

**AGREEMENT FOR PURCHASE
OF COMMODITIES**

This AGREEMENT for the purchase of commodities (AGREEMENT) is made as of the Agreement Date set forth below by and between the County of Yuba, a political subdivision of the State of California, on behalf of its Health and Human Services Department, hereinafter referred to as "COUNTY," and (*contractor's name*) hereinafter referred to as "CONTRACTOR."

The purpose of this Agreement is to provide _____ (*Upon completion of contract negotiations, and as a component for finalizing the contract documents, information related to the services provided will be drafted and inserted into this section.*).

In consideration of the sums to be paid and each and every covenant and condition contained herein, the parties hereto agree as follows:

1. TERM.

Commencement Date: *TBD*

Termination Date: *TBD*

The term of this Agreement shall become effective on (*TBD*), and shall continue in force and effect for a period of (*TBD*) year(s), unless sooner terminated in accordance with the terms of this Agreement.

Notwithstanding the term set forth above, and unless this contract is terminated by either party prior to its termination date, the term of the Agreement may be automatically extended up to ninety (90) days. Any Notice of Termination during this automatic extension period shall be effective upon a ten (10) day written notice to the other party. The purpose of this automatic extension is to allow for the continuation of the terms of this Agreement while allowing County time in which to complete a novation or renewal contract for CONTRACTOR and COUNTY approval.

CONTRACTOR understands and agrees that there is no representation, implication, or understanding that the purchase of commodities made under this Agreement will be purchased by COUNTY under a new agreement following expiration or termination of this Agreement, and CONTRACTOR waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such commodities from CONTRACTOR.

2. DESIGNATED REPRESENTATIVES.

The Director of Yuba County Health and Human Services Department is the representative of the COUNTY and will administer this Agreement for the COUNTY. (*authorized signor for contractor*) is the authorized representative for CONTRACTOR. Changes in designated representatives shall occur only by advance written notice to the other party.

3. SCOPE OF RESPONSIBILITIES AND DUTIES.

CONTRACTOR is a [type of business] that orders [types of commodities]. Under this Agreement, CONTRACTOR agrees to:

(Upon completion of contract negotiations, and as a component for finalizing the contract documents, information related to the Scope of Responsibilities and Duties will be drafted and inserted into this section.)

3.1

3.2

4. FISCAL PROVISIONS.

(Upon completion of contract negotiations, and as a component for finalizing the contract documents, information related to the Fiscal Provisions will be drafted and inserted into this section.)

4.1 MAXIMUM AMOUNT PAYABLE. COUNTY shall pay CONTRACTOR an amount not to exceed _____ (\$) per fiscal year for the purchase of . In no event shall total compensation paid to CONTRACTOR for purchases made under this Provision 4.1 exceed _____ (\$) per fiscal year without a formal written amendment to this Agreement approved by the Director of the Yuba County Health and Human Services Department.

4.2 FEES FOR SERVICE.

4.2.1

4.2.2

4.3 CONTRACTOR shall submit a detailed invoice for payment of goods purchased no later than the tenth (10th) day of the month following the delivery of the purchased goods. The detailed invoice submitted shall include the CONTRACTOR's name and address, client(s)' name and/or identifier number, the date(s) goods were ordered and delivered, the cost of each type of goods delivered, and the total cost of goods ordered and delivered. Unless other arrangements are made with COUNTY, invoices shall be mailed to:

COUNTY Program
Yuba County Health and Human Services Department
Attention: COUNTY Program Manager
5730 Packard Avenue, Suite 100
P.O. Box 2320
Marysville, CA. 95901

4.4 FULL PAYMENT. CONTRACTOR agrees that payment for goods ordered and delivered under this Agreement represents payment in full for said goods.

CONTRACTOR shall not seek reimbursement from COUNTY for any purchases reimbursed in whole or in part by any other payor. CONTRACTOR shall submit no claim to demand or otherwise collect reimbursement from referred clients, or persons acting on behalf of referred clients served under this Agreement.

5. GENERAL PROVISIONS.

5.1 FUNDING. CONTRACTOR and COUNTY agree that this Agreement may, at the sole discretion of COUNTY, be determined null, void, and unenforceable if all or part of the federal or state funds secured by COUNTY for the purposes of this Agreement is not made available to COUNTY. This Agreement is subject to any additional restrictions, limitations, or conditions enacted by the state or federal legislatures or any statute enacted by the state or federal legislatures which may affect the provisions, terms, or funding of this Agreement in any manner. Further, this Agreement shall be of no force and effect unless and until COUNTY has a fully executed agreement with the California Department of Aging in accordance with the terms of the MSSP grant as awarded.

5.2 LAW, POLICY AND PROCEDURES, LICENSES, AND CERTIFICATES. CONTRACTOR agrees to administer this Agreement in accordance with all applicable local, county, state, and federal laws, rules, and regulations applicable to their operations. CONTRACTOR shall further comply with all laws including, but not limited to, those relevant to wages and hours of employment, occupational safety, fire safety, health, sanitation standards and directives, guidelines, and manuals related to this Agreement. All issues shall be resolved using reasonable administrative practices and judgment. CONTRACTOR shall keep in effect all licenses, permits, notices, and certificates required by law and by this Agreement.

5.2.1 Licenses, permits, notices and certificates which CONTRACTOR must maintain for the purpose of and during the term of this Agreement are as follows:

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5.3 STANDARD OF PERFORMANCE. CONTRACTOR shall perform its duties and responsibilities required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged. All products of whatsoever nature which CONTRACTOR delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards or quality normally observed by a person practicing in CONTRACTOR's profession.

5.4 CONFIDENTIALITY. CONTRACTOR must maintain compliance with confidentiality regulations. At no time shall CONTRACTOR's employees, agents, or representatives in any manner, either directly or indirectly, use for personal benefit or divulge, disclose, or communicate in any manner, any information that is confidential to the COUNTY.

CONTRACTOR shall protect from unauthorized disclosure the names and other identifying information concerning referred clients receiving goods pursuant to this Agreement or from identifying any client. CONTRACTOR shall not use such information for any purpose other than for carrying out CONTRACTOR's obligations under this Agreement. CONTRACTOR shall promptly transmit to COUNTY all requests for disclosure of such information made by anyone other than the client. CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such information to anyone other than COUNTY. For purposes of this paragraph, identity shall include, but not be limited to: name, identifying numbers, or other identifier, such as finger or voice print, or photograph.

5.5 NON-DISCRIMINATION. Throughout the duration of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee of the CONTRACTOR or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, age, sex or sexual orientation. CONTRACTOR shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. CONTRACTOR shall comply with the provisions of the Fair Employment and Housing Act (Government Code §12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing Government Code §12900, set forth in Chapter 5, Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. CONTRACTOR shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act. CONTRACTOR shall give written notice of its obligations under this clause to any labor agreement. CONTRACTOR shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

5.6 REHABILITATION ACT OF 1973/AMERICANS WITH DISABILITIES ACT OF 1990. In addition to application of the non-discrimination provision of this Agreement, above, CONTRACTOR agrees to comply with all provisions of §504 et seq. of the Rehabilitation Act of 1973, and with all provisions of the Americans with Disabilities Act of 1990, and all amendments thereto, and all administrative rules and regulations issued pursuant to said Acts, pertaining to the prohibition of discrimination against qualified handicapped and disabled persons, in all programs or activities, as to employees or recipients of services.

5.7 LABOR RELATIONS. CONTRACTOR, by signing this Agreement, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONTRACTOR within the immediately preceding two year period because of CONTRACTOR's failure to comply with an order of the National Labor Relations Board.

- 5.8 RECORDS.** CONTRACTOR agrees to maintain and preserve, and to be subject to examination and audit for a period of three (3) years after termination of COUNTY's contract with the State of California, and shall provide access to the federal or state funding agency, the Controller General of the United States, or any of their duly authorized federal or state representatives, and/or the Yuba County Auditor and/or to any duly authorized fiscal agent of the COUNTY, any books, documents, papers, and records of CONTRACTOR which are relevant to this Agreement for the purpose of making an audit, or an examination, or for taking excerpts and transcriptions.
- 5.9 ACCESS.** Authorized federal, state, and/or COUNTY representatives shall have the right to monitor, assess, and evaluate CONTRACTOR's performance pursuant to this Agreement. The monitoring, assessment, and evaluation may include, but is not limited to, audits, inspections of CONTRACTOR's premises, inspection of CONTRACTOR's products, inspection of service sites, inspection of food preparation sites when applicable, and interviews of CONTRACTOR's employees, and COUNTY referred clients receiving services. CONTRACTOR shall ensure that reasonable facilities and other assistance are available for the safety and convenience of federal, state, and county representatives in the performance of their duties. All inspections and evaluations shall be performed in a manner which does not disrupt or delay the CONTRACTOR's ongoing work.
- 5.10** CONTRACTOR agrees to indemnify, defend, and hold harmless the State of California, its officers, agents, and employees, and the COUNTY, its officers, agents, and employees from:
- 5.10.1** Any claim for losses for materials and/or services rendered in connection with the performance of this Agreement.
- 5.10.2** Any claim for losses accruing or resulting to any and all contractors, subcontractors, vendors, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with any activities performed for which funds through this Agreement were used, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by CONTRACTOR in the performance of this Agreement.
- 5.10.3** Any claim for losses resulting to any person or firm injured or damaged by the publication, translation, reproduction, delivery, performance use or disposition of any data processed under this Agreement by CONTRACTOR, its officers, or employees in a manner not authorized by this Agreement or by federal, state, and county laws, regulations, ordinances, and/or policies.
- 5.10.4** Any claims involving an administrative or legal action occurring due to a failure of CONTRACTOR to maintain personnel records and practices in accordance with the provisions of this Agreement and the applicable federal, state, and county laws, regulations, ordinances, and policies. Additionally, CONTRACTOR shall hold COUNTY and the State harmless

from any negotiation, agreements, administrative or legal action pertaining to its personnel policies and/or practices.

5.11 INDEMNITY. CONTRACTOR shall defend, indemnify, and hold harmless COUNTY, its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for personal injury, including death, as well as for property damage, which may arise from the intentional or negligent acts or omissions of CONTRACTOR in the performance of responsibilities and duties under this Agreement by CONTRACTOR, or any of CONTRACTOR's officers, agents, employees, contractors, or sub-contractors.

5.12 REVISIONS, WAIVERS, OR MODIFICATIONS.

5.12.1 Should either party during the term of this Agreement desire a revision, waiver, or modification to this Agreement, such revision, waiver, or modification shall be proposed in writing to the other party. The other party shall accept in writing within thirty (30) days of receipt or it shall be considered rejected, except for those revisions, waivers, or modifications placed into effect under 5.12.2. Once accepted, such revisions, waivers, or modifications shall require an Agreement amendment in writing and approved by both parties to provide for the change mutually agreed to by the parties. Revisions, waivers, or modifications are not effective until COUNTY has received final approval from the State.

5.12.2 COUNTY reserves the right to revise, waive, or modify this Agreement to incorporate changes in law or regulations as a result of action by the Congress, the California State Legislature, and/or the Yuba County Board of Supervisors.

5.13 CONTRACTOR APPEAL AND ADJUDICATION PROCEDURE. *[provision only applies to Multipurpose Senior Services Program (MSSP) agreements]* If CONTRACTOR disputes any decision or action of COUNTY in regards to this Agreement, CONTRACTOR may choose to file a formal grievance. The grievance procedure is as follows:

5.13.1 CONTRACTOR must notify the MSSP Site Director in writing within ten (10) days of the grievance, describing both the grievance and the requested remedy. The MSSP Site Director must respond in writing within ten (10) working days.

5.13.2 If CONTRACTOR is not satisfied with the MSSP Site Director's decision, then CONTRACTOR must notify the Director of the Yuba County Health and Human Services Department in writing within ten (10) working days of receipt of the response. The Director must respond in writing within ten (10) working days.

5.14 CHILD ABUSE/ADULT ABUSE. CONTRACTOR warrants that CONTRACTOR is knowledgeable of the provisions of the Child Abuse and Neglect Reporting Act (Penal Code §11165 et seq.) and the Elder Abuse and Dependent Adult Civil Protection Act (Welfare and Institutions Code §15600 et seq.) requiring reporting of suspected abuse. CONTRACTOR agrees that CONTRACTOR and CONTRACTOR's employees will execute appropriate certifications relating to reporting requirements.

5.15 DRUG-FREE WORKPLACE. CONTRACTOR warrants that it is knowledgeable of the provisions of Government Code §8350 et seq. in matters relating to providing a drug-free work place. CONTRACTOR agrees that CONTRACTOR will execute appropriate certifications relating to Drug-Free Workplace.

5.16 NON-COMPLIANCE.

5.16.1 This Agreement may be terminated immediately upon a determination of noncompliance within the terms of this Agreement by either party upon written notification. Such notification shall state the reason(s) for termination.

5.16.2 COUNTY may suspend or terminate this Agreement if CONTRACTOR violates the law or fails to comply with any requirements specified, demonstrates inadequate performance, fails to comply with reporting requirements, files for bankruptcy, experiences loss or suspension of applicable licenses, or materially changes its organization structure. Such suspension or termination shall be effective immediately in the case of threat to public safety and health, or in all other circumstances, upon thirty (30) days written notice to CONTRACTOR of the proposed action, the reason for such action, and any conditions of the suspension or termination.

5.16.3 If this Agreement is terminated by COUNTY, CONTRACTOR may request an informal grievance hearing by the MSSP Site Director.

5.17 CIVIL RIGHTS. CONTRACTOR warrants that it is aware and understands that the California Department of Social Services (CDSS), in accordance with Division 21 of the Manual of Policies and Procedures (MPP), requires subcontractors that provide services for welfare programs comply with the nondiscrimination statutes as specified in Provision D.12 of this Agreement. CONTRACTOR is hereby informed that additional Civil Rights information and resources are available to CONTRACTOR on the California Department of Social Services, Civil Rights Bureau website: <http://www.cdss.ca.gov/civilrights/> and CONTRACTOR agrees to advise subcontractors of this website source of Civil Rights information.

6. INSURANCE PROVISIONS.

6.1 INSURANCE. CONTRACTOR shall 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 hereunder by the CONTRACTOR, its agents, representatives, or employees.

6.2 MINIMUM SCOPE AND LIMIT OF INSURANCE. Coverage shall be at least as broad as:

6.2.1 Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

6.2.2 Automobile Liability: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

6.2.3 Workers’ Compensation insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

6.2.4 Professional Liability (Errors and Omissions) Insurance as appropriate to CONTRACTOR’s profession, with limits no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, COUNTY requires and shall be entitled to coverage for the higher limits maintained by CONTRACTOR.

6.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:

6.4 Additional Insured Status. COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of CONTRACTOR; and on the CGL policy 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 can be provided in the form of an endorsement to the CONTRACTOR’s insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

6.5 Primary Coverage. For any claims related to this contract, CONTRACTOR’s insurance coverage shall be primary insurance as respects COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by COUNTY, its officers, officials, employees, or volunteers shall be excess of CONTRACTOR’s insurance and shall not contribute with it.

- 6.6 Notice of Cancellation.** Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the COUNTY.**
- 6.7 Waiver of Subrogation.** CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not COUNTY has received a waiver of subrogation endorsement from the insurer.
- 6.8 Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by COUNTY. COUNTY may require CONTRACTOR to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- 6.9 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 the COUNTY.
- 6.10 Claims Made Policies.** If any of the required policies provide coverage on a claims-made basis:
- 6.10.1** The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - 6.10.2** Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - 6.10.3** If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, CONTRACTOR must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- 6.11 Verification of Coverage.** CONTRACTOR shall furnish COUNTY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONTRACTOR's obligation to provide them. COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- 6.12 Subcontractors.** CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

6.13 Special Risks or Circumstances. COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

7. NOTICES.

All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":

Director
Yuba County Health and Human Services
Department
5730 Packard Avenue, Suite 100
P.O. Box 2320
Marysville, CA 95901

With a copy to:

County Counsel
County of Yuba
915 8th Street, Suite 111
Marysville, CA 95901

If to "CONTRACTOR":

Contractor Name
Attention: Signor
Street Address
City, State Zip

8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A – Vendor Assurance of Compliance (CR50)
- Attachment B – Vendor Assurance of Compliance for Multipurpose Senior Services Program
- Attachment C – HIPAA Business Associate Agreement (*if applicable*)

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9. TERMINATION.

COUNTY and CONTRACTOR shall each have the right to terminate this Agreement upon ten (10) days written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on _____, 2016.

"COUNTY"

"CONTRACTOR"

COUNTY OF YUBA

Contractor's Name

Jennifer Vasquez, Director
Yuba County Health and Human
Services Department

Signor's Name, Signor's Title
Tax I.D. No. _____

Authorized pursuant to Board
Resolution No. _____

APPROVED AS TO FORM:
COUNTY COUNSEL

INSURANCE PROVISIONS
APPROVED:

Angil Morris-Jones
County Counsel

Jill Abel,
Human Resources Director and
Risk Manager

ATTACHMENT A

**VENDOR ASSURANCE OF COMPLIANCE WITH
THE YUBA COUNTY WELFARE DEPARTMENT**

**NONDISCRIMINATION IN STATE
AND FEDERALLY ASSISTED PROGRAMS**

CONTRACTOR HEREBY AGREES THAT it will comply with Title VI and VII of the Civil Rights Act of 1964 as amended; Section 504 of the Rehabilitation Act of 1973 as amended; the Age Discrimination Act of 1975 as amended; the Food Stamp Act of 1977, as amended and in particular section 272.6; Title II of the Americans with Disabilities Act of 1990; California Civil Code Section 51 et seq., as amended; California Government Code section 11135-11139.5, as amended; California Government Code section 12940 (c), (h) (1), (i), and (j); California Government Code section 4450; Title 22, California Code of Regulations section 98000 – 98413; Title 24 of the California Code of Regulations, Section 3105A(e); the Dymally-Alatorre Bilingual Services Act (California Government Code Section 7290-7299.8); Section 1808 of the Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and state laws, as well as their implementing regulations [including 45 Code of Federal Regulations (CFR) Parts 80, 84, and 91, 7 CFR Part 15, and 28 CFR Part 42], by ensuring that employment practices and the administration of public assistance and social services programs are nondiscriminatory, to the effect that no person shall because of ethnic group identification, age, sex, color, disability, medical condition, national origin, race, ancestry, marital status, religion, religious creed or political belief be excluded from participation in or be denied the benefits of, or be otherwise subject to discrimination under any program or activity receiving federal or state financial assistance; and HEREBY GIVE ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all federal and state assistance; and THE VENDOR/RECIPIENT HEREBY GIVES ASSURANCE THAT administrative methods/procedures which have the effect of subjecting individuals to discrimination or defeating the objectives of the California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Chapter 21, will be prohibited.

BY ACCEPTING THIS ASSURANCE, the vendor/recipient agrees to compile data, maintain records and submit reports as required, to permit effective enforcement of the aforementioned laws, rules and regulations and permit authorized CDSS and/or federal government personnel, during normal working hours, to review such records, books and accounts as needed to ascertain compliance. If there are any violations of this assurance, CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with Welfare and Institutions Code section 10605, or Government Code section 11135-11139.5, or any other laws, or the issue may be referred to the appropriate federal agency for further compliance action and enforcement of this assurance.

THIS ASSURANCE is binding on the vendor/recipient directly or through contract, license, or other provider services, as long as it receives federal or state assistance.

_____ Date _____ Vendor/Contractor's Signature

_____ Address of vendor/recipient

CR50-Vendor Assurance of Compliance (08/13/01)

ATTACHMENT B

**VENDOR ASSURANCE OF COMPLIANCE WITH
THE YUBA COUNTY
MULTIPURPOSE SENIOR SERVICES PROGRAM
For CONTINGENCY FEES and LOBBYING**

The Vendor/Contractor, by signing this form, hereby certifies that no person or selling agency has been employed or retained to solicit this Agreement. There has been no agreement to make commission payments in order to obtain this Agreement.

Furthermore, the Vendor/Contractor hereby certifies to the best of his or her knowledge and belief that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Vendor/Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subgrants, and contracts under grants, loans, and cooperative agreements which exceed \$100,000) and that all subrecipients shall certify and disclose accordingly.

VENDOR/CONTRACTOR SIGNATURE

DATE

Address of Vendor/Contractor

ATTACHMENT C

HIPAA BUSINESS ASSOCIATE AGREEMENT

This Attachment shall constitute the Business Associate Agreement (the "Agreement") between CONTRACTOR NAME (the "Business Associate") and the County of Yuba (the "Covered Entity"), and applies to the functions Business Associate will perform on behalf of Covered Entity (collectively, "Services"), that are identified in the Master Agreement (as defined below).

1. **Purpose.** This Agreement is intended to ensure that the Business Associate will establish and implement appropriate privacy and security safeguards with respect to "Protected Health Information" (as defined below) that the Business Associate may create, receive, maintain, transmit, use, or disclose in connection with the Services to be provided by the Business Associate to the Covered Entity, and that such safeguards will be consistent with the standards set forth in regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") 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") and the Omnibus Rule (the "Final Rule") published on January 17, 2013.
2. **Regulatory References.** All references to regulatory Sections, Parts and Subparts in this Agreement are to Title 45 of the Code of Federal Regulations as in effect or as amended, and for which compliance is required, unless otherwise specified.
3. **Definitions.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in Sections 160.103, 164.304 and 164.501.
 - 3.1 **Business Associate.** "Business Associate" shall have the same meaning as the term "Business Associate" in Section 160.103, and in reference to the party to this Agreement, shall mean the party identified above as the "Business Associate".
 - 3.2 **Breach.** "Breach" shall have the same meaning as the term "breach" in Section 164.402.
 - 3.3 **Covered Entity.** "Covered Entity" shall mean the County of Yuba, a hybrid entity, and its designated covered components, which are subject to the Standards for Privacy and Security of Individually Identifiable Health Information set forth in Parts 160 and 164.
 - 3.4 **Designated Record Set.** "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.
 - 3.5 **Electronic Protected Health Information.** "Electronic Protected Health Information" ("EPHI") is a subset of Protected Health Information and means individually identifiable health information that is transmitted by or maintained in electronic media or transmitted or maintained in any other form or medium limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
 - 3.6 **Individual.** "Individual" shall have the same meaning as the term "Individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).

- 3.7 Master Agreement. "Master Agreement" shall mean the contract or other agreement to which this Attachment is attached and made a part of.
- 3.8 Minimum Necessary. "Minimum Necessary" shall mean the minimum amount of Protected Health Information necessary for the intended purpose, as set forth at Section 164.514(d): *Standard: Minimum Necessary.*
- 3.9 Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at Part 160 and Part 164, Subparts A and E.
- 3.10 Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in Section 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.
- 3.11 Required By Law. "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.
- 3.12 Secretary. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services ("DHHS") or his/her designee.
- 3.13 Security Incident. "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, "pings", or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate.
- 3.14 Security Rule. "Security Rule" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.
- 3.15 Unsecured Protected Health Information. "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in Section 164.402, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

4. **Compliance with the HIPAA Privacy and Security Rules.**

- 4.1 Business Associate acknowledges that it is required by Sections 13401 and 13404 of the HITECH Act to comply with the HIPAA Security Rule, Sections 164.308 through 164.316, and the use and disclosure provisions of the HIPAA Privacy Rule, Sections 164.502 and 164.504.
- 4.2 Business Associate agrees not to use or further disclose Protected Health Information other than as permitted or required by this Agreement, or as required by law.

5. **Permitted Uses and Disclosures.**

- 5.1 Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity for the purposes specified in Exhibit 1 to this Attachment, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate the Privacy Rule if done by

Covered Entity.

- 5.2 Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- 5.3 Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 5.4 Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by Section 164.504(e)(2)(i)(B).
- 5.5 Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities consistent with Section 164.502(j).

6. Appropriate Safeguards.

- 6.1 Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Health Information that is created, received, maintained or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary rules, regulations and statutes.
- 6.2 To the extent practicable, Business Associate will secure all Protected Health Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized persons and in accordance with any applicable standards or guidance issued by the Department of Health and Human Services under Section 13402 of the HITECH Act.

7. Reporting Unauthorized Uses and Disclosures.

- 7.1 Business Associate agrees to notify Covered Entity of any breach, or security incident involving Unsecured Protected Health Information of which it becomes aware, including any access to, or use or disclosure of Protected Health Information not permitted by this Agreement. Such notification will be made within five (5) business days after discovery 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 Business Associate 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 occurrence, and a description of any remedial action taken

or proposed to be taken by Business Associate. Business Associate will also provide to Covered Entity any other available information that the Covered Entity is required to include in its notification to the Individual under Section 164.404(c) at the time of the initial report or promptly thereafter as the information becomes available.

7.2 In the event of a request by law enforcement under Section 164.412, Business Associate may delay notifying Covered Entity for the applicable timeframe.

7.3 A breach or unauthorized access, use, or disclosure shall be treated as discovered by the Business Associate on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the Business Associate or to any person, other than the person committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of the Business Associate.

7.4 In meeting its obligations under this section, it is understood that Business Associate is not acting as the Covered Entity'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 Business Associate is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

8. Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Unsecured Protected Health Information.

8.1 Business Associate agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Unsecured Protected Health Information by Business Associate or its employees, officers, subcontractors, agents, or other representatives.

8.2 Following a breach, security incident, or any unauthorized access, use or disclosure of Unsecured Protected Health Information, Business Associate agrees to take any and all corrective action necessary to prevent recurrence, to document any such action, and to make said documentation available to Covered Entity.

8.3 Except as required by law, Business Associate agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Unsecured Protected Health Information without obtaining the Covered Entity's prior written consent. Covered Entity 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.

9. Indemnification.

9.1 Business Associate agrees to hold harmless, defend at its own expense, and indemnify Covered Entity for the costs of any mitigation undertaken by Business Associate pursuant to Section 8, above.

9.2 Business Associate agrees to assume responsibility for any and all costs associated with the Covered Entity's notification of Individuals affected by a breach or unauthorized access, use or disclosure by Business Associate or its employees, officers, subcontractors, agents or other representatives when such

notification is required by any state or federal law or regulation, or under any applicable contract to which Covered Entity is a party.

- 9.3** Business Associate agrees to hold harmless, defend at its own expense and indemnify Covered Entity and its respective employees, directors, officers, subcontractors, agents or other members of its workforce (each of the foregoing hereinafter referred to as “Indemnified Party”) against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by Business Associate or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Business Associate’s acts or omissions hereunder. Business Associate’s obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement.

10. Individuals’ Rights.

- 10.1** Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by the Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under Section 164.524.
- 10.2** Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to make pursuant to Section 164.526, at the request of Covered Entity or an Individual, and in the time and manner designated by the Covered Entity.
- 10.3** Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- 10.4** Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section 10(c) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- 10.5** Business Associate agrees to comply with any restriction to the use or disclosure of Protected Health Information that Covered Entity agrees to in accordance with Section 164.522.

11. Obligations of Covered Entity.

- 11.1** Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520, as well as any changes to such notice.
- 11.2** Covered Entity shall provide Business Associate with any changes in, or

revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

- 11.3** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

12. Agents and Subcontractors of Business Associate.

- 12.1** Business Associate agrees to ensure that any person, agent, subcontractor, or other representative to whom it provides Protected Health Information received from, or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, agrees in writing to the same restrictions, conditions and requirements that apply through this Agreement to Business Associate with respect to such information, including the requirement to promptly notify the Business Associate of any instances of unauthorized access to or use or disclosure of Protected Health Information of which it becomes aware. Upon request, Business Associate shall provide copies of such agreements to Covered Entity.
- 12.2** Business Associate shall implement and maintain sanctions against any person, agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

13. Audit, Inspection, and Enforcement.

- 13.1** Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created, received, maintained, or transmitted by Business Associate on behalf of, Covered Entity, available to any state or federal agency, including the Secretary, for the purposes of determining compliance with HIPAA and any related regulations or official guidance.
- 13.2** With reasonable notice, Covered Entity and its authorized agents or contractors may audit and/or examine Business Associate's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Protected Health Information to determine compliance with the terms of this Agreement. Business Associate shall promptly correct any violation of this Agreement found by Covered Entity and shall certify in writing that the correction has been made. Covered Entity's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Covered Entity's enforcement rights under this Agreement.

- 14. Permissible Requests by Covered Entity.** Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

15. Term and Termination.

- 15.1** The terms of this Agreement shall remain in effect for the duration of all services

provided by Business Associate under the Master Agreement and for so long as Business Associate remains in possession of any Protected Health Information received from, or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity unless Covered Entity has agreed in accordance with this section that it is not feasible to return or destroy all Protected Health Information.

- 15.2** Upon termination of the Master Agreement, Business Associate shall recover any Protected Health Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. Business Associate shall return to Covered Entity, or destroy with the consent of Covered Entity, all such Protected Health Information, in any form, in its possession and shall retain no copies. If Business Associate believes it is not feasible to return or destroy the Protected Health Information, Business Associate shall so notify Covered Entity in writing. The notification shall include: (1) a statement that the Business Associate has determined that it is not feasible to return or destroy the Protected Health Information in its possession, and (2) the specific reasons for such determination. If Covered Entity agrees in its sole discretion that Business Associate cannot feasibly return or destroy the Protected Health Information, Business Associate shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Protected Health Information for so long as Business Associate maintains such Protected Health Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Protected Health Information infeasible.
- 15.3** Covered entity may immediately terminate the Master Agreement if it determines that Business Associate has violated a material term of this Agreement.
- 16. Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of the HIPAA Privacy and Security Rules and the HITECH Act.
- 17. Entire Agreement.** This Attachment constitutes the entire HIPAA Business Associate Agreement between the parties, and supersedes any and all prior HIPAA Business Associate Agreements between them.
- 18. Notices.**
- 18.1** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.
- 18.2** Any mailed notice, demand, request, consent, approval or communication that Covered Entity desires to give to Business Associate shall be addressed to Business Associate at the mailing address set forth in the Master Agreement.
- 18.3** Any mailed notice, demand, request, consent, approval or communication that Business Associate desires to give to Covered Entity shall be addressed to

Covered Entity at the following address:

Yuba County Privacy Officer

Phone: (530) 749-6311

E-Mail: securityincidents_hhsd@co.yuba.ca.us

Fax: (530) 749-6281

18.4 For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

19. Lost Revenues; Penalties/Fines.

19.1 Lost Revenues. Business Associate shall make Covered Entity whole for any revenues lost arising from an act or omission in billing practices by Business Associate.

19.2 Penalties/Fines for Failure to Comply with HIPAA. Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with the obligations imposed by HIPAA.

19.3 Penalties/Fines (other). Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as set forth below:

COUNTY
Yuba County Health and Human Services Department

By: _____
Jennifer Vasquez, Director

On: _____
(Date)

CONTRACTOR
CONTRACTOR

By: _____
Signor's Name, Signor's Title

On: _____
(Date)

APPROVED AS TO FORM:

Angil P. Morris-Jones,
Yuba County Counsel

HIPAA BUSINESS ASSOCIATE PROVISIONS

EXHIBIT 1

As provided in Paragraph G.5 of this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity for the purposes specified below, or as otherwise specified in the Master Agreement authorizing functions, activities, or services for, or on behalf of, Covered Entity, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

Authorized Purposes:

(Upon completion of contract negotiations, and as a component for finalizing the contract documents, any additional information relating to the authorized purposes through the provisions of the HIPAA Business Associate Agreement will be drafted and inserted into this section.)