensation for services rendered shall be based on the following rates for the period of **July 1, 2020 through June 30, 2022**:

<b>CONTRACTOR PERSONNEL</b>	<b>RATE/HOUR OFFSITE</b>	<b>RATE/HOUR ONSITE</b>	<b>MAXIMUM TOTAL HOURS (Estimated)</b>
Project Director	\$115.00	\$127.65	336
Project Managers	\$95.00	\$105.45	1,591
Data Manager	\$90.00	\$99.90	805
Research Assistants/M.A. level	\$65.00	\$72.15	681
<b>MAXIMUM TOTAL NUMBER OF HOURS TO COMPLETE ABOVE-STATED DELIVERABLES</b>			<b>3,413</b>

CONTRACTOR warrants that the rates charged for services under the terms of this Agreement are not in excess of those charged any other client for the same services performed by the same individuals.

## EXHIBIT B-4: Invoice Form

<b>Contractor :</b> EVALCORP	<b>Invoice Number :</b> _____
<b>Address Line 1</b> 15614 Alton Parkway, Suite 450	<b>County PO No.:</b> _____
<b>Address Line 2</b> Irvine, CA 92618	<b>Invoice Period :</b> _____
<b>Tel. No.:</b> 949-271-6437	<b>Final Invoice :</b> (Check if Yes) <input type="checkbox"/>
<b>Fax No.:</b> 949-271-6301	
<b>Contract Term:</b> May 31, 2017 - June 30, 2022	
<b>BH Division :</b> Mental Health Services	<b>BH Control Number</b> _____

CONTRACTOR PERSONNEL & TOTAL BILLABLE HOURS	PROJECT DELIVERABLE(S) DURING INVOICE PERIOD	Total Maximum Annual Amount FY 2020-21	Dollar Amount Requested this Period	Dollar Amount Requested to Date	Dollar Amount Remaining	% of Total Contract Amount
		\$ 125,000.00			\$ 125,000.00	100%
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
<b>TOTALS</b>		\$ 125,000.00	\$ -	\$ -	\$ 125,000.00	

I certify that the information provided above is, to the best of my knowledge, complete and accurate; the amount requested for reimbursement is in accordance with the contract approved for services provided under the provision of that contract. Full justification and backup records for those claims are maintained in our office at the address indicated.

Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Date: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

<b>Send to:</b>	Behavioral Health Administration <a href="mailto:MCHDBHFinance@co.monterey.ca.us">MCHDBHFinance@co.monterey.ca.us</a>

Behavioral Health Authorization for Payment	
Authorized Signatory _____	Date _____

## EXHIBIT B-4: Invoice Form

<b>Contractor :</b> EVALCORP	<b>Invoice Number :</b> _____
<b>Address Line 1</b> 15614 Alton Parkway, Suite 450	<b>County PO No.:</b> _____
<b>Address Line 2</b> Irvine, CA 92618	<b>Invoice Period :</b> _____
<b>Tel. No.:</b> 949-271-6437	<b>Final Invoice :</b> (Check if Yes) <input type="checkbox"/>
<b>Fax No.:</b> 949-271-6301	
<b>Contract Term:</b> May 31, 2017 - June 30, 2022	<b>BH Control Number</b> _____
<b>BH Division :</b> Mental Health Services	

CONTRACTOR PERSONNEL & TOTAL BILLABLE HOURS	PROJECT DELIVERABLE(S) DURING INVOICE PERIOD	Total Maximum Annual Amount FY 2021-22	Dollar Amount Requested this Period	Dollar Amount Requested to Date	Dollar Amount Remaining	% of Total Contract Amount
		\$ 181,500.00			\$ 181,500.00	100%
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
					\$ -	
<b>TOTALS</b>		\$ 181,500.00	\$ -	\$ -	\$ 181,500.00	

I certify that the information provided above is, to the best of my knowledge, complete and accurate; the amount requested for reimbursement is in accordance with the contract approved for services provided under the provision of that contract. Full justification and backup records for those claims are maintained in our office at the address indicated.

Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_

Date: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

<b>Send to:</b>	Behavioral Health Administration
	<a href="mailto:MCHDBHFinance@co.monterey.ca.us">MCHDBHFinance@co.monterey.ca.us</a>

Behavioral Health Authorization for Payment	
_____	_____
Authorized Signatory	Date

## EXHIBIT C-1: BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) effective as of date signed by COUNTY below, 20\_\_ (“Effective Date”), is entered into by and among between the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department (“Covered Entity”) and EVALCORP (“Business Associate”) (each a “Party” and collectively the “Parties”).

### RECITALS

A. WHEREAS, Business Associate provides certain services for Covered Entity that involve the Use and Disclosure of Protected Health Information (“PHI”) that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, the Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, subparts A and E (the “Privacy Rule”), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the “Breach Notification Rule”), and the Security Standards for the Protection of Electronic Protected Health Information, 45 C.F.R. Part 160 and Part 164, subparts A and C (the “Security Rule”) (collectively “HIPAA”), all as amended from time to time.

C. WHEREAS, the Parties are also committed to complying with the California Confidentiality Laws (defined below).

D. WHEREAS, to the extent that Business Associate is performing activities in connection with covered accounts for or on behalf of Covered Entity, the Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”).

E. WHEREAS, the Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”) shall be handled, in accordance with such requirements.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

### AGREEMENT

#### 1. DEFINITIONS

All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in HIPAA.

*May 2021*

(a) “Breach” shall have the same meaning as “breach” as defined in 45 C.F.R. § 164.402; however, the term “Breach” as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient’s “medical information” as defined under Cal. Civil Code § 56.05(j), for which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a “breach of the security of the system” under Cal. Civil Code § 1798.29.

(b) “California Confidentiality Laws” shall mean the applicable laws of the State of California governing the confidentiality, privacy, or security of PHI or other personally identifiable information (PII), including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code § 56 *et seq.*), the patient access law (Cal. Health & Safety Code § 123100 *et seq.*), the HIV test result confidentiality law (Cal. Health & Safety Code § 120975 *et seq.*), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code § 5328 *et seq.*), and California’s data breach law (Cal. Civil Code § 1798.29).

(c) “Protected Health Information” or “PHI” shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the individual, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity’s behalf. PHI, when used in this BAA, includes EPHI.

(d) “Services” shall mean the services for or functions performed by Business Associate on behalf of Covered Entity pursuant to an underlying services agreement (“Services Agreement”) between Covered Entity and Business Associate to which this BAA applies.

## **2. PERMITTED USES AND DISCLOSURES OF PHI**

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws if done by Covered Entity;

(b) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(c) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(d) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as

May 2021

permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached; and

(e) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1).

### **3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

#### **3.1. Responsibilities of Business Associate.** Business Associate shall:

(a) Notify the Privacy Officer of Covered Entity, in writing, of: (i) any Use and/or Disclosure of the PHI that is not permitted by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any suspected Breach. Such notice shall be provided within five (5) business days of Business Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure, Security Incident, or suspected Breach. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such ineffective Security Incidents and no additional notification to Covered Entity of such ineffective Security Incidents is required, provided that no such Security Incident results in unauthorized access, acquisition, Use or Disclosure of PHI. For the avoidance of doubt, a ransomware attack shall not be considered an ineffective Security Incident and shall be reported to Covered Entity, irrespective of whether such Security Incident results in a Breach. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or suspected Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon request.

(i) If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or suspected Breach constitutes a Breach, then Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall include, to the extent possible, the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used or Disclosed during the Breach, to Covered Entity without unreasonable delay, but no later than five (5) business days after discovery of the Breach;

(ii) In consultation with Covered Entity, Business Associate shall promptly mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach;

(iii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the appropriate government agencies, and other persons required by law to be notified. Business Associate shall assist with any notifications, as requested by Covered Entity. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate shall reimburse Covered Entity for its reasonable costs and expenses in providing notification to affected individuals, appropriate government agencies, and any other persons required by law to be notified (e.g., without limitation, the media or consumer reporting agencies), including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, attorney fees, and costs of mitigating the harm (which may include the costs of obtaining up to one (1) year of credit monitoring services and identity theft insurance) for affected individuals whose PHI or other PII has or may have been compromised as a result of the Breach;

(b) Implement appropriate administrative, physical, and technical safeguards and comply with the Security Rule and industry best practices to prevent Use and/or Disclosure of EPHI other than as provided for by this BAA;

(c) Obtain and maintain a written agreement with each of its Subcontractors that creates, receives, maintains, or transmits PHI that requires each such Subcontractor to adhere to restrictions and conditions that are at least as restrictive as those that apply to Business Associate pursuant to this BAA. Upon request, Business Associate shall provide Covered Entity with copies of its written agreements with such Subcontractors;

(d) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services (“Secretary”) in a time and manner designated by the Secretary for purposes of determining Covered Entity’s or Business Associate’s compliance with HIPAA. Business Associate shall immediately notify Covered Entity of any such requests by the Secretary and, upon Covered Entity’s request, provide Covered Entity with any copies of documents Business Associate provided to the Secretary. In addition, Business Associate shall promptly make available to Covered Entity such practices, records, books, agreements, policies and procedures relating to the Use and Disclosure of PHI for purposes of determining whether Business Associate has complied with this BAA or maintains adequate security safeguards, upon reasonable request by Covered Entity. The fact that Covered Entity has the right to inspect, inspect, or fails to inspect Business Associate’s internal practices, records, books, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this BAA, regardless of whether Covered Entity detects or fails to detect a violation by Business Associate, nor does it constitute Covered Entity’s acceptance of such practices or waiver of Covered Entity’s rights under this BAA;

(e) Document Disclosures of PHI and information related to such Disclosure and, within twenty (20) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the Disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528 and the HITECH Act. At a minimum, the Business Associate shall provide Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) days, forward such request to Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(f) Subject to Section 4.4 below, return to Covered Entity in a mutually agreeable format and medium, or destroy, within thirty (30) days of the termination of this BAA, the PHI in its possession and retain no copies, including backup copies;

(g) Use, Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(h) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) days' prior written request from Covered Entity, provide access to the PHI to Covered Entity, or to the individual, if so directed by Covered Entity, to meet a request by an individual under 45 C.F.R. § 164.524 or California Confidentiality Laws. Business Associate shall notify Covered Entity within five (5) days of its receipt of a request for access to PHI from an individual; and

(ii) Upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within five (5) days of its receipt of a request for amendment of PHI from an individual;

(i) If applicable, maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(j) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(k) Unless prohibited by law, notify Covered Entity as soon as possible and in no case later than five (5) days after the Business Associate's receipt of any request

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or subpoena for PHI. To the extent that Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with Covered Entity in such challenge; and

(l) Maintain policies and procedures materially in accordance with HIPAA and California Confidentiality Laws and industry standards designed to ensure the confidentiality, availability, and integrity of Covered Entity's data and protect against threats or vulnerabilities to such data.

### **3.2 Business Associate Acknowledgment.**

(a) Business Associate acknowledges that, as between the Business Associate and Covered Entity, all PHI shall be and remain the sole property of Covered Entity.

(b) Business Associate is not permitted to Use PHI to create de-identified information except as approved in writing by Covered Entity.

(c) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA.

(d) Business Associate further acknowledges that Uses and Disclosures of PHI must be consistent with Covered Entity's privacy practices, as stated in Covered Entity's Notice of Privacy Practices. The current Notice of Privacy Practices can be retrieved online from the Covered Entity's webpage. Business Associate agrees to review the Notice of Privacy Practices at this URL at least once annually while doing business with Covered Entity to ensure it remains updated on any changes to the Notice of Privacy Practices Covered Entity may make.

**3.3 Responsibilities of Covered Entity.** Covered Entity shall notify Business Associate of any (i) changes in, or withdrawal of, the authorization of an individual regarding the Use or Disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; or (ii) restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

## **4. TERM AND TERMINATION**

**4.1 Term.** This BAA shall become effective on the Effective Date and shall continue in effect until all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy PHI, protections are extended to such PHI, in accordance with the termination provisions in Section 4.4. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

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**4.2 Termination.** If Covered Entity determines in good faith that Business Associate has breached a material term of this BAA, Covered Entity may either: (i) immediately terminate this BAA and any underlying Services Agreement without penalty; or (ii) terminate this BAA and any underlying Services Agreement within thirty (30) days of Business Associate's receipt of written notice of such breach, if the breach is not cured to the satisfaction of Covered Entity.

**4.3 Automatic Termination.** This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of all Services Agreements between Covered Entity and Business Associate that would necessitate having this BAA in place.

**4.4 Effect of Termination.** Upon termination or expiration of this BAA for any reason, Business Associate shall return or destroy all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so. Prior to returning or destroying the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. Business Associate shall certify in writing that all PHI has been returned or securely destroyed, and no copies retained, upon Covered Entity's request. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall notify Covered Entity in writing of the condition that makes return or destruction infeasible. If Covered Entity agrees that return or destruction of the PHI is infeasible, as determined in its sole discretion, Business Associate shall: (i) retain only that PHI which is infeasible to return or destroy; (ii) return to Covered Entity the remaining PHI that the Business Associate maintains in any form; (iii) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; (iv) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Sections 2 and 3 above, which applied prior to termination; and (v) return to Covered Entity the PHI retained by Business Associate when such return is no longer infeasible.

## **5. MISCELLANEOUS**

**5.1 Survival.** The obligations of Business Associate under the provisions of Sections 3.1, 3.2, and 4.4 and Article 5 shall survive termination of this BAA until such time as all PHI is returned to Covered Entity or destroyed.

**5.2 Amendments; Waiver.** This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA or California Confidentiality Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

**5.3 No Third Party Beneficiaries.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

**5.4 Notices.** Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile or email to the facsimile telephone numbers or email addresses listed below.

If to Business Associate, to:

\_\_\_\_\_  
EVALCORP

\_\_\_\_\_  
Attn: Kristen Donovan, PhD. President & Principal Consultant

\_\_\_\_\_  
15615 Alton Parkway, Suite 450

\_\_\_\_\_  
Irvine, CA 92618

\_\_\_\_\_  
Phone: 949-215-2312

\_\_\_\_\_  
Fax: 949-271-6301

\_\_\_\_\_  
Email: kdonovan@evalcorp.com

If to Covered Entity, to:

County of Monterey Health Department

Attn: Compliance/Privacy Officer

1270 Natividad Road

Salinas, CA 93906

Phone: 831-755-4018

Fax: 831-755-4797

Email: sumeshwarsd@co.monterey.ca.us

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

**5.5 Counterparts; Facsimiles.** This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile and electronic copies hereof shall be deemed to be originals.

**5.6 Relationship of Parties.** Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

**5.7 Choice of Law; Interpretation.** This BAA shall be governed by the laws of the State of California. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with HIPAA and the California Confidentiality Laws.

**5.8 Indemnification.** Business Associate shall indemnify, defend, and hold harmless the County of Monterey (the “County”), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including costs incurred by the County with respect to any investigation, enforcement proceeding, or third party action, arising out of, or in connection with, a violation of this BAA, HIPAA or California Confidentiality Laws, or a Breach that is attributable to an act or omission of Business Associate and/or its agents, members, employees, or Subcontractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the Parties to provide the broadest possible indemnification for the County. This provision is in addition to, and independent of, any indemnification provision in any Services Agreement between the Parties.

**5.9 Applicability of Terms.** This BAA applies to all present and future Services Agreements and business associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control.

**5.10 Insurance.** In addition to any general and/or professional liability insurance required of Business Associate under the Services Agreement, Business Associate agrees to obtain and maintain, at its sole expense, liability insurance on an occurrence basis, covering any and all claims, liabilities, demands, damages, losses, costs expenses, fines, and compliance costs arising from a breach of the obligations of Business Associate, its officers, employees, agents and Subcontractors under this BAA. Without limiting the foregoing, at a minimum, Business Associate’s required insurance under this Section shall include cyber liability insurance covering breach notification expenses, network security and privacy liability, with limits of not less than \$10,000,000 per claim and in the aggregate. Such insurance coverage will be maintained for the term of this BAA, and a copy of such policy or a certificate evidencing the policy shall be provided to Covered Entity at Covered Entity’s request.

**5.11 Legal Actions.** Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law. This includes, without limitation, any allegation that Business Associate has violated HIPAA or other federal or state privacy or security laws.

**5.12 Audit or Investigations.** Promptly, but no later than five (5) calendar days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliance review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA or the California Confidentiality Laws.

**5.13 Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself, and any Subcontractors, employees, or agents assisting Business Associate in the performance of its obligations under any Services Agreements, available to Covered Entity, at no cost to Covered Entity, to testify in any claim commenced against Covered Entity, its directors, officers, employees, successors, and assigns based upon claimed violation by Business Associate or its agents or subcontractors of HIPAA or other applicable law, except where Business Associate or its Subcontractor, employee, or agent is a named adverse party.

**5.14 No Offshore Work.** In performing the Services for, or on behalf of, Covered Entity, Business Associate shall not, and shall not permit any of its Subcontractors, to transmit or make available any PHI to any entity or individual outside the United States without the prior written consent of Covered Entity.


**5.15 Information Blocking Rules.** Business Associate shall not take any action, or refuse to take any action, with regard to Covered Entity’s electronic health information that would result in “information blocking” as prohibited by 42 U.S.C. § 300jj-52 and 45 C.F.R. Part 171 (collectively, “Information Blocking Rules”). Business Associate and Covered Entity shall cooperate in good faith to ensure Covered Entity’s electronic health information is accessed, exchanged, and used in compliance with the Information Blocking Rules.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

**BUSINESS ASSOCIATE**

**COVERED ENTITY**

By: \_\_\_\_\_  
Print Name Elsa Jimenez  
Print Title Director of Health  
Date: \_\_\_\_\_

By:   
Print Name: Kristen Donovan  
Print Title: President  
Date: 1/20/2022 | 4:26 PM PST