

AMENDMENT NO. 2 TO AGREEMENT A-12259

This Amendment No. 2 to Agreement A-12259 is made and entered into by and between the County of Monterey, hereinafter referred to as COUNTY, and EMQ FamiliesFirst, hereinafter referred to as CONTRACTOR.

WHEREAS, COUNTY and CONTRACTOR have heretofore entered into Agreement A-12259 dated June 26, 2012 (Agreement); and

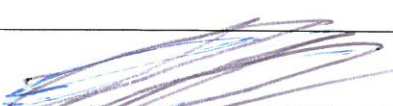

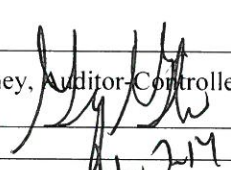

WHEREAS, on June 17, 2014, COUNTY and CONTRACTOR entered into Amendment No. 1 to increase the units of service for Program I: Therapeutic Behavioral Services, add Program II Home Alternatives to Residential Treatment (HART); and


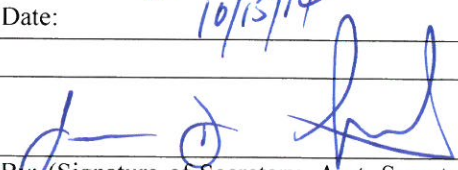
WHEREAS, the COUNTY and CONTRACTOR wish to amend the AGREEMENT to increase the units of service and funding to Program II Home Alternatives to Residential Treatment (HART), increase total amount of the AGREEMENT, revise the Payment Provisions for FY 2014-15, and update the Business Associate Agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein and in the Agreement, the parties agree as follows:

1. Amendment No. 1 to EXHIBIT A-1 of Agreement A-12259 is replaced with Amendment No. 2 to EXHIBIT A-2. All references in the Agreement to EXHIBIT A shall be construed to refer to Amendment No. 2 to EXHIBIT A-2.
2. Amendment No. 1 to EXHIBIT B-1 of Agreement A-12259 is replaced with Amendment No. 2 to EXHIBIT B-2. All references in the Agreement to EXHIBIT B shall be construed to refer to Amendment No. 2 to EXHIBIT B-2.
3. PAYMENTS BY COUNTY, COUNTY shall pay the CONTRACTOR in accordance with the payment provisions set forth in Amendment No. 2 EXHIBIT B-2, subject to the limitations set forth in this Agreement. The total amount payable by COUNTY to CONTRACTOR under this Agreement shall not exceed the sum of **\$1,144,318.**
4. EXHIBIT F of Agreement A-12259 is replaced with Amendment No. 2 to EXHIBIT F-2. All references in the Agreement to EXHIBIT F shall be construed to refer to Amendment No. 2 to EXHIBIT F-2.
5. All other terms and conditions of Agreement A-12259 shall remain in full force and effect.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Amendment No. 2 to Agreement A-12259 as of the day and year written below.

COUNTY OF MONTEREY	
By: Mike Derr, Contracts/Purchasing Officer	
Date:	
	
By: Ray Bullick, Director of Health	
Date:	12-17-14
<i>Approved as to Form</i>	
	
By: Stacy Saetta, Deputy County Counsel ¹	
Date:	11-7-14
<i>Approved as to Fiscal Provisions</i>	
	
By: Gary Giboney, Auditor-Controller ²	
Date:	11-2-14
<i>Approved as to Liability Provisions</i>	
	
By: Steve Mauck, Risk Management ³	
Date:	

EMQ FamiliesFirst	
	
By: Darrell Evora (CEO-President)	
Date:	10/15/14
	
By: (Signature of Secretary, Asst. Secretary, CFO, or Asst. Treasurer)*	
Date:	10/15/14

*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. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

¹Approval by County Counsel is required.

²Approval by Auditor-Controller is required.

³Approval by Risk Management is necessary only if changes are made in Sections XI or XII.

**Amendment No. 2 to EXHIBIT A-2:
PROGRAM DESCRIPTION**

Program I: Therapeutic Behavioral Services (TBS)

I. IDENTIFICATION OF PROVIDER

EMQ FamiliesFirst
251 Lewellyn Avenue
Campbell, CA 95008

II. PROGRAM NARRATIVE

CONTRACTOR will provide Therapeutic Behavioral Services (TBS) to Monterey County children who are eligible for Medi-Cal and meet criteria for medical necessity. These services are available to children with difficult behaviors who require one-to-one assistance and who may be at risk of psychiatric hospitalization. TBS is an intensive one-to-one, face-to-face, short term outpatient treatment intervention for beneficiaries under age 21 with serious emotional disturbances (SED) who are experiencing a stressful transition or life crisis and need additional short-term specific support services. CONTRACTOR must have appropriate licensed, trained and sufficient staff available to dedicate exclusively to TBS services. TBS must be provided under the direction of a licensed practitioner of the healing arts (physicians, psychologists, licensed clinical social workers, marriage and family therapists, and registered nurses with a master's degree).

TBS must be needed to prevent placement in a group home at Rate Classification Level (RCL) 12 through 14 or a locked psychiatric facility for the treatment of mental health needs, or to enable a transition from any of those levels to a lower level of residential care.

TBS is not a “stand alone” service, and is intended to supplement other specialty mental health services by addressing the target behavior(s) or symptom(s) that are jeopardizing the child/youth's current living situation or planned transition to a lower level of placement.

Eligible children or youth are eligible to receive these services if they have an included diagnosis, their condition would not be responsive to physical healthcare based treatment, and the service will correct or ameliorate the diagnosed mental illness.

III. PROGRAM GOALS

Provide the child/youth with skills to effectively manage the behavior(s) or symptom(s) that is the barrier to achieving or maintaining residence in the lowest appropriate level.

IV. OBJECTIVES

- A. Reduce child/youth's impulsive behaviors
- B. Reduce child/youth's inappropriate responses to stressful situations
- C. Teach child/youth pro-social skills and community competencies
- D. Provide parents/caregivers skills and strategies to provide continuity of care when services are discontinued

V. TREATMENT SERVICES

- A. Mode of Service: Outpatient Services

B. Contracted units of service by type: Examples of such services include: Mental Health Services and Case Management

SERVICE YEAR	SERVICE TYPE	MODE	SERVICE FUNCTION CODE	EST. NO OF UNDUPLICATED YOUTH SERVED **	UNITS OF SERVICE 2012-15
FY 2012-13	Mental Health Services-TBS	15	58	26	98,825
FY 2013-14	Mental Health Services-TBS	15	58	33	126,139
FY 2014-15	Mental Health Services-TBS	15	58	41	156,000

** The unduplicated number of children served was calculated using an average length of service of 90 days. This number may vary on an individual basis but County will monitor to ensure any variance over the 90 days average is reasonably justified. It is expected that this 90 day window will be consistent.

C. Delivery Site: To be determined by the needs of the family and child. Examples being: Family home or community setting

D. Hours of Operation: To be determined by the needs of the family and child and may include nights and weekends. By assignment/referral.

E. Two important components of delivering TBS include:

1. Making collateral contacts with family members, caregivers, mental health provider, and other significant people in the life of the child/youth; and
2. Developing a functional assessment and treatment plan clearly identifying specific target behaviors to be addressed and the interventions that will be used to address the target behaviors.

F. TBS services cannot be provided solely:

1. For the convenience of the family or other caregivers, physician, or teacher;
2. To provide supervision or to assure compliance with terms and conditions of probation;
3. To ensure the child/youth's physical safety or the safety of others, e.g., suicide watch; or
4. To address conditions that are not part of the child/youth's mental health condition.

G. Furthermore, TBS services are not for:

1. Children/youth who can sustain non-impulsive self-directed behavior, handle themselves appropriately in social situations with peers, and who are able to appropriately handle transitions during the day;
2. Children/youth who will never be able to sustain non-impulsive self-directed behavior and engage in appropriate community activities without full-time supervision; or
3. Children/youth who are currently admitted in an inpatient psychiatric hospital, psychiatric health facility, nursing facility, IMD, or crisis residential program or Juvenile Hall.

H. Service Charge Entry, Admission and Discharges

The contractor will be responsible for entering into the AVATAR system, within 72 hours of occurrence, Client Information System (CSI) Admission and Discharges and entering services provided.

VI. POPULATION/CATCHMENT AREA TO BE SERVED

Monterey County youth under the age of 21 who have full scope Medi-Cal and who are authorized for services by the Behavioral Health TBS Case Manager.

VII. FINANCIAL ELIGIBILITY

All eligible full-scope Medi-Cal Monterey County Residents who have been authorized and referred by the Behavioral Health TBS Case Manager. The TBS Case manager will ensure full scope Medi-Cal has been established and verified prior to the referral. Full scope Medi-Cal eligibility will be determined by Medi-Cal aid code as defined in Title XXI of the Social Security Act and the State Department of Mental Health latest Aid Codes Master Chart. The Chart can be found at the following web URL: <http://www.dmh.ca.gov/medccc/library.asp> The contractor must monitor referrals and verify Medi-Cal eligibility for each client referred by checking on the website: <https://www.medi-cal.ca.gov/Eligibility/Login.asp>. Any discrepancies of Medi-Cal eligibility must be communicated immediately to the Contract Monitor and resolved. Services provided to non Medi-Cal eligible children will not be reimbursed to contractor unless the Deputy Director of Behavioral Health has approved for these services in writing.

VIII. LIMITATION OF SERVICE/PRIOR AUTHORIZATION

All services need authorization and coordination with ongoing mental health services. Authorization will be provided by the Monterey County Behavioral Health Bureau, Children's Case Management Supervisor, Children's Behavioral Health Services Manager or Deputy Director. All service plans must be signed by the Mental Health treatment coordinator, TBS provider working with Behavioral Health Coordinator and the youth's parent or guardian. Each authorization will define service limitations.

Procedure for TBS Referral and Authorization

1. Clinicians, Social workers, Probations Officers, etc. will complete and submit a TBS referral form to the Behavioral Health TBS Case Manager. The TBS Case Manager will review and submit the authorized referral form to CONTRACTOR. While providing services, CONTRACTOR will conduct an initial assessment and develop a treatment plan within 30 days of authorization (**Refer to Exhibit J**).
2. The initial entry and admission into the System, CSI Admission, will be done by the contractor using the AVATAR system. If initial admission was done already, an update to the CSI data will be required.
3. By 8:30am on the expiration date of the initial authorization period (or the workday prior if date falls on a weekend or holiday), Contract provider will deliver entire client chart to 951 B Blanco Circle, Salinas, CA. This chart is to include the Functional Assessment and treatment plan (signed by client, parent, TBS provider, and client's clinician) as well as the authorization request. Upon approval of the treatment plan, BH TBS Case Manager will sign the plan and notify provider that the chart is ready for pick-up.
4. One week prior to the end of each subsequent 60 day period Contract provider will present entire chart to include an updated treatment plan (signed by client, parent, TBS

- provider, and client's clinician) along with authorization request. Upon approval of plan, BH TBS Case Manager will notify provider that the chart is ready for pick-up.
5. Contract provider will complete a TBS Monthly Review form for each of the Monterey County clients. The review form is to be maintained in the clients chart and will be reviewed when the chart is submitted for plan approval (**Refer to Exhibit K**).
 6. Upon Discharge, a Service Summary Discharge form is to be completed and submitted to the BH TBS Case Manager within 48 hours (**Refer to Exhibit L**). This discharge will be entered into the Electronic Medi-Cal Records within 72 hours of discharge by contractor using the AVATAR system. All Client Service Information (CSI) data will be entered at this time.
 7. On a bi-weekly basis, Contract provider will fax daily progress notes to BH TBS case manager for the 2-weeks prior.
 8. Any services provided by contractor will be entered into the AVATAR system within 72 hours of service provision.

**All reporting requirements are based upon current standards that are subject to change due to Monterey County Behavioral Health's use of the Electronic Medical Records System. CONTRACTOR shall be notified should a change occur.

Reauthorization of Services:

CONTRACTOR may request from the designated BH TBS Case Manager a reauthorization of services for any enrolled client who is in need of additional services. CONTRACTOR will submit a TBS Request for Reauthorization form along with a treatment plan to designated BH TBS Case Manager for review and approval for extension of services (**Refer to Exhibit M**). For clients who are reauthorized, the contractor will discharge the client upon expiration of the re-authorization period.

IX. CLIENT DESCRIPTION/CHARACTERISTICS

Full scope Medi-Cal recipients under 21 years of age who meet MONTEREY COUNTY Mental Health Plan medical necessity criteria, are receiving other specialty mental health services, and who are members of the certified class by meeting one of the following criteria:

- A. Is at risk of admission to a hospital for acute psychiatric inpatient hospital services or to a psychiatric health facility for acute care, or
- B. Has undergone at least one emergency psychiatric hospitalization related to his/her current presenting disability within the preceding 24 months, or
- C. Is being considered by the COUNTY for placement in a group home facility, RCL 12 or above, and/or a locked treatment facility, or
- D. Previously received therapeutic behavioral services while a member of the certified class.

X. REPORTING REQUIREMENTS

Monterey County is a Level II Mental Health Provider (MHP); therefore, CONTRACTOR will follow all applicable reporting requirements and regulations as outlined by the State Department of Mental Health Guidelines. The latest TBS documentation requirements are posted at the following website:

http://www.dmh.ca.gov/Services_and_Programs/Children_and_Youth/EPSTD.asp

The contractor is expected to always be in compliance with the reporting manual requirements on this website.

XI. MEETINGS/COMMUNICATIONS

The Primary Contact for the COUNTY shall convene a quarterly meeting which will include appropriate CONTRACTOR and COUNTY representation. The purpose of these meetings shall be to oversee implementation of the contract; discuss contract issues; evaluate contract usage and effectiveness; and make recommendations for contract modifications as needed and agreed upon by both the CONTRACTOR and the COUNTY.

XII. LEGAL STATUS

Voluntary

XIII. COVERAGE

Therapeutic Behavioral Health Services (TBS)

XIV. DESIGNATED CONTRACT MONITOR

Marti Barton, BH Services Children's Program Manager
Children's Behavioral Health
951 Blanco Circle, Suite B
Salinas, CA 93901
(831) 784-2180

PROGRAM II: HOME ALTERNATIVES TO RESIDENTIAL TREATMENT (HART)

I. IDENTIFICATION OF PROVIDER

EMQ FamiliesFirst
251 Lewellyn Avenue
Campbell, CA 95008

II. PROGRAM NARRATIVE

CONTRACTOR will provide Home Alternatives to Residential Treatment (HART) services to Monterey County children who are receiving Special Education services through their Individual Education Plan (IEP) and have been identified by their IEP teams as being "at imminent risk of residential treatment". HART services provide highly individualized, intensive case management and one-to-one behavioral intervention that address the social emotional needs presenting barriers to academic success. CONTRACTOR must have appropriate licensed, trained and sufficient staff available and HART services must be provided under the direction of a licensed practitioner of the healing arts (physicians, psychologists, licensed clinical social workers, marriage and family therapists, and registered nurses with a master's degree).

HART must be needed to reduce risk of residential treatment and must be approved by the client's IEP team prior to a referral being made to CONTRACTOR.

III. PROGRAM GOALS

Increase child's ability to function in his/her school setting so that he/she can benefit from his/her educational placement and remain living at home.

IV. PROGRAM OBJECTIVES

- A. To provide children and their families a service alternative to residential treatment through the provision of intensive services.
- B. To stabilize the child’s behaviors of concern that are causing functional impairment and preventing him or her from being successful in his/her academic placement.
- C. To provide services that are individualized to build on the strengths of each eligible child and are tailored to address their unique and changing needs.
- D. To develop all plans through the IEP Team.

V. TREATMENT SERVICES

- A. Mode of Service: Outpatient Services
- B. Contract units of service by type:

SERVICE TYPE	MODE	SERVICE FUNCTION CODE	RATE (PER MINUTE)	FY 2014-15 ESTIMATED UNITS OF SERVICE
Case Management: Intensive Case Coordination 26.5	15	01	\$2.02	57,471
Crisis Intervention: Psychotherapy for Crisis 26.5	15	70	\$3.88	
Mental Health Services: Intensive Home based Service 26.5	15	30	\$2.61	
Mental Health Services: Assessment 26.5	15	30	\$2.61	
Mental Health Services: Plan Development 26.5	15	30	\$2.61	

VI. POPULATION/CATCHMENT AREA TO BE SERVED

MCBH will be the only source of referral for HART clients. All clients will have an IEP and must be authorized to receive HART services by the client’s IEP team.

VII. ELIGIBILITY CRITERIA

Clients being considered for the HART program should meet the following criteria:

- A. Demonstrating behaviors that are causing functional impairment and placing the client at *imminent risk* of residential treatment
- B. Receiving Special Education services through an IEP
- C. Open to MCBH services

In addition, HART can be considered appropriate for clients in need of intensive supportive services to assist with transition back home from a residential care setting.

VIII. LIMITATION OF SERVICES/PRIOR AUTHORIZATION

All services require authorization from the client’s IEP team and are to be coordinated with ongoing MCBH services. HART referrals from MCBH must be made and authorized prior to service delivery of HART services by CONTRACTOR.

IX. PROCEDURE FOR HART REFERRAL AND AUTHORIZATION FOR SERVICES

- A. When it appears that a client with an IEP is exhibiting behavior that places him or her at imminent risk of residential placement and may be in need of more intensive services than he or she is currently receiving, the MCBH HART Case Coordinator will attend an IEP meeting to discuss consideration of adding HART services to the client’s IEP.

- B. If, at the IEP meeting, it is determined by the IEP team, that all other interventions have proven to be ineffective in stabilizing the client's behaviors, the IEP team will add HART services to the IEP. This documentation must be clearly indicated on IEP 12 from in the Notes/Additional Information section and include, in writing, that the HART Program Service is being added to the IEP because the client is "**at imminent risk of residential treatment**". The HART Case Coordinator will work with the client's IEP team to develop a Coordination of Services goal that will address the social emotional needs of the client and decide on the number of service hours that will be provided by the CONTRACTOR where indicated.
- C. Once HART services have been added to the client's IEP and a referral to the HART CONTRACTOR has been approved, the MCBH HART Case Coordinator will prepare a HART referral packet to include the HART Referral Form, a signed Authorization for the Release and Exchange of Confidential Information form, the client's most recent Psychosocial Assessment, a current Treatment Plan, and a copy of the IEP documenting the number of contracted service hours that have been approved by the client's IEP team. No services will be implemented without documented approval from the client's District of Residence and the client's parent or Legal Guardian, either through an addendum or subsequent IEP Team Meeting.

X. SERVICE DELIVERY AND DOCUMENTATION

- A. **Delivery Site:** HART services will be provided in the child's home, school or community settings where she/he is experiencing functional impairment.
- B. **Hours of Operation:** To be determined by the needs of the child and family and may include nights and weekends. By assignment/referral.
- C. **Service Type:**
 - 1. Behavioral intervention, coaching, and intervention focused on decreasing frequency, intensity, and duration of behavior placing the child at risk of residential treatment.
 - 2. Collateral contacts with family members, caregivers and other significant people in the child's life.
 - 3. Intensive case management/ linkage and brokerage to low cost/no cost community resources that will assist in stabilizing the child's behaviors of concern and reduce risk of out of home placement. Case management services will also include ongoing consultation with the child's MCBH therapist, MCBH HART Case Coordinator, IEP Case Carriers, and other school staff directly involved with the child's educational placement.
- D. **Service Documentation:**
 - 1. Upon receipt of the HART referral packet, the CONTRACTOR will conduct an initial assessment and develop a service plan within 30 days from referral. The service plan must be based on the IEP Coordination of Services goal and findings from the initial assessment and address behaviors that are school-related and preventing the client from being successful in his/her academic placement.

2. All service plans must be approved and signed by the HART Case Coordinator, the client (if 12 years or older), the client's parent or Legal Guardian, and HART provider working directly with the client and the master's level practitioner providing clinical oversight to the contracted services.
3. The CONTRACTOR will submit service plan updates every 60 days following the initial 30 day assessment period to the HART Case Coordinator to include the aforementioned signatures required on the initial service plan.

E. Service Delivery:

1. The CONTRACTOR will provide services as outlined on the service plan and conduct monthly Coordination of Services meetings with the child and family focused on reviewing and monitoring progress with HART services.
2. identify a meeting time that will accommodate schedules with all parties involved. In the event that the MCBH HART Case Coordinator is not able to attend the scheduled meeting, the CONTRACTOR will contact the MCBH HART Case Coordinator following the meeting to provide an update on client progress following the meeting.
3. When IEP meetings are scheduled for HART clients, the MCBH HART Case Coordinator will notify the CONTRACTOR to request participation so that reports on client progress can be made and any adjustments to service hours can be proposed for IEP team consideration.
4. When the CONTRACTOR and MCBH HART Case Coordinator have determined that the client has maintained progress and his or her behaviors of concern have stabilized, the MCBH HART Case Coordinator will request an IEP meeting to propose the dismissal of HART services from the client's IEP or discuss an appropriate fade out plan approved by the IEP team.
5. When the IEP team has decided that HART services are no longer necessary and the services have been dismissed from the IEP, the CONTRACTOR will provide the MCBH HART Case Coordinator with a Discharge Summary within 10 days of the IEP meeting when HART services were dismissed.

XI. MEETINGS/COMMUNICATIONS

The Primary MCBH HART Contact shall convene a quarterly meeting or as frequently necessary which will include appropriate CONTRACTOR and MCBH representation. The purpose of these meetings shall be to oversee implementation of the contract specifically; discuss contract issues; evaluate contract usage and effectiveness; and make recommendations for contract modifications as needed and agreed upon by both the CONTRACTOR and MCBH.

XII. LEGAL STATUS

Voluntary

XIII. PROGRAM REPORTING REQUIREMENTS

CONTRACTOR will submit monthly invoices to HART Contract Monitor outlining services provided to each client eligible for HART services. The information shall contain the number of hours of services provided including a descriptive summary of those services provided.

XIV. PRIMARY MCBH HART CONTACT

Kacey Rodenbush, MCBH Unit Supervisor

Children's Behavioral Health
299a 12th Street
Marina, CA 93933
(831) 647-7651

XV. DESIGNATED CONTRACT MONITOR FOR PROGRAM II

Bob Brunson, MCBH Services Children's Program Manager
Children's Behavioral Health
299a 12th Street
Marina, CA 93933
(831) 647-7711

**Amendment No. 2 to EXHIBIT B-2:
PAYMENT AND BILLING PROVISIONS**

I. PAYMENT TYPES

Cost Reimbursed (CR) up to maximum contract amount

II. PAYMENT AUTHORIZATION FOR SERVICES

The COUNTY'S commitment to authorize reimbursement to the CONTRACTOR for services as set forth in this Exhibit B is contingent upon COUNTY authorized admission and service, and CONTRACTOR'S commitment to provide care and services in accordance with the terms of this Agreement.

III. PAYMENT RATE

CONTRACTOR shall be reimbursed negotiated rates, or the actual cost of providing the service, whichever is less and be subject to all the cost reporting provisions set forth in XIII and XIV of this agreement.

The following program services will be paid in arrears, not to exceed the negotiated rates for a total maximum of **\$1,144,318** for services rendered under this Agreement.

PROGRAM I: TBS

SERVICE YEAR	SERVICE TYPE	MODE	SERVICE FUNCTION CODE	UNITS OF SERVICE 2012-15	RATE	AMOUNT PER FY
FY 2012-13	Mental Health Services-TBS	15	58	98,825	\$2.61	\$257,935
FY 2013-14	Mental Health Services-TBS	15	58	126,139	\$ 2.61	\$329,223
FY 2014-15	Mental Health Services-TBS	15	58	156,000	\$ 2.61	\$407,160
TBS TOTAL MAXIMUM CONTRACT AMOUNT						\$994,318

PROGRAM II: HART

SERVICE TYPE	MODE	SERVICE FUNCTION CODE	RATE (PER MINUTE)	FY 2014-15 ESTIMATED UNITS OF SERVICE	FY 2014-15 CONTRACT AMOUNT
Case Management: Intensive Case Coordination 26.5	15	01	\$2.02	57,471	\$150,000
Crisis Intervention: Psychotherapy for Crisis 26.5	15	70	\$3.88		
Mental Health Services: Intensive Home based Service 26.5	15	30	\$2.61		
Mental Health Services: Assessment 26.5	15	30	\$2.61		
Mental Health Services: Plan Development 26.5	15	30	\$2.61		
HART TOTAL MAXIMUM CONTRACT AMOUNT					\$150,000

TOTAL MAXIMUM AGREEMENT AMOUNT Program I (TBS) and Program II (HART)	\$1,144,318
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IV. PAYMENT CONDITIONS

A. If CONTRACTOR is seeking reimbursement for eligible services funded by the Short-Doyle/Medi-Cal, Mental Health Services Act (“MHSA”), SB 90, Federal or State Grants, and/or COUNTY funds provided pursuant to this Agreement, reimbursement for such services shall be based on actual cost of providing those services less any deductible revenues collected by the CONTRACTOR from other payer sources. In order to reduce COUNTY costs, the CONTRACTOR shall comply with all applicable provisions of the California Welfare and Institutions Code (WIC), the California Code of Regulations, the Code of Federal Regulations, and the federal Social Security Act related to reimbursements by non-County and non-State sources, including, but not limited to, collecting reimbursements for services from clients (which shall be the same as patient fees established pursuant to WIC section 5710) and from private or public third-party payers.

CONTRACTOR shall not claim reimbursement from COUNTY for (or apply sums received from COUNTY with respect to) that portion of its obligations which has been paid by another source of revenue. If CONTRACTOR is seeking reimbursement for mental health services provided pursuant to this Agreement, reimbursement for such services shall be based upon the actual allowable costs of providing those services less any deductible revenues, as stated above. Notwithstanding any other provision of this Agreement, in no event may CONTRACTOR request a rate that exceeds the COUNTY’S Maximum Allowances (CMA), which is based on the most recent State’s Schedule of Maximum Allowances (SMA) as established by the State’s Department of Mental Health. The SMA Schedule shall be used until COUNTY establishes the COUNTY’S rate Schedule of Maximum Allowances. CONTRACTOR shall be responsible for costs that exceed applicable CMAs. In no case shall payments to CONTRACTOR exceed CMAs. In addition to the CMA limitation, in no event shall the maximum reimbursement that will be paid by COUNTY to CONTRACTOR under this Agreement for any Program Amount be more than the amount identified for each Program Amount for each Funded Program, as identified in this Exhibit B, Section III. Said amounts shall be referred to as the “Maximum Obligation of County,” as identified in this Exhibit B, Section V.

- B. To the extent a recipient of services under this Agreement is eligible for coverage under Short-Doyle/Medi-Cal or Medicaid or Medicare or any other Federal or State funded program (“an eligible beneficiary”), CONTRACTOR shall ensure that services provided to eligible beneficiaries are properly identified and claimed to the Funded Program responsible for such services to said eligible beneficiaries. For the Short-Doyle/Medi-Cal Funded Program, CONTRACTOR assumes fiscal responsibility for services provided to all individuals who do not have full-scope Medi-Cal or are not Medi-Cal eligible during the term of this Agreement.
- C. CONTRACTOR shall be responsible for delivering services to the extent that funding is provided by the COUNTY. To the extent that CONTRACTOR does not have funds allocated in the Agreement for a Funded Program that pays for services to a particular eligible beneficiary, CONTRACTOR shall, at the first opportunity, refer said eligible

beneficiary to another CONTRACTOR or COUNTY facility within the same geographic area to the extent feasible, which has available funds allocated for that Funded Program.

- D. In order to receive any payment under this Agreement, CONTRACTOR shall submit reports and claims in such form as General Ledger, Payroll Report and other accounting documents as needed, and as may be required by the County of Monterey Department of Health, Behavioral Health Bureau. Specifically, CONTRACTOR shall submit its claims on Cost Reimbursement Invoice Form provided as Exhibit G, to this Agreement, along with backup documentation, on a monthly basis, to COUNTY so as to reach the Behavioral Health Bureau no later than the thirtieth (30th) day of the month following the month of service. See Section III, above, for payment amount information to be reimbursed each fiscal year period of this Agreement. The amount requested for reimbursement shall be in accordance with the approved budget and shall not exceed the actual net costs incurred for services provided under this Agreement.

CONTRACTOR shall submit via email a monthly claim using Exhibit G, Cost Reimbursement Invoice Form in Excel format with electronic signature along with supporting documentations, as may be required by the COUNTY for services rendered to:

MCHDBHFinance@co.monterey.ca.us

- E. CONTRACTOR shall submit all claims for reimbursement under this Agreement within thirty (30) calendar days after the termination or end date of this Agreement. All claims not submitted after thirty (30) calendar days following the termination or end date of this Agreement shall not be subject to reimbursement by the COUNTY. Any claim(s) submitted for services that preceded thirty (30) calendar days prior to the termination or end date of this Agreement may be disallowed, except to the extent that such failure was through no fault of CONTRACTOR. Any "obligations incurred" included in claims for reimbursements and paid by the COUNTY which remain unpaid by the CONTRACTOR after thirty (30) calendar days following the termination or end date of this Agreement shall be disallowed, except to the extent that such failure was through no fault of CONTRACTOR under audit by the COUNTY.
- F. If CONTRACTOR fails to submit claim(s) for services provided under the terms of this Agreement as described above, the COUNTY may, at its sole discretion, deny payment for that month of service and disallow the claim.
- G. COUNTY shall review and certify CONTRACTOR'S claim either in the requested amount or in such other amount as COUNTY approves in conformity with this Agreement, and shall then submit such certified claim to the COUNTY Auditor. The County Auditor-Controller shall pay the amount certified within thirty (30) calendar days of receiving the certified invoice.
- H. To the extent that the COUNTY determines CONTRACTOR has improperly claimed services to a particular Program Amount, COUNTY may disallow payment of said services and require CONTRACTOR to resubmit said claim of services for payment

from the correct Program Amount, or COUNTY may make corrective accounting transactions to transfer the payment of the services to the appropriate Program Amount.

- I. If COUNTY certifies payment at a lesser amount than the amount requested COUNTY shall immediately notify the CONTRACTOR in writing of such certification and shall specify the reason for it. If the CONTRACTOR desires to contest the certification, the CONTRACTOR must submit a written notice of protest to the COUNTY within twenty (20) calendar days after the CONTRACTOR'S receipt of the COUNTY notice. The parties shall thereafter promptly meet to review the dispute and resolve it on a mutually acceptable basis. No court action may be taken on such a dispute until the parties have met and attempted to resolve the dispute in person.

V. MAXIMUM OBLIGATION OF COUNTY

- A. Subject to the limitations set forth herein, COUNTY shall pay to CONTRACTOR during the term of this Agreement a maximum amount of **\$1,144,318** for services rendered under this Agreement.
- B. Maximum Annual Liability:

FISCAL YEAR LIABILITY	AMOUNT
July 1, 2012 to June 30, 2013	\$257,935
July 1, 2013 to June 30, 2014	\$329,223
July 1, 2014 to June 30, 2015	\$557,160
TOTAL MAXIMUM LIABILITY	\$1,144,318

- C. If, as of the date of signing this Agreement, CONTRACTOR has already received payment from COUNTY for services rendered under this Agreement, such amount shall be deemed to have been paid out under this Agreement and shall be counted towards COUNTY'S maximum liability under this Agreement.
- D. If for any reason this Agreement is canceled, COUNTY'S maximum liability shall be the total utilization to the date of cancellation not to exceed the maximum amount listed above.
- E. As an exception to Section D. above with respect to the Survival of Obligations after Termination, COUNTY, any payer, and CONTRACTOR shall continue to remain obligated under this Agreement with regard to payment for services required to be rendered after termination.

VI. BILLING AND PAYMENT LIMITATIONS

- A. Provisional Payments: COUNTY payments to CONTRACTOR for performance of eligible services hereunder are provisional until the completion of all settlement activities and audits, as such payments are subject to future Federal, State and/or COUNTY adjustments. COUNTY adjustments to provisional payments to CONTRACTOR may be based upon COUNTY'S claims processing information system data, State adjudication of Medi-Cal and Healthy Families claims files, contractual limitations of this Agreement, annual cost and MHSA reports, application of various Federal, State, and/or COUNTY reimbursement limitations, application of any Federal, State, and/or COUNTY policies, procedures and regulations, and/or Federal, State, or COUNTY audits, all of which take precedence over monthly claim reimbursements.
- B. Allowable Costs: Allowable costs shall be the CONTRACTOR'S actual costs of developing, supervising and delivering the services under this Agreement, as set forth in the Budget provided in Exhibit H. Only the costs listed in Exhibit H of this Agreement as contract expenses may be claimed as allowable costs. Any dispute over whether costs are allowable shall be resolved in accordance with the provisions of applicable Federal, State and COUNTY regulations.
- C. Cost Control: CONTRACTOR shall not exceed by more than twenty (20%) percent any contract expense line item amount in the budget without the written approval of COUNTY, given by and through the Contract Administrator or Contract Administrator's designee. CONTRACTOR shall submit an amended budget using Exhibit H, or on a format as required by the COUNTY, with its request for such approval. Such approval shall not permit CONTRACTOR to receive more than the maximum total amount payable under this Agreement. Therefore, an increase in one line item shall require corresponding decreases in other line items.
- D. Other Limitations for Certain Funded Programs: In addition to all other limitations provided in this Agreement, reimbursement for services rendered under certain Funded Programs may be further limited by rules, regulations and procedures applicable only to that Funded Program. CONTRACTOR shall be familiar with said rules, regulations and procedures and submit all claims in accordance therewith.
- E. Adjustment of Claims Based on Other Data and Information: The COUNTY shall have the right to adjust claims based upon data and information that may include, but are not limited to, COUNTY'S claims processing information system reports, remittance advices, State adjudication of Medi-Cal claims, and billing system data.

VII. LIMITATION OF PAYMENTS BASED ON FUNDING AND BUDGETARY RESTRICTIONS

- A. This Agreement shall be subject to any restrictions, limitations, or conditions imposed by State which may in any way affect the provisions or funding of this Agreement, including, but not limited to, those contained in State's Budget Act.
- B. This Agreement shall also be subject to any additional restrictions, limitations, or conditions imposed by the Federal government which may in any way affect the provisions or funding of this Agreement.

- C. In the event that the COUNTY'S Board of Supervisors adopts, in any fiscal year, a COUNTY Budget which provides for reductions in COUNTY Agreements, the COUNTY reserves the right to unilaterally reduce its payment obligation under this Agreement to implement such Board reductions for that fiscal year and any subsequent fiscal year during the term of this Agreement, correspondingly. The COUNTY'S notice to the CONTRACTOR regarding said reduction in payment obligation shall be provided within thirty (30) calendar days of the Board's approval of such action.
- D. Notwithstanding any other provision of this Agreement, COUNTY shall not be obligated for CONTRACTOR'S performance hereunder or by any provision of this Agreement during any of COUNTY'S current or future fiscal year(s) unless and until COUNTY'S Board of Supervisors appropriates funds for this Agreement in COUNTY'S Budget for each such fiscal year. In the event funds are not appropriated for this Agreement, then this Agreement shall terminate as of June 30 of the last fiscal year for which funds were appropriated. COUNTY shall notify CONTRACTOR of any such non-appropriation of funds at the earliest possible date and the services to be provided by the CONTRACTOR under this Agreement shall also be reduced or terminated.

VIII. BILLING PROCEDURES AND LIMITATIONS ON COUNTY'S FINANCIAL RESPONSIBILITY FOR PAYMENT OF SERVICES UNDER FEDERAL SOCIAL SECURITY ACT, TITLE XIX SHORT-DOYLE/MEDI-CAL SERVICES AND/OR TITLE XXI HEALTHY FAMILIES

The Short-Doyle/Medi-Cal (SD/MC) claims processing system enables California county Mental Health Plans (MHPs) to obtain reimbursement of Federal funds for medically necessary specialty mental health services provided to Medi-Cal-eligible beneficiaries and to Healthy Families subscribers diagnosed as Seriously Emotionally Disturbed (SED). The Mental Health Medi-Cal program oversees the SD/MC claims processing system. Authority for the Mental Health Medi-Cal program is governed by Federal and California statutes.

- A. If, under this Agreement, CONTRACTOR has Funded Programs that include Short-Doyle/Medi-Cal services and/or Healthy Families services, CONTRACTOR shall certify in writing annually, by August 1 of each year, that all necessary documentation shall exist at the time any claims for Short-Doyle/Medi-Cal services and/or Healthy Families services are submitted by CONTRACTOR to COUNTY.

CONTRACTOR shall be solely liable and responsible for all service data and information submitted by CONTRACTOR.

- B. CONTRACTOR acknowledges and agrees that the COUNTY, in under taking the processing of claims and payment for services rendered under this Agreement for these Funded Programs, does so as the Mental Health Plan for the Federal, State and local governments.
- C. CONTRACTOR shall submit to COUNTY all Short-Doyle/Medi-Cal, and/or Healthy Families claims or other State required claims data within the thirty (30) calendar day time frame(s) as prescribed by this Agreement to allow the COUNTY to meet the time frames prescribed by the Federal and State governments. COUNTY shall have no liability for CONTRACTOR'S failure to comply with the time frames established under

this Agreement and/or Federal and State time frames, except to the extent that such failure was through no fault of CONTRACTOR.

- D. COUNTY, as the Mental Health Plan, shall submit to the State in a timely manner claims for Short-Doyle/Medi-Cal services, and/or Healthy Families services only for those services/activities identified and entered into the COUNTY'S claims processing information system which are compliant with Federal and State requirements. COUNTY shall make available to CONTRACTOR any subsequent State approvals or denials of such claims upon request by the CONTRACTOR.
- E. CONTRACTOR acknowledges and agrees that COUNTY'S final payment for services and activities claimed by CONTRACTOR Short-Doyle/Medi-Cal services and/or Healthy Families services is contingent upon reimbursement from the Federal and State governments and that COUNTY'S provisional payment for said services does not render COUNTY in any way responsible for payment of, or liable for, CONTRACTOR'S claims for payment for these services.
- F. CONTRACTOR'S ability to retain payment for such services and/or activities is entirely dependent upon CONTRACTOR'S compliance with all laws and regulations related to same.
- G. Notwithstanding any other provision of this Agreement, CONTRACTOR shall hold COUNTY harmless from and against any loss to CONTRACTOR resulting from the denial or disallowance of claim(s) for or any audit disallowances related to said services, including any State approved Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services/activities, by the Federal, State or COUNTY governments, or other applicable payer source, unless the denial or disallowance was due to the fault of the COUNTY.
- H. CONTRACTOR shall repay to COUNTY the amount paid by COUNTY to CONTRACTOR for Title XIX Short-Doyle/Medi-Cal and/or Medi-Cal Administrative Activities, and/or Title XXI Healthy Families services/ activities subsequently denied or disallowed by Federal, State and/or COUNTY government.
- I. Notwithstanding any other provision of this Agreement, CONTRACTOR agrees that the COUNTY may off set future payments to the CONTRACTOR and/or demand repayment from CONTRACTOR when amounts are owed to the COUNTY pursuant to Subparagraphs G. and H. above. Such demand for repayment and CONTRACTOR'S repayment shall be in accordance with Exhibit I, Section IV (Method of Payments for Amounts Due to County) of this Agreement.
- J. CONTRACTOR shall comply with all written instructions provided to CONTRACTOR by the COUNTY, State or other applicable payer source regarding claiming and documentation.
- K. Nothing in this Section VIII shall be construed to limit CONTRACTOR'S rights to appeal Federal and State settlement and/or audit findings in accordance with the applicable Federal and State regulations.

IX. PATIENT/CLIENT ELIGIBILITY, UMDAP FEES, THIRD PARTY REVENUES, AND INTEREST

- A. CONTRACTOR shall comply with all Federal, State and COUNTY requirements and procedures relating to:
1. The determination and collection of patient/client fees for services hereunder based on the Uniform Method of Determining Payment (UMDAP), in accordance with the State Department of Mental Health guidelines and WIC sections 5709 and 5710.
 2. The eligibility of patients/clients for Short-Doyle/Medi-Cal, Medicaid, Medicare, private insurance, or other third party revenue, and the collection, reporting and deduction of all patient/client and other revenue for patients/clients receiving services hereunder. CONTRACTOR shall pursue and report collection of all patient/client and other revenue.
- B. All fees paid by patients/clients receiving services under this Agreement and all fees paid on behalf of patients/clients receiving services hereunder shall be utilized by CONTRACTOR only for the delivery of mental health service/activities specified in this Agreement.
- C. CONTRACTOR may retain unanticipated program revenue, under this Agreement, for a maximum period of one Fiscal Year, provided that the unanticipated revenue is utilized for the delivery of mental health services/activities specified in this Agreement. CONTRACTOR shall report the expenditures for the mental health services/activities funded by this unanticipated revenue in the Annual Report(s) and Cost Report Settlement submitted by CONTRACTOR to COUNTY.
- D. CONTRACTOR shall not retain any fees paid by any sources for, or on behalf of, Medi-Cal beneficiaries without deducting those fees from the cost of providing those mental health services for which fees were paid.
- E. CONTRACTOR may retain any interest and/or return which may be received, earned or collected from any funds paid by COUNTY to CONTRACTOR, provided that CONTRACTOR shall utilize all such interest and return only for the delivery of mental health services/activities specified in this Agreement.
- F. Failure of CONTRACTOR to report in all its claims and in its Annual Report(s) and Cost Report Settlement all fees paid by patients/clients receiving services hereunder, all fees paid on behalf of patients/clients receiving services hereunder, all fees paid by third parties on behalf of Medi-Cal beneficiaries receiving services and/or activities hereunder, and all interest and return on funds paid by COUNTY to CONTRACTOR, shall result in:
1. CONTRACTOR'S submission of a revised claim statement and/or Annual Report(s) and Cost Report Settlement showing all such non-reported revenue.

2. A report by COUNTY to State of all such non-reported revenue including any such unreported revenue paid by any sources for or on behalf of Medi-Cal beneficiaries and/or COUNTY'S revision of the Annual Report(s).
3. Any appropriate financial adjustment to CONTRACTOR'S reimbursement.

X. CASH FLOW ADVANCE IN EXPECTATION OF SERVICES/ ACTIVITIES TO BE RENDERED OR FIXED RATE PAYMENTS

- A. The Maximum Contract Amount for each period of this Agreement includes Cash Flow Advance (CFA) or fixed rate payments which is an advance of funds to be repaid by CONTRACTOR through the provision of appropriate services/activities under this Agreement during the applicable period.
- B. For each month of each period of this Agreement, COUNTY shall reimburse CONTRACTOR based upon CONTRACTOR'S submitted claims for rendered services/activities subject to claim edits, and future settlement and audit processes.
- C. CFA shall consist of, and shall be payable only from, the Maximum Contract Amount for the particular fiscal year in which the related services are to be rendered and upon which the request(s) is (are) based.
- D. CFA is intended to provide cash flow to CONTRACTOR pending CONTRACTOR'S rendering and billing of eligible services/activities, as identified in this Exhibit B, Sections III. and V., and COUNTY payment thereof. CONTRACTOR may request each monthly Cash Flow Advance only for such services/activities and only to the extent that there is no reimbursement from any public or private sources for such services/activities.
- E. Cash Flow Advance (CFA) Invoice. For each month for which CONTRACTOR is eligible to request and receive a CFA, CONTRACTOR must submit to the COUNTY an invoice of a CFA in a format that is in compliance with the funding source and the amount of CFA CONTRACTOR is requesting. In addition, the CONTRACTOR must submit supporting documentation of expenses incurred in the prior month to receive future CFAs.
- F. Upon receipt of the Invoice, COUNTY, shall determine whether to approve the CFA and, if approved, whether the request is approved in whole or in part.
- G. If a CFA is not approved, COUNTY will notify CONTRACTOR within ten (10) business days of the decision, including the reason(s) for non-approval. Thereafter, CONTRACTOR may, within fifteen (15) calendar days, request reconsideration of the decision.
- H. Year-end Settlement. CONTRACTOR shall adhere to all settlement and audit provisions specified in Exhibit I, of this Agreement, for all CFAs received during the fiscal year.
- I. Should CONTRACTOR request and receive CFAs, CONTRACTOR shall exercise cash management of such CFAs in a prudent manner.

XI. AUTHORITY TO ACT FOR THE COUNTY

The Director of the Health Department of the County of Monterey may designate one or more persons within the County of Monterey for the purposes of acting on his/her behalf to implement the provisions of this Agreement. Therefore, the term “Director” in all cases shall mean “Director or his/her designee.”

Amendment No. 2 to EXHIBIT F-2
BUSINESS ASSOCIATE AGREEMENT (9/22/14)

This Business Associate Agreement (“Agreement”), effective **July 1, 2014** (“Effective Date”), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department (“Covered Entity”) and **EMQ FamiliesFirst** (“Business Associate”) (each a “Party” and collectively the “Parties”).

Business Associate provides certain services for Covered Entity (“Services”) that involve the use and disclosure of Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity (“PHI”). The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the “Privacy Rule”), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the “Security Rule”), under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations (“HITECH”). Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 *et. seq.* apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate. The Parties are also committed to complying with the California Confidentiality of Medical Information Act, Ca. Civil Code §§ 56 *et seq.* (“CMIA”), where applicable. Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing the PHI it receives from Covered Entity where such disclosure would be violative of the CMIA. 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”). This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”), shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose data breach notification or information security obligations, and it is their further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

1. Definitions

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

2. Permitted Uses And Disclosures Of PHI

2.1 Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use

or disclosure would not violate the Privacy or Security Rules or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the CMIA;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) use PHI in its possession for 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);

(e) disclose the PHI in its possession to third parties for the proper management and administration of Business Associate to the extent and in the manner 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 persons to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

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

(g) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1).

3. Responsibilities Of The Parties With Respect To PHI

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(b) report to the privacy officer of Covered Entity, in writing, (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, within two (2) days of Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification

of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach.

(c) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(d) obtain and maintain an agreement with all of its subcontractors and agents that receive, use, or have access to, PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(e) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(f) document disclosures of PHI and information related to such disclosure and, within ten (10) 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, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the 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 two (2) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(h) disclose to its subcontractors, agents 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;

(i) 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 in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; 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;

(j) 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;

(k) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(l) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security

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

3.2 Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such Security Incident. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure.

3.3 Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any 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. Terms And Termination

4.1 Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

4.2 Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

4.3 Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

4.4 Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

5. Miscellaneous

5.1 Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

5.2 Amendments; Waiver. This Agreement 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 the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement 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 Agreement 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 to the facsimile telephone numbers listed below.

If to Business Associate, to:
EMQ FamiliesFirst
251 Lewellyn Avenue
Campbell, CA 95008
Attn: Darrell Evora, CEO
Tel: (408) 874-7171

If to Covered Entity, to:
Monterey County Health Department—Behavioral Health Bureau
1270 Natividad Road
Salinas, CA 93906
Attn: Wayne W. Clark, Bureau Chief
Tel: (831) 755-4509

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 Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

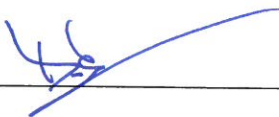
5.6 Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

5.7 Indemnification. Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter County), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including the County's reasonable cost of providing notification of and of mitigating any acquisition, access, use or disclosure of PHI in a manner not permitted by this BAA, arising out of, or in connection with, performance of this BAA by Contractor and/or its agents, members, employees, or sub-contractors, 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 this BAA to provide the broadest possible indemnification for the County. Contractor shall reimburse the County for all costs, attorneys' fees, expenses, and liabilities incurred by the County with respect to any investigation, enforcement proceeding or litigation in which Contractor is obligated to indemnify, defend, and hold harmless the County under this BAA. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate.

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

[BUSINESS ASSOCIATE]

***COUNTY OF MONTEREY, ON BEHALF OF
THE HEALTH DEPARTMENT***

By:  _____

By:  _____

Print Name: Darrell Evora

Name: Ray Bullick

Print Title: President/CEO

Print Title: Director of Health

Date: 10/15/14 _____

Date: 12-17-14 _____