

EXHIBIT A
SCOPE OF WORK

(to be determined during contract negotiations based on Proposal)

of the contract period.

E. The following criteria apply to financial data submitted by Contractor under this Contract:

1. Requests for payment of personnel costs must include positions, salary, and actual percentage of time for each position. If Contractor provides fringe benefits to part time employees, salary and fringe benefits must be pro-rated for non-full-time employees. Salaries are fixed compensation for services performed by staff who are directly employed by Contractor and who are paid on a regular basis. Employee benefits and employer payroll taxes include Contractor's contributions or expenses for social security, employee's life and health insurance plans, unemployment insurance, pension plans, and other similar expenses that are approved by County. These expenses are allowable when they are included in the grant award and are in accordance with Contractor's approved written policies.

2. Salaries and benefits of personnel involved in more than one grant or project must be charged to each grant based on the actual percentage of time spent on each grant or project. The annualized actual percentage charged for a particular position (e.g., Project Director) cannot exceed the annual percentage approved in the grant award. Similarly, the dollar amount charged for a particular position also may not exceed the dollar amount in the approved grant award. Functional timesheets or an allocation plan must be maintained that support the time charged to County grants.

3. Allowable operating expenses are defined as necessary expenditures exclusive of personnel salaries, benefits, equipment or payments to subcontractors. Such expenses include specific items directly charged to the project. The expenses must be grant-related (i.e., to further the program objectives as defined in the grant award) and be incurred (realized) during the grant period. County reserves the right to make the final determination if an operating expense is allowable and necessary.

4. Indirect costs are shared costs that cannot be directly assigned to a particular activity, but are necessary to the operation of the agency and the performance of the project.

**EXHIBIT B-1
CONTRACTOR BUDGET**

Line Item	FTE	County of Solano	Other Sources	Total
<u>Personnel</u>				
Staff Member 1				
Staff Member 2				
Staff Member 3				
Staff Member 4				
Benefits				
Subtotal Personnel				
<u>Operating Expenses</u>				
Rent & Utilities				
Office Supplies & Materials				
Telephone/Communications				
Postage/Mailing				
Reproduction/Copying				
Travel				
Training/Conferences				
Other				
Subtotal Operating Expenses				
<u>Subcontractors</u>				
Subcontractor 1				
Subcontractor 2				
Subtotal Subcontractors				
<u>Indirect Costs</u>				
Administration				
Subtotal Indirect				
Grand Total Expenses				

EXHIBIT B-2
BUDGET MODIFICATION REQUEST FORM
FY

GRANTEE ORGANIZATION: _____

PROGRAM: _____

CONTRACT NUMBER: _____

Line Item	Approved FTE	Approved Budget (Date of last Modification if applicable _____)	Requested Modification	Requested Modified Budget
Personnel				
Staff Member 1				
Staff Member 2				
Staff Member 3				
Staff Member 4				
Benefits				
Subtotal Personnel				
Operating Expenses				
Rent & Utilities				
Office Supplies & Materials				
Telephone/Communications				
Postage/Mailing				
Reproduction/Copying				
Travel				
Training/Conferences				
Other				
Subtotal Operating Expenses				
Subcontractors				
Subcontractor 1				
Subtotal Subcontractors				
Indirect Costs				
Subtotal Indirect				
Grand Total Expenses				

Please answer all Budget Modification Justification Questions on Page 2.

Authorized Grantee Signature

Date

First 5 Solano Executive Director

Date

First 5 Solano internal use only

Date: _____ Action Taken _____ Date: _____ Action Taken: Updated in Persimmony

Program Manager Recommend approval: _____

Budget Modification Justification:

1. If there are changes to Personnel, please explain. Are there changes to job duties? If there are decreases to a personnel line, how is that job going to be completed? Please clarify a change to FTE (example: 0.5 FTE to 0.75 FTE).

2. If there are changes to operating expenses, please explain. How do operating expenses differ than anticipated?

3. If there are changes to subcontractors, please explain.

4. If there are changes to indirect costs, please explain. *Please also attach your indirect cost rate plan.*

5. Are there any changes to matching/leveraged funds?

Note: Changes to this fiscal year do not change future fiscal years' budgets.

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

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 any protected class; (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 a federally funded program; (ii) have not been convicted of a criminal offense related to the provision of federally funded items or services nor has been previously excluded, debarred, or otherwise declared ineligible to participate in any federally funded 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 federally funded programs.

B. For purposes of this Contract, federally funded programs include any federal health program as defined in 42 USC § 1320a-7b(f) (the "Federal Healthcare Programs") or any state healthcare programs.

C. 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.

D. If services pursuant to this Contract involve federally-funded 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 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.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. SPECIAL RESPONSIBILITIES OF CONTRACTOR.

Contractor shall either:

A. 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 thirty (30) days of the end of each calendar year of the term of this Contract; and provide an audit report, including a management letter, within thirty (30) days of the end of each calendar year of the term of this Contract; or,

B. If funds awarded to Contractor by County under this Contract are \$100,000 per fiscal year or less, provide an unaudited statement of revenue and expenditures and balance sheet (if applicable) to County within thirty (30) days of the end of each calendar year of the term of this Contract.

2. EVALUATION

A. Contractor shall establish and use method(s) of systematic program evaluation to review the quality and appropriateness of services provided under this Contract. Contractor shall report on the progress on all its goals and measurable objectives, terms and conditions and all other requirements contained in County approved "Project Scope of Work/Evaluation Plan", which is attached to this Contract as Exhibit "A-1", and incorporated in this Contract by this reference. Contractor shall input data into County's approved collection system on a monthly basis, or as otherwise prescribed by County.

B. Contractor shall submit reports to County on activities as specified in Exhibit A [Project Scope of Work/Evaluation Plan], which reports/describe Contractor's progress in performing the scope of work set forth in Exhibit A [Scope of Work] every 3 (three) months throughout the term of the Contract, due thirty (30) days after the completion of such reporting period, with a final report due within 6 (six) weeks after termination of this Contract.

C. Contractor shall be solely responsible for the administration of the program to be conducted under this Contract, and shall review all monitoring reports and notices of corrective actions/recommendations provided by County.

D. Contractor shall send written notice of meetings held by its Board of Directors where any discussion at the meeting is related to the program set forth in the Contract, including both regularly scheduled and any special meetings, to the contract manager at least 48 hours in advance of regularly scheduled meetings and at least 24 hours in advance of special meetings. Contractor shall send copies of minutes from its board meetings and copies of any written reports submitted to its Board of Directors that address the funded programs and any financial issues that impact the delivery of County funded services to the County within thirty (30) days of approval of such minutes or submission of such reports.

E. The timely submission of all reports, agendas and minutes that address the program is a necessary and material term and condition of this Contract. County may stop payments under this Contract if Contractor has not submitted such reports to County within forty-five (45) days following the end of each quarter.

3. POLICY ON COMPLIANCE IN CONTRACTS

Without limiting any remedy available under section 9 of Exhibit C to this contract, or as otherwise provided by law, in the event of a default by Contractor or other noncompliance with the terms of this Contract, County may, in the sole and absolute discretion of County, require Contractor to comply with County's procedure for identifying and correcting non-compliance in contracts.

4. 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.

5. PUBLIC ACKNOWLEDGEMENT OF FUNDS

Contractor shall acknowledge the County of Solano in all public materials that mention the funded programs or services, including (but not limited to) Web sites, e-mails, news releases, media advisories, brochures, newsletters, flyers, advertisements, public service announcements, posters, and any other public communication items.

Appropriate acknowledgement is defined as follows:

- A. Includes the County of Solano logo; of
- B. Includes the statement "Made possible by funding from the County of Solano"

Any deviation from the above must be approved before distribution of public outreach materials.

6. START-UP PERIOD

Without limiting any remedy available under section 9 of Exhibit C to this Contract, or as otherwise provided by law, in the event that Contractor does not implement the services contemplated by this Contract within 6 months of the effective date of this Contract, County reserves the right, in the sole and absolute discretion of County, to terminate the Contract with 15 days written notice of such termination to Contractor.

7. DRUG FREE WORKPLACE

Contractor shall execute the form attached as Exhibit D-1.

8. CHILD ABUSE

Contractor shall execute the form attached as Exhibit D-2.

9. ADULT ABUSE

Contractor shall execute the form attached as Exhibit D-3.

10. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

Contractor shall execute the form attached as Exhibit D-4.

11. CONFIDENTIAL RECORDS

Contractor acknowledges that client-specific information generated, received or disseminated pursuant to its performance under this Contract may be confidential and shall not be disclosed in any manner unless authorized by law or by client consent. Furthermore, Contractor warrants that Contractor is knowledgeable of state and federal confidentiality laws applicable to the subject of this Contract and will abide by such requirements.

EXHIBIT D-1 - DRUG-FREE WORKPLACE CERTIFICATION

The contractor named hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The 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 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, hereby 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 and in the county below, is made under penalty of perjury under the laws of the State of California.

Contractor

Date

Officials Name (type or print)

Title

Federal Tax I.D. Number

EXHIBIT D-2 - CHILD ABUSE REPORTING REQUIREMENTS

Section 11166 of the Penal Code requires any child care custodian, health practitioner, animal control officer, employee of a child protective agency, or child visitation monitor 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 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.

For purposes of this section, "child care custodian" includes teachers; and instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certified pupil personnel employees of any public or private school; administrators of a public or private day camp; administrators and employees of any public or private youth centers, youth recreation programs, or youth organizations; administrators and employees of public or private organizations whose duties require direct contact and supervision of children and who have been trained in the duties imposed by this article; licensees, administrators and employees of licensed community care or child day care facilities; head start teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; social workers, probation officers, or parole officers; employees of a school district police or security department; any person who is an administrator or a presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentist, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrist, or any other person who is licensed under **Division 2** (commencing with Section 500) of the Business and Professions Code; marriage, family, and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to **Division 2.5** (commencing with Section 1797) of the **Health and Safety Code**; psychological assistants registered pursuant to Section 2913 of the **Business and Professions Code**; marriage, family, and child counselor trainees as defined in subdivision c of Section 4980.03 of the **Business and Professions Code**; unlicensed marriage, family and child counselor interns registered under Section 4980.44 of the **Business and Profession Code**; state or county public health employees who treat minors for venereal disease or any other condition; coroners; and paramedics.

"Child visitation monitor" means any person as defined in Section 11165.15.

I, the undersigned, have read the above and understand the provisions of Penal Code section 11166. I further understand that I am a mandated reporter subject to the requirements of Penal Code Section 11166 and will comply with its provisions.

Name _____

Signature _____

Title _____

Date _____

EXHIBIT D-3 - ADULT ABUSE REPORTING REQUIREMENTS

Section 15630 of the Welfare and Institutions Code requires that any elder or dependent adult care custodian, health practitioner or employee or a county adult protective services agency or a local law enforcement agency who in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, financial abuse or neglect or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation and financial abuse or neglect, or reasonably suspects abuse shall report the known or suspected abuse by telephone immediately or as soon as practically possible, and by written report sent within two working days to a local law enforcement agency or to adult protective services agency or other agency as directed by statute.

Under the definition of “care custodian” set forth in Section 15610.17 of the Welfare and Institutions Code, every employee and volunteer of contractor is a mandated reporter subject to the provisions of Section 15630.

I certify that I have received and read a copy of Welfare and Institutions Code Section 15630. I understand the reporting requirements set for in Section 15630 and will comply with its provisions. I certify that I have been provided with the number of Adult Protective Services for reporting elder abuse in Solano County.

Name _____

Signature _____

Title _____

Date _____

**EXHIBIT D-4
SOLANO COUNTY
HIPAA BUSINESS ASSOCIATE AGREEMENT**

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)(I)).

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 for purposes of determining Contractors 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 Protect 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.

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