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**REQUEST FOR QUALIFICATIONS NO.
NO: 911-12-1114-18**

FOR: RETRO-COMMISSIONING

RELEASE DATE: NOVEMBER 14, 2018

**SUBMISSION DATE:
DECEMBER 7, 2017, 5:00 PM PST**

SUBMIT RFQ TO:	RFQ COORDINATOR:
General Services Department Central Services Purchasing Office 675 Texas Street Suite 2500 Fairfield, CA 94533	JoAnn Epperson Buyer Email: jepperson@solanocounty.com Phone: (707)784-6322

This RFQ document is available electronically on the County's website at

www.solanocounty.com

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1. INTRODUCTION

The purpose of this Request for Qualifications (RFQ) is to define the County's minimum requirements, solicit Statements of Qualification (SOQ), and gain adequate information by which the County may evaluate the services offered by Responding Firms.

The County of Solano, Department of General Services, Facilities Operations Division hereinafter referred to as the County, intends to secure a contract(s) for Retro Commissioning, to evaluate County buildings and to improve the efficiency of existing building's equipment and systems.

The term "Responding Firm(s)" refers to the firm(s) or individual that submits an SOQ in response to this solicitation. The terms "response(s), submittal(s) or proposal(s)" refers to the documents responding firms submit for this solicitation for consideration by the County. These terms are used interchangeably throughout this solicitation.

2. BACKGROUND

Solano County is the twenty-first largest California County (as measured by population) with a total population of over 400,000. The County has seven incorporated cities including Fairfield (the County seat), Benicia, Vallejo, Vacaville, Suisun City, Rio Vista and Dixon. The majority of residents reside within these cities and the majority of County facilities are currently located in the incorporated areas. Solano County's population is stable and/or growing, particularly in the north portion of the County.

3. CONTRACT DURATION

The County intends to enter into a one-year contract with the option to renew for two additional one-year periods for a total of 3 years; with an effective period of Feb./Mar.,2018 through March, 2021 unless terminated earlier.

Subject to availability of funds the County reserves the right to extend the contract provided that the County notifies the contractor in writing of its intention to do so at least thirty (30) days prior to the contract expiration date. An extension of the term of this contract will be affected through an amendment to the contract.

4. SCOPE OF SERVICE/ PROJECT

The service provider will provide the following:

- a) Shall conduct a comprehensive on-site assessment to identify the system installed, develop an inventory of system components, identify deficiencies and perform an evaluation of the system current functional capabilities.
- b) Shall perform a scope audit to identify any system integration deficiencies in the HVAC, mechanical, electrical and HVAC Fire Life Safety systems, recommend technical

solutions, and provide a rough order of magnitude cost for the implementation for each solution.

- c) Shall perform pre-quotation HVAC and condition interview with the onsite Department of General Services stakeholders to define the status of the building HVAC systems.
- d) Shall deploy a team of auditors and or engineers to evaluate Department of General Services provided documentation, such as “as-built” drawings, turnover documents, and engage in discussions with operations staff of existing building HVAC system.
- e) Shall have building HVAC system auditors and or engineer’s survey, analyze, evaluate, and perform, non-destructive testing, of the existing system to identify the following;
 - 1. Identify the technical parameters of the system installed.
 - 2. Identify the existing functional capabilities.
 - 3. Identify if the system is operational and functional as observed.
 - 4. Identify operational and or functional issues that are necessary to restore functionally to the existing system.
 - 5. Identify technical solutions, if applicable, to restore system functionally that includes a rough order of magnitude cost for each solution.
 - 6. Identify and report in your assessment and audit any potential energy saving opportunities observed in your onsite survey of the facility.
 - 7. Identify the HVAC Equipment Manufacturer(s).
- f) Shall provide a description of HVAC systems.
- g) Shall provide an inventory of HVAC mechanical and electrical equipment.
- h) Shall provide an inventory of HVAC systems that are integrated with the existing Fire Life Safety systems.
- i) Shall provide an assessment of the air balance for the facility.
- j) Shall provide an assessment of the current space utilization compared to the original design intent.
- k) Shall provide condition evaluations and renovation recommendations. Include a sample of this service performed for another customer.
- l) Shall provide an assessment of the building automation/building management systems.
- m) HVAC systems network diagrams.
- n) Shall perform an evaluation to determine if the existing building HVAC as installed is operational and identify any operational deficiencies that can compromise the operation of the HVAC system.

- o) Shall develop technical solutions and recommend retrofit options, when applicable, to maintain the HVAC system as originally designed. Provide a rough order of magnitude cost for the implementation for each solution. Include a sample of this service performed for another customer.
- p) Shall provide a list of findings, reports, and a list of deployable options including budget cost that would adhere to the original intent of the design. Include a sample of this service performed for another customer.
- q) Shall manage all assessment survey/report information. Results shall be transferred to the Department of General Services, Facilities Operations Manager for evaluation and uploaded to the Facilities Operations Division's Computer Aided Facilities Management (CAFM) database files.
- r) Shall prepare a final HVAC Retro-Commissioning Assessment and retrofit recommendations report. Results shall be transferred to the Department of General Services, Facilities Operations Manager and uploaded to the Facilities Operations Division's Computer Aided Facilities Management (CAFM) database files. Include a sample of this service performed for another customer.
- s) Shall provide presentation with supporting documentation (hard copy and electronic media) of the HVAC Assessment findings to the Department of General Services, Facilities Operations Manager.
- t) Shall arrange and coordinate with the Facilities Operations Division a follow-up question and answer meeting with the designated building operators to clarify and address items delineated in the HVAC Assessment.
- u) Shall attend a presentation coordinated by the Department of General Services to receive the documented findings (hard copy and electronic media) from the Retro-Commissioning Assessment service provider.

5. CONTRACTOR RESPONSIBILITY

The services as outlined in the RFP may be required in secured areas. The contractor shall have a criminal background check for each employee working on the contract. Contractor and employees will be required to obtain a successful Live Scan check. Live Scans shall be obtained and coordinated by contacting the Solano County Sheriff's Office, Live Scan Officer at (707)-421-4006. The contractor shall be responsible for all costs associated with obtaining the Live Scan checks for employees. The contractor will produce evidence of the Live Scan(s) to the County Facility Operations Division no later than four (4) days before the project begins. Contractor's employees that do not pass the criminal background check will not be allowed to work on this project. Employees are not allowed to work on this project unless and until the live scan check has been completed.

6. SCHEDULE OF EVENTS

11/14/17	RFQ issued
11/22/17	Questions concerning RFQ and project/services emailed to jeepperson@solanocounty.com no later than 5:00 p.m.
11/28/2017	Answers to questions posted on County website (amendment to RFQ)
12/07/17	Submittals are due no later than 5:00 p.m. at the County Office of General Services, 675 Texas Street Suite 2500, Fairfield, CA 94533. Late submittals will not be accepted.
01/08/2018	If required, Interviews (times to be determined)
01/16/2018	Notification of selected contractor
FEB/MAR 2018	Services commences

The County reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. Notification of any adjustment to the schedule will be posted on the County's website. Responding firms are responsible to periodically view the County's website (www.solanocounty.com) for any revisions.

7. INSTRUCTIONS TO RESPONDING FIRMS

Please prepare your submittal in accordance with the following requirements.

- a. *Submittal (firm's response to RFQ).* The submittal (excluding the cover letter, and resumes), should be on 8.5" x 11", numbered pages. A copy of resumes must be included in an appendix to the responding firm's response to this RFQ.
- b. *Cover Letter.* The firm's response to this RFQ must be submitted with a cover letter describing the firm's interest and commitment to the proposed project or services. The letter must state that the response is valid for a 120-day period and include the name, title, address and telephone number of the individual to whom correspondence and other contacts should be directed during the selection process. The person authorized by the responding firm to negotiate a contract with the County must sign the cover letter.

Address the cover letter as follows:

Solano County General Services Department
Purchasing Services Office
675 Texas Street, Suite 2500
Fairfield, CA 94533

Attention: JoAnn Epperson

- c. *Approach and Management Plan.* This section shall provide the responder's proposed approach and management plan for providing the services. Include an organizational chart showing the proposed relationships among contractor staff, County staff and any other parties that may have a significant role in the delivery of this program.

d. *Qualifications, Experience and References.*

- i. This section shall provide the qualifications and experience of the key team member(s) that will work on the project or provide services. Emphasize the specific qualifications and experience from projects or services like this project for the key team members. Key team members are expected to be committed for the duration of the project. Replacement of key team members will not be permitted without prior consultation with and approval of the County.
 - ii. For each key team member, provide at least three references (names and current phone numbers) from recent work (previous three years). Include a brief description of each project associated with the reference, and the role of the respective team member. Use attachment 4 (include in the appendix of your response).
- e. *Staffing Plan.* This section shall provide a staffing plan (by month) and an estimate of the **total hours** (detailed by position) required for preparation of the program tasks as outlined. Discuss the workload, both current and anticipated, for all key team members (if applicable), and their capacity to perform the requested services for the project, according to your proposed schedule. Discuss the approach for completing the requested services for this project within budget.
- f. *Work Plan and Schedule.* This section shall include a description of how you will conduct each task of the project, identification of deliverables for each task and a schedule. The work plan should be in sufficient detail to demonstrate a clear understanding of the project. The schedule should show the expected sequence of tasks and include durations for the performance of each task, milestones, submittal dates and review periods for each submittal. Discuss the approach for completing the requested services for the project on schedule. The project is expected to commence no later than April/March 2018.
- g. *Cost Control.* This section shall provide information on how you will control project costs to ensure all work is completed within the negotiated budget for the project. Include the name and title of the individual responsible for cost control.
- h. *Additional Relevant Information.* This section invites additional relevant information that may be helpful in the selection process (not to exceed the equivalent of 2 single-sided pages).
- i. *Budget.* The budget should include: (a) the total dollar amount requested to complete the project, (b) any other resources, including in-kind, that will support the proposed project, (c) the number of anticipated hours and rate of the project manager and key team members per year. The estimated level of hours for other staff can be summarized in general categories.
- j. *Detailed Documentation of Financial Resources:* The Proposer must provide the following documentation of sufficient financial strength and resources to provide the scope of services as required:
1. The Proposer's most recent independent audited financial statements for a fiscal year ended within the last 36 months.

2. In lieu of audited financial statements, the County may accept, on a case by case basis, the following: a current written bank reference, in the form of a standard business letter, indicating that the Proposer's business relationship with the financial institution is in positive standing.

3. Documentation disclosing the amount of cash flows from operating activities for the Proposer's most current operating period. Said documentation must indicate whether the cash flows are positive or negative, and, if the cash flows for the most recent operating period, the documentation must include a detailed explanation of the factors contributing to the negative cash flows.

- k. *County Contract.* Responding firms must include a statement of acknowledgment that the responder has reviewed the County of Solano Standard Contract (EXHIBIT I—Standard Contract, Exhibits C and D) and has accepted it with or without qualification. If the responder makes qualifications, those qualifications must be identified and listed along with suggested modifications to the contract. [Note: Exhibits A and B (the scope of work and budget detail and payment provisions) for the contract, will be finalized during the contract negotiation process.] If the responder makes no qualifications to the Standard Contract, including exhibits, then it shall be deemed that the responder accepts these items without reservation or any qualifications.

1. Required Review and Waiver of Objections by Responders: Responding firms should carefully review this RFQ and all attachments and Exhibits, including but not limited to the County's Standard Contract, including Exhibits for comments, questions, defects, objections, or any other matter requiring clarification or correction. Comments concerning RFQ objectives must be made in writing and received by the County no later than the Deadline for Written Comments. This will allow issuance of any necessary amendments and help prevent the opening of defective responses upon which a contract award could not be made. Use RFQ attachment three (3) to submit questions/comments.

2. **IMPORTANT NOTICE: Any qualification(s) or objection(s) to the County's Standard Contract need to be submitted to the County on RFQ attachment three (3). The County reserves the right to reject any contract qualification(s) or objection(s) rendered thereafter, i.e. during contract negotiations. Qualification(s) to the County Contract raised during contract negotiations by the best-evaluated firm may result in disqualification of firm.**

- l. *Intentional left blank.*

- m. *Submittal of Response:* One (1) clearly marked original and three (3) hard copies and one digital copy (flash drive) of your qualifications are due at the County **no later than the time and date set forth in the Schedule of Events**. Envelopes or packages containing the qualifications should be clearly marked, "**RFQ 911-12-1114-18, Retro-Commissioning.**"

8. EVALUATION

- a. *Evaluation Committee.* A County Evaluation Committee (CEC) will evaluate all responses. The CEC will be composed of County staff and other parties that may have relevant expertise or experience. The CEC will score and recommend submittal in accordance with the evaluation criteria set forth in this RFQ. Evaluation of the responses shall be within the sole judgment and discretion of the CEC.

- b. *Categories.* The evaluation criteria and their respective weights are as follows:

CATEGORIES	MAXIMUM POINTS POSSIBLE
General Qualifications and Experience	40
Scope of Work/Program Description	40
Budget or Cost	20
Total Possible Points	100

- c. *Interviews.* Top ranked proposers may be invited to attend an interview. The project manager and any key team members must attend the interview. As a result of the interviews, the County reserves the right to re-evaluate firms based upon a force ranking system to determine the best evaluated firm. The determination as to the location, order, and schedule of the interviews is at the sole discretion of the County. The evaluation interview panel may include representatives from the County and other agencies, but the specific composition of the panel will not be revealed prior to the interviews. The proposer must bear all costs incurred to attend.
- d. *Best Value.* The County will select the submittal that presents the best value and is most advantageous to the County and the public. Accordingly, the County may not necessarily award the responder with the lowest price or fee schedule, if doing so would not be in the overall best interest of the County. The County reserves the right to expand or reduce the proposed scope of work during the contract negotiations based on budget constraints and to award to a single or multiple responders.

9. AWARD NOTICE AND ACCEPTANCE PERIOD

- a. After the evaluation of responses and final consideration of all pertinent information available, the County will either reject all responses or issue a written notice of intent to award the contract to all responders submitting a timely submittal. The notice shall identify the apparent best evaluated responder. The notice shall not create rights, interests, or claims of entitlement in the apparent best evaluated responder.
- b. The apparent best evaluated responder should be prepared to enter into a contract with the County which shall be substantially the same as the *Standard Contract* included in Exhibit I to this RFQ. Notwithstanding, the County reserves the right to add terms and conditions, deemed to be in the best interest of the County, during final contract negotiations.
- c. If a responder fails to sign and return the contract drawn pursuant to this RFQ and final contract negotiations within 14 days of its delivery to the responder, the County may cancel the award and award the contract to the next best evaluated responder.

8. PROTEST AND APPEALS

Any actual responder who wishes to protest the notice of intent to award a contract may submit a protest. The protest must be submitted in writing to the Director of General Services within 7 calendar days after such responder knows or should have known of the facts giving rise to the

protest, but in no event later than 7 calendar days after the date of the notice of intent to award the contract. All letters of protest shall clearly identify the reasons and basis for the protest. The protest must also state the law, rule, regulation, or policy upon which the protest is based. The Director of General Services will issue a written decision within 10 working days after receipt of the protest which shall include the reason for the action taken and the process for appealing the decision.

10. TERMS AND CONDITIONS

- a. *The County's Purchasing & Contracting Policy, found at <http://www.solanocounty.com/civicax/filebank/blobdload.aspx?blobid=21595>, is fully incorporated into and made a part of this RFQ by this reference and governs this RFQ.*
- b. *RFQ Amendment, Cancellation and Right of Rejection.*
 - i. The County reserves the unilateral right to amend this RFQ in writing at any time by posting the amendment on the County's website. Responders are responsible to view the website periodically for any amendments to the RFQ. Responders shall respond to the final written RFQ and any exhibits, attachments, and amendments. The County also reserves the right, in its sole discretion, to reject any and all submittals or to cancel or reissue the RFQ.
 - ii. The County reserves the right, in its sole discretion, to waive variances in responses provided such action is in the best interest of the County. Where the County waives minor variances in responses, such waiver does not modify the RFQ requirements or excuse the applicant from full compliance with the RFQ. Notwithstanding any minor variance, the County may hold any submittal to strict compliance with the RFQ.
- c. *Confidentiality.* The County will retain a master copy of each response to this RFQ, which responses will become a public record after the award of a contract unless the qualifications or specific parts of the qualifications can be shown to be exempt by law under Government Code section 6250 et seq. Responders may clearly label part of a submittal as "CONFIDENTIAL" if the responder agrees to indemnify and defend the County for honoring such a designation. The failure to have so labeled any information shall constitute a complete waiver of all claims for damages caused by any release of the information. If a public records request for labeled information is received by the County, the County will notify the responder of the request and delay access to the material until 7 working days after notification to the responder. Within that time delay, it will be the responder's duty to act in protection of its labeled information. Failure to so act shall constitute a complete waiver.

11. ATTACHMENTS AND EXHIBITS

Complete and enclose with responding firm's response as indicated:

Attachment 1: Signature Page

Attachment 2: Intent to Respond Form

Attachment 3: Question and Answer Form

Attachment 4: Experience Form

Attachment 5: Certification of Compliance

Attachment 6: County Reservations

Attachment 7: Non-Collusion Declaration

Attachment 8: RFQ Check List

Exhibit I: County Standard Contract

Exhibit A: Scope of Work

Exhibit B: Budget Detail and Payment Provisions

Exhibit C: General Terms and Conditions

Exhibit D: Special Terms and Conditions

SIGNATURE PAGE**REQUEST FOR QUALIFICATIONS****TITLE: RETRO COMMISSIONING****RFQ NO. 911-12-1114-18**

Your response must contain this fully executed signature page, supplying all required information, signature, and type name and title of the individual legally authorized to commit the contractor to a binding contract to execute all specifications, provisions, terms and conditions contained herein.

I hereby certify that I have read, acknowledge, understand, and agree to the content(s) of the RFQ and the following notices:

___ Certification of Compliance

___ Reservations

FIRM/COMPANY: _____

ADDRESS: _____

CITY: _____

STATE: _____ ZIP+4 _____

TELEPHONE NUMBER _____ FAX NUMBER _____

POINT OF CONTACT E-MAIL ADDRESS _____

COMPANY WEBSITE URL _____

PRINT NAME _____

BY: _____ DATE _____

SIGNATURE

**COMPLETE AND RETURN WITH RESPONSE
(INCLUDE IN THE APPENDIX OF YOUR RESPONSE)**

**COUNTY OF SOLANO
REQUEST FOR QUALIFICATIONS
TITLE: RETRO COMMISSIONING
RFQ NO. 911-12-1114-18
INTENT TO RESPOND FORM**

Dated_____

Email the following Intent to Respond form to JoAnn Epperson (RFQ Coordinator) on or before date indicated in RFQ Scheduled of Events.

To: County of Solano Purchasing Services Office

Attn: JoAnn Epperson, Buyer

Email: jepperson@solanocounty.com

From_____

RFQ Contact Name_____

Company Name _____

Company Address

Phone Number _____

Fax Number_____

RFQ Contact email_____

We intend to respond to this RFQ by the specified due date:

Yes _____ No _____

Signature of Contact Person_____

By signing the above, I certify that I am authorized by the Company named above to respond to this request.

Email this form to the RFQ Coordinator on or before date and time as specified in RFQ.

**COUNTY OF SOLANO
REQUEST FOR QUALIFICATIONS
TITLE: RETRO COMMISSIONING
RFQ NO. 911-12-1114-18
QUESTIONS & ANSWER FORM**

Any questions regarding this RFQ shall be submitted according to the process outlined below and as specified in this RFQ. The County's response to questions will be as specified in RFQ.

1. Submit questions or concerns on the form provided.
2. State your question(s) in the table and reference the section of the RFQ (if applicable).
3. Submit the form (Microsoft Word only) via email to jeepperson@solanocounty.com. Please contact JoAnn Epperson (RFQ coordinator) with any questions regarding this process.

ITEM NO.	REFERENCE SECTION OF RFQ	QUESTIONS/COMMENTS FROM RESPONDERS	COUNTY RESPONSE (THIS COLUMN FOR COUNTY USE ONLY)
1			
2			
3			
4			
5			
6			
7			
8			

Questions from: _____ Company: _____

Email Address: _____

Email this form to the RFQ Coordinator (jeepperson@solaocounty.com) on or before the date specified in RFQ.

Add more lines to form as required.

**COUNTY OF SOLANO
REQUEST FOR QUALIFICATIONS
TITLE: RETRO COMMISSIONING
RFQ NO. 911-12-1114-18
KEY TEAM MEMBER EXPERIENCE
REPRODUCE FORM AS NEEDED**

1. Agency or Firm Name:	
Business Address:	
Mailing Address:	
Contact Person:	
Telephone:	
Email Address:	
Description of Service:	
Dates(s) when service provided	
2. Agency or Firm Name:	
Business Address:	
Mailing Address:	
Contact Person:	
Telephone:	
Email address:	
Description of Service	
Dates(s) when service provided	
3. Agency or Firm Name:	
Business Address:	
Mailing Address:	
Contact Person:	
Telephone:	
Description of Service	
Dates(s) when service provided	

**RETURN WITH RESPONSE
(INCLUDE IN THE APPENDIX OF YOUR RESPONSE)**

**COUNTY OF SOLANO
REQUEST FOR QUALIFICATIONS
TITLE: RETRO COMMISSIONING
RFQ NO. 911-12-1114-18**

CERTIFICATION OF COMPLIANCE

By indication of the authorized signature below, the responding firm does hereby make certification and assurance of the responding firm's compliance with:

- a) the laws of the County of Solano;
- b) Title VI of the federal Civil Rights Act of 1964;
- c) Title IX of the federal Education Amendments Act of 1972;
- d) the Equal Employment Opportunity Act and the regulations issued thereunder by the federal government;
- e) the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government;
- f) the condition that the submitted Response was independently arrived at, without collusion, under penalty of perjury; and,
- g) the condition that no amount shall be paid directly or indirectly to an employee or official of the County of Solano as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Responding firms in connection with the Procurement under this RFQ.
- h) all contract employees performing services and/or work as a result of this solicitation must adhere to the County of Solano Smoke-Free Facility Policy (adopted by Solano County Board of Supervisors 1/13/15).
- i) all contract employees performing services and/or work as a result of this solicitation must have documented legal authority to work in the United States of America.

READ AND ACKNOWLEDGE ON SIGNATURE PAGE, ATTACHMENT 1

**COUNTY OF SOLANO
REQUEST FOR QUALIFICATIONS
TITLE: RETRO COMMISSIONING
RFQ NO. 911-12-1114-18**

RESERVATIONS

COUNTY OF SOLANO HEREBY RESERVES THE FOLLOWING RIGHTS:

The County of Solano reserves the right to make an award in whole or in part or any varying combination of the following requirements that will be in the best interest of the County not necessarily to the lowest contractor but to the bid determined to be most professionally and technically able to render services and perform associated work in support of the department and fulfill all contract requirements.

Right of Rejection

1. The County reserves the right to reject any and all responses, or to cancel this RFQ in part or in its entirety.
2. The County reserves the right to waive any variances in responses provided such action is in the best interest of the County.
3. The County reserves the right to amend this RFQ at any time. The County also reserves the right to cancel or reissue the RFQ at its sole discretion.
4. Any response received which does not meet the requirements of this RFQ, may be considered to be non-responsive, and may be rejected. The County may reject any response that does not comply with all of the terms, conditions, and performance requirements of this RFQ.
5. To cancel any award and re-solicit for services herein specified due to the increased or added costs, if in its opinion increased prices are greater than those of the general market.
6. To cancel any award and re-solicit in the event services cannot commence with ten (10) days after the specified date for start of work.
7. To reject any and all responses considered not to be in the best interest of the County.
8. To waive any and all minor irregularities in responses.
9. To reduce or increase any specification, in whole or in part due to budget constraints.

READ AND ACKNOWLEDGE ON SIGNATURE PAGE, ATTACHMENT 1

**COUNTY OF SOLANO
REQUEST FOR QUALIFICATIONS
TITLE: RETRO COMMISSIONING
RFQ NO. 911-12-1114-18**

NON-COLLUSION DECLARATION PURSUANT TO PUBLIC CONTRACT CODE SEC. 7106

The undersigned declares: I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on
(date) _____, (city) _____
(state) _____.

Company Name _____

**RETURN WITH RESPONSE
(INCLUDE IN THE APPENDIX OF YOUR RESPONSE)**

**IMPORTANT NOTICE TO RESPONDERS
REQUEST FOR QUALIFICATIONS
RFQ TITLE: RETRO COMMISSIONING
RFQ NO.: 911-12-1114-18**

RFQ REQUIREMENTS NOTE: THIS CHECKLIST IS NOT COMPREHENSIVE. IT IS THE RESPONDER'S RESPONSIBILITY TO ENSURE COMPLIANCE WITH ALL REQUIREMENTS OF THIS SOLICITATION.	INDICATE BY INITIALING BELOW
1. ALL REQUIRED ATTACHMENTS, APPENDICES, AND OTHER DOCUMENTS AS REQUIRED BY RFQ?	
2. ONE (1) CLEARLY MARKED HARD COPY ORIGINAL SUBMITTAL, THREE (3) COPIES, AND ONE (1) FLASH DRIVE INCLUDED?	
3. FEE SCHEDULE OR BUDGET INCLUDED IN RESPONSE?	
4. RFQ RESPONSE FORMATTED CONGRUENT WITH RFQ?	
5. RFQ RESPONSE CONTAINS CLEARLY IDENTIFIED COVER LETTER?	
6. KEY TEAM LEADERS RESUME, ATTACHMENT 4, INCLUDED IN RESPONSE APPENDIX?	
7. SIGNATURE PAGE, ATTACHMENT 1, INCLUDED IN RESPONSE APPENDIX?	
8. NON-COLLUSION DECLARATION, ATTACHMENT 7, INCLUDED IN RESPONSE APPENDIX?	
9. IF ANY, WERE OBJECTIONS TO THE COUNTY CONTRACT SUBMITTED ON ATTACHMENT 3 DURING THE PERIOD FOR QUESTIONS AND COMMENTS, AS DETAILED IN THE RFQ SCHEDULE OF EVENTS? THE COUNTY RESERVES THE RIGHT TO REJECT ANY QUALIFICATIONS OR OBJECTIONS TO THE CONTRACT IF INCLUDED IN RESPONDER'S RESPONSE IF NOT IDENTIFIED ON ATTACHMENT 3.	
10. AMENDMENT(S) TO RFQ ACKNOWLEDGEMENT INCLUDED IN RESPONSE, INCLUDE IN APPENDIX OF RESPONSE	
11. RFQ RESPONSE CONTAINS/MEETS ALL RFQ REQUIREMENTS	
12. THIS RFQ CHECK LIST INCLUDED IN RESPONSE, ATTACHMENT 8, INCLUDE IN APPENDIXX OF RESPONSE	

COMPANY NAME _____

CONTACT PRINT NAME _____

CONTACT SIGNATURE _____

**RETURN WITH RESPONSE
(INCLUDE IN THE APPENDIX OF YOUR PROPOSAL)**

EXHIBIT I

1. This Contract is entered into between the County of Solano and the Contractor named below:

CONTRACTOR'S NAME

2. The Term of this Contract is:

3. The maximum amount of this Contract is:

\$

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of this Contract:

Exhibit A – Scope of Work

Exhibit B – Budget Detail and Payment Provision

Exhibit C – General Terms and Conditions

Exhibit D – Special Terms and Conditions

The parties have executed this Contract as of the ____ day of _____, 20__.

CONTRACTOR	COUNTY OF SOLANO
_____ CONTRACTOR'S NAME	_____ AUTHORIZED SIGNATURE
_____ SIGNATURE	_____ DATED
_____ PRINTED NAME AND TITLE	_____ TITLE
_____ ADDRESS	_____ ADDRESS
_____ CITY	_____ CITY
_____ STATE	_____ STATE
_____ ZIP CODE	_____ ZIP CODE
	Approved as to Content:
	_____ DEPARTMENT HEAD OR DESIGNEE
	_____ DATED
	Approved as to Form:
	_____ COUNTY COUNSEL
	_____ DATED

CONTRACT MUST BE EXECUTED BEFORE WORK CAN COMMENCE

Rev.
01/19/07

SCOPE OF WORK

CONTRACTOR SHALL BE RESPONSIBLE FOR THE FOLLOWING DUTIES:

COUNTY SHALL BE RESPONSIBLE FOR THE FOLLOWING:

BUDGET DETAIL AND PAYMENT PROVISIONS

[Actual Budget and Payment Plan to be negotiated upon contract award.]

1. METHOD OF PAYMENT

Upon submission of an invoice by firms or individuals, and upon approval of County's representative, County shall pay firms or individuals monthly in arrears for fees and expenses incurred the prior month, up to the maximum amount provided for on the Standard Contract. Each invoice must specify services rendered, to whom, date of service and the accrued charges.

The County offers direct deposit for invoice payment. To enroll in the program, copy and paste the following hyper-link into your internet browser.

http://www.solanocounty.com/depts/auditor/electronic_payment_to_vendor_ach.asp

GENERAL TERMS AND CONDITIONS**1. CLOSING OUT**

A. County will pay Contractor's final request for payment providing Contractor has paid all financial obligations undertaken pursuant to this Contract or any other contract and/or obligation that Contractor may have with the County. If Contractor has failed to pay all obligations outstanding, County will withhold from Contractor's final request for payment the amount of such outstanding financial obligations owed by Contractor. Contractor is responsible for County's receipt of a final request for payment 30 days after termination of this Contract.

B. A final undisputed invoice shall be submitted for payment no later than ninety (90) calendar days following the expiration or termination of this Contract, unless a later or alternate deadline is agreed to in writing by the County. The final invoice must be clearly marked "FINAL INVOICE", thus indicating that all payment obligations of the County under this Contract have ceased and that no further payments are due or outstanding.

C. The County may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written approval of an alternate final invoice submission deadline. Written County approval shall be sought from the County prior to the expiration or termination of this Contract.

2. TIME

Time is of the essence in all terms and conditions of this Contract.

3. TIME OF PERFORMANCE

Work will not begin, nor claims paid for services under this Contract until all Certificates of Insurance, business and professional licenses/certificates, IRS ID number, signed W-9 form, or other applicable licenses or certificates are on file with the County's Contract Manager.

4. TERMINATION

A. This Contract may be terminated by County or Contractor, at any time, with or without cause, upon 30 days written notice from one to the other.

B. County may terminate this Contract immediately upon notice of Contractor's malfeasance.

C. Following termination, County will reimburse Contractor for all expenditures made in good faith that are unpaid at the time of termination not to exceed the maximum amount payable under this Contract unless Contractor is in default of this Contract.

5. SIGNATURE AUTHORITY

The parties executing this Contract certify that they have the proper authority to bind their respective entities to all terms and conditions set forth in this Contract.

6. REPRESENTATIONS

A. County relies upon Contractor's professional ability and training as a material inducement to enter into this Contract. Contractor represents that Contractor will perform the work according to generally accepted professional practices and standards and the requirements of applicable federal, state and local laws. County's acceptance of Contractor's work shall not constitute a waiver or release of Contractor from professional responsibility.

B. Contractor further represents that Contractor possesses current valid appropriate licensure, including, but not limited to, driver's license, professional license, certificate of tax-exempt status, or permits, required to perform the work under this Contract.

7. INSURANCE

A. Without limiting Contractor's obligation to indemnify County, Contractor must procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work under this Contract and the results of that work by Contractor, Contractor's agents, representatives, employees or subcontractors.

B. Minimum Scope of Insurance
Coverage must be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01).

(2) Insurance Services Office Form Number CA 00 01 covering Automobile Liability, code1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

C. Minimum Limits of Insurance
Contractor must maintain limits no less than:

- | | | |
|--|---|---|
| (1) General Liability: | \$1,000,000 | per occurrence for bodily injury, personal injury and property damage, or the full per occurrence limits of the policy, whichever is greater. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. |
| (Including operations, products and completed operations.) | | |
| (2) Automobile Liability: | \$1,000,000 | per accident for bodily injury and property damage. |
| (3) Workers' Compensation: | As required by the State of California. | |
| (4) Employer's Liability: | \$1,000,000 | per accident for bodily injury or disease. |

D. Additional Insurance Coverage

To the extent coverage is applicable to Contractor's services under this Contract, Contractor must maintain the following insurance coverage:

- (1) Cyber Liability: **\$1,000,000** per incident with the aggregate limit twice the required limit.
- (2) Professional Liability: **\$1,000,000** combined single limit per claim and in the aggregate. The policy shall remain in full force and effect for no less than 3 years following the completion of work under this Contract.

E. If Contractor maintains higher limits than the minimums shown above, County is entitled to coverage for the higher limits maintained by Contractor.

F. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either:

- (1) The insurer will reduce or eliminate such deductibles or self-insured retentions with respect to County, its officers, officials, agents, employees and volunteers; or
- (2) Contractor must provide a financial guarantee satisfactory to County guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

G. Other Insurance Provisions

The general liability and automobile liability policies must contain, or be endorsed to contain, the following provisions:

(1) The County of Solano, its officers, officials, agents, employees, and volunteers must be included as additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor; and with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts or equipment furnished in connection with such work or operations. General Liability coverage shall be provided in the form of an Additional Insured endorsement (CG 20 10 11 85 or both CG 20 10 and CG 20 37 if later ISO revisions are used or the equivalent) to Contractor's insurance policy, or as a separate owner's policy. The insurance afforded to the additional insureds shall be at least as broad as that afforded to the first named insured.

(2) For any claims related to work performed under this Contract, Contractor's insurance coverage must be primary insurance with respect to the County of Solano, its officers, officials, agents, employees, and volunteers. Any insurance maintained by County, its officers, officials, agents, employees, or volunteers is excess of Contractor's insurance and shall not contribute to it.

(3) Should any of the above described policies be cancelled prior to the policies' expiration date, Contractor agrees that notice of cancellation will be delivered in accordance with the policy provisions.

H. Waiver of Subrogation

(1) Contractor agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

(2) The Workers' Compensation policy must be endorsed with a waiver of subrogation in favor of County for all work performed by Contractor, its employees, agents and subcontractors.

I. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII unless otherwise acceptable to County.

J. Verification of Coverage

(1) Contractor must furnish County with original certificates and endorsements effecting coverage required by this Contract.

(2) The endorsements should be on forms provided by County or, if on other than County's forms, must conform to County's requirements and be acceptable to County.

(3) County must receive and approve all certificates and endorsements before work commences.

(4) However, failure to do so shall not operate as a waiver of these insurance requirements.

(5) County reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage described above at any time.

8. BEST EFFORTS

Contractor represents that Contractor will at all times faithfully, industriously and to the best of its ability, experience and talent, perform to County's reasonable satisfaction.

9. DEFAULT

A. If Contractor defaults in Contractor's performance, County shall promptly notify Contractor in writing. If Contractor fails to cure a default within 30 days after notification, or if the default requires more than 30 days to cure and Contractor fails to commence to cure the default within 30 days after notification, then Contractor's failure shall terminate this Contract.

B. If Contractor fails to cure default within the specified period of time, County may elect to cure the default and any expense incurred shall be payable by Contractor to County.

C. If County serves Contractor with a notice of default and Contractor fails to cure the default, Contractor waives any further notice of termination of this Contract.

D. If this Contract is terminated because of Contractor's default, County shall be entitled to recover from Contractor all damages allowed by law.

10. INDEMNIFICATION

A. Contractor will indemnify, hold harmless and assume the defense of the County of Solano, its officers, employees, agents and elective and appointive boards from all claims, losses, damages, including property damages, personal injury, death and liability of every kind, directly or indirectly arising from Contractor's operations or from any persons directly or indirectly employed by, or acting as agent for, Contractor, excepting the sole negligence or willful misconduct of the County of Solano. This indemnification shall extend to claims, losses, damages, injury and liability for injuries occurring after completion of Contractor's services, as well as during the progress of rendering such services.

B. Acceptance of insurance required by this Contract does not relieve Contractor from liability under this indemnification clause. This indemnification clause shall apply to all damages or claims for damages suffered by Contractor's operations regardless if any insurance is applicable or not.

11. INDEPENDENT CONTRACTOR

A. Contractor is an independent contractor and not an agent, officer or employee of County. The parties mutually understand that this Contract is between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association.

B. Contractor shall have no claim against County for employee rights or benefits including, but not limited to, seniority, vacation time, vacation pay, sick leave, personal time off, overtime, medical, dental or hospital benefits, retirement benefits, Social Security, disability, Workers' Compensation, unemployment insurance benefits, civil service protection, disability retirement benefits, paid holidays or other paid leaves of absence.

C. Contractor is solely obligated to pay all applicable taxes, deductions and other obligations including, but not limited to, federal and state income taxes, withholding, Social Security, unemployment, disability insurance, Workers' Compensation and Medicare payments.

D. Contractor shall indemnify and hold County harmless from any liability which County may incur because of Contractor's failure to pay such obligations nor shall County be responsible for any employer-related costs not otherwise agreed to in advance between the County and Contractor.

E. As an independent contractor, Contractor is not subject to the direction and control of County except as to the final result contracted for under this Contract. County may not require Contractor to change Contractor's manner of doing business, but may require redirection of efforts to fulfill this Contract.

F. Contractor may provide services to others during the same period Contractor provides service to County under this Contract.

G. Any third persons employed by Contractor shall be under Contractor's exclusive direction, supervision and control. Contractor shall determine all conditions of employment including hours, wages, working conditions, discipline, hiring and discharging or any other condition of employment.

H. As an independent contractor, Contractor shall indemnify and hold County harmless from any claims that may be made against County based on any contention by a third party that an employer-employee relationship exists under this Contract.

I. Contractor, with full knowledge and understanding of the foregoing, freely, knowingly, willingly and voluntarily waives the right to assert any claim to any right or benefit or term or condition of employment insofar as they may be related to or arise from compensation paid hereunder.

12. RESPONSIBILITIES OF CONTRACTOR

A. The parties understand and agree that Contractor possesses the requisite skills necessary to perform the work under this Contract and County relies upon such skills. Contractor pledges to perform the work skillfully and professionally. County's acceptance of Contractor's work does not constitute a release of Contractor from professional responsibility.

B. Contractor verifies that Contractor has reviewed the scope of work to be performed under this Contract and agrees that in Contractor's professional judgment, the work can and shall be completed for costs within the maximum amount set forth in this Contract.

C. To fully comply with the terms and conditions of this Contract, Contractor shall:

(1) Establish and maintain a system of accounts for budgeted funds that complies with generally accepted accounting principles for government agencies;

(2) Document all costs by maintaining complete and accurate records of all financial transactions associated with this Contract, including, but not limited to, invoices and other official documentation that sufficiently support all charges under this Contract;

(3) Submit monthly reimbursement claims for expenditures that directly benefit Solano County;

(4) Be liable for repayment of any disallowed costs identified through quarterly reports, audits, monitoring or other sources; and

(5) Retain financial, programmatic, client data and other service records for 3 years from the date of the end of the contract award or for 3 years from the date of termination, whichever is later.

13. COMPLIANCE WITH LAW

A. Contractor shall comply with all federal, state and local laws and regulations applicable to Contractor's performance, including, but not limited to, licensing, employment and purchasing practices, wages, hours and conditions of employment.

B. Contractor represents that it will comply with the applicable cost principles and administrative requirements including claims for payment or reimbursement by County as set forth in 2 CFR 200, as currently enacted or as may be amended throughout the term of this Contract.

14. CONFIDENTIALITY

A. Contractor shall prevent unauthorized disclosure of names and other client-identifying information, except for statistical information not identifying a particular client.

B. Contractor shall not use client specific information for any purpose other than carrying out Contractor's obligations under this Contract.

C. Contractor shall promptly transmit to County all requests for disclosure of confidential information.

D. Except as otherwise permitted by this Contract or authorized by the client, Contractor shall not disclose any confidential information to anyone other than the State of California without prior written authorization from County.

E. For purposes of this section, identity shall include, but not be limited to, name, identifying number, symbol or other client identifying particulars, such as fingerprints, voice print or photograph. Client shall include individuals receiving services pursuant to this Contract.

15. CONFLICT OF INTEREST

A. Contractor represents that Contractor and/or Contractor's employees and/or their immediate families and/or Board of Directors and/or officers have no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any interest, direct or indirect, including separate contracts for the work to be performed hereunder, which conflicts with the rendering of services under this Contract. Contractor shall employ or retain no such person while rendering services under this Contract. Services rendered by Contractor's associates or employees shall not relieve Contractor from personal responsibility under this clause.

B. Contractor has an affirmative duty to disclose to County in writing the name(s) of any person(s) who have an actual, potential or apparent conflict of interest.

16. DRUG FREE WORKPLACE

Contractor represents that Contractor is knowledgeable of Government Code section 8350 et seq., regarding a drug free workplace and shall abide by and implement its statutory requirements.

17. HEALTH AND SAFETY STANDARDS

Contractor shall abide by all health and safety standards set forth by the State of California and/or the County of Solano pursuant to the Injury and Illness Prevention Program. If applicable, Contractor must receive all health and safety information and training from County.

18. CHILD/ADULT ABUSE

If services pursuant to this Contract will be provided to children and/or elder adults, Contractor represents that Contractor is knowledgeable of the Child Abuse and Neglect

Reporting Act (Penal Code section 11164 et seq.) and the Elder Abuse and Dependent Adult Civil Protection Act (Welfare and Institutions Code section 15600 et seq.) requiring reporting of suspected abuse.

19. INSPECTION

Authorized representatives of County, the State of California and/or the federal government may inspect and/or audit Contractor's performance, place of business and/or records pertaining to this Contract.

20. NONDISCRIMINATION

A. In rendering services under this Contract, Contractor shall comply with all applicable federal, state and local laws, rules and regulations and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion, sexual orientation, or other protected status.

B. Further, Contractor shall not discriminate against its employees, which includes, but is not limited to, employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

21. SUBCONTRACTOR AND ASSIGNMENT

A. Services under this Contract are deemed to be personal services.

B. Contractor shall not subcontract any work under this Contract nor assign this Contract or monies due without the prior written consent of the County's Contract Manager, the County's applicable Department Head or his or her designee and the County Administrator subject to any required state or federal approval.

C. If County consents to the use of subcontractors, Contractor shall require and verify that its subcontractors maintain insurance meeting all the requirements stated in Section 7 above.

D. Assignment by Contractor of any monies due shall not constitute an assignment of the Contract.

22. UNFORESEEN CIRCUMSTANCES

Contractor is not responsible for any delay caused by natural disaster, war, civil disturbance, labor dispute or other cause beyond Contractor's reasonable control, provided Contractor gives written notice to County of the cause of the delay within 10 days of the start of the delay.

23. OWNERSHIP OF DOCUMENTS

A. County shall be the owner of and shall be entitled to possession of any computations, plans, correspondence or other pertinent data and information gathered by or computed by Contractor prior to termination of this Contract by County or upon completion of the work pursuant to this Contract.

B. No material prepared in connection with the project shall be subject to copyright in the United States or in any other country.

24. NOTICE

A. Any notice necessary to the performance of this Contract shall be given in writing by personal delivery or by prepaid first-class mail addressed as stated on the first page of this Contract.

B. If notice is given by personal delivery, notice is effective as of the date of personal delivery. If notice is given by mail, notice is effective as of the day following the date of mailing or the date of delivery reflected upon a return receipt, whichever occurs first.

25. NONRENEWAL

Contractor acknowledges that there is no guarantee that County will renew Contractor's services under a new contract following expiration or termination of this Contract. Contractor waives all rights to notice of non-renewal of Contractor's services.

26. COUNTY'S OBLIGATION SUBJECT TO AVAILABILITY OF FUNDS

A. The County's obligation under this Contract is subject to the availability of authorized funds. The County may terminate the Contract, or any part of the Contract work, without prejudice to any right or remedy of the County, for lack of appropriation of funds. If expected or actual funding is withdrawn, reduced or limited in any way prior to the expiration date set forth in this Contract, or any subsequent amendment, the County may, upon written Notice to the Contractor, terminate this Contract in whole or in part.

B. Payment shall not exceed the amount allowable for appropriation by the Board of Supervisors. If the Contract is terminated for non-appropriation of funds:

i. The County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and

ii. The Contractor shall be released from any obligation to provide further services pursuant to this Contract that are affected by the termination.

C. Funding for this Contract beyond the current appropriation year is conditional upon appropriation by the Board of Supervisors of sufficient funds to support the activities described in this Contract. Should such an appropriation not be approved, this Contract will terminate at the close of the current Appropriation Year.

D. This Contract is void and unenforceable if all or parts of federal or state funds applicable to this Contract are not available to County. If applicable funding is reduced, County may either:

- (1) Cancel this Contract; or,
- (2) Offer a contract amendment reflecting the reduced funding.

27. CHANGES AND AMENDMENTS

A. County may request changes in Contractor's scope of services. Any mutually agreed upon changes, including any increase or decrease in the amount of Contractor's compensation, shall be effective when incorporated in written amendments to this Contract.

B. The party desiring the revision shall request amendments to the terms and conditions of this Contract in writing. Any adjustment to this Contract shall be effective only upon the parties' mutual execution of an amendment in writing.

C. No verbal agreements or conversations prior to execution of this Contract or requested amendment shall affect or modify any of the terms or conditions of this Contract unless reduced to writing according to the applicable provisions of this Contract.

28. CHOICE OF LAW

The parties have executed and delivered this Contract in the County of Solano, State of California. The laws of the State of California shall govern the validity, enforceability or interpretation of this Contract. Solano County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Contract.

29. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Contractor represents that it is knowledgeable of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations issued by the U.S. Department of Health and Human Services (45 C.F.R. parts 160-64) regarding the protection of health information obtained, created, or exchanged as a result of this Contract and shall abide by and implement its statutory requirements.

30. WAIVER

Any failure of a party to assert any right under this Contract shall not constitute a waiver or a termination of that right, under this Contract or any of its provisions.

31. CONFLICTS IN THE CONTRACT DOCUMENTS

The Contract documents are intended to be complementary and interpreted in harmony so as to avoid conflict. In the event of conflict in the Contract documents, the parties agree that the document providing the highest quality and level of service to the County shall supersede any inconsistent term in these documents.

32. FAITH BASED ORGANIZATIONS

A. Contractor agrees and acknowledges that County may make funds available for programs or services affiliated with religious organizations under the following conditions: (a) the funds are made available on an equal basis as for programs or services affiliated with non-religious organizations; (b) the program funded does not have the substantial effect of supporting religious activities; (c) the funding is indirect, remote, or incidental to the religious purpose of the organization; and (d) the organization complies with the terms and conditions of this Contract.

B. Contractor agrees and acknowledges that County may not make funds available for programs or services affiliated with a religious organization (a) that has denied or continues to deny access to services on the basis of race, color, religion, ancestry, national origin, sex, citizenship, or known disability; (b) will use the funds for a religious purpose; (c) will use the funds for a program or service that subjects its participants to religious education.

C. Contractor agrees and acknowledges that all recipients of funding from County must: (a) comply with all legal requirements and restrictions imposed upon government-funded activities set forth in Article IX, section 8 and Article XVI, section 5 of the California Constitution and in the First Amendment to the United States Constitution; and (b) segregate such funding from all funding used for religious purposes.

33. PRICING

Should Contractor, at any time during the term of this Contract, provide the same goods or services under similar quantity, terms and conditions to one or more counties in the State of California at prices below those set forth in this Contract, then the parties agree to amend this Contract so that such lower prices shall be extended immediately to County for all future services.

34. USE OF PROVISIONS, TERMS, CONDITIONS AND PRICING BY OTHER PUBLIC AGENCIES

Contractor and County agree that the terms of this Contract may be extended to any other public agency located in the State of California, as provided for in this section. Another public agency wishing to use the provisions, terms, and pricing of this Contract to contract for equipment and services comparable to that described in this Contract shall be responsible for entering into its own contract with Contractor, as well as providing for its own payment provisions, making all payments, and obtaining any certificates of insurance and bonds that may be required. County is not responsible for providing to any other public agency any documentation relating this Contract or its implementation. Any public agency that uses provisions, terms, or pricing of this Contract shall by virtue of doing so be deemed to indemnify and hold harmless County from all claims, demands, or causes of actions of every kind arising directly or indirectly with the use of this Contract. County makes no guarantee of usage by other users of this Contract nor shall the County incur any financial responsibility in connection with any contracts entered into by another public agency. Such other public agency shall accept sole responsibility for placing orders and making payments to Contractor.

35. DISBARMENT OR SUSPENSION OF CONTRACTOR

A. Contractor represents that its officers, directors and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal health programs as defined in 42 USC § 1320a-7b(f) (the "Federal Healthcare Programs") or any state healthcare programs; (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services but or previously excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs or any state healthcare programs, and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Contractor being excluded from participation in the Federal Healthcare Programs or any state healthcare programs.

B. This representation and warranty shall be an ongoing representation and warranty during the term of this Contract and Contractor must immediately notify the County of any change in the status of the representation and warranty set forth in this section.

C. If services pursuant to this Contract involve healthcare programs, Contractor agrees to provide certification of non-suspension with submission of each invoice. Failure to submit certification with invoices will result in a delay in County processing of Contractor's payment.

36. EXECUTION IN COUNTERPARTS

This Contract may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument, it being understood that all parties need not sign the same counterpart. In the event that any signature is delivered by facsimile or electronic transmission (e.g., by e-mail delivery of a ".pdf" format data file), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or electronic signature page were an original signature.

37. LOCAL EMPLOYMENT POLICY

Solano County desires, whenever possible, to hire qualified local residents to work on County projects. A local resident is defined as a person who resides in, or a business that is located in, Solano County. The County encourages an active outreach program on the part of its contractors, consultants and agents. When local projects require subcontractors, Contractor shall solicit proposals for qualified local residents where possible.

38. ENTIRE CONTRACT

This Contract, including any exhibits referenced, constitutes the entire agreement between the parties and there are no inducements, promises, terms, conditions or obligations made or entered into by County or Contractor other than those contained in it.

SPECIAL TERMS AND CONDITIONS**1. CONTRACT EXTENSION**

Notwithstanding Section 2 of the Standard Contract, and unless terminated by either party prior to _____, this Agreement shall be automatically extended from _____ through _____ to allow for continuation of services and sufficient time to complete a novation or renewal contract.

2. TERMINATION

A. Notwithstanding Section 5 in Exhibit C, this Contract may be terminated by County or Contractor, at any time, with good cause, upon ___ days written notice from one to the other.

3. ADDITIONAL INSURANCE

(1) ***Errors and Omissions insurance against loss due to negligent acts, errors and/or omissions, in an amount no less than one million dollars (\$1,000,000) combined single limit per claim and in the aggregate. The policy shall be written on an occurrence form or shall remain in full force and effect for no less than 3 years following the completion of work under this Contract.***

(2) Professional malpractice insurance of all activities of Contractor (and its subcontractors) arising out of or in connection with this Contract in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence. The policy shall be written on an occurrence form or shall remain in full force and effect for no less than 3 years following the completion of work under this Contract.

4. SPECIAL RESPONSIBILITIES OF CONTRACTOR

(1) ***Submit verification of non-profit status, if a requirement for the award of this Contract:***

(2) ***Provide an audit report, including a management letter, to County annually;***

(3) Conduct an audit, at Contractor's expense, according to the requirements of OMB Circular A-133, which identifies all funds granted, received, disbursed and expended, and provide the audit to County within 30 days of completion;

(4) Provide an unaudited statement of revenue and expenditures to County within thirty (30) days of completion of the project if funds awarded to Contractor are \$100,000 or less;

(5) Obtain a bond at, Contractor's sole expense, in an amount sufficient to cover start-up funds if any were provided to Contractor from County.

5. DRUG FREE WORKPLACE

Contractor shall execute the form attached as Exhibit " D1 ".

6. CHILD/ADULT ABUSE

Contractor shall execute the form attached as Exhibit " D2 ".

7. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Contractor shall execute the form attached as Exhibit " D3 ".

8. CHANGES AND AMENDMENTS

Amendments that are not State approved vendor agreement amendments shall be submitted to the State for prior approval at least 30 days before the effective date of any proposed changes governing compensation, services or term.

9. CONFIDENTIALITY OF MENTAL HEALTH RECORDS

Contractor warrants that Contractor is knowledgeable of Welfare and Institutions Code section 5328 respecting confidentiality of records. County and Contractor shall maintain the confidentiality of any information regarding clients (or their families) receiving Contractor's services. Contractor may obtain such information from application forms, interviews, tests or reports from public agencies, counselors or any other source. Without the client's written permission, Contractor shall divulge such information only as necessary for purposes related to the performance or evaluation of services provided pursuant to this Contract, and then only to those persons having responsibilities under this Contract, including those furnishing services under Contractor through subcontracts.

10. EARLIER DEFAULT

Services provided under this Contract are of a time-sensitive nature. Accordingly, notwithstanding the requirements of Section 10 in Exhibit D, the time period for notifying Contractor of default shall be ____ days. If Contractor fails to cure a default within ____ days after notification, or if the default requires more than ____ days to cure and Contractor fails to commence to cure the default within ____ days after notification, then Contractor's failure shall terminate this Contract.

11. INDEMNIFICATION FOR PHYSICIANS

Pursuant to Government Code section 800 et seq., County shall indemnify Contractor against all claims, losses and damages arising out of Contractor's performance to the extent that Contractor would be entitled to indemnification if Contractor were a County employee. County may indemnify either by self-insuring or by purchasing insurance for such purpose.

12. CONFIDENTIAL RECORDS

Contractor acknowledges that any information generated, received or disseminated pursuant to its performance under this Contract is confidential and shall not be disclosed in any manner unless authorized by law. Furthermore, Contractor warrants that Contractor is knowledgeable of Welfare and Institutions Code sections applicable to the subject of this Contract, particularly, sections 10850 and 11478.1 and will abide by its requirements.

13. FEDERAL/STATE HEALTH CARE PROGRAMS

Contractor shall execute Exhibit " " for services which may be reimbursed by Federal or State Health Care Programs (including, but not limited to, Medicare, MediCal and Grants), when such services are either provided on Solano County premises or for which County may seek reimbursement from Federal or State Health Care Programs or grants.

SOLANO COUNTY

DRUG-FREE WORKPLACE CERTIFICATION

(rev-09/01/94)

COMPANY/ORGANIZATION NAME

The contractor or grant recipient named above certifies compliance with Government Code section 8355 in matters relating to providing a drug-free workplace. The above-named contractor will:

- 1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
- 2. Establish a Drug-Free Awareness Program as required by Government Code section 8355(b), to inform employees about all of the following:
 - (a) The dangers of drug abuse in the workplace;
 - (b) The person's or organization's policy of maintaining a drug-free workplace;
 - (c) Any available counseling, rehabilitation and employee assistance programs; and
 - (d) Penalties that may be imposed upon employees for drug abuse violations.
- 3. Provide, as required by Government Code section 8355(c), that every employee who works on the proposed contract or grant:
 - (a) Will receive a copy of the company's drug-free policy statement; and
 - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.

CERTIFICATION

I, the official named below, swear that I am duly authorized legally to bind the contractor or grant recipient to the above described certification. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

Contractor or Grant Recipient Signature Date

Official's Name (type or print)

Title Federal Tax I.D. Number

CHILD ABUSE REPORTING REQUIREMENTS

Section 11166 of the Penal Code requires any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of, or observes a child in his or her professional capacity or within the scope of his or her employment, whom he or she knows or reasonably suspects, has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone, and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

I, the undersigned, have read and understand the requirements of Penal Code Section 11166 and will comply with its provisions.

Thereof, I agree to report to my immediate supervisor any suspected child abuse situations of which I am aware and will report directly to the Child Protective Services as necessary.

Name: _____

Title: _____

Date: _____

**SOLANO COUNTY
HIPAA CONTRACTOR AGREEMENT**

(Contractor Name)

This Exhibit shall constitute the Business Associate Agreement (the “Agreement”) between the County of Solano (the “County”) and the Contractor or grant recipient (the “Contractor”) and applies to the functions Contractor will perform on behalf of the County (collectively, “Services”), that is identified in Exhibit A, Scope of Work.

- A County wishes to disclose certain information to Contractor pursuant to the terms of the Agreement, some of which may constitute Protected Health Information (“PHI”) (defined below).
- B County and its Contractor acknowledge that Contractor is subject to the Privacy and Security Rules (45 CFR parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191 as amended by the Health Information Technology for Economic and Clinical Health Act as set forth in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (“HITECH Act), in certain aspects of its operations performed on behalf of the County.
- C As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require County to enter into an Agreement containing specific requirements with Contractor prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“C.F.R.”) and contained in this Agreement.

I. DEFINITIONS

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR parts 160 and 164.

- 1. **Breach** means the same as defined under the HITECH Act [42 U.S.C. section 17921].
- 2. **Contractor** means the same as defined under the Privacy Rule, the Security rule, and the HITECH Act, including, but not limited to, 42 U.S.C. section 17938 and 45 C.F.R. § 160.103.
- 3. **Breach of the Security of the Information System** means the unauthorized acquisition, including, but not limited to, access to, use, disclosure, modification or destruction, of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by or on behalf of the County. Good faith acquisition of personal information by an employee or agent of the information holder for the purposes of the information holder is not a breach of the security of the system; provided, that the personal information is not used or subject to further unauthorized disclosure.
- 4. **Commercial Use** means obtaining protected health information with the intent to sell, transfer or use it for commercial, or personal gain, or malicious harm; sale to third party for consumption, resale, or processing for resale; application or conversion of data to make a profit or obtain a benefit contrary to the intent of this Agreement.
- 5. **Covered Entity means the same as defined** under the Privacy Rule and the Security rule, including, but not limited to, 45 C.F.R. § 160.103.

6. **Designated Record Set** means the same as defined in 45 C.F.R. § 164.501.
7. **Electronic Protected Health Information (ePHI)** means the same as defined in 45 C.F.R. § 160.103.
8. **Electronic Health Record** means the same as defined shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. § 17921.
9. **Encryption** means the process using publicly known algorithms to convert plain text and other data into a form intended to protect the data from being able to be converted back to the original plain text by known technological means.
10. **Health Care Operations** means the same as defined in 45 C.F.R. § 164.501.
11. **Individual** means the same as defined in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
12. **Marketing** means the same as defined under 45 CFR § 164.501 and the act or process of promoting, selling, leasing or licensing any patient information or data for profit without the express written permission of County.
13. **Privacy Officer** means the same as defined in 45 C.F.R. § 164.530(a)(1). The Privacy Officer is the official designated by a County or Contractor to be responsible for compliance with HIPAA/HITECH regulations.
14. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR parts 160 and t 164, subparts A and E.
15. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. §§ 160.103 and 164.501].
16. **Required By Law** means the same as defined in 45 CFR § 164.103.
17. **Security Rule** means the HIPAA Regulation that is codified at 45 C.F.R. parts 160 and 164, subparts A and C.
18. **Security Incident** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
19. **Security Event** means an immediately reportable subset of security incidents which incident would include:
 - a. a suspected penetration of Contractor's information system of which the Contractor becomes aware of but for which it is not able to verify immediately upon becoming aware of the suspected incident that PHI was not accessed, stolen, used, disclosed, modified, or destroyed;

- b. any indication, evidence, or other security documentation that the Contractor's network resources, including, but not limited to, software, network routers, firewalls, database and application servers, intrusion detection systems or other security appliances, may have been damaged, modified, taken over by proxy, or otherwise compromised, for which Contractor cannot refute the indication of the time the Contractor became aware of such indication;
- c. a breach of the security of the Contractor's information system(s) by unauthorized acquisition, including, but not limited to, access to or use, disclosure, modification or destruction, of unencrypted computerized data and which incident materially compromises the security, confidentiality, or integrity of the PHI; and or,
- d. the unauthorized acquisition, including but not limited to access to or use, disclosure, modification or destruction, of unencrypted PHI or other confidential information of the County by an employee or authorized user of Contractor's system(s) which materially compromises the security, confidentiality, or integrity of PHI or other confidential information of the County.

If data acquired (including but not limited to access to or use, disclosure, modification or destruction of such data) is in encrypted format but the decryption key which would allow the decoding of the data is also taken, the parties shall treat the acquisition as a breach for purposes of determining appropriate response.

20. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR parts 160 and 164, subparts A and C.

21. **Unsecured PHI** means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary. Unsecured PHI shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. section 17932(h).

II. OBLIGATIONS OF CONTRACTOR

1. Compliance with the Privacy Rule: Contractor agrees to fully comply with the requirements under the Privacy Rule applicable to "Business Associates" as defined in the Privacy Rule and not use or further disclose Protected Health Information other than as permitted or required by this agreement or as required by law.
2. Compliance with the Security Rule: Contractor agrees to fully comply with the requirements under the Security Rule applicable to "Business Associates" as defined in the Security Rule.
3. Compliance with the HITECH Act: Contractor hereby acknowledges and agrees it will comply with the HITECH provisions as proscribed in the HITECH Act.

III. USES AND DISCLOSURES

Contractor shall not use Protected Health Information except for the purpose of performing Contractor's obligations under the Contract and as permitted by the Contract and this Agreement. Further, Contractor shall not use Protected Health Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by County.

1. Contractor may use Protected Health Information:
 - a. For functions, activities, and services for or on the Covered Entities' behalf for purposes specified in the Contract and this Agreement.
 - b. As authorized for Contractor's management, administrative or legal responsibilities as a Contractor of the County. The uses and disclosures of PHI may not exceed the limitations applicable to the County;
 - c. As required by law.
 - d. To provide Data Aggregation services to the County as permitted by 45 CFR § 164.504(e)(2)(i)(B).
 - e. To report violations of law to appropriate Federal and State authorities, consistent with CFR § 164.502(j)(1).
2. Any use of Protected Health Information by Contractor, its agents, or subcontractors, other than those purposes of the Agreement, shall require the express written authorization by the County and a Business Associate Agreement or amendment as necessary.
3. Contractor shall not disclose Protected Health Information to a health plan for payment or health care operations if the patient has requested this restriction and has paid out of pocket in full for the health care item or service to which the Protected Health information relates.
4. Contractor shall not directly or indirectly receive remuneration in exchange for Protected Health Information, except with the prior written consent of County and as permitted by the HITECH Act, 42 U.S.C. section 17935(d)(2); however, this prohibition shall not affect payment by the County to Contractor for services provided pursuant to the Contract.
5. Contractor shall not use or disclosed Protected Health Information for prohibited activities including, but not limited to, marketing or fundraising purposes.
6. Contractor agrees to adequately and properly maintain all Protected Health Information received from, or created, on behalf of County.
7. If Contractor discloses Protected Health Information to a third party, Contractor must obtain, prior to making any such disclosure, i) reasonable written assurances from such third party that such Protected Health Information will be held confidential as provided pursuant to this Agreement and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a *written* agreement from such third party to immediately notify Contractor of any breaches of confidentiality of the Protected Health Information, to the extent it has obtained knowledge of such breach [42 U.S.C. section 17932; 45 C.F.R. §§ 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

IV. MINIMUM NECESSARY

Contractor (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Health necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. section 17935(b); 45 C.F.R. § 164.514(d)(3)]. Contractor understands and agrees that the definition of “minimum necessary” is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes “minimum necessary.”

V. APPROPRIATE SAFEGUARDS

1. Contractor shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Health Information otherwise than as permitted by this Agreement, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Health Information in accordance with 45 C.F.R. §§ 164.308, 164.310, and 164.312. [45 C.F.R. § 164.504(e)(2)(ii)(B); 45 C.F.R. § 164.308(b)]. Contractor shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. § 164.316. [42 U.S.C. section 17931].
2. Contractor agrees to comply with Subpart 45 CFR part 164 with respect to Electronic Protected Health Information (ePHI). Contractor must secure all Electronic Protected Health Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with the National Institute of Standards Technology (NIST) Standards and Federal Information Processing Standards (FIPS) as applicable.
3. Contractor agrees that destruction of Protected Health Information on paper, film, or other hard copy media must involve either cross cut shredding or otherwise destroying the Protected Health Information so that it cannot be read or reconstructed.
4. Should any employee or subcontractor of Contractor have direct, authorized access to computer systems of the County that contain Protected Health Information, Contractor shall immediately notify County of any change of such personnel (e.g. employee or subcontractor termination, or change in assignment where such access is no longer necessary) in order for County to disable previously authorized access.

VI. AGENT AND SUBCONTRACTOR'S OF CONTRACTOR

1. Contractor shall ensure that any agents and subcontractors to whom it provides Protected Health Information, agree in writing to the same restrictions and conditions that apply to Contractor with respect to such PHI and implement the safeguards required with respect to Electronic PHI [45 C.F.R. § 164.504(e)(2)(ii)(D) and 45 C.F.R. § 164.308(b)].
2. Contractor shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. §§ 164.530(f) and 164.530(e)(l)).

VII. ACCESS TO PROTECTED HEALTH INFORMATION

1. If Contractor receives Protected Health Information from the County in a Designated Record Set, Contractor agrees to provide access to Protected Health Information in a Designated Record Set to the County in order to meet its requirements under 45 C.F.R. § 164.524.
2. Contractor shall make Protected Health Information maintained by Contractor or its agents or subcontractors in Designated Record Sets available to County for inspection and copying within five (5) days of a request by County to enable County to fulfill its obligations under state law, [Health and Safety Code section 123110] the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.524 [45 C.F.R. § 164.504(e)(2)(ii)(E)]. If Contractor maintains an Electronic Health Record, Contractor shall provide such information in electronic format to enable County to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. section 17935(e).
3. If Contractor receives a request from an Individual for a copy of the individual's Protected Health Information, and the Protected Health Information is in the sole possession of the Contractor, Contractor will provide the requested copies to the individual in a timely manner. If Contractor receives a request for Protected Health Information not in its possession and in the possession of the County, or receives a request to exercise other individual rights as set forth in the Privacy Rule, Contractor shall promptly forward the request to the County. Contractor shall then assist County as necessary in responding to the request in a timely manner. If a Contractor provides copies of Protected Health Information to the individual, it may charge a reasonable fee for the copies as the regulations shall permit.
4. Contractor shall provide copies of HIPAA Privacy and Security Training records and HIPAA policies and procedures within five (5) calendar days upon request from the County.

VIII. AMENDMENT OF PROTECTED HEALTH INFORMATION

Upon receipt of notice from County, promptly amend or permit the County access to amend any portion of Protected Health Information in the designated record set which Contractor created for or received from the County so that the county may meet its amendment obligations under 45 CFR § 164.526. If any individual requests an amendment of Protected Information directly from Contractor or its agents or subcontractors, Contractor must notify the County in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by Contractor or its agents or subcontractors shall be the responsibility of the County [45 C.F.R. § 164.504(e)(2)(ii)(F)].

IX. ACCOUNTING OF DISCLOSURES

1. At the request of the County, and in the time and manner designed by the County, Contractor and its agents or subcontractors shall make available to the County, the information required to provide an accounting of disclosures to enable the County to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. § 164.528, and the HITECH Act, including but not limited to 42 U.S.C. § 17935. Contractor agrees to implement a process that allows for an accounting to be collected and maintained by the Contractor and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that Contractor maintains an electronic health record and is subject to this requirement.
2. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Health Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.

3. In the event that the request for an accounting is delivered directly to Contractor or its agents or subcontractors, Contractor shall forward within five (5) calendar days a written copy of the request to the County. It shall be the County's responsibility to prepare and deliver any such accounting requested. Contractor shall not disclose any Protected Information except as set forth in this Agreement [45 C.F.R. §§ 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this paragraph shall survive the termination of this Agreement.

X. GOVERNMENTAL ACCESS TO RECORDS

Contractor shall make its internal practices, books and records relating to its use and disclosure of the protected health information it creates for or receives from the County, available to the County and to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Contractor's compliance with the Privacy rule [45 C.F.R. § 164.504(e)(2)(ii)(H)]. Contractor shall provide to the County a copy of any Protected Health Information that Contractor provides to the Secretary concurrently with providing such Protected Information to the Secretary.

XI. CERTIFICATION

To the extent that the County determines that such examination is necessary to comply with the Contractor's legal obligations pursuant to HIPAA relating to certification of its security practices, County, or its authorized agents or contractors may, at the County's expense, examine Contractor's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to County the extent to which Contractor's security safeguards comply with HIPAA Regulations, the HITECH Act, or this Agreement.

XII. BREACH OF UNSECURED PROTECTED HEALTH INFORMATION

1. In the case of a breach of unsecured Protected Health Information, Contractor shall comply with the applicable provisions of 42 U.S.C. § 17932 and 45 C.F.R. part 164, subpart D, including but not limited to 45 C.F.R. § 164.410.
2. Contractor agrees to notify County of any access, use or disclosure of Protected Health Information not permitted or provided for by this Agreement of which it becomes aware, including any breach as required in 45 C.F.R. § 164.410. or security incident immediately upon discovery by telephone at 707-784-2962 and Riskdepartment@solanocounty.com or 707-784-3199 and will include, to the extent possible, the identification of each Individual whose unsecured Protected Health Information has been, or is reasonably believed by the Contractor to have been accessed, acquired, used, or disclosed, a description of the Protected Health Information involved, the nature of the unauthorized access, use or disclosure, the date of the occurrence, and a description of any remedial action taken or proposed to be taken by Contractor. Contractor will also provide to County any other available information that the Covered entity requests.
3. A breach or unauthorized access, use or disclosure shall be treated as discovered by the Contractor on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the Contractor or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of the Contractor.

4. Contractor shall mitigate, to the extent practicable, any harmful effect that results from a breach, security incident, or unauthorized access, use or disclosure of unsecured Protected Health Information by Contractor or its employees, officers, subcontractors, agents or representatives.
5. Following a breach, security incident, or any unauthorized access, use or disclosure of unsecured Protected Health Information, Contractor agrees to take any and all corrective action necessary to prevent recurrence, to document any such action, and to make all documentation available to the County.
6. Except as provided by law, Contractor agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Unsecured Projected Health Information without obtaining the County's prior written consent. County hereby reserves the sole right to determine whether and how such notice is to be provided to any individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice. When applicable law requires the breach to be reported to a federal or state agency or that notice be given to media outlets, Contractor shall cooperate with and coordinate with County to ensure such reporting is in compliance with applicable law and to prevent duplicate reporting, and to determine responsibilities for reporting.
7. Contractor acknowledges that it is required to comply with the referenced rules and regulations and that Contractor (including its subcontractors) may be held liable and subject to penalties for failure to comply.
8. In meeting its obligations under this Agreement, it is understood that Contractor is not acting as the County's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that Contractor is at all times acting an independent contractor in providing services pursuant to this Agreement and Exhibit A, Scope of Work.

XIII. TERMINATION OF AGREEMENT

1. Upon termination of this Agreement for any reason, Contractor shall return or destroy, at County's sole discretion, all other Protected Health Information received from the County, or created or received by Contractor on behalf of the County.
2. Contractor will retain no copies of Protected Health Information P in possession of subcontractors or agents of Contractor.
3. Contractor shall provide the County notification of the conditions that make return or destruction not feasible, in the event that Contractor determines that returning or destroying the PHI is not feasible. If the County agrees that the return of the Protected Health Information is not feasible, Contractor shall extend the protections of this Agreement to such Protected Health Information and limit further use and disclosures of such Protected Health Information for so long as the Contractor or any of its agents or subcontractor maintains such information.
4. Contractor agrees to amend this Exhibit as necessary to comply with any newly enacted or issued state or federal law, rule, regulation or policy, or any judicial or administrative decision affecting the use or disclosure of Protected Health Information.

5. Contractor agrees to retain records, minus any Protected Health Information required to be returned by the above section, for a period of at least 7 years following termination of the Agreement. The determining date for retention of records shall be the last date of encounter, transaction, event, or creation of the record.
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CERTIFICATION

I, the official named below, certify that I am duly authorized legally to bind the Contractor or grant recipient to the above described certification. I am fully aware that this certification is made under penalty of perjury under the laws of the State of California.

Contractor or Grant Recipient Signature Date

Official's Name (type or print)

Title

Federal Tax ID Number