



RFP 36-22

**Request for Qualifications and Proposals
Butte Choice Energy
Community Choice Aggregate (CCA) Technical Advisor
January 3, 2022**

Issued by:
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1. PROGRAM OVERVIEW

1.1. Firm Admonishment

Firms are reminded that it is their responsibility to:

- ✓ Read carefully all of the contents of this entire Request For Qualifications and Proposals (Solicitation).
- ✓ Ask for clarification before submission due dates.
- ✓ Address all requirements and follow all procedures of this Solicitation.
- ✓ Immediately inform the County of Butte of any problems with this Solicitation.
- ✓ Submit all responses by the required dates and times.

1.2. Background and Purpose

The County of Butte and Butte Choice Energy (BCE), which includes the unincorporated area of Butte County, the City of Chico and the City of Oroville, is interested in identifying a technical adviser who can help BCE navigate the complicated and ever changing work of Community Choice Aggregators (CCA's) as BCE continues to assess market conditions and prepares for a 2024 program launch.

A Feasibility Analysis was conducted in 2018. At the conclusion of this study, BCE was formed and slated to launch in 2021. Unfortunately, when COVID-19 hit hard in 2020, the credit and energy market took a significant turn for the worse, causing BCE to delay its launch.

BCE is seeking a technical consultant who has the technical expertise to analyze the various facets of implementing a CCA, including but not limited to: energy market conditions, Power Charge Indifference Adjustment (PCIA) impacts, Resource Adequacy, banking/credit options, and all the day to day requirements and nuances required by the CPUC to successfully launch a CCA.

1.3. Goals of the Choice Energy Aggregation Program

Previous goals identified driving the desire to implement a CCA include the following:

- ✓ Achieve rate parity or better with PG&E and a lower rate escalation than PG&E over time;
- ✓ Create regional economic benefits including job creation, increased local energy investment, and reduced energy imports.
- ✓ Meet or exceed the California Renewable Portfolio Standard (RPS);
- ✓ Provide a project development and ownership strategy that increases the development of renewable energy projects statewide and locally to achieve reductions in greenhouse gases (GHG) from electrical energy generation, and
- ✓ Expand opportunities for local ownership and investment in energy assets.

2. Procurement Process Plan Overview

The County of Butte intends to conduct a multi-phase procurement process plan:

2.1. Phase 1: Non-Mandatory Remote Meeting

The County invites all interested Firms to attend a non-mandatory remote meeting to meet the project manager. The meeting is planned for January 17, 2022 at 10:00 am.

To ensure that all interested Firms receive the same information, all questions will be captured and the County/BCE will issue an amendment to this solicitation with a response to all questions. Only Firms that register, at no fee, through the Public Purchase website at www.publicpurchase.com will obtain amendments as posted throughout this solicitation.

2.2. Phase 2: Initial Evaluation

The selection panel will evaluate all submittals and rank them in order, based on the evaluation criteria below.

2.3. Phase 3: Presentations

The Firms ranked as having the top three submittals may be asked to provide a presentation to BCE staff to allow the Firms to provide additional information that the Firms believe will help the County in making a final evaluation.

2.4. Phase 4: Final Evaluation

The selection panel will consider the submittals and results of presentation in making a final selection of the Firm the County may award.

3. SCOPE OF WORK

In the event the County of Butte awards a contract under this, or similar, solicitations, the selected Firm(s), must be able to complete the following tasks:

3.1. Load Analysis and Forecast

- 3.1.1. Request/receive Investor Owned Utility data for unincorporated Butte County, City of Chico, City of Oroville, and Town of Paradise.
- 3.1.2. Review, format, and import load data into an analytical framework and prepare summary level data for residential, commercial, industrial, agricultural, and municipal account.
- 3.1.3. Prepare a 10-year load forecast in consideration of this data, using applicable load profiles made available by the incumbent utility.
- 3.1.4. Prepare an electricity load forecast that references historical information and projects future electricity usage and peak demand across all customer classes, taking into account growth in renewable generation capacity (e.g. rooftop solar) and other appropriate factors, such as compensation for line losses. This task will also entail the development of class-specific forecasts which will be aggregated to

comprise a composite of expected electrical energy requirements (and daily shape) for the entire County, accounting for seasonal and hourly variations. This aggregated forecast will be developed in a manner that will allow for the inclusion or exclusion of current direct access electrical accounts, as identified in customer data provided by the utility, against the event that such accounts elect to become CCA customers. The forecast will also include those Butte County businesses that are currently receiving rates through PG&E Economic Development Rate, understanding that such rate expires five (5) years from the date of contract.

- 3.1.5. Estimate the number of megawatt-hours that will be required annually and each hour of the year to serve electricity service supply obligations of the CCA during the first ten years of its operations and estimate the County's peak demand service responsibility for each year for purposes of quantifying pertinent resource adequacy requirements (RAR).
- 3.1.6. Analyze renewable energy requirements to achieve compliance with California's Renewables Portfolio Standard as well as other pertinent information that may be required to develop supplier bid specifications and promote successful CCA implementation.
- 3.1.7. Examine the potential for GHG reductions (through the use of varying levels of renewable/clean energy), and the projected financial impacts of varying levels of renewable energy integration.

3.2. Rate Analysis

- 3.2.1. Prepare both CCA and incumbent utility rate analysis based on reasonable estimates of future rate increases/fluctuations and rate structure changes and in light of active rate-setting proposals and proceedings and historical prices, trends and factors that may affect future increases (e.g. local generation construction, spot market pricing, renewable energy mandates and declining cost of renewables, etc.). Address any factor that may significantly affect future rates, including ancillary services, transmission congestion impacts, and transmission scheduling and coordination costs.
- 3.2.2. Present rate scenarios based on high, medium and low estimates of future PG&E pricing for all rate classes. Include rate structure information in a format similar to existing Investor Owned Utility, ensuring a greater ability for rate comparison.
- 3.2.3. Other rate considerations to be addressed in the technical analysis include:
 - 3.2.3.1. Identification and evaluation of factors that may affect comparative rates (Examples include combinations of the following: high and low natural gas price escalation, trends and variations in hydroelectric power generation,

expected rate restructuring, and active state policy proposals affecting local electricity usage, substitution and supply);

- 3.2.3.2. Investor-owned utility (IOU) costs and surcharges embedded in rate forecasts that directly affect costs of CCA-provided generation services;
- 3.2.3.3. Forecasted rates for all customers assuming there is no CCA and/or for customers that opt out of CCA service; and
- 3.2.3.4. Based on IOU rate forecasts and other independent rate forecasts and estimates of non-generation costs, compile electric generation service cost/payment estimates for prospective CCA customers in consideration of applicable IOU rate schedules.
- 3.2.3.5. Determine if Demand Charges stay with the Investor Owned Utility, or if they can be the responsibility of the CCA. If CCA responsibility, provide analysis of potential Demand Charges including rate structure.

3.3. Energy Procurement

- 3.3.1. Develop scenarios for the energy procurement requirements of the CCA. Each scenario will examine the likely rates and competitiveness with PG&E, given historic, current, and future market conditions. Each scenario will also estimate GHG impacts compared to PG&E.
- 3.3.2. Consider variations in how both the renewable and non-renewable portions of the power mix can be obtained (e.g., in-state, in-city, in-county, out-of-state, unbundled vs. bundled renewable energy credits (REC), technology opportunities, and net surplus energy generation opportunities), and non-renewable portfolio attributes (e.g., system purchases, natural gas, hydro-electric).
- 3.3.3. Include analysis of PG&E's 100% renewable tariff option, particularly as it relates to rates, local renewable content, REC content, GHG impacts and other relevant metrics.
- 3.3.4. Provide current and forecasted market information based on the following clean power supply scenarios. The analysis of each scenario shall be designed to incorporate and specify the following variables: (1) the use of bundled (category 1 and 2) vs. unbundled renewable energy credits (category 3), (2) the integration of local distributed resources for all of part of the supply portfolio, and (3) the inclusion of preferred technologies, including solar PV, microgrids, storage and wind.
 - 3.3.4.1. Option 1: Baseline, minimum 33% California (CA) qualified renewable content. The goal of CCA service will be to exceed California's Renewable Portfolio Standard (RPS) during the CCA's first year of operation. Option 1 scenario

should examine a supply scenario that meets or exceeds the 2020 RPS minimum of 33% at the time of CCA service commencement.

3.3.4.2. Option 2: Minimum 50% CA qualified renewable energy.

3.3.4.3. Option 3: High scenario of 100% CA qualified renewable energy that would be offered on a premium, voluntary basis, with a substantial and increasing portion of that coming from local renewable resources in the County and general region as the program develops over time.

3.4. Sensitivity Analysis

- 3.4.1. Perform sensitivity analysis. Forecasting models used in the technical analysis should be able to accommodate and will be used to conduct sensitivity analyses reflecting changes in the following variables:
- 3.4.1.1. Market prices for non-renewable electricity;
 - 3.4.1.2. Market prices for renewable electricity from the current state-wide portfolio;
 - 3.4.1.3. Market prices for renewable electricity from new projects;
 - 3.4.1.4. Changes in PG&E generation rates, exit fees and customer surcharges;
 - 3.4.1.5. Changes in policies affecting renewable electricity capacity development, including: 1) the possible reduction or elimination of the federal solar tax credit and production tax credit for wind power, and 2) proposed legislation adjusting state goals for renewable energy supply, building energy efficiency and transportation energy use;
 - 3.4.1.6. CCA renewable energy portfolio targets that exceed state RPS requirements;
 - 3.4.1.7. Local renewable generation, energy efficiency and demand reduction programs (including opportunities that may exist within the next five years due to major PG&E contracts expiring);
 - 3.4.1.8. Potential customer opt-out rates with multi-tiered renewable energy mix similar to Sonoma Clean Power;
 - 3.4.1.9. Potential customer opt-out rates associated with base levels of renewable energy mix offered at 33%, 50%, and 100%.
 - 3.4.1.10. Extent rates may change depending on varying levels of participation. If 25% of the eligible load joins a CCA, if 50%, 80%, etc., would rates and resources availability materially change? Modeling should identify a minimum level of participation necessary to meet goal of rate parity.

3.5. Pro Forma Analysis

- 3.5.1. Assess the overall cost-benefit potential to support a threshold decision to move forward with CCA formation. Costs will include upfront program development and implementation costs as well as net ratepayer costs over the forecast period. Quantifiable impacts will include potential for annual and net savings vs. PG&E, net GHG reductions, expanded use of renewable energy resources, and investment in energy efficiency programs. This analysis should include:
 - 3.5.1.1. Base case financial pro forma, including income, balance sheet and cash flow analysis, detailing costs and projected benefits under the three electric supply scenarios outlined in section 3.3.4.
 - 3.5.1.2. Analysis detailing costs and projected benefits under sensitivity case assumptions.
 - 3.5.1.3. Assemble known and predictable cost-of-service variables and incorporate these into base-case analyses. Predictable cost-of- service variables include:
 - 3.5.1.3.1. Energy Costs - Variable inputs for resource portfolio mixes to account for:
 - 3.5.1.3.1.1. Forecast spot market prices
 - 3.5.1.3.1.2. Long-term and short-term power contracts (for wholesale products such as 6X16 and 7X24 power products)
 - 3.5.1.3.1.3. Renewable Energy minimums as required under SBXI-2
 - 3.5.1.4. Start-up Costs
 - 3.5.1.5. Cost of Capital
 - 3.5.1.6. Operating and Maintenance Costs
 - 3.5.1.6.1. Administrative and general expenses
 - 3.5.1.6.2. Staffing
 - 3.5.1.6.3. External technical/legal/marketing/PR support
 - 3.5.1.6.4. Billing, metering, and collections
 - 3.5.1.6.5. Customer service (call center) and data management
 - 3.5.1.6.6. Scheduling and coordination
 - 3.5.1.7. Uncollected Accounts
 - 3.5.1.8. Program Reserves
 - 3.5.1.9. CCA Bonding for Reentry Fees
 - 3.5.1.10. PG&E Cost-Recovery Mechanism and other Surcharges, aka exit fees.
 - 3.5.1.11. Characterize and evaluate feed in tariff and net energy metering programs that would encourage development of local renewable energy generation projects by offering

customers a sustained reliable payback on their investment in renewable energy and sustainable local generation systems.

3.6. Risk Analysis

- 3.6.1. Describe and analyze the potential risks to the program, and outline risk-mitigation measures. Such risks include, but are not limited to:
 - 3.6.1.1. Risks that could cause a CCA to “fail” and the financial risks to the County in the event of such failure;
 - 3.6.1.2. The financial risk to a CCA that procures too much or too little electricity and what the reasons might be for demand forecast inaccuracy (e.g. higher than expected opt-out rate);
 - 3.6.1.3. Regulatory and legislative risk, due to rules changes at the California Public Utilities Commission (CPUC) or changes in state law that affect the ability of CCAs to be competitive;
 - 3.6.1.4. Ability to procure the necessary amounts of renewable energy in order to meet RPS standards, particularly if the RPS rises to 50% by 2030 and the demand for renewable energy spikes. Evaluate concerns that there may not be enough renewable energy supply with a number of new CCAs potentially coming into the market.
 - 3.6.1.5. Market volatility and price risk.
 - 3.6.1.6. Risk management provisions and County exposure

3.7. Deliverables

- 3.7.1. Prepare and present to BCE an overall timeline, in Gantt format, outlining the steps necessary (locally, organizationally, and with the CPUC) to implement BCE including milestones, assignments, CPUC deadlines and anticipated dates to accomplish each major milestone.
- 3.7.2. Pro forma and market reviews
 - 3.7.2.1. Prepare an updated pro forma and market review, including recommendations for CCA organization and implementation and an assessment of the overall cost-benefit potential to support a threshold decision to move forward with CCA.

4. **QUALIFICATIONS AND PROPOSALS**

4.1. Submittal Cover and Order

Include a cover letter introducing your firm and the contents of the Qualifications and Proposal shall be in the order that follows:

4.2. Qualifications Content

- 4.2.1. Past Clients

In this section, you will provide a complete list of past governmental clients that have utilized your firm for similar services, for the past five years with contact information and brief summary of work completed for each client. This must be a comprehensive list as County will conduct reference checks and use it to assess the extent of the Firm's specific experience including working with public agencies.

4.2.2. Past Experience

In this section, you will describe your Firm's demonstrated experience and competence in completing technical CCA analysis and providing technical guidance to CCA's.

4.2.3. Project Planning

In this section, you will describe the methodology used by your Firm to manage and communicate long range plans including but not limited to:

- ✓ Specific information and scheduling tools used regarding critical path decisions.
- ✓ Management of interrelated events.
- ✓ How plan changes are evaluated and processed.
- ✓ Any other pertinent aspects of conducting projects that conveys competence, congruence and / or continuity.
- ✓ Any Firm awarded a contract may be required to utilize the County's Construction Management Software to track requests for information and change order management.

4.2.4. Key Personnel

For evaluation by BCE:

- ✓ Provide a brief narrative outlining the qualifications of the Project Leader and Team Members that would be assigned to BCE and include any specific professional credentials held by staff.
- ✓ If your Firm is comprised of more than one location, define the location identified with the support team assigned to County.
- ✓ If a Joint Venture or Strategic Alliance with another Firm is required or recommended, include a description of the legal relationship and define the role each party assumes.

4.2.5. Financial Capacity

The County/BCE may wish to establish a long term partnership. In this section, you will describe your Firm's financial capacity to successfully complete long term projects by providing:

- ✓ In less than two pages, a narrative outlining the financial stability of your Firm and key corporate financial goals planned for the next five years.
- ✓ Your most current financial statements. If a public corporation,

provide your most recent audited financial statements. If privately held, provide a copy of your balance statement and Profit & Loss statements for the past three years. (If your firm is unable or unwilling to comply, you must notify County in advance of the due date of the submission of this fact. There may be alternative options that can satisfy this requirement. Failure to inform County in advance and simply omitting financial documentation as required may be construed as non-responsive and could disqualify your submission.)

4.3. Proposal Content

4.3.1. Narrative

Provide, in narrative format that shall not exceed 5 pages, the steps your firm intends to follow if awarded a contract under this solicitation to complete the scope of work outlined above.

4.3.2. Gantt Chart

Provide a project schedule in Gantt format depicting the major milestones including their relationship to each other and projected time line for each step through completion.

4.3.3. Cost of Services

Propose the cost your firm will require to complete the scope of work outlined above.

4.4. Appendix (Optional)

The Firm may provide an appendix to provide additional information the County may find beneficial in making a selection.

4.5. Format

The documentation required for submission will allow the County of Butte, at its sole discretion, to evaluate the Firm’s submittals. The County of Butte shall receive all Submissions no later than February 11, 2022.

The Firm shall provide one copy of the submittal in electronic format. In the event the County desires to print the material, the size of pages shall not exceed 11 inches by 17 inches.

4.6. Initial Evaluation

The selection panel will evaluate and rank each submission based on the following criteria:

Category	Ranking
SUBMITTAL QUALITY The selection panel will judge based on the overall quality of the submittal including the determination that all requested items have been included, are in the proper order and appear to be feasible both in terms of timing and sequence of key milestones.	10%

BREADTH AND QUALITY OF EXPERIENCE The selection panel, based on the list of references and the associated work, as well as on the experience of key staff as outlined in the resumes, will evaluate the firm's experience in meeting the needs of the County and any related or associated efforts.	30%
WORK QUALITY Based primarily on an extensive reference check of clients, the selection panel will judge on the overall quality of work developed by each firm.	30%
COST OF PROPOSAL The selection panel will evaluate the potential cost of each proposal, however, is not using the cost as the primary components of selection.	30%
TOTAL	100%

5. PRESENTATIONS

The Firms that provide the submittal with the three highest scores, as ranked by the selection panel, may be invited to present additional information the County/BCE may find useful in making a final selection.

The dates and times for any presentations will be announced well in advance and will be held at a date and time convenient for both the County/BCE and the Firms being asked to present.

6. FINAL EVALUATION

All items submitted and any presented material is important to the selection panel in making a final determination. Of prime importance to the County is the demonstrated ability to apply experience successfully in addressing studies for other similar clients.

7. RULES OF PROCUREMENT

7.1. Time Line Summary

Event	Time / Date (Subject to Change)
Solicitation Publish Date	1/3/22
Non-Mandatory Remote Meeting	10:00 am 1/17/22
Last Date / Time to ask Questions	5:00 pm 1/24/22
Questions Answered via Addendum	1/31/22
Qualifications and Proposals Due	10:30 am 2/11/22

7.2. Contact Information

Any and all communication, including Submissions, regarding this Solicitation shall be in writing and directed to:

Brian Ring
County of Butte/BCE
25 County Center Drive, Suite 200
Oroville, California 95965-3413
530-552-3311
bring@buttecounty.net

This person will serve as the County's/BCE's contact person for this project who will also respond directly for questions and inquiries during the solicitation. Do not contact other County/BCE personnel or selection committee members regarding this project or the selection procedures.

7.3. General

Firms interested in participating in this solicitation are encouraged to register at no charge with the Public Purchase website: www.publicpurchase.com.

Questions and requests for clarification may only be submitted by e-mail or through the Public Purchase website. Verbal and phone inquiries will not be answered. All questions and requests for clarification shall be submitted no later than January 24, 2022. The County will provide answers and clarifications by posting an addendum(s) through the Public Purchase website by **January 31, 2022** so all Responders receive consistent information. It is the responsibility of all interested firms to access the website for this information. **Questions received after January 24, 2022 will not be answered.**

Any and all costs including travel, if required, associated with the development and delivery of the Solicitation to the County of Butte/BCE is the full responsibility of the Firm with no reimbursement due by the County of Butte/NCE.

All work performed for the County of Butte/BCE, including all documents associated with the project, shall become the exclusive property of the County of Butte/BCE.

All information and materials submitted to the County/BCE in response to this Solicitation may be reproduced by the County of Butte/BCE for the purpose of providing copies to authorized County personnel involved in the evaluation of the Proposals, but shall be exempt from public inspection under the California Public Records Act until such time as a Contract is awarded. Contract awards are a matter of public record. In the event a contract is executed relative to this

requisition, all responses and submissions are subject to public disclosure as required by law. Your submission of a response is considered your consent to the County's disclosure of the submitted information. The County of Butte/BCE shall not be liable for disclosure of information or records related to this Solicitation.

The selected Firm shall remain an independent contractor, working under his/her own supervision and direction and is not a representative or employee of County. The Firm agrees to file tax returns and pay all applicable taxes on amounts paid pursuant to this Contract. The selected Firm shall comply with the insurance requirements defined in the County Standard Contract.

The Firm shall indemnify and hold harmless the County of Butte/BCE, its officers, volunteers and employees from liability of any nature or kind due to the use of any copyrighted or uncopyrighted composition, trade secret, patented or unpatented invention, article, service or appliance furnished or used as a result of this solicitation and any potential subsequent purchase order or contract.

The opening of proposals in response to this Solicitation is not subject to attendance by the general public. This restriction is necessitated by the fact that the contract award is subject to negotiations, and it would be unfair for competing companies to know the prices quoted by one another.

The successful Firm must be prepared to begin work promptly following execution of the contract and is expected to complete the project in its entirety.

7.4. County of Butte/BCE Reserved Rights

Issuance of this Solicitation in no way constitutes a commitment by the County of Butte/BCE to award a contract. If the County/BCE determines it is in its best interest to do so, no Firm may be selected and no contract may be executed.

Upon acceptable pricing negotiations and contract award, the Firm shall be required to execute the standard County of Butte Contract and comply with County of Butte Insurance Requirements. The County of Butte may modify the contractual requirements of the contract prior to execution of a contract for services.

The County of Butte/BCE reserves the right to request additional information from Firms that have submitted a response to this Solicitation and to enter into negotiations with more than one Firm should a contract be awarded or to award a purchase order or contract to the Firm with the most favorable quotation without conducting negotiations.

The County of Butte/BCE reserves the right to reject any or all submittals received if the County determines that it is in the County's/BCE's best interest to do so. Further, the County of Butte/BCE may cancel or amend this Solicitation at any time and may submit similar solicitations in the future.

The County of Butte/BCE may reject any submittal that does not meet all of the mandatory requirements of this Solicitation, is conditional or is incomplete.

The County of Butte/BCE may request clarification of any submitted information and may request additional information on any or all responses provided and may waive minor inconsistencies deemed to be irrelevant.

7.5. Withdrawal, Errors and Protests

The withdrawal of any submittal must be made in writing prior to the required submission date and time, and must be signed by an authorized representative of the Firm. An error in the submission may cause the rejection of that submittal. However, the Firm may reissue a new or modified submittal prior to the date and time required for submission.

Firms that submitted a Proposal but were unsuccessful in the attempt to obtain a contract may request, in writing, a debriefing from the County of Butte, General Services Deputy Director, 2081 2nd Street, Oroville, CA 95965, telephone 530-552-3500. Firms that have received a debriefing, but continue to feel aggrieved in connection with the solicitation or award of a contract may submit a protest to the General Services Deputy Director, 2081 2nd Street, Oroville, CA 95965, telephone 530-552-3500. All protests must be made in writing, signed by an individual authorized to sign the submitted proposal and must contain a statement of the reason(s) for the protest citing the law, rule, regulation or procedure on which the protest is based. Potential Firm capabilities, proposal characteristics and / or pricing features that were not included in the Firm's Proposal shall not be introduced during the protest process. To be considered, the protest must be submitted within seven (7) working days following the debriefing.

8. FIRM LIBRARY

The standard contract template the Firm will be expected to execute, if awarded, is attached and is subject to change. Respondents should list any exceptions to the contract template, should there be any, in a separate section of submitted proposal.

**ATTACHMENT I
TERMS AND CONDITIONS**

1. **Scope of Work.** The work to be undertaken is identified in the attached "Attachment III – Scope of Work" which is made a part of this Contract.
2. **Reimbursement.** The work shall be performed for the Fixed price, Annual price, Monthly price or Hourly rate as indicated above in the variable information table, but shall not exceed the Not-to-Exceed Price if included in the variable information table. Reasonable expenses if authorized and specified in addition to the Hourly Rate if both the Hourly Rate block and the block authorizing Reasonable Expenses are checked in the variable information table. Payment shall be made after the Project Manager or designee reviews and approves the work and after submittal of an invoice by the CONTRACTOR. Expenses and or materials if stipulated shall be paid only upon prior approval and with receipts and only after review and authorization by the Project Manager.
3. **County Project Manager.** The COUNTY Project Manager or designee for this undertaking who will receive payment invoices and answer questions related to the coordination of this undertaking is identified above in the variable information table.
4. **Independent Contractor.** CONTRACTOR is an independent contractor, working under his/her own supervision and direction and is not a representative or employee of COUNTY nor is the CONTRACTOR a partner or in any way directly affiliated with the COUNTY. CONTRACTOR agrees to file tax returns, report compensation and pay all applicable taxes on amounts paid pursuant to this Contract.
5. **Ownership.** The COUNTY retains the exclusive right of ownership to the work, products, inventions and confidential information produced for the COUNTY by the CONTRACTOR, and the CONTRACTOR shall not disclose any information, whether developed by the CONTRACTOR or given to the CONTRACTOR by the COUNTY. The parties agree that the COUNTY will own the work, products, inventions or information produced by the CONTRACTOR pursuant to this Contract.
6. **Confidentiality.** The CONTRACTOR shall comply as follows and in accordance with the required performance of this contract:
 - a. All applications, records, data or any information concerning any individual made or kept by any public office, officer or department obtained by the CONTRACTOR in the performance of duties or as a consequence of performing said duties, shall be the confidential property of the COUNTY and shall not be communicated, transmitted, reproduced or in any other way conveyed to any person not directly a party to this contract, its terms and conditions in accordance with all applicable laws and regulations including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any implications thereof including destruction of records or data as appropriate under compliance criteria.
 - b. No person will publish or disclose or permit or cause to be published or disclosed any data, facts, figures, list of persons or any other form of information obtained by the CONTRACTOR in the performance of duties or as a consequence of performing said duties. No person shall publish, disclose, or use or permit, or cause to be published, disclosed or used any confidential information pertaining to any individual or group of individuals obtained by the CONTRACTOR in the performance of duties or as a consequence of performing said duties.
 - c. CONTRACTOR agrees to inform all employees, agents, associates and partners on the above provisions and that any person knowingly and intentionally violating the provisions of this clause is guilty of a misdemeanor. CONTRACTOR shall bear equal responsibility for any violation of the provisions of this paragraph.
 - d. CONTRACTOR agrees and understands that if confidential information concerning any individual made or kept by any public office, officer or department is obtained by the

CONTRACTOR and included on any memory device that may be housed in a computer, or other device (such as a "PDA") may become subject to Federal HIPAA requirements and/or any state or local regulations that apply which could result in surrender of the hard drive, sanitization or the destruction thereof in accordance with Department of Defense (DoD) 5220.22-M standard and/or industry standards current to time of the release of the equipment which ever represents the greatest level of (permanent) information destruction. At the very least, at the end of this contract, CONTRACTOR may be required to stipulate to the fact that no such files exist.

7. **Termination.** This Contract may be terminated by either the COUNTY or CONTRACTOR by a thirty day written notice. Authorized costs incurred by the CONTRACTOR will be reimbursed up to the date of termination. Notwithstanding anything stated to the contrary herein, this Contract shall expire on the Completion Date indicated in the above Variable Information Table unless the Completion Date is modified by written amendment to this Contract.
8. **Indemnification.** CONTRACTOR agrees to accept responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the COUNTY, its officers, agents and employees from and against any and all actions, claims, damages, disabilities or expenses that may be asserted by any person or entity, including CONTRACTOR, to the extent arising out of or in connection with the negligent acts or omissions or willful misconduct in the performance by CONTRACTOR hereunder, whether or not there is concurrent negligence on the part of the COUNTY, but excluding liability due to the active negligence or willful misconduct of the COUNTY. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for CONTRACTOR or its agents under worker's compensation acts, disability benefit acts, or other employee benefits acts. CONTRACTOR shall be liable to COUNTY for any loss of or damage to COUNTY property arising out of or in connection with CONTRACTOR's negligence or willful misconduct.
9. **Right to Monitor/Audit and Associated Liability.** It being understood by the parties hereto that the COUNTY's funding source herein may be COUNTY, State and/or Federal appropriation, and therefore CONTRACTOR is responsible for administering the program as described herein, CONTRACTOR agrees to accept responsibility for receiving, replying to and/or complying with an any audit of this project which may be deemed appropriate or required in compliance with COUNTY, State or Federal mandates and to reimburse the COUNTY for any liability upon the COUNTY for any discrepancy resultant from said audit exceptions or for any liability that result from a breach of contract, misrepresentation or inaccuracy.
10. **Record Retention and Availability.** CONTRACTOR shall maintain and preserve all records related to this agreement in its possession (or will assure the maintenance of such records in the possession of any third party performing work related to this agreement) for a minimum period of three (3) years from the effective date of this agreement, or until all State and/or Federal audits are complete, whichever is later. Upon request, CONTRACTOR shall make available copies of these records to COUNTY, State or Federal Governments' personnel, including but not limited to the State Auditor General. In the event that this contract is related to a FEMA grant record retention shall be three years from the date of the Grant Close-out letter.
11. **Insurance Requirements.** CONTRACTOR shall procure and maintain for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from, or be in connection with the performance of the Work hereunder by CONTRACTOR, CONTRACTOR's agents, representatives, employees and subcontractors. At the very least, CONTRACTOR shall maintain the insurance coverage, limits of coverage, and other insurance requirements as described in Attachment II to this Contract.
12. **Changes to the Contract.** Changes to this Contract may only be approved by written amendment to this Contract. No alteration or variation of any term or condition of this agreement shall be valid unless made in writing, signed by the parties hereto in accordance with COUNTY Policies and Procedures. No oral understanding or agreement not incorporated as a duly authorized written amendment shall be binding on any of the parties hereto.

13. **Representations and Warranties.** CONTRACTOR by execution represents the skill, knowledge, proficiency and expertise to perform as herein stipulated and warrants that the credentials presented herein Attachment VI are authentic, current and duly granted.
14. **Contractor's Standard of Care.** COUNTY has relied upon the professional ability, experience, and credentials presented and represented by the CONTRACTOR as a material inducement to enter into this Contract. CONTRACTOR hereby warrants that all of CONTRACTOR's work will be performed in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable Federal, State and local laws, it being understood that acceptance of CONTRACTOR's work by COUNTY shall not operate as a waiver or release. Where applicable, the CONTRACTOR shall maintain the appropriate certification(s), license(s) or accreditation(s) through the life of this contract, as submitted and stipulated herein Attachment VI and make them available for audit upon request by the COUNTY.
15. **Termination for Exceeding Maximum Level of Expenditures.** Contracts exceeding the monetary limits delegated to the Purchasing Agent, or authorized deputies, are not valid unless duly executed by the Chair of the Board of Supervisors. If this Contract was executed for the COUNTY of Butte by the Purchasing Agent, or authorized deputy, this Contract shall automatically terminate on the date that the provision of services or personal property or incurring of expenses, the cumulative total of which, exceeds the amount prescribed by Government Code Section 25502.5 for personal services contracts or the amount prescribed by Public Contract Code Section 22032 (b) for public works contracts.
16. **Termination for Exceeding Maximum Term.** Contracts exceeding the five year term delegated to the Purchasing Agent, or authorized deputies, are not valid unless duly executed by the Chair of the Board of Supervisors. If this Contract was executed for the COUNTY of Butte by the Purchasing Agent, or authorized deputy, this Contract shall automatically terminate on the date that the term exceeds five years. Amendments to this Contract, or new Contracts for essentially the same purpose, shall not be valid beyond the five year limitation unless duly executed by the Chair of the Board of Supervisors.
17. **Compliance with Laws.** CONTRACTOR shall comply with all Federal, State and local laws, rules and regulations including, without limitation, and not limited to any nondiscrimination laws. Specifically, the CONTRACTOR by executing this agreement stipulates and certifies that as an individual or as an entity, complies in good faith as well as all actions the following regulatory requirements at least but not limited to:
 - a. Non-discrimination with regard to minority, women, and disabled veteran-owned business enterprises; hiring practices on the basis of race, color or national origin, gender, handicaps or age.
 - b. Environmental protection legislation and in particular regarding clean air and water, endangered species, handling or toxic substances and the public right to know.
 - c. Drug Free workplace, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act and Public Health Service Act
 - d. National Labor Relations Board Public Contract Code 10296.
 - e. Domestic Partners – Public Contract Code 10295.3.
 - f. ADA 1990 42 USC 12101 et seq.
18. **Applicable Law and Forum.** This Contract shall be construed and interpreted according to California law and any action to enforce the terms of this Contract for the breach thereof shall be brought and tried in the Superior Court of the County of Butte.
19. **Contractor Performance and the Breach Thereof.** The COUNTY may terminate this agreement and is relieved of the payment of any consideration to CONTRACTOR should CONTRACTOR fail to perform the covenants herein contained at the time and in the manner herein provided. CONTRACTOR shall be notified in a timely manner of default and provided 30 days in which to remedy the default. If at the end of the 30 days, if remedy is not made or does not satisfy the default, the COUNTY shall notify the CONTRACTOR of the breach and thereby the termination of this

contract. In the event of such termination, the COUNTY may proceed with the work in any manner deemed proper by the COUNTY. The cost to the COUNTY shall be deducted from any sum due the CONTRACTOR under this agreement and the balance, if any, shall be retained by the COUNTY.

20. **Contradictions in Terms and Conditions.** In the event of any contradictions in the terms and/or conditions of this Contract, these Attachment I TERMS AND CONDITIONS shall prevail.
21. **No Delegation Or Assignment.** Provider shall not delegate, transfer or assign its duties or rights under this Agreement, either in whole or in part, directly or indirectly, by acquisition, asset sale, merger, change of control, operation of law or otherwise, without the prior written consent of COUNTY and any prohibited delegation or assignment shall render the contract in breach. Upon consent to any delegation, transfer or assignment, the parties will enter into an amendment to reflect the transfer and successor to CONTRACTOR. COUNTY will not be obligated to make payment under the Agreement until such time that the amendment is entered into.
22. **Conflict of Interest.** CONTRACTOR and CONTRACTOR'S employees shall have no interest, direct or indirect, which will conflict in any manner or degree with the performance of services required under this contract.
 - a. This contract is entered into by COUNTY upon the express representation that CONTRACTOR has no other contracts in effect with COUNTY except as described on Exhibit "A" hereto attached. Exhibit "A" is hereby made part of this contract by its reference herewith and hereby subjected to these General Terms and Conditions (Attachment I).
 - b. CONTRACTOR understands and will adhere to the COUNTY's policy that no contracts shall knowingly be issued to any current COUNTY employee or his/her immediate family or to any former COUNTY employee or his/her immediate family until two years after separation from employment, without notifying the Director of the Department of Human Resources in writing:

Director of Human Resources
3 County Center Drive
Oroville, CA 95966
 - c. CONTRACTOR stipulates by execution of this contract that they have no business or other interest that provides any conflict with the interest of the County of Butte in the matters of this agreement. CONTRACTOR recognizes that it is a breach of ethics to not disclose any interest that may be a conflict to the COUNTY for the advice of County Counsel on the matter prior to executing this contract.
23. **Canon of Ethics.** CONTRACTOR by execution of this contract agrees to act in the best interest of and on behalf of the County of Butte and its constituents in all matters, honest, fair, prudent and diligent as dictated by reasonable standards of conduct for their profession.
24. **Severability.** The terms and conditions of this contract shall remain in force and effect as a whole separate from and even if any part hereof the agreement is deemed to be invalidated.
25. **No Implied Waiver.** In the event that The COUNTY at any point ignores or allows the CONTRACTOR to break an obligation under the agreement, it does not mean that COUNTY waives its future rights to require the CONTRACTOR to fulfill those obligations.
26. **Entirety of Agreement.** This contract inclusive of all Attachments herein is stipulated and made part of the contract constitutes the entire agreement between these parties.

EXHIBIT "A"

Acknowledgement of OTHER COUNTY Contracts

List any and all contracts that you have with COUNTY agencies. If none, you must stipulate "none." This cannot be left blank or omitted from the contract.

**ATTACHMENT II
INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES**

***Please provide a copy of Attachment II to your insurance agent.**

Contractor shall procure and maintain for the duration of this contract, insurance against claims for injuries to persons or damages to property that may arise from or be in connection with the performance of the work hereunder by Contractor, Contractor's agents, representatives, employees and subcontractors. Before the commencement of work Contractor shall submit Certificates of Insurance and Endorsements evidencing that Contractor has obtained the following forms of coverage:

A. MINIMUM SCOPE AND LIMITS OF INSURANCE - Coverage shall be at least as broad as:

- 1) Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & 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 (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- 2) Automobile Liability:** ISO's Commercial Automobile Liability coverage form CA 00 01.
 1. Commercial Automobile Liability: Covering any auto (Code 1) for corporate/business owned vehicles, or if Contractor has no owned autos, covering hired (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
 2. Personal Lines automobile insurance shall apply if vehicles are individually owned, with limits no less than \$100,000 per person, \$300,000 each accident, \$50,000 property damage.
- 3) Workers' Compensation Insurance:** As required by the State of California with Statutory Limits and Employer's Liability Insurance with limits of no less than **\$1,000,000** per accident for bodily injury and disease. *(Not required if Contractor provides written verification he or she has no employees.)*
- 4) Professional Liability (Errors and Omissions):** Insurance appropriate to Contractor's profession, with limits no less than **\$1,000,000** per occurrence or claim, **\$1,000,000** aggregate.

If Contractor maintains broader coverage and/or higher limits than the minimums shown above, the County requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

B. OTHER INSURANCE PROVISIONS - The insurance policies are to contain, or be endorsed to contain, the following provisions:

- 1)** The County of Butte, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL and Commercial Auto policies with respect to liability arising out of work or operations performed by or at the direction of the 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 Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38 and CG 20 37 forms if later revisions used).
- 2)** For any claims related to this contract, Contractor's insurance coverage shall be primary insurance coverage at least as broad as ISO Form CG 20 01 04 13 as respects the County, its officers,

officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees and volunteers shall be excess of Contractors insurance and shall not contribute with it.

- 3) Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the County.

C. WAIVER OF SUBROGATION: Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

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

D. SELF-INSURED RETENTIONS: Self-insured retentions must be declared to and approved by the County. The County may require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or County.

E. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the County.

F. VERIFICATION OF COVERAGE: Contractor shall furnish County with original certificates of insurance including all required amendatory endorsements (or copies of the applicable policy language affecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

G. 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.

H. SUBCONTRACTORS: Contractor shall include all subcontractors as insured under its policies or require all subcontractors to be insured under their own policies. If subcontractors are insured under their own policies, they shall be subject to all the requirements stated herein, including providing the County certificates of insurance and endorsements **before** beginning work under this contract.

I. CLAIMS MADE POLICIES: If any of the required policies provide coverage on a claims-made basis:

- 1) The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
- 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.
- 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, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- 4) A copy of the claims reporting requirements must be submitted to the County for review.

**ATTACHMENT VI
PROFESSIONAL CREDENTIALS**

The CONTRACTOR herein presents the required and essential credentials for performance of this contract and warrants them to be authentic, current and duly granted.

List required and essential credentials which will be available in the contract file and may or may not be hereto attached and which may be but are not limited to:

Professional Degrees
Licenses
Certifications
Bonds

ATTACHMENT III Scope of Work

Unless indicated otherwise herein, the CONTRACTOR shall furnish all labor, materials, transportation, supervision and management and pay all taxes required to complete the project described below:

At *(fill in the appropriate point)* prior to the end of the contract term an assessment may be made of the value of the professional services herein delineated and thus far received. At the conclusion of the assessment, it may be determined that the CONTRACTOR owes certain fulfillment and/or deliverables for which the remaining payments may be withheld up to 20% of the contract. The assessment may determine that there is additional work to be amended to this scope of work. In the event of an amendment, the CONTRACTOR shall be notified and the amendment submitted and duly authorized in accordance with COUNTY Policy and Procedure. Otherwise, pertaining to this contract's scope of work it is the CONTRACTOR's responsibility to remain within the term and amount of the contract. If the terms and/or conditions of this contract including the amounts, rates, time and/or duration are exceeded in any way without fully executed amendment, the CONTRACTOR may not be reimbursed.

NOTE: If detail rate schedules or other documents are appropriate to the Scope of Work and separate from this Attachment III they must be stipulated in this Attachment by specific reference and thereby made part of this contract, labeled accordingly (Attachment III, Exhibit A, (or whatever the appropriate specific reference), etc.). They must also be included in the pagination of this contract. Consequently, it is necessary to scan them into the body of the contract where pagination control can make them inclusive.

Duties and obligations of the CONTRACTOR:

Since this is a professional service contract, this is the appropriate point in the contract to stipulate any subjective expectation that may be implied by their profession but once explicated become performance elements of the contract.

State all specific elements of the contract for which specific payment due as objectively as possible. Whether contract is based on hourly, daily, weekly, monthly rates; flat rate for deliverables; project milestone incremental payments; charges for use of particular (i.e., therapeutic) equipment or implements; any reports, criteria and schedule

If expenses are allowed, specify what is reasonable and/or reimbursable AND always state that expenses (unless per diem) must be preapproved and accompanied by receipts. There should be a cap to the expenses.

If "materials" are required, specify what they will (or might be) and some approximation not to exceed amount. Unless the materials are provisions of the "house" of the contractor, they will require receipts to be presented with invoice stipulating their charge.

State any circumstances under which no payment will be made.

State if payments are contingent on specific delineation on the invoice(s) such as coding or regulatory designated description.

Recommend that rates be laid out in table format if possible for clarity and ease of processing payments.

State specifically that payments stipulated are the Contractor's only compensation.

Duties and obligations of the COUNTY:

COUNTY's obligations may be:

- Make any relevant notification promptly
- Provide data promptly
- Provide schedules or set up meetings or respond to presentation of information promptly
- Pay upon provision as herein stipulated and after presentation of appropriate receipts and/or invoice.
- If possible avoid stipulating payment within specific period. If absolutely necessary state no less than 30 days and 60 days is not atypical.
- County does not pay interest or penalties.