

**FACILITY USE AGREEMENT
BY AND BETWEEN COUNTY OF MONTEREY
AND
COMMUNITY HEALTH INNOVATIONS, LLC. (“CHI”)**

This Facility Use Agreement (“Agreement”) is entered into by and between COUNTY OF MONTEREY, Department of Health, a political subdivision of the State of California, on behalf of the Monterey County Health Department, Clinic Services Bureau (hereinafter called “County”) and **Community Health Innovations, LLC. (“CHI”)**, (hereinafter referred to as “User”).

WHEREAS, User wishes to provide pediatric wellness coaching services to County; and

WHEREAS, County has suitable clinic space and equipment for provision of these services and is willing to allow User to utilize such facilities for the benefit of the patient population described in this Agreement which, from time to time, are available for use;

WHEREAS, User desires to use those premises for the purposes herein contained;

NOW THEREFORE, in consideration of the mutual covenants, conditions, and stipulations hereinafter express and in consideration of the mutual benefits to be derived there from, the parties hereto agree as follows:

1.0 GENERAL AREAS OF RESPONSIBILITY

- A. Subject to the terms and conditions set forth in this Agreement, County hereby grants permission to User to use a specific area (“Specific Area”) in the Clinic locations referenced below. Prior to utilization, User shall obtain written approval by the County. Clinic locations include, but are not limited to the following:

Clinic Name:	Location:
Laurel Family Practice	1441 Constitution Blvd Bldg 400 Suite 300 Salinas, CA 93906
Laurel Vista	1441 Constitution Blvd, Bldg 400 Suite 301 Salinas, CA 93906
Laurel Internal Medicine	1441 Constitution Blvd, Bldg 151, Suite 16 Salinas, CA 93906

Laurel Pediatric Clinic	1441 Constitution Blvd, Bldg 200, Suite 101 Salinas, CA 93906-3196
Alisal Health Center	559 East Alisal, Suite 201 Salinas, CA 93905
Seaside Family Health Center	1156 Fremont Blvd, Seaside Seaside, CA 93955-5715
Marina Clinic	3155 De Forest Road, Marina, CA 93933
Marina Integrated Health Clinic	299 12 th Street Marina, CA 93933

- B. User shall use Specific Area for the sole purpose of conducting on-site pediatric wellness coaching services and activities for eligible patients referred to the program by County.
- C. Specific Area shall include a conference room, including use of conference table and chairs, and limited access to telephone, fax and copier, on occasion.
- D. The User shall have access to Specific Area during regular business days and hours as mutually agreed upon by both parties and only when County staff is present at the Facility.
- E. In the event County requires use of the Specific Area on any day scheduled by User, County shall provide User with advance notice and will work with User to locate an alternative area, if possible. In the case of an emergency, County reserves the right, without prior notice, to limit the use of any of its facilities when, the County deems such limitation necessary in order to meet fiscal, clinical, and/or access-related operational standards of the Health Department.
- F. User shall provide any and all medical and office supplies needed to provide the services.
- G. User shall be responsible for the administrative and fiscal oversight of the program.
- H. User shall assume full responsibility for the actions of User's staff, while performing services pursuant to this Agreement, and shall be solely responsible for the supervision and oversight of User's staff.
- I. User shall share with County outcomes, attendance records, sign-in sheet, flyers and notices of said activities provided in the clinic.
- J. User shall provide adequate notice to the County should services be cancelled.

2.0 TERM

This Agreement shall be in full force and effect for a period of two (2) years commencing on September 1, 2017 and ending on August 31, 2019, subject to termination as hereinafter set forth. This Agreement will be reviewed and may be updated or revised by mutual consent. This Agreement may be terminated by either party upon thirty (30) day advance written notice to the other party.

3.0 INSURANCE AND INDEMNIFICATION PROVISIONS

3.01 Evidence of Coverage. Prior to commencement of this Agreement, the User shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the User upon request shall provide a certified copy of the policy or policies.

A. This verification of coverage shall be sent to the County's Contracts/Purchasing Office, unless otherwise directed. The User shall not receive approval for services for work under this Agreement until all insurance has been obtained as required and approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the CONTACTOR.

B. Qualifying Insurers. All coverage, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Contracts/Purchasing Officer.

C. Insurance Coverage Requirements. Without limiting User's duty to indemnify, User shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

1. Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

2. Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

3. Workers Compensation Insurance, if User employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with

Employer's liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

4. Professional Liability Insurance, if required for the professional service being provided, (e.g., those persons authorized by a license to engage in business or profession regulated by the California Business and Professional Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the User shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three (3) years following the expiration or earlier termination of this Agreement.

D. Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date User completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty (30) calendar days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for User and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insured with respect to liability arising out of the User's work, including ongoing and complete operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insured shall not be called upon to contribute to a loss covered by the User's insurance.

Prior to the execution of this Agreement by the County, User shall file certificates of insurance with the County's contract administrator and the County's Contracts/Purchasing Office, showing that the User has in effect the insurance required by this Agreement. The User shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

User shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Office. If the certificate is not received by the expiration date, User shall have five (5) calendar days to send the certificate, evidencing no lapse in coverage during the interim. Failure by User to maintain such insurance coverage is a breach of this Agreement, which entitles County, at its sole and absolute discretion, to (1) immediately disallow claim(s) for payment and/or withhold payment(s) by County to User, pursuant to Section III (A), for services rendered on or after the effective date of termination, reduction, non-renewal, or cancellation of the insurance coverage maintained by User, and/or (2) terminate this Agreement pursuant to Section IV.

3.02 Indemnification User shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies, in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with User's performance of this Agreement and/or its rendition of medical services to its patients, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "User's" performance" includes User's action or inaction and the action or inaction of User's officers, employees, agents and subcontractors.

4.0 RECORDS AND CONFIDENTIALITY

4.01 Confidentiality. User and its officers, employees, and agents shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. User shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits User to disclose such records or information. User shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. User shall not use any confidential information gained by User in the performance of this Agreement except for the sole purpose of carrying out User's obligations under this Agreement.

4.02 County Records. When this Agreement expires or terminates, User shall return to County any County records which User used or received from County to perform services under this Agreement.

4.03 Maintenance of Records. User shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. User shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation,

audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then User shall retain said records until such action is resolved.

4.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the User and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

4.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. User shall not publish any such material without the prior written approval of County.

5.0 GENERAL PROVISIONS

5.01 Non-Exclusive Agreement. The parties recognize this Agreement is non-exclusive and both User and County expressly reserve the right to contract with other entities for the same or similar services.

5.02 Status of User and County. It is expressly understood and agreed that this Agreement is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association between the County and User, but is rather an Agreement by and between independent parties, these being County of Monterey and User. It is further understood that User, its staff members and volunteers participating under this Agreement are not employees of County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and User shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. User shall be solely liable for and obligated to pay directly any applicable taxes, including federal and state income taxes and social security, arising out of User's performance of this Agreement. In connection therewith, User shall defend, indemnify, and hold County harmless from any and all liability, which County may incur because of User's failure to pay such taxes.

5.03. Fee. In consideration of the community benefit of these activities, User shall not pay County a fee for use of the Facility.

5.04 Amendment. This Agreement may at any time be altered, changed or amended by mutual written agreement of the parties. Additionally, this Agreement is not legal and binding upon either of the parties until executed by both User and the County.

5.05 Assignment and Subcontracting. User shall not assign, sell, mortgage, hypothecate or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without prior written approval of the County. Notwithstanding any such subcontract, User shall continue to be liable for the performance of all requirements of this Agreement.

5.06 Compliance with applicable law. The parties shall comply with all applicable federal, state and local laws and regulations in performing this Agreement.

5.07 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California. Venue and jurisdiction for any litigation between the parties shall lie in Monterey County, California.

5.08 Notices. Any written notice given under this Agreement shall be sent by registered mail to each address below:

If to User:

Community Health Innovations
10 Ragsdale Drive, #102
Monterey, CA 93940
Attn: Brooke Anderson, Office Manager
Email: Brooke.Anderson@chipm.org

If to County:

County of Monterey
1270 Natividad Road
Salinas, CA 93906
Attn: Elsa Jimenez, Director of Health

5.09 Dispute Resolution. If there is a dispute arising out of or relating to this Agreement, the parties shall make a reasonable and good faith effort to negotiate between themselves a resolution of the matter. If they are unable to agree between themselves, the parties shall further make a reasonable and good faith effort to agree upon a form and procedure for mediation of the dispute with the assistance of a neutral third party mediator. If any action or proceeding shall be brought by reason of the breach of, or to enforce any provision of this Agreement, the party prevailing therein shall be entitled to recover costs and expenses, including reasonable attorney's fees.

5.10 Compliance with Medicare Access to Records Law. The parties agree to comply with Medicare requirements regarding access to books, documents and records of subcontractors

set forth in Section 952 of the Omnibus Reconciliation Act of 1980 (P.L. 96 - 499) codified in 42 USCA §1395x(v)(1)(1) [Section 1861(v)(1)(1) of the Social Security Act], and the Regulations thereunder, as amended, or any successor law, if and to the extent applicable.


5.11 Privacy. Both User and County intend to protect the privacy and provide for the security of Protected Health Information disclosed to each other pursuant to the Agreement and maintain compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and regulations promulgated thereunder by the U.S. Department of Health and Human Services and other applicable laws.

5.12 Authority. Any individual executing this Agreement on behalf of an entity represents and warrants hereby that he or she has the requisite authority to enter in this same Agreement on behalf of such entity and bind the entity to the terms and conditions of the same.

5.13 Entire Agreement. This Agreement, including any exhibits hereto, supersedes all previous agreements, wither written or oral, between the parties and constitutes the entire Agreement between them. Any representations, inducements, promises, or acknowledgments, oral or otherwise, which have been made by either party or person acting on behalf of either party, and which are not embodied herein, shall not be binding.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

Community Health Innovations, LLC. (CHI)

By: 
Terril Lowe, Chief Nursing Officer
Name and Title

Date: Aug. 14, 2017

By: _____
(Signature of Secretary, Asst. Secretary, CFO, Treasurer, or Asst. Treasurer)

Name and Title

Date: _____

County of Monterey

By: _____
Elsa Jimenez, Director of Health

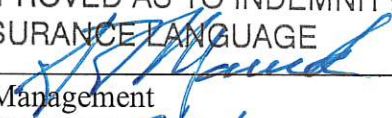
Date: _____

APPROVED AS TO FORM:

By: 
Stacy Saetta, Deputy County Counsel
anne Brennan

Date: 8-8-17

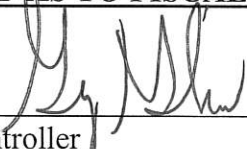
APPROVED AS TO LIABILITY PROVISIONS

APPROVED AS TO INDEMNITY/INSURANCE LANGUAGE
By: 
Risk Management

Date: 8/10/17

Date: _____

APPROVED AS TO FISCAL:

By: 
Auditor Controller

Date: 8-10-17